



Why the electoral reforms Bill is a problem

The Aadhaar project is again being used for purposes far beyond the stated purpose of 'welfare'

Bill cleared amid Oppn din



Union law minister Kiren Rijju tabled the Election Laws (Amendment) Bill, 2021 aimed at curbing "the menace of multiple enrollments of the same person in different places".

PROPOSED AMENDMENTS

- Allow Election Commission officials to seek Aadhaar details of registered voters on a voluntary basis
- Makes the language of the Representation of the People Act, 1950 gender neutral



OPPN QUESTIONS MOVE

Several oppn MPs asked that the bill be referred to a standing committee and raised objections on the following grounds:

- 1 Linking of Aadhaar numbers with the voter ids will lead to mass disenfranchisement
- 2 Aadhaar was only meant to be proof of residence, does not reflect any proof of citizenship
- 3 The bill will infringe on right to privacy

GOVT HITS BACK

They are opposing it unnecessarily: **Kiren Rijju**, Union law minister, adding that the Bill will cleanse the election system.

The minister said various proposals which are part of the bill have been recommended by the Standing Committee of Law and Personnel.



The Election Laws (Amendment) Bill, 2021

1. The Government has rushed the passage of the Election Laws (Amendment) Bill, 2021 in Parliament, also amending the Representation of the People Act, 1950 by facilitating the linking of a person's Aadhaar number with electoral roll data.
2. The amendment provides that an electoral registration officer may "require" an individual to furnish their Aadhaar number in order to establish their identity.
3. Even persons already enrolled "may" be "required" by the officer to furnish their Aadhaar numbers in order to authenticate their entries in the electoral roll. Registered voters have the option of providing their Aadhaar number to Government authorities.
4. The amendment states that no one shall be denied inclusion in the electoral roll, nor shall their names be deleted from the electoral roll due to their

23.12.2021

Thursday



<http://www.sriramsias.com>

inability to furnish the Aadhaar number “due to such sufficient cause as may be prescribed”.

5. *Such individuals may be allowed to furnish alternate documents, as prescribed by the Central government.*

Issues with amendment:

There are various substantive and procedural concerns with the amendments passed.

1. *First, although the Government has termed these measures as voluntary, the provisions of the amendment belie this. The electoral officer clearly has uncanalised discretion — since the law does not prescribe any guiding principles — to decide when an Aadhaar number may be “required”.*
2. *Moreover, the Central government has the final say in prescribing the conditions (“sufficient cause”) under which an individual will be permitted to enter or remain on the electoral rolls, in case of her “inability” to furnish their Aadhaar*
3. *This means that the Central government will decide what reasons are considered acceptable for a voter to remain on the electoral roll.*
4. *Interestingly, the law does not even consider a situation where an individual may be opposed to linking her Aadhaar number to the electoral database — further undermining the voluntary premise of the amendments.*

The burden of proof shifts

1. *In this manner, the burden of proof has been reversed. Instead of the Government proactively ensuring registration on the electoral rolls (such as through house-to-house verification) to achieve universal adult franchise, the burden now shifts to individuals who may be unable/unwilling to link their Aadhaar to justify their retention on the rolls.*
2. *In fact, deletion from the voter rolls will happen without any procedural safeguards since, at the moment, the law does not provide for a right to a hearing before such deletion.*
3. *Such a step has real-world consequences. In 2015, media reports highlighted how lakhs of voters in Andhra Pradesh and Telangana were reportedly excluded from the electoral process due to the practice of linking Aadhaar numbers with electoral ID.*
4. *Right to Information replies indicated that such deletion was carried out without any door-to-door verification of the identity of individuals. The*

23.12.2021

Thursday



<http://www.sriramsias.com>

Supreme Court of India had to finally intervene to stop the linking process since the constitutionality of the Aadhaar Act was under challenge then.

Political profiling

1. Second, there are concerns that the amendment will result in political profiling. By linking electoral IDs with Aadhaar numbers, it is much easier for the Government to track which voter has accessed welfare subsidies and benefits using their Aadhaar.
2. This can be used by political parties to selectively target their messages to specific voters, using information that is not publicly available.

Procedural lapses:

1. There are also procedural concerns that relate to the manner in which the amendment was passed.
2. The Government introduced the Bill on December 20 and passed it on the same day in the Lok Sabha, while pushing it through the Rajya Sabha on the next date (December 21).
3. Members of Parliament were not given time to understand or debate the implications of the amendments. Despite calls for the division of vote in both Houses, the law was passed on the basis of a voice vote.
4. This undermines the fundamental premise of parliamentary democracy — to allow elected representatives the opportunity to voice the concerns of their constituents over laws that affect them.

Not substantiated

1. This is especially important since the Government has failed to provide any empirical data that demonstrates either the extent of the problem of bogus voters in the electoral roll (justifying this extraordinary measure) or the success of Aadhaar in de-deduplication.
2. It is now well known that the Aadhaar database is beset with errors and exclusions. This is partly because there is no verification of the authenticity of the demographic information on the Aadhaar database, i.e. the UIDAI does not independently authenticate the information provided by an applicant at the time of enrolment.
3. In fact, both the Calcutta High Court and the Allahabad High Court have refused to rely on the authenticity of Aadhaar data, noting, "There is definitely something amiss with the Aadhaar enrolment process if important demographic information such as the name of the applicant's father, as in the case in hand, can be falsified and even go undetected."

23.12.2021

Thursday



<http://www.sriramsias.com>

Finally, it is worth questioning how the Aadhaar project is once again being used for purposes far beyond the stated “welfare” purpose that was upheld by the Supreme Court of India in the Aadhaar judgment as the basis for the introduction of the Aadhaar Act as a Money Bill in Parliament. It is likely that some of these issues will be litigated before the Supreme Court.

