Privacy concerns overshadow monetary benefits of Aadhaar scheme

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Abstract

Since its inception in 2009, the Aadhaar system has been shrouded in controversy over issues of privacy, security and viability. It has been implemented without a legislative mandate and has resulted in a PIL in the Supreme Court, which referred it to