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IRB – Immigration and Refugee Board of Canada

India: The Aadhaar card, including requirements and procedures to obtain; purpose and uses of the card; relationship with tenant verification and criminal tracking systems; whether authorities use Aadhaar registration to track individuals across the country (2019–May 2021) [IND200627.E]

Research Directorate, Immigration and Refugee Board of Canada

1. Overview

According to the website of the Unique Identification Authority of India (UIDAI), the Aadhaar number is a "random" 12-digit number issued by UIDAI to residents of India who completed UIDAI's verification process (India n.d.a). The same source notes that "[a]ny individual, irrespective of age and gender, who is a resident of India, may voluntarily enrol to obtain [an] Aadhaar number" (India n.d.a). Section 2(v) of a consolidated version of the *Aadhaar (Targeted Delivery of Financial and Other Subsidies, Benefits and Services) Act, 2016 (Aadhaar Act)*, amended in 2019 by the *Aadhaar and Other Laws (Amendment) Act, 2019 (Act 14 of 2019)*, provides that a "resident" is "an individual who has resided in India for a period or periods amounting in all to one hundred and eighty-two days or more in the twelve months immediately preceding the date of application for enrolment" (India 2016). Section 1(2) of the *Aadhaar Act* provides that "[i]t shall extend to the whole of India" (India 2016).

A 2019 report by Dalberg [1] and funded by Omidyar Network India [2] indicates based on a questionnaire completed by 147,868 households in 28 states and union territories (UTs), that out of an estimated total population of 1.2 billion in India, 95 percent of adults and 75 percent of children have Aadhaar (Dalberg 2019, 9, 42). The same source notes that 90 percent of residents in Assam, 61 percent of residents in Meghalaya, and 30 percent of homeless individuals do not have Aadhaar (Dalberg 2019, v). A March 2020 article by the Press Trust of India (PTI), an Indian news agency, reports that according to the Minister of State for Electronics and Information Technology, Aadhaar numbers had been issued to 90.1 percent of the population as of 29 February 2020 (PTI 19 Mar. 2020). A December 2020 country report by Australia's Department of Foreign Affairs and Trade (DFAT) indicates that "[m]ore than 1.2 billion *Aadhaar* have been issued to Indian residents since 2010" (Australia 10 Dec. 2020, para. 5.50, italics in original).

According to an October 2020 article by the *Hindustan Times*, an Indian newspaper, Aadhaar comes in three forms—letter, eAadhaar, and Aadhaar PVC [plastic] card—and all three forms are valid as proof of identity (*Hindustan Times* 21 Oct. 2020). The Dalberg report notes that "[v]ery few" residents use the digital format (Dalberg 2019, 16).

A sample of an Aadhaar letter, provided on the UIDAI's website, is attached to this Response (Attachment 1).

2. Enrolment Procedures

The information in the following three paragraphs was provided in the Frequently Asked Questions (FAQs) section on UIDAI's webpage:

To enrol for Aadhaar an individual must visit an enrolment centre in person, fill out an application form available at the enrolment centre, and provide original supporting documents which include proof of identity (PoI), proof of address (PoA), proof of relationship (PoR), and date of birth (DoB) [3]. The enrolment procedure must be completed in person to capture the biometrics of the applicant. There is no age limit for obtaining an Aadhaar number; "even a ne[w]born baby" can enrol. Aadhaar enrolment is free of charge. The Aadhaar number is issued "up to 90 days" after the date of application. The individual will be asked to confirm the address where the Aadhaar letter will be delivered. The Aadhaar letter can also be downloaded as an "e-Aadhaar letter" once it is generated by the UIDAI; the e-Aadhaar letter has the "same validity" as the original letter.

An individual who does not have the required supporting documents can still obtain an Aadhaar number, provided their name is listed in a "family entitlement document." The "[h]ead of [f]amily" identified in the individual's family entitlement document must be enrolled, with valid PoI and PoA documents, and the individual without the required supporting documents can then obtain an Aadhaar number based on either the enrolment number or the Aadhaar number of the head of the family.

Two types of data are captured during enrolment for the Aadhaar number, namely demographic data, such as name, gender, date of birth, address, cell phone number and email, and biometric data, such as 10 fingerprints, scans of both irises, and a photograph of the applicant. Providing a cell phone number and email address is optional, but it is "always recommended" in order to ensure that individuals receive application status updates. Irises and fingerprints are not required of applicants that lack them (India n.d.b).

