

Criticism without aadhaar



AJAY BHUSHAN PANDEY

The unique identification number empowers the people, not the state

JEAN DREZE'S ARTICLE, 'Dissent and Aadhaar' (IE, May 8), and other articles recently published in *The Indian Express*, have argued that with Aadhaar, India is at risk of becoming a surveillance or "Orwellian" state. With due respect to the critics, these apprehensions are unfounded. Aadhaar has emerged as a powerful instrument which enables people to establish their identity, receive their entitlements and exercise their rights without fear of being excluded or having their rights taken away. People use Aadhaar to open bank accounts, avail of doorstep banking, make digital payments and receive benefits under the PDS, MGNREGA, Ujjawala and the LPG subsidy, pensions, and scholarship schemes directly from the government without middlemen usurping them.

Aadhaar has thus brought transparency in governance and cleansed delivery databases of fakes, duplicates and common intermediaries, which have yielded savings of about Rs 50,000 crore in the last two years. In an independent study by the World Bank, 'Digital Dividend 2016', it has been estimated that Aadhaar can potentially save Rs 72,000 crore every year by plugging leakages. The transformational potential of Aadhaar has been recognised by the Supreme Court which has directed the use of Aadhaar to address the problems of leakages, fakes and duplicates.

No doubt, Aadhaar has also enhanced the government's ability to directly connect, reach, and serve the people, which unfortunately is being projected as an increase in the state's power and has led to Aadhaar being perceived as an instrument of state surveillance. The critics tend to forget that Aadhaar empowers the people, not the state.

India's effort to provide unique identification to its people and digitise its citizen databases, public or private, is mistaken as an exercise towards invasion of privacy. They must realise that non-digitisation of databases is not an option in the digital era. Often, the current debate reminds us of Europe's Luddite movement in the 19th century when mechanisation was opposed due to fears of job loss.

It is pertinent to know how other developed democracies have used unique identification numbers to cleanse their system. The US introduced the Social Security Number (SSN) through an enactment in 1935 for the

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limited purpose of providing social security benefits during the Great Depression. However, in 1942, President Franklin D. Roosevelt expanded the scope through the historic Executive Order No. 9397 which mandated all federal agencies to use the SSN in their programmes. In 1962, the SSN was adopted as the official Tax Identification Number (TIN) for income tax purposes (just as India's Parliament recently introduced Section 139 AA in the Income Tax Act to mandatorily require Aadhaar for PAN and Income Tax returns). In 1976, the Social Security Act was further amended to say that any state may, in the administration of any tax, general public assistance, driver's licence, or motor vehicle registration law, utilise the social security account numbers for the purpose of establishing the identification of individuals and may require any individual to furnish the SSN. Section 7 of the Aadhaar Act seeks to do the same in India.

The mandatory use of the SSN by the state did not go unchallenged in US courts which eventually held it to be constitutional. In *Doyle vs Wilson*, it was held that "mandatory disclosure of one's social security number does not so threaten the sanctity of individual privacy as to require constitutional protection." In the UK, too, almost every important service requires the National Insurance Number (NIN).

Critics will say that neither the SSN nor NIN is based on biometrics. But critics need to specify what they are objecting to — collection of biometrics or the system of a central number which can potentially link all the databases or both? Collection of biometrics for a legitimate purpose is an established practice sanctioned by law in India. If you want a driver's licence, sell or buy properties, or want a passport, you are statutorily required to give your biometrics.

As regards objections to the state creating a central number in a central database, critics of Aadhaar need to ask themselves whether widespread mandatory usage of the SSN in the US or the NIN in the UK and the presence of these numbers in most citizen databases which potentially empowers the state to track every person from cradle to grave has made these countries surveillance states. They would say there are safeguards which prevent such things happening there.

So, now let us examine what the safeguards are in Aadhaar which will prevent it from being used as an "electronic leash" or an "instrument of state surveillance". Aadhaar accords the highest importance to privacy. Since its inception, it has adopted the principle of privacy by design which is achieved through minimal data, federated databases and optimal ignorance which in turn ensures that no agency is able to track and profile any individual. The UIDAI during Aadhaar enrolment collects minimal data — that is, name, address, date of birth, gender and biometrics. When people use Aadhaar for accessing services, their information remains in silos of federated databases of those agencies. No one agency can have a 360 degree view of a person. Each agency remains optimally ignorant.

But critics have apprehensions that an agency, particularly the state, may not choose to remain optimally ignorant forever and start connecting the silos of databases through Aadhaar. It will serve them better if they read the Aadhaar Act 2016 and the Regulations. The Act covers the basic tenets of privacy protection measures relating to informed consent, collection limitation, use and purpose limitation and sharing restrictions. I am yet to see another law in India which accords such importance to privacy and data protection.

The restrictions on use and sharing imposed under the Act are equally applicable to the state or a private entity. Any violation is a criminal offence punishable with three years imprisonment. The UIDAI will welcome any constructive debate or suggestions to further strengthen the legal provisions, but to say that there is no privacy law and therefore Aadhaar cannot be allowed to go ahead is not correct.

Aadhaar is also criticised for failures and issues relating to implementation. Here, too, the UIDAI remains open to constructive suggestions and will continuously review and strengthen its system. Finally, Aadhaar is India's technological marvel which, while empowering people, will enable India to leapfrog towards the status of a developed nation.

The writer is chief executive officer of the Unique Identification Authority of India (UIDAI), where he has been working since 2010