



LAW & FINANCIAL
STABILITY
HIGH-LEVEL SEMINAR **2018**

THE RULE OF LAW IN A DIGITAL WORLD

Fintech

Governance & Transparency

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“**India** is an Elephant, Starting to Run”

- India : 2018 Article IV Consultation-Country Report No. 18/254; 6th Aug., 2018
 - ✓ The macro-financial and structural policies are priorities to help boost inclusive growth and harness the demographic dividend.
 - ✓ The capital flow management framework is moving in the direction of greater liberalization, notably in the area of FDI.
 - ✓ The near-term macroeconomic outlook is broadly favorable. Economic risks are tilted to the downside.
 - ✓ Financial sector reforms have been undertaken to address the twin balance sheet problems, as well as to revive bank credit and enhance the efficiency of credit provision by accelerating the cleanup of bank and corporate balance sheets.
 - ✓ Executive Directors of IMF have welcomed the strong economic growth and commended Indian authorities for the important and wide-ranging reforms.
- “India’s economy is gaining momentum, thanks to the implementation of several recent noteworthy policies, such as the enactment of goods and services tax and the country opening up more to foreign investors. Therefore, we expect economic growth to pick up to about 7.3 percent for fiscal year 2018-19”.

(Mr. Ranil Salgado, IMF Mission Chief for India) ₂

Introduction - Indian Economy

- 2nd Largest Democracy in the World with more than 65% Population below the age of 35
- Jumped up 30 notches, into the top 100 Rankings on the World Bank's 'Ease of Doing Business' Index.
- GDP is 7.4% for 2017-18, Economy grew at an impressive rate of 8.2% in 2018-19 Q1
- In FY 2015 and 2018 India's economy became the world's fastest growing major economy, surpassing China
- Indian Education System annually produces 2.6 Million Science, Technology, Engineering and Mathematics (STEM) Graduates, 2nd Largest in the World
- Independent Judiciary ensuring Fair & Equitable justice based on Rule of Law
- India has over 460 Million Internet Users, ranked behind China only. Indian mobile usage to surf the internet (79%) is more than double that in the UK (34.8 percent) or US (37.2 percent). Of G20 nations, India is the number one user of mobile in terms of internet usage.

Digital Building Blocks in India

- **Digital India** - An Umbrella Programme for building Digital Infrastructure in India.
 - **e Kranti** - To ensure a Government-wide transformation by delivering all Government services and information, on demand, electronically to the citizens, while ensuring efficiency, transparency and reliability of such services at affordable costs. Universal Digital Literacy and Access to Phones. New Digital initiatives - Bharat net, Digital Locker, e-education, e-health, e-sign, e-shopping and national scholarship portal
- **Global Fintech Hub** in Mumbai to foster Financial Technology Innovation. An Industry sandbox will provide a controlled and legal testing solution space.
- **Mandatory Digital Unique Number** for every Company and Director
- **Central KYC Registry** - Centralized Repository of KYC Records
- **Mission Mode Projects** - Mission Mode Projects are Individual Projects within the National e-Governance Plan that focuses on each and every aspect of Electronic Governance in India - 44 Mission Mode Projects under e-Kranti programme

Digital Building Blocks in India

- **The National Payments Corporation of India** for Easy, Safe, Secure, Fast, Anytime, Anywhere and to Anyone Payment Service
- **National Automated Clearing House** for making bulk transactions towards Distribution of Subsidies, Dividends, Interest, Salary, Pension etc. and also for Collection of Payments pertaining to Telephone, Electricity, Water, Loans, Investments in Mutual Funds, Insurance Premium etc.
- **Bharat Interface for Money (BHIM)** - Instant Bank-to-Bank Payments and 'Pay and Collect Money' Platform using Mobile Number or Virtual Payment Address (UPI ID)
- **Unified Payments Interface (UPI)** - Single Mobile Application for accessing different Bank Accounts with several banking features