Section 3(2) of the *Aadhaar Act* provides the following on enrolment:

The enrolling agency shall, at the time of enrolment, inform the individual undergoing enrolment of the following details in such manner as may be specified by regulations, namely:—

1. the manner in which the information shall be used;
2. the nature of recipients with whom the information is intended to be shared during authentication; and
3. the existence of a right to access information, the procedure for making requests for such access, and details of the person or department in-charge to whom such requests can be made. (India 2016)

3. Purpose and Use of Aadhaar

Section 7 of the *Aadhaar Act* provides the following:

The Central Government or, as the case may be, the State Government may, for the purpose of establishing identity of an individual as a condition for receipt of a subsidy, benefit or service for which the expenditure is incurred from, or the receipt therefrom forms part of, the Consolidated Fund of India, [or the Consolidated Fund of State] require that such individual undergo authentication, or furnish proof of possession of Aadhaar number or in the case of an individual to whom no Aadhaar number has been assigned, such individual makes an application for enrolment:

Provided that if an Aadhaar number is not assigned to an individual, the individual shall be offered alternate and viable means of identification for delivery of the subsidy, benefit or service. (India 2016, square brackets in original indicating amendment by *Act 14 of 2019*)

The FAQs section on UIDAI's website indicates that the Aadhaar number "can be used in any system which needs to establish the identity of a resident and/or provide secure access for the resident to services/benefits offered by the system," and notes that Aadhaar can be used for the following:

- Food & [n]utrition – Public Distribution System, Food Security, Mid Day Meals, Integrated Child Development Scheme.
- Employment – Mahatma Gandhi National Rural Employment Guarantee Scheme, Swarnajayanti Gram Swarozgar Yojana, Indira Awaaz Yojana, Prime Minister's Employment Guarantee Program[.]
- Education – Sarva Shiksha Abhiyaan, Right to Education (Children between 6 to 14 years under Sarva Shiksha Abhiyan, likewise, shall not require mandatory Aadhaar enrolment)[.]
- Inclusion & [s]ocial [s]ecurity – Janani Suraksha Yojana, Development of Primitive Tribe Groups, Indira Gandhi National Old Age Pension Scheme[.]
- Healthcare – Rashtriya Swasthya Bima Yojana, Janashri Bima Yojana, Aam Aadmi Bima Yojana[.]
- Other miscellaneous purposes including Property Transactions, VoterID, [Permanent Account Number (PAN)] Card[.] etc. (India n.d.c)

3.1 Voluntary Use of Aadhaar

The FAQs section on UIDAI's website indicates that residents have the "option" of not enrolling for Aadhaar (India n.d.d). The DFAT report notes that Aadhaar is voluntary, but that "in practice, *Aadhaar* are entrenched in everyday Indian life" (Australia 10 Dec. 2020, para. 5.51, italics in original). The same source states that "denial of services that do not require an *Aadhaar* number remains commonplace when *Aadhaar* information is not given" (Australia 10 Dec. 2020, para. 5.51, italics in original). The Dalberg report indicates that "Aadhaar is becoming India's default ID" and that "this is true whether or not Aadhaar is mandatory for the service, and whether the service is provided by the government or the private sector" (Dalberg 2019, 16).

According to sources, a September 2018 Supreme Court ruling approved the use of Aadhaar for government welfare programs and taxes but stated that private companies, such as mobile phone companies and banks, could no longer require users to provide Aadhaar information for services (BBC 26 Sept. 2018; *The New York Times* 26 Sept. 2018).

According to a March 2019 PTI article, in February 2019 India's government approved the promulgation of an ordinance, which brought a 2019 amendment of the *Aadhaar Act* into effect, permitting the voluntary use of Aadhaar as proof of identity by banks and cell phone companies (PTI 1 Mar. 2019). The same source reports that under the amended law an individual cannot be denied a service, such as opening a bank account or purchasing a SIM card, for not providing an Aadhaar number (PTI 1 Mar. 2019). A June 2019 press release by India's Press Information Bureau (PIB) states that the *Aadhaar and Other Laws (Amendment) Bill, 2019* "[p]rovides for voluntary use of [an] Aadhaar number in physical or electronic form" for "authentication or offline verification with the consent of [the] Aadhaar number holder" (India 12 June 2019). The same source notes that the amended bill "[p]revents denial of services for refusing to, or being unable to, undergo authentication" (India 12 June 2019). A November 2019 PTI article reports

that the amended law was challenged in the Supreme Court on the basis that it allows private entities to use data voluntarily provided by customers for authentication of identity (PTI 22 Nov. 2019). Freedom House's report on freedom on the internet in 2020 states that "[a]s of July 2020, the case was pending" (Freedom House 14 Oct. 2020, Sec. C5).

