# Foreword

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When reading anything, we absorb the text through our particular gaze, infused with our background and history. Here, I offer a lawyer’s reading of a textured, interdisciplinary book that will benefit from multiple readings. For lawyers like myself who tend to engage mainly with the creation and application of rules, this book’s narratives are a revelation. They illuminate the past with political theory, design theory, philosophy, history, and sociology. The authors take a period of time that is very familiar, and show us everything we missed as we lived through it.

This book is an intertextual conversation across disciplines, generations, and geographies. Since the authors are long-time collaborators, it is also a conversation across time. This adds depth and warmth to their engagement with each other. You will see, in the three essays, the authors speak to each other’s writing, and also to prior work, as they join voices to tell this story. Ruth Padel wrote of migrations, in her poem ‘Time to Fly’, that ‘you go because the world rotates, because the world is changing and you’ve lost the key’. This book, by three individuals on three different continents, is also proof that wherever you may go, you can come together and remake the key.

This is a book for everyone who cares about citizenship, technology, and democracy, even though we have each formed our concerns and questions in different contexts. In the first part of this foreword (‘Eye-opening’), I discuss the authors’ repositioning of seemingly familiar history. The second part (‘Crisis in India’) will resonate particularly with those who are familiar with recent developments of law, politics, and technology in India, and have a visceral interest in the meaning of citizenship and democracy in India. This book shows us, step by step, how technology and law have changed what it means to be a citizen in India.

In the last part of my foreword (‘Yes, all democracies’), the crisis discussed in this book is a crisis of democracy and citizenship that is building worldwide. The authors’ pathbreaking scholarship offers important questions and theories for anyone with an interest in democracy. India is one of the most interesting democracies in the world and is a great choice of canvas for the authors’ ideas. To understand these ideas is to understand India a little. But to understand India is to also understand how societies move toward and away from seeing themselves as democracies.

## Eye-opening

The combined effect of the three authors’ narratives of how technology has changed society is much more than the sum of its parts. This narrative is informed by their personal and scholarly understanding of the events that constructed and embedded the relationships between technology, state, and society in India. The authors are able to theorize these questions with a granularity of detail that is both satisfying and enriching. Ashish Rajadhyaksha, for example, reflects on the questions that the three authors were asking at the time that the universal identity system was proposed, and details the developments that changed both the nature of the system and the authors’ view of it.

As an Aadhaar-skeptic who has written about the deficiencies of the statutory safeguards proposed for the system, I thought I had already read about, heard of, or conceived its worst outcomes. For example, I have always maintained that using statutory safeguards (as opposed to constitutional obligations) to contain Aadhaar’s excesses can easily be undone by the first legislature that is willing to remove the safeguards. However, each of the authors surprised me by showing me dimensions of this project that I did not know about, understand, or envision.

Rajadhyaksha sketches out how the National Population Register and other developments that directly threaten meaningful citizenship were able to use or repurpose Aadhaar. While Nishant Shah has been coy about his past work, Rajadhyaksha has devoted several pages to reminding us of Shah’s past work on Aadhaar’s conflation of identity and identification. This work was so insightful that it was cited in Justice Chandrachud’s 2018 dissenting judgment in the second Aadhaar case. But it is Nafis Hasan who shines light on previously unplumbed questions in the context of Aadhaar. He does this by showing us how the Indian government chose particular technologies and private actors to create its databases, and helps us understand how these choices affect citizens. Using a brilliant blend of empirical research and theory, he shows us how datasets are perceived as objective but can be compromised in several ways. The particular paths chosen by the Indian government leave citizens with the burden and labor of ensuring that their information is recorded correctly. This part of the book is not only visionary in its own right, it also shows us why Shah is right, now and in the past, about what these databases do to the individual citizen.

I wonder how the Supreme Court judges who wrote the privacy and Aadhaar judgments would read this book. Aadhaar, like many serious questions before the Supreme Court, triggered a conversation between the judiciary and the executive. In the case about the fundamental right to privacy, in particular, the judges made assumptions about the restraint the executive was likely to exercise in its invasion of privacy within the broad space offered to it. One wonders if they would rule differently if we could throw this book back in time to show benches past the future their combined rulings constructed.

## Crisis in India

Indian readers will have lived through the period and events discussed in this book, and others may have witnessed similar developments in their countries. What we think we witnessed is transformed and reconstructed by the authors’ narrative, framing, and retelling. If you were wondering how and why we got here – how citizenship is now based on a fragile and almost fickle digital ID, why protesting can get you arrested, and what the Aarogya Setu was doing on anybody’s phone – this is the book to read. It offers compelling insights to show us how India got here, and ways to rethink where technology and society have taken our democracy.

In March 2015, many celebrated the Indian Supreme Court’s decision in *Shreya Singhal* v *Union of India*, which was widely regarded as the first significant Indian judgment on online communication. During the litigation, big technology companies were rallying support and coordinating advocacy that would favor unrestricted online speech. Public attention was focused on online speech. In the meantime, data collection by these companies and by the state was expanding. The unique identification system was being put in place, and state surveillance was becoming more sophisticated and less accountable. Companies were competing to invent new ways to collect and use data. At the time, very little attention was being paid to privacy and to the ways in which these companies violated it. The companies would go on to argue for some years that granular privacy laws restricted innovation and were bad for the population. They would also go on to privately restrict speech in ways that would not have met the constitutional threshold if the state had ordered the restriction.

The connection between Shreya Singhal and the events discussed in the book is that this highly regarded judgment also displayed the judicial shortsightedness that would be displayed in the court’s later rulings on privacy and universal identity. The judiciary failed to appreciate the extent to which the executive could censor information, if it was able to negotiate directly with companies and leverage their gatekeeping role without involving the citizens whose speech and information is made inaccessible. The advocacy in the case also assumed that companies’ incentives would always lie in resisting censorship, and this optimism did not survive the test of time. The story of Aadhaar was similarly a story of not seeing what was in plain sight as well as what lay concealed, both of which powerfully affected the form that the system would take and the future it would create.

Parts of the book unearth new and important information. Other parts reveal what was hidden in plain sight or obscured by how we were taught to see. What, for example, has Aadhaar done to the meaning of citizenship and choice? Does this change depend on the demographic to which one belongs? Can this change be attributed only to Aadhaar or was the universal identity system a part of a series of changes made to what it means to be a citizen of India? For Indians, to read this book is to understand the many ways in which the last decade has changed how citizenship works. Rajadhyaksha characterizes these changes as ‘creep’. While national attention focused on the questions framed and amplified by policy wonks and news media influencers, creep was taking place. Shah is looking at it from our point of view. We the user, or ‘yousers’ as he prefers to think of us, suffer from information overload. Hasan characterizes the problems as emerging in part from excess.

As Rajadhyaksha points out, it was difficult for many to understand the full implications of the Unique Identification number or UID in its initial stages. The trio who authored this book, along with my old friend, brilliant lawyer-researcher Sruti Chaganti, were among the first to study the project. Despite their meticulous work, they were – as we all were - looking at only one corner of the picture. It is not only Rajadhyaksha but also Hasan who surfaces everything that was unknown then. Hasan’s chapter is revelatory because it shows us that the changes began long before any of us imagined they did. Shah shows us that it was not just the obscurement of changes in law and policy, but the overriding of our cognitive capacity to take in the world and to think, masked by the language of access and empowerment, that has made it difficult to participate in the democracy as we should. Together, the three authors offer an account of how technology has been used to gradually restrict and stunt the capacities that flow from citizenship in India.

## Yes, All Democracies

Although this is a book that will certainly be of interest to Indians, the theory, the questions and the reimagining should be of interest to anyone with an interest in technology, citizenship, and democracy. It offers a rich interdisciplinary narrative of these questions that is unusual. The compound vision of this book might be turned on other countries, especially democracies that are skewing the way India has.

As a postcolonial democracy that is not ruled by colonial settlers, India is acutely sensitive to questions of power, equality, and control. When the information revolution began, India was one of the world’s most interesting democracies. It was less than fifty years old then, and is less than a hundred now. It is also a country that was, and is, constantly learning and remaking itself, with a momentum toward change that has been steered in varying directions. India has moved rapidly toward increasing equality and then, perhaps even more rapidly, toward eradicating equality. It has invested heavily in the public sector and then privatized aggressively as it took its neoliberal turn.

The authors have a deep and nuanced understanding of the country. As you will see, this ease of navigating the past and its meaning allows them to reimagine narratives about technology and citizenship, and also allows them to show us how to ask the right questions and how to understand how technology and a democracy affect each other. Additionally, as international scholars, they are able to situate this narrative within a broader global and theoretical context. If Lisa Gitelman’s book *Raw Data is an Oxymoron* discussed why there is no such thing as raw data, and danah boyd showed us the real nature of enmeshment of technology and human society, then these three authors show us the ways in which technology and private interest are entwined within democracy, and between citizens and states.

The phases of technology in democracy that this book takes us through – the euphoria, and use of the language of rights to allow technology to permeate society unrestricted – will be familiar to most people in most democracies. Similarly, the use of the language of freedom to usher in insidious changes of unfreedom has also been a global phenomenon. The cycle outlined by the authors is one that infects many democracies at different stages of having technological determinism creep into core administrative systems while the population remains hooked on entertaining videos. Like Shoshana Zuboff’s widely read *The Age of Surveillance Capitalism* which describes the visible and invisible changes that technology was precipitating in one country, this too is a book that speaks to the world using India as its canvas.

As the authors took me through the last decade’s events, I asked myself what it is about India that seems make it particularly fertile ground for all the most difficult questions of technology and society to grow. Perhaps it is the way forceful neoliberalism came into contact with strong constitutionalism in ways that affect a very large percentage of the people of the world. Perhaps it is also the place that India occupies in both the creation and the consumption of technology, with populations and participation that are highly visible and entirely invisible in turn. This book not only helps us understand what has come to pass, but also helps us ask more questions.