Enabling Legislations

- **Information Technology Act 2000 (as amended in 2008)**
 - Based on UNCITRAL Model Law on Electronic Commerce – 1996
 - Basic Principles - Functional Equivalence; Media and Technology Neutrality and Party Autonomy
 - Act applies to the whole of India and to any offence or contravention committed outside India by any person irrespective of his nationality, if such act involves a computer, computer system or network located in India
 - Legal Recognition for electronic contracts; Digital Signatures and Regulatory Regime; Controller of Certifying Authorities; Enabling provision for PPP in e-Gov service delivery; Admissibility of Electronic Documents at par with paper documents; Stringent cyber crimes regulations;
 - Indian Computer Emergency Response Team (CERT – in) has been designated by Central Government as the national nodal agency in respect of Critical Information Infrastructure Protection. (Sec. 70A of the IT Act)
- **RBI Act and Banking Regulation Act**, Notifications, Circulars, Guidelines etc.
 - Reserve Bank of India Act, 1934; Banker's Books Evidence Act, 1891
 - The Payment And Settlement Systems Act, 2007

Enabling Legislations

- **The Aadhaar (Targeted Delivery Of Financial And Other Subsidies, Benefits And Services) Act, 2016**
 - Aadhaar (Enrolment and Update) Regulations, Aadhaar (Authentication) Regulations, Aadhaar (Data Security) Regulations, Aadhaar (Sharing of Information) Regulations
 - Unique Identification Authority of India (UIDAI) established on 28th January, 2009 under the Planning Commission.
- **Amendment to Other Acts**
 - Indian Penal Code & Indian Evidence Act - 1872 (Many Cyber Crimes come under the Indian Penal Code – with support from relevant provisions of the IT Act)
 - IPR laws (Trademark, Copyright, Patent and Design Laws)
 - Companies Act; Depositories Act; Negotiable Instruments Act

Hon'ble Supreme Court of India's Observation on Information Privacy

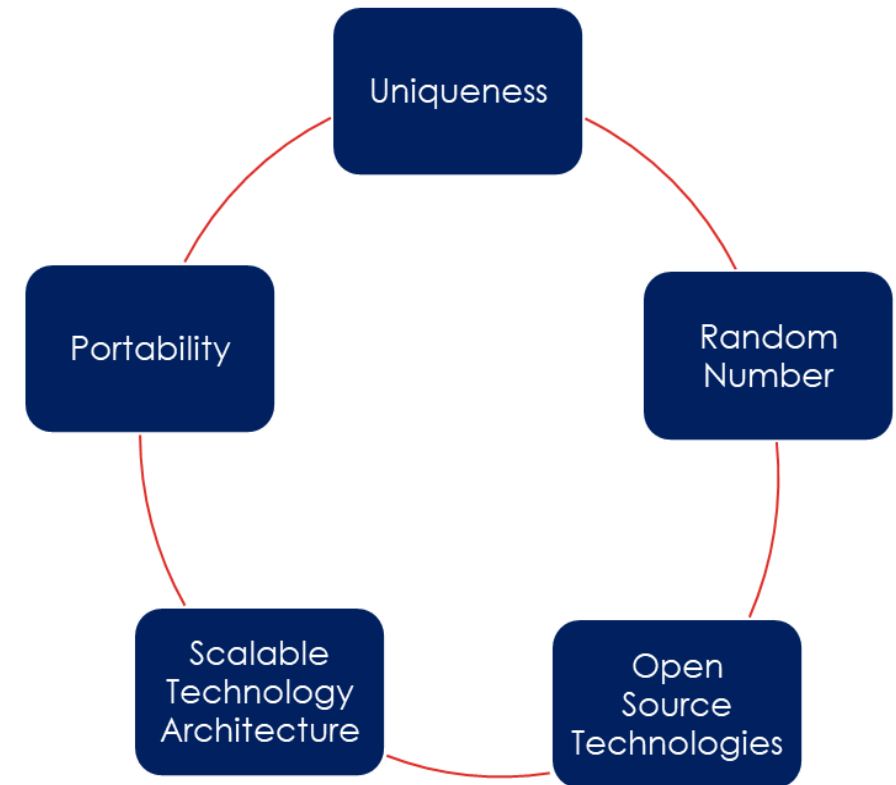
- Various petitions have been filed in the Hon'ble Supreme Court of India challenging:
 - constitutional validity of the Aadhaar Act, 2016;
 - move to make Aadhaar mandatory for availing benefits and subsidies.
- In the same case, Hon'ble Court said
 - ✓ *"Right to Privacy is a fundamental right and privacy is protected under Article 21 and Part 3 of Constitution of India"*
 - ✓ *"Informational privacy is a facet of the right to privacy. The dangers to privacy in an age of information can originate not only from the state but from non-state actors as well"*
 - ✓ *"We commend to the Union Government, the need to examine and put into place a robust regime for data protection. The creation of such a regime requires a careful and sensitive balance between individual interests and legitimate concerns of the state"*
- Accordingly, the Government of India set up Mr. Justice B.N. Srikrishna Committee of Experts to study various issues relating to data protection in India, make specific suggestions on principles underlying a data protection bill and draft such a bill.
 - The objective of the Committee was to "ensure growth of the digital economy while keeping personal data of citizens secure and protected."