Based on an "in-depth" survey of 19,209 households conducted across 16 states and 1 UT, the Dalberg report states that 56 percent of survey respondents indicated that Aadhaar was still required to obtain a SIM card or to open a bank account after the Supreme Court ruling (Dalberg 2019, 42).

3.2 Mandatory Use of Aadhaar

According to the FAQs section on UIDAI's website, as of 1 July 2017, an Aadhaar number is mandatory for filing income tax and applying for a PAN [4] (India n.d.e). Sources cite a 31 March 2021 twitter post from India's Income Tax Department as indicating that taxpayers are required to link their Aadhaar number with their PAN card by 30 June 2021, extended from the original deadline of 31 March 2021 due to COVID-19 (*Hindustan Times* 31 Mar. 2021; *India Today* 1 Apr. 2021; *The Indian Express* 31 Mar. 2021). The same sources further note that the government has previously stated that those who do not complete this task by the deadline will face a penalty of up to 1,000 Indian rupees (INR) [C\$16.47] and their PAN will become "inoperative" (*Hindustan Times* 31 Mar. 2021; *India Today* 1 Apr. 2021) or "invalid" (*India Today* 1 Apr. 2021; *The Indian Express* 31 Mar. 2021).

The DFAT report indicates that, as of July 2019, a "variety" of documents and services, including bank account details, PAN cards, voter identification cards, Liquefied Petroleum Gas (LPG) connection cards, public subsidy and unemployment benefit schemes, mobile numbers, and Employees' Provident Fund Organisation of India fund accounts, are required to be connected to an individual's Aadhaar number (Australia 10 Dec. 2020, para. 5.52).

An August 2020 *Hindustan Times* article reports that "any central or state government department or ministry" can contact UIDAI to request the use of Aadhaar to verify identity for purposes including the "prevention of dissipation of welfare benefits" (*Hindustan Times* 7 Aug. 2020). The Dalberg report indicates that 0.8 percent of individuals were excluded from welfare services "due to Aadhaar-related reasons" and that 0.5 percent of social pension beneficiaries "did not receive their pension the last time they expected it due to problems with Aadhaar" (Dalberg 2019, vi). The same source reports that 1.5 percent of Public Distribution System (PDS) users "experienced a biometric authentication failure and did not receive rations in their last attempt. However, 3.2% of PDS users received their ration despite biometric authentication failure" (Dalberg 2019, vi). An October 2019 *Guardian* article reports that according to activists, 13 individuals, including an 11-year-old girl, died of starvation in Jharkhand because they were refused rations due to issues with Aadhaar (*The Guardian* 16 Oct. 2019). A March 2021 Deutsche Welle (DW) article indicates that a woman from Jharkhand "claimed" that "she could not feed her daughter because she failed to link her food rationing card to Aadhaar" and that her daughter died of starvation (DW 26 Mar. 2021). The same source cites a developmental economist and activist as indicating that while there are "multiple reasons why many people were not able to link their rationing cards to Aadhaar, the main problem is that the biometric technology is not reliable"; a journalist recorded "several instances" of "biometric failure" which led to individuals being denied "access to basic services" (DW 26 Mar. 2021). The *Guardian* article notes that according to activists, "the [Aadhaar] system continues to be fraught with problems. Fingerprints [do not] scan properly, officials fail to offer timely assistance and internet coverage is too poor for the system to function" (*The Guardian* 16 Oct. 2019).

4. Relationship Between Aadhaar and Tenant Verification

Information on the relationship between Aadhaar and tenant verification could not be found among the sources consulted by the Research Directorate within the time constraints of this Response.

5. Relationship Between Aadhaar and the Crime and Criminal Tracking Network and Systems (CCTNS)

Information on the relationship between Aadhaar and CCTNS could not be found among the sources consulted by the Research Directorate within the time constraints of this Response.

6. COVID-19 and Aadhaar

According to the Ministry of Health and Family Welfare's website, any of the following identification documents can be used to register for the COVID-19 vaccination:

- Aadhaar card
- Driver's licence
- Health insurance smart card issued under the Ministry of Labour program
- Mahatma Gandhi National Rural Employment Guarantee Act (MGNREGA) job card
- Official identity cards issued to Members of Parliament (MPs), Members of Legislative Assembly (MLAs), or Members of Legislative Council (MLCs)
- PAN card
- Passbooks issued by a bank/post office
- Passport
- Pension document

- Service Identity Card issued to employees by the central or state government or public limited companies
- Voter identification (India 25 Mar. 2021).

