

1. The Republic of Endor is a developing nation located in South Asia. It has a population of over 1.3 billion, a fast growing economy, and shares its borders with 7 countries. With its vast wealth of natural resources and a huge development potential, Endor has been striving to improve its GDP with the help of FDI and international trade. Endorians speak over 21 languages across the country, with 5 major religions having a significant presence throughout. Having porous borders, Endor struggles with illegal immigration and certain security threats throughout the year.
2. Keeping its diversity and socio-economic conditions in mind, Endor has a lengthy Constitution which grants its citizens certain fundamental rights, recognises them as equal in the eyes of law and firmly establishes Endor as a welfare state striving towards certain development policies. Endor's Constitution and all other laws are *in pari materia* to those of Republic of India, as they stand on 7<sup>th</sup> January 2018, with the exception of A. 141 of the Indian Constitution, whose equivalent does not exist in Endor. Endor's currency is at the same value as the INR.
3. Due to its large population and inadequate infrastructure, a significant number of Endorians struggle for basic amenities and require State support for their socio-economic development and opportunities. The State, in order to comply with international human rights principles, felt a growing need to identify the target groups requiring the most support. For this, it was felt that identification tools were needed to facilitate effective implementation of welfare measures. The Imperial Party, having the majority in both Houses of Parliament, also felt that a national ID scheme could have its benefits towards accessing healthcare, education, security, etc.
4. The Imperial Party thus began to promote the idea of a unique identification number for all Endorians, in order to promote social justice and equality. Prime Minister Palpatine called it "indispensable" for ensuring that welfare schemes reach deserving persons and no misuse takes place. After consultation with certain think tanks and expert panels, the Government of Endor decided to issue a Verifiable Data Registration Card (hereinafter known as the 'VDR' Card, pronounced as 'Vader').

5. A VDR number was voluntary and could be issued to any resident of Endor; thus was not restricted only to its citizens. Several NGOs lauded the Government's efforts towards treating both foreign nationals and Endorians the same and upholding values of equality. The Leia Alliance, the Opposition Party, criticised the scheme soundly as a "waste of national resources", citing it to be redundant courtesy all residents having various forms of national identification already.
6. For the purpose of issuing a VDR number, an individual's biometric and demographic information needed to be collected and stored in a central database. In order to execute this, the Government of Endor constituted the Biometric Identification and National Knowledge System ('BINKS') as the authority responsible for collecting data and keeping it securely. This was done via an executive order in February 2011. In 2012, the Government also presented a VDR Bill in the Lower House of Parliament, which entitled every resident of Endor to obtain a VDR number. The Bill was thoroughly opposed by the Leia Alliance, who branded it as a breach of the right of privacy. It was also referred to the Standing Committee of the Parliament, which agreed with the various privacy and expenditure concerns expressed. It also expressed concern about the central database, Palantir, being a dangerous tool prone to misuse as well as leaks, owing to Endor's lack of data protection laws.
7. However, the Imperial Party having a majority, insisted on the Bill being laid in the House and had a robust debate on the same, claiming the identification scheme as vital for realizing social justice and preventing misuse of taxpayer money. The Government then insisted on a vote, after which the Bill was passed with a simple majority in both Houses in late 2012. A sum of Rs. 2,000/- Crore was allotted to the BINKS to start the process. The head of BINKS, Mr. Dooku Infykani, wrote in favour of the scheme and spoke highly of its potential to eliminate corruption in Endor. The voluntary nature of the scheme was also repeatedly emphasised upon.
8. By 2015, over 90% of Endorians had been issued a VDR Card. There was a scattering of

media reports about a few careless leaks, certain cases involving inaccuracy of data and wrongful denial of pensions and basic food rations. BINKS was labeled an inept agency and the Imperial Party was criticised for having made the VDR Card mandatory in order to avail several welfare schemes. PM Palpatine issued several statements to defend the scheme, but failed to address the concern about illegal immigrants acquiring VDR numbers and availing socio-economic benefits.

9. In September 2015, a major national newspaper published an investigative report detailing how it was able to obtain access to the Palantir upon paying a measly sum of Rs. 500/- and access all VDR numbers as well as the information associated with them. The reporter was able to see names, addresses, photos, phone numbers, email addresses, etc. However, the biometric data was not accessed. BINKS, upon being contacted about the same, accused the newspaper of a data breach and threatened to file a criminal complaint for unauthorised access.
10. Shortly after the publication of the report, the Ben Yoda Foundation, a civil rights group comprised of activists as well as lawyers, filed a writ petition in the Supreme Court of Endor. The writ challenged the VDR Act, 2012 and the entire scheme as unconstitutional in nature, and cited the Parliamentary Committee's report in support. Issues of "shoehorning" the Bill through the Parliament with no regards given to the concerns regarding civil liberties, accuracy of data maintained and the overall integrity of the VDR scheme, were also raised. The Foundation also challenged the scheme as being violative of the fundamental right to privacy, and claimed that the VDR Act restricted a citizen's right to legal recourses.
11. When the hearing began before a Division Bench of the Supreme Court, the Attorney General of Endor claimed that as the Constitution of Endor does not grant a fundamental right to privacy, the violation of the same couldn't be claimed. She also reiterated the necessity of the VDR scheme to implement social security measures, and cited various countries that have a similar identification mechanism.

12. Acknowledging this as a ‘substantial question of law’, the Division Bench referred the matter to a Constitutional Bench seeking clarity on the nature and existence of the right to privacy. In 2017, a 9-judge bench of the Supreme Court unanimously upheld the right to privacy as a fundamental right; however, the bench differed on its limitations and reasonable restrictions.<sup>1</sup>
13. Currently, the Government of Endor stands its ground about the VDR scheme being integral to its social functions, and has ensured that the identification number has been linked to the holder’s tax returns, insurance policies, mobile numbers and bank accounts. The Government claims that the scheme does not lead to any infringement of the right to privacy, even as per the 9-judge decision.
14. The matter has now returned to the Division Bench for its consideration, to consider all of the issues raised in the above proposition. The final hearing is scheduled to take place on May the 4<sup>th</sup>, 2018.

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<sup>1</sup> The judgment is to be read as the one given by Supreme Court of India in W.P. (C) No. 494 / 2012.