The Personal Data Protection Bill 2018

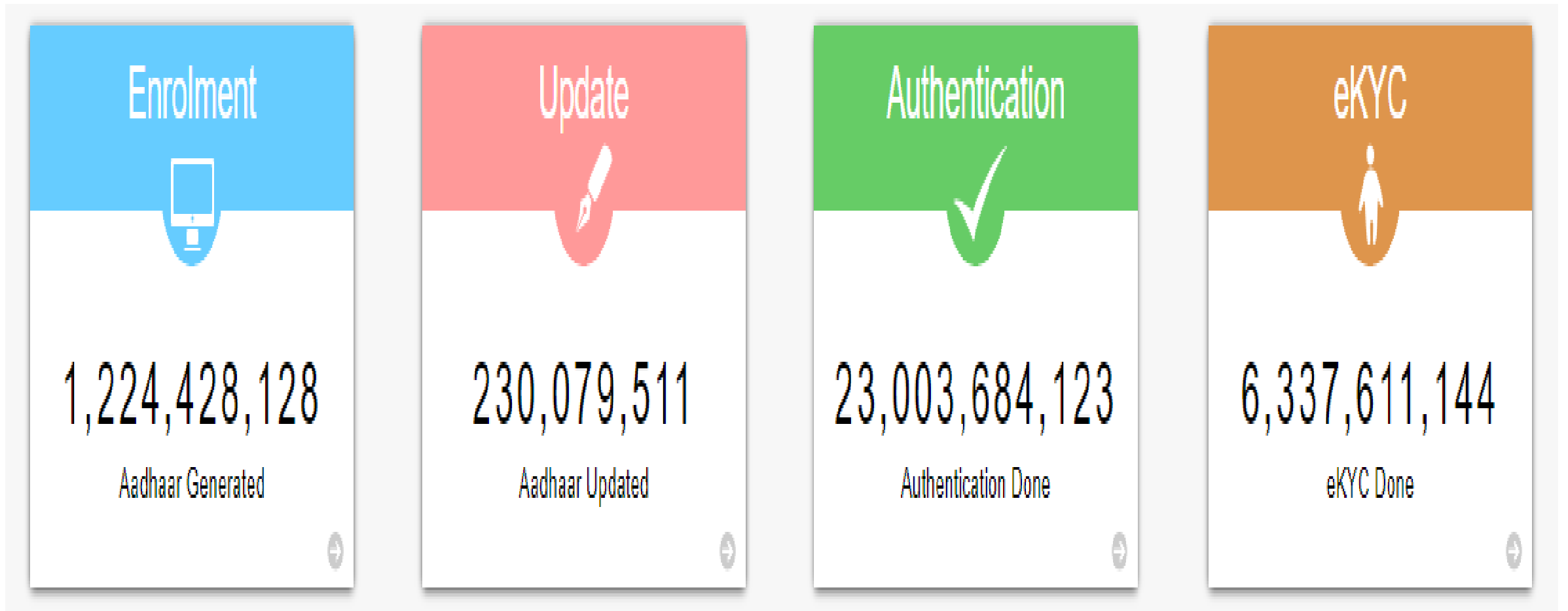
- The Personal Data Protection Bill 2018 has been submitted to the Hon'ble Minister of Electronics and Information Technology, Union Government of India in July 2018. The report will go through the process of inter-ministerial consultations and Cabinet as well as parliamentary approval. The salient features of the Bill are:
- **Fiduciary relationship:** To balance the interests of the individual with regard to his personal data and the interests of the entity such as a service provider who has access to this data.
- **Obligations of fiduciaries:** Basic obligations of Service Providers proposed (i) to process data fairly and reasonably, and (ii) to give notice to individual at the time of collecting data.
- **Personal Data** has been defined to include data from which an individual may be identified or identifiable, either directly or indirectly.
- **Processing of personal data** may be Consent-based or Non-consensual (like for State to discharge its welfare functions; to comply with the law or with court orders in India).
- **Enforcement model:** A Regulatory Authority to inquire into any violations of the data protection regime.
- **Amendments in Other Laws:** Amendments proposed in Information Technology Act, 2000 & Right to Information Act, 2005.