A January 2021 article by *India Today*, an Indian news magazine (*India Today* n.d.), reports that a cell phone number linked to an Aadhaar is required to receive COVID-19 vaccinations (*India Today* 21 Jan. 2021). According to an April 2021 Reuters article, authorities in India are testing a facial recognition system based on Aadhaar for COVID-19 vaccinations (Reuters 15 Apr. 2021). The same source notes that according to the head of the National Health Authority, the facial recognition system "would not be mandatory," but that Aadhaar "is already the 'preferred' mode of identity verification for vaccination certificates" (Reuters 15 Apr. 2021). The Reuters article indicates that according to an associate counsel at the Delhi-based Internet Freedom Foundation, "a requirement to register for appointments on a mobile app using Aadhaar is excluding millions of people who do not have an Aadhaar ID" (Reuters 15 Apr. 2021). An April 2021 article by *Times of India (TOI)*, an Indian newspaper, notes that "[t]hough rules say vaccine-seeking citizens can show any document from the list of approved identity cards, many hospitals refuse to accept the passport or voter ID and demand Aadhaar" since the registration process at vaccine centres with documents other than Aadhaar is "laborious and time-consuming"; individuals who choose not to provide Aadhaar can "self-register using any other identity proof" (*TOI* 4 Apr. 2021).

A March 2021 PTI article indicates that Gujarat's government has removed the Aadhaar requirement for COVID-19 vaccinations for seniors and individuals "above 45 years of age with comorbidities" who are living in "destitute homes, old age homes," or "disabled welfare institutions" (PTI 23 Mar. 2021). According to a May 2021 PTI article, in response to reports that residents were being denied access to "some essential services" due to lack of Aadhaar, UIDAI issued a statement on 15 May 2021 stating that "[n]o one shall be denied vaccin[ation], medicine, hospitalisation or treatment for want of Aadhaar" and that "alternate means of identification" can be used to provide benefits and services to residents who do not have an Aadhaar or "in cases where Aadhaar authentication is not successful [for] any reason" (PTI 15 May 2021).

7. Tracking of Individuals

Information on the use of Aadhaar to track individuals was scarce among the sources consulted by the Research Directorate within the time constraints of this Response.

In correspondence with the Research Directorate, the Executive Director of the South Asia Terrorism Portal (SATP) and the Institute for Conflict Management (ICM) [5] stated that the National Criminal Records Bureau (NCRB), the agency that controls the CCTNS, "has been judicially excluded from access to Aadhaar data" (Executive Director 11 May 2021). Media sources from 2018 report that, according to UIDAI, the *Aadhaar Act* prevents UIDAI from sharing Aadhaar biometric data for criminal investigations and UIDAI "has never" shared Aadhaar data with "any crime investigation agency" (*The Economic Times* 22 June 2018; PTI 26 Sept. 2018). The *Aadhaar Act* provides the following restrictions on information sharing:

29. (1) No core biometric information, collected or created under this Act, shall be—

1. shared with anyone for any reason whatsoever; or
2. used for any purpose other than generation of Aadhaar numbers and authentication under this Act.

(2) The identity information, other than core biometric information, collected or created under this Act may be shared only in accordance with the provisions of this Act and in such manner as may be specified by regulations.

[(3) No identity information available with a requesting entity or offline verification-seeking entity shall be—

1. used for any purpose, other than the purposes informed in writing to the individual at the time of submitting any information for authentication or offline verification; or
2. disclosed for any purpose, other than purposes informed in writing to the individual at the time of submitting any information for authentication or offline verification:

Provided that the purposes under clauses (a) and (b) shall be in clear and precise language understandable to the individual.]

(4) No Aadhaar number[, demographic information or photograph] collected or created under this Act in respect of an Aadhaar number holder shall be published, displayed or posted publicly, except for the purposes as may be specified by regulations. (India 2016, bold and italics in original, square brackets in original indicating amendment by *Act 14 of 2019*)

However, the *Aadhaar Act* provides the following about disclosure of information in certain instances:

33. (1) Nothing contained in sub-section (2) or sub-section (5) of section 28 or sub-section (2) of section 29 shall apply in respect of any disclosure of information, including identity information or authentication records, made pursuant to an order of a court not inferior to that of a [Judge of a High Court]:

Provided that no order by the court under this sub-section shall be made without giving an opportunity of hearing to the Authority [and the concerned Aadhaar number holder].

[Provided further that the core biometric information shall not be disclosed under this sub-section.]