As a regional leader, not a victim of circumstance

India must respond to neighbourhood challenges by making it clear that it is an arbiter of its destiny and the region's

Four Challenges to the region:

1. a greater caution in power projection by the United States,
2. the rise of China has permeated many spheres but also resulted in territorial tensions.
3. the American pull-out from Afghanistan
4. the novel coronavirus pandemic

Handling the Afghan issue

1. To begin with, there is the challenge that the situation in Afghanistan has thrown up, triggered by the U.S. decision to pull out all troops.
2. It is clear that New Delhi has failed to effect outcomes in a country where it has had a role historically and is now left studying the threats that will emanate from Afghanistan — from terror groups, narcotics, and mass migration to flee the growing humanitarian crisis there.

Three failures vis a vis Afghanistan:

1. The first is a failure to recognise where U.S. policy was leading
2. The second is one that New Delhi persists in today: the failure to secure its friends in Afghanistan.
3. The third, is a failure to sow the seeds today for a better future for Afghanistan tomorrow, one which has a strong Indian presence in it.

Dealing with China

1. The next big challenge India has faced is from Chinese aggression, quite directly.



2. It is clear from a number of ground sources, satellite maps and official releases that the People's Liberation Army (PLA) has amassed along the Line of Actual Control (LAC) in unprecedented numbers for "peace-time", built villages and settled populations inside disputed territory claimed by India; it has also dug trenches, brought in heavy artillery and prepared road and helicopter and aircraft landing infrastructure for its forces right up to the boundary with India.

3. The Government's reticence in acknowledging the Chinese actions is no longer seen as being "discretion over valour". It is seen, particularly in the region, as deliberate diffidence on India's part.

4. The Government is unaware of the reasons for the Chinese action, which is disingenuous or exposes a lack of strategic thinking.

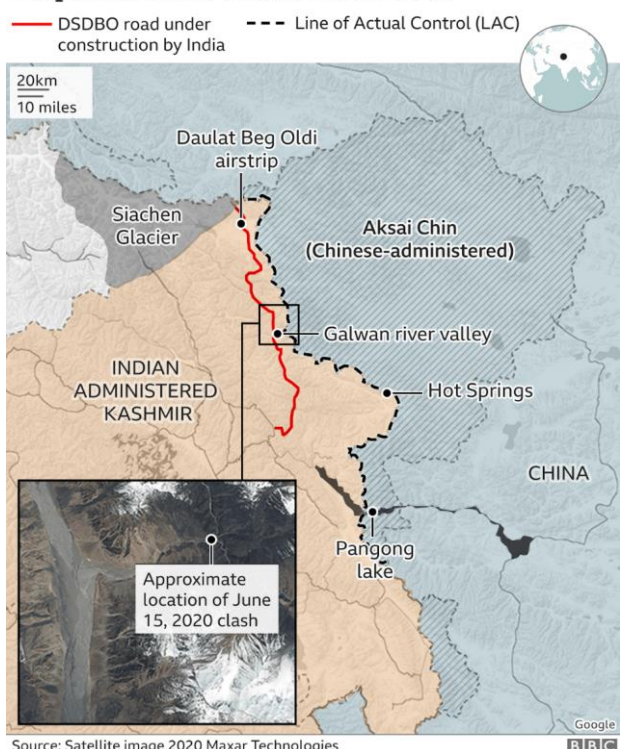
Those who have analysed the situation more closely have pointed to five decided objectives behind China's aggression at the LAC:

1. To "reclaim" territory it claims it has lost over hundreds of years from the South China Sea to Tibet
2. To restrict India's recent efforts at building border infrastructure,

Key infrastructure along India-China border Projects completed or under construction



Disputed China-India border area



Source: Satellite image 2020 Maxar Technologies

23.12.2021

Thursday



<http://www.sriramsias.com>

bridges, and roads right up to the LAC;

3. To restrict any possible perceived threat to Xinjiang and Tibet;
4. To restrict India's ability to threaten China's key Belt and Road project, the China-Pakistan Economic Corridor (CPEC), including a second link highway it plans from the Mustagh pass in occupied Gilgit-Baltistan to Pakistan
5. To blunt any plans as outlined by the Home Minister in 2019 for India to reclaim Aksai Chin and Pakistan-occupied Kashmir (PoK) militarily.

Way Forward:

1. The first is to resolve not to make spaces for China in the manner that the Modi government has during the coronavirus pandemic. By failing to keep its promises to provide vaccines to the neighbourhood.
2. Second, India cannot cast itself as a counter to China by invoking its democratic system unless it is prepared to adhere to the very principles the Indian Republic's founders committed to: as a pluralistic, representative, inclusive power that respects the rights of each citizen, the media, and civil society.
3. While neighbours may not emulate India, they admire these very qualities that differentiate New Delhi from Beijing.
4. The third imperative, which would promote India's leadership in the region, is to stop seeing collaborations with other countries for projects in South Asia as a "win-win".
5. While India is a preferred strategic partner for most of the countries in the neighbourhood (with the obvious exception of Pakistan), possible Indian collaborations with the U.S., Japan, Europe, etc. are not as popular, especially as they are seen as "anti-China" rival platforms, which these countries would want to avoid.
6. These partnerships also hamper India's ability to stand up for its neighbours when required, as some in Dhaka had hoped it might when the U.S. chose to slap sanctions on Bangladesh's multi-agency anti-terror Rapid Action Battalion (RAB) force right as the nation's 50th-anniversary celebrations began.

As a result, New Delhi must block all external attempts to recast India as a "middle power", one which looks to the example of others to decide its best interests and needs the support of other powers to chart its course of action in its neighbourhood.