Features of Aadhar – a revolutionary step of digitization in India

- Aadhaar is a 12 digit unique number random number, devoid of any intelligence. Nationwide portability, can be authenticated anywhere on-line.
- Both fingerprint and iris data are collected to increase quantity of biometric information and also to help include people who might not be able to provide either good prints or good iris scans.
- Multi-modal system of biometric data ensures the highest accuracy levels and the least room for error. It has inherent features of Uniqueness, Authentication, Financial Address and e-KYC and is verifiable in an online and cost-effective way
- Eliminates duplicate and fake identities and is used as a basis/ primary identifier to roll out several Government welfare schemes



Aadhar so far..



Increased Governance & Transparency via Use of Aadhar

- Total No. of Schemes: 1133 from 74 Ministries
- DBT Applicable Schemes & Services: 501 from 63 Ministries
- DBT Applicable Schemes: 466 from 57 Ministries
- Total Direct Benefit Transfer : USD 64.850 billion
- Total Estimated Savings/ Benefits : USD 13.240 billion
- Elimination of fake/duplicate/non-existent beneficiaries
 - Petroleum & Natural Gas : 37.9 Million
 - Consumers stopped claiming subsidy 22.2 Million
 - Food & Public Distribution : 27.5 Million
 - Rural Development 0.22 Million (appx. 10% savings on wages)
 - Minority Affairs : 0.526 Million
 - Social Justice & Empowerment : 0.179 Million

Aadhar Linked Services

- Aadhar enabled Payment System (AePS)
- E-Sign
- Direct Benefit Transfer (DBT) Schemes
- Customer-on-Boarding
- Issuance of e-Insurance Policies, PAN Card, SIM Cards, Utility Connections etc.
- Internet Banking and Login Facilities through e-Sign
- Income Tax, GST and other Returns' and Reports' Filing

Potential Uses of Aadhar

- Issuances of e-Cheques, e-Drafts and other e-Financial Instruments
- Asset Classes can be Tokenised. For Real Estate - Telengana and Andhra Pradesh have announced similar Experiments
- Digitization of Contracts between Parties
- Peer to Peer Lending Space
- Driving Licenses, Vehicle Registrations, e-Passports, Health Records, Certificates for Birth, Marriage, Tribe, Caste, Death, Domicile, Income and Residence etc. (some of which are part of Mission Mode Projects of the Government of India)

Mission Mode Projects

Central Mission Mode Projects in India (15)

- Banking
- Insurance
- Income Tax
- Central Excise
- MCA21
- Pension
- Passport
- National ID/UID
- Immigration/ Visa
- e office
- Posts
- Central Armed Para Military Forces
- e Bhasa
- NMEICT
- e Sansad

State Mission Mode Projects in India (17)

- Transport
- Land Rec/NLRMP
- e District
- Commercial Taxes; Treasuries
- Municipalities
- Agriculture; PDS
- Employment Exchange
- Health & Education
- e Panchayat
- CCTNS
- Agriculture 2.0
- e Vidhaan
- Rural Development
- Women & Child Development

Integrated Mission Mode Projects in India (12)

- India Portal
- NSDG
- CSC
- Financial Inclusion
- E Trade
- e Courts
- e Procurement
- e Biz
- NGIS
- Road & Highway Information System
- Social Benefits
- Urban Governance

THANK YOU