(2) Nothing contained in sub-section (2) or sub-section (5) of section 28 and clause (b) of sub-section (1), sub-section (2) or sub-section (3) of section 29 shall apply in respect of any disclosure of information, including identity information or authentication records, made in the interest of national security in pursuance of a direction of an officer not below the rank of [Secretary] to the Government of India specially authorised in this behalf by an order of the Central Government:

Provided that every direction issued under this sub-section, shall be reviewed by an Oversight Committee consisting of the Cabinet Secretary and the Secretaries to the Government of India in the Department of Legal Affairs and the Department of Electronics and Information Technology, before it takes effect:

Provided further that any direction issued under this sub-section shall be valid for a period of three months from the date of its issue, which may be extended for a further period of three months after the review by the Oversight Committee. (India 2016, bold and italics in original, square brackets in original indicating amendment by *Act 14 of 2019*)

The Executive Director stated that “[t]here is, consequently, no legal access to Aadhaar data in any police database, including CCTNS” (Executive Director 11 May 2021). However, the same source indicated that, in January 2018, “the Telangana Police launched a geo-tag project for individuals identified as repeat offenders in the police records. This involved linking the profiles of these individuals with their Aadhaar details, both demographic and biometric” (Executive Director 11 May 2021). According to the same source, the police in Madhya Pradesh and Rajasthan “are doing the same thing” and the project is “almost complete” in one district of Madhya Pradesh (Executive Director 11 May 2021). The Executive Director also noted that these police departments are not accessing Aadhaar data from UIDAI but are creating their own databases of individuals who have criminal records or who appear on the blacklists kept by police departments in these states (Executive Director 11 May 2021). Corroborating information could not be found among the sources consulted by the Research Directorate within the time constraints of this Response.

This Response was prepared after researching publicly accessible information currently available to the Research Directorate within time constraints. This Response is not, and does not purport to be, conclusive as to the merit of any particular claim for refugee protection. Please find below the list of sources consulted in researching this Information Request.

Notes

[1] Dalberg is a “social impact advisory group” that combines “strategy consulting, design thinking, big data analytics, and research to address complex social and environmental challenges” (Dalberg 2019, about us page).

[2] Omidyar Network India is part of the Omidyar Group, a group of “companies, organizations and initiatives” funded by the founder of eBay (Dalberg 2019, about us page). Omidyar Network India invests “in early[-]stage enterprises and provide[s] grants to non-profits” working on “[d]igital [i]dentity,” education, emerging technologies, “[f]inancial [i]nclusion,” governance and citizen engagement, and property rights (Dalberg 2019, about us page).

[3] A list of supporting documents that are suitable as proofs of identity, address, relationship and date of birth can be found on UIDAI’s website (India 2 Nov. 2020).

[4] According to the website of India’s Income Tax Department, a permanent account number (PAN) “acts as an identifier” for a taxpayer and is used to link all of the taxpayer’s transactions with the Income Tax Department (India [2019]).

[5] The South Asia Terrorism Portal (SATP) is an online database focusing on “terrorism and low intensity warfare in South Asia” (SATP n.d.a). SATP is a project of the New Delhi-based Institute for Conflict Management (ICM), which is a non-profit “committed to the continuous evaluation and resolution of problems of internal security in South Asia,” including in India (SATP n.d.b).

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Additional Sources Consulted

Oral sources: Centre for Internet and Society; Common Cause; Indian Police Foundation; legal researcher in India who studies technology; postdoctoral fellow at a university in California who studies policing in India; professor of criminal justice at a university in Indiana who studies criminal justice and policing in India; professor of sociology at a university in Colorado who studies criminology in India.

Internet sites, including: Al Jazeera; Amnesty International; Article14; Asian Centre for Human Rights; BiometricUpdate.com; Bloomberg; Brookings Institution; *Business Today*; Carnegie Endowment for International Peace – Carnegie India; Centre for Internet and Society; Centre for Policy Research; Centre for the Study of Developing Societies; Common Cause; Commonwealth Human Rights Initiative; Council on Foreign Relations; *The Diplomat*; ecoi.net; EU – European Asylum Support Office; *Express Computer*; *Forbes*; *Governance Now*; *The Hindu*; Human Rights Watch; IDFC Institute – Data Governance Network; Internet Freedom Foundation; MediaNama; *Mint*; News18; *Outlook* [India]; Privacy International; Public Affairs Centre; South Asia Collective; *The Statesman*; *Time*; UK – Home Office; UN – Refworld; *The Washington Post*; Wilson Center.

Attachment

India. N.d. [Unique Identification Authority of India \(UIDAI\)](#). Aadhaar letter. [Accessed 19 May 2021]

ecoi.net summary:

Query response on India:

Information on the Aadhaar card

(2019 - May 2021) (obtainment

procedure; purpose and use;

relations with other state databases;

Covid-19 vaccination; tracking of

individuals via Aadhaar)

Country:

India

Source:

[IRB – Immigration and Refugee](#)

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