

18th AUGUST, 2020
TECHNOLOGY AND SURVEILLANCE SESSION OF JANTA PARLIAMENT

RESOLUTION 1

On the issue of Aadhaar-related denials of rations, pensions, and MGNREGA wages

This House urges the Government to:

- A. Direct all the State Governments to provide ration, pension, NREGA wages and all such benefits which are paid from the Consolidated Fund of India, to all the beneficiaries as per their entitlement- without insisting on production of Aadhaar or its authentication.
- B. Desist from using Aadhaar for any purpose not expressly allowed by the five-judge bench judgment of the Supreme Court in *Justice Puttaswamy v. Union of India* decided on 26th September, 2018, particularly, for any purpose connected with children such as for entrance examination registrations, school or college admissions etc. or for the provision of health services or health insurance
- C. Draw up a scheme of compensation for all NFSA and pension beneficiaries and MGNREGA workers for the period in which they lost their entitlements or wages due to non-seeding or non-authentication of Aadhaar or other technical reasons

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RESOLUTION 2

On the issue of access to the Internet and availing Internet-based services including employment opportunities, education, and justice

This House urges the Government to:

- A. Ensure free and equitable access to telecommunications, Internet and other modes of communication services across the length and breadth of the country through suitable policy and budgetary allocations
- B. Ensure that any restriction in access to telecommunication, internet and communication services be made in a transparent manner, only for a limited period of time, complying with principles of compelling necessity and proportionality, periodically tested for review and in the least rights restrictive manner
- C. Ensure that access to education, health, employment opportunities, governance, justice and welfare schemes is not made available exclusively through a particular technology or communication medium alone, and that every effort is made to provide suitable online and offline alternative access mechanisms to prevent exclusion

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RESOLUTION 3

On the issue of databasing and/or commodification of data

The House urges the government to:

- A. Introduce appropriate amendments in the Personal Data Protection Bill, 2019 and other laws to ensure that such legislations respect, guarantee, protect the right to privacy of all citizens, even as they provide for and realize the highest standards of transparency for the government and other public authorities
- B. Encourage and promote privacy- respecting business practices instead of encouraging greater commodification and commercialization of data
- C. Adopt transparent and consultative procedures in designing laws and policies relating to data protection and governance
- D. Desist from using extraordinary and unprecedented circumstances such as the Covid-19 pandemic as an excuse to push for unjustified, rights-violating databasing practices

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RESOLUTION 4

On the issue of the data rights of workers, including migrant workers

The House urges the government to:

- A. Recognise the data rights of platform workers and their importance in ensuring the workers' well-being
- B. Recognise community harm and enable collective bargaining on data rights to prevent data-extractive relationships that lead to surveillance and discrimination
- C. Ensure that workers are actively engaged to form bottom-up data stewardships and enable them to negotiate with platforms

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RESOLUTION 5

On the issue of digital courts and access to justice

This House urges the Government to:

- A. Ensure that digital courts are built in a people centric manner considering the lived experiences of all actors involved whether litigant, lawyer, judges or the public at large. These include the practical, financial, infrastructure and knowledge barriers of accessing digital courts.
- B. Ensure that lack of access to technology and internet services does not hinder access to courts by building alternative solutions that account for digital divides. In areas with poor internet connectivity solutions like open-air courts be considered.
- C. Ensure that digital courts remain open for public viewing and that the digital court system is designed to be an open court system.
- D. Encourage consultation with members of the bar, the bench and civil society organizations on the kind of access to court concerns that have been amplified in times of Covid-19 for those seeking justice, and determine ways to adopt systemic responses to address them in digital courts.

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RESOLUTION 6
On a Framework Law for Digital Rights

This House urges the Government to:

- A. Initiate the process of evolving through bottom-up, participatory consultations, an indivisible and integrated approach to digital rights, protecting and promoting people's rights to personhood, dignity, equality, privacy, and self-determination, and furthering social and economic justice.
- B. Introduce a "Framework Law for Digital Rights" – establishing principles, guarantees, rights and obligations for a people-centric governance of digital, data, Artificial Intelligence and related frontier technologies.
- C. Ensure that the Personal Data Protection Bill, 2019 is built on the first principles of such a framework law, effectively tackling state and corporate incursions into privacy and preventing unauthorised and harmful processing of data.
- D. Set up an autonomous constitutional authority for digital rights to enforce, and address violations of, such a framework law, that is independent, transparent and accountable to the public.

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RESOLUTION 7
On the issue of surveillance

This House urges the government to:

- A. Ensure that unlawful and unconstitutional mass surveillance through intelligence and law enforcement agencies is curtailed by bringing appropriate legislation to protect the right to privacy in the face of widespread surveillance technologies like NATGRID and the proposed Automated Facial Recognition System
- B. Ensure that any surveillance is carried out in accordance with law, for specific purpose, under strict oversight and supervision, follow the principles of necessity and proportionality, made amenable to auditing and disclosure at regular intervals and effective remedy is provided for victims of invasion of privacy
- C. Bring under strict parliamentary and judicial oversight all law enforcement agencies which may be empowered to carry out surveillance and/or interception, by suitably legislating upon the subject after thorough and broad-based public consultations
- D. Design and implement ethical, rights-based frameworks for use of any surveillance-enabling technology by law enforcement agencies through an open, consultative process
- E. Suitably legislate to regulate facial recognition technology and integration of such with other technologies keeping in mind multiple applications of the technology and craft a framework tackling each application under guidelines proportional to the plausible hazardous outcomes.
- F. Strictly ensure that restrictions are imposed on the use of facial recognition technology in law enforcement unless suitable legislation to regulate the same is drafted.
- G. Prohibit by law the use of technologies like Facial recognition Technologies, Deep Fakes in election campaigning or any other activity pertaining to conduct of elections.
- H. Impose stricter regulations on tech start-ups that provide surveillance tools to the government and public alike without transparency and due process and place a rights based framework for customers
- I. Create special safeguards against surveillance for women, LGBTQI communities, religious and ethnic minority communities as well as other communities vulnerable to invasion of privacy, discrimination and violence.
- J. Desist from providing blanket exemptions from prosecution under laws enacted or policies framed to uphold citizens' bodily, informational, and decisional privacy to any government agency carrying out surveillance and interception functions.
- K. Encourage critical review by experts as well as civil society of technological tools which the government plans to deploy, in order to discover and address any potential for data leaks or other acts harming individual privacy

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RESOLUTION 8

On the issue of affirming human rights when deploying technology

This House urges the government to:

- A. Ensure that the fundamental right to privacy is at the heart of designing and deploying any technological intervention in governance and welfare
- B. Ensure that the freedom of speech and expression online is effectively protected and ensuring that laws restricting speech are narrowly construed and implemented in a democratic and non-partisan manner
- C. Ensure that no technological intervention or tool and communication medium is imposed on people violating their right to choose whether or not to adopt a particular tool or medium
- D. Ensure that technology and communication tools like Radio and Bluetooth, which are more accessible, economical and within reach of population with limited connectivity or low digital literacy, should be promoted through suitable regulatory changes and policy interventions
- E. Ensure that specific needs and concerns of vulnerable and marginalized populations including women, children, tribal, LGBTQI, religious, ethnic minority communities are paid special attention while designing technological interventions so as not to exclude or further stigmatize while accessing technology.
- F. Initiate dialogue for regulating through suitable policy gender based violence online as well as violence against other vulnerable communities
- G. Ensure that the procurement and use of digital technologies in the public sector, such as in Aarogya Setu, Aadhaar or the proposed National Social Registry is transparent and democratically accountable
- H. Ensure that any policy aimed at regulating the use of any technology or technological innovations is founded upon humane and ethical use of technology and incorporates feedback from the widest cross-section of people including those from the most marginalised communities
- I. Ensure the development and promotion of people-centric technological tools in collaboration with diverse stakeholders including not only industry experts, but also civil society members as well as ordinary citizens
- J. Ensure that the use of automated technologies like identification and classification systems in the context of public service delivery, are subject to independent oversight, and incorporate principles of due process, through appropriate legislation for regulating automated decision-making technologies.