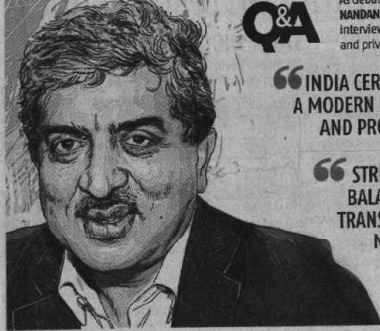


## 'By design itself, Aadhaar has been built for privacy'

ILLUSTRATION: AJAY MOHANTY



Q&A

As debate rages over Aadhaar being a privacy and surveillance liability, its architect **NAHDHAN NILEKANI** says the unique identify programme has become a "whipping ward". In an interview with Alnoor Peemohamed and Raghu Krishnan, he says we need a data protection and privacy law with adequate judicial and parliamentary oversight. Edited excerpts:

**"INDIA CERTAINLY NEEDS A MODERN DATA PRIVACY AND PROTECTION LAW"**

**"STRIKE A DELICATE BALANCE BETWEEN TRANSPARENCY AND NOT REVEALING PERSONALLY IDENTIFIABLE INFORMATION"**

**There is concern we are losing our privacy because of Aadhaar...**

Privacy is an issue the whole world is facing, thanks to digitisation. The day you went from a feature phone to a smartphone the amount of digital footprint you left behind went up dramatically. The phone records your messages, it knows what you are saying, it has a GPS so it can tell anybody where you are, the towers can tell anybody where you are because they are constantly pinging the phone. There are accelerometers and gyroscopes in the phone that detect movement.

Internet companies essentially make money from data. They use data to sell you things or advertisements. And that data is not even in India, it is in some country in some unaccountable server and accessible to the government of that foreign

country, not ours.

Then increasingly there is the Internet of Things. Your car has so many sensors, wearables have sensors and all of them are recording data and beaming it to somebody else. Then there are CCTV cameras everywhere, and today they are all IP-enabled.

So privacy is a global issue, caused by digitisation. Aadhaar is one small part of that. The system is designed not to collect information, because the first risk to privacy is if someone is collecting information. Aadhaar is a passive ID system, it just sits there and when you go somewhere and invoke it, it authenticates your identity. By design itself, it is built for privacy. I believe India needs a modern data privacy and protection law.

**Why is Aadhaar being used as a proxy for the privacy and data protection issues?**

It is a motivated campaign by people who are trying to find different ways to say something about it. Privacy is a much bigger issue. I have been talking about

privacy much before anyone else. In 2010, when it was not such a big issue, I had written to Prime Minister Manmohan Singh saying we needed a data protection law. You could see what was happening, the iPhone came out on June 30, 2007, Android phones came around the time we started Aadhaar, so we could see the trend. I asked Rahul Matthan, a top intellectual property and data lawyer, to help and we worked with the government to come out with a draft law. And then there was the AP Shah Committee. The UIDAI's DDG Ashok Pal Singh was a part of that committee, so we helped shape that policy.

When a banking application uses Aadhaar, the system does not know what the bank does. It is deliberately designed so that data is kept away from the core system.

I am all for a data protection law but we should look at it in context, look at the big picture. If people want to work together to create a data privacy law then it is a great thing. But if they want to use it to just attack Aadhaar, then there is some other interest at work.

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## 'By design itself, Aadhaar has been built for privacy'

**Now that the government is linking Aadhaar to PAN and driver's licences, will that not lead to Aadhaar being used as a surveillance tool?**

Surveillance is conducted through a 24x7 system that knows what you are doing, so from a technology perspective the best surveillance device is your phone. The phone is the device you should worry about.

Aadhaar is not a 24x7 product. I buy one SIM card a year and do an e-KYC, the driver's licence sits in my pocket and only sometimes someone asks for it. With the PAN card I file my returns only once a year.

**But with all that data being linked, can the government not use it?**

It is a valid concern and has to be addressed through a legal and oversight process. Aadhaar is just one technology. You do not attack the technology, you look at the overall picture.

The US has the Foreign Intelligence Surveillance Act under which special courts issue warrants to the FBI for surveillance. This is absolutely required and it should be a part of the data protection law (in India) which says under what circumstances the government can authorise surveillance.

Today mobile phones are being tapped by so many agencies. In the US, the FBI is under the oversight of the Senate. In India, Parliament does not have oversight of any intelligence agency. I remember (former Union minister) Manish Tewari had introduced a Bill six or seven years ago saying intelligence agencies needed to be under the oversight of the Parliament, but nothing happened.

**Is there any way to stop Aadhaar being used as a surveillance tool?**

Today a person can be identified with or without Aadhaar. US systems can identify a person in a few milliseconds using big data. All that is part of what we have to protect. Aadhaar by itself is not going to add anything to that. What is important is that the infrastructure of surveillance comes under judicial oversight as well as parliamentary oversight.

**Would the Aadhaar narrative have been different if this were a Congress-led government?**

I think most people making this noise are against the government, so it is a political argument and Aadhaar has become a convenient whipping ward. Lots of different agendas are at work here. But my understanding is this - whether it is data protection and privacy, surveillance or security, these are all broad issues that apply to technology in general and if you are serious about solving the issues you should fix it at the highest level and have a data protection and privacy law which includes, mobile phones, CCTV cameras and Aadhaar.

**A report by the Centre for Internet and Society says 130 million Aadhaar identities have been leaked...**

It is because of the transparency movement in the last 10 years. In 2006, we passed the RTI Act and MNREGA Act. Section 4 of the RTI Act says that data about benefits should be made public. At that time it was all about transparency. Since then, governments have been publishing lists of MNREGA beneficiaries and how much money is being put into their bank accounts. At that time it was applauded. Now the same thing is coming back as privacy being affected.

These are not leaks; governments have been consciously putting out the data in the interest of transparency. The message from this is we have to strike a balance between transparency and privacy. And that is a difficult balance because Section 4 of the RTI Act says if a benefit is provided by the government it is public information, so the names of beneficiaries should be published because it is taxpayers' money.

There is something called personally identifiable information. You should strike a balance between transparency and not revealing personally identifiable information. That is a delicate balance, and people will have to figure this out. The risk you have now is governments will stop publishing data - look, you guys have made a big fuss about privacy, we will not publish. In fact, the transparency guys are now worried that all the gains are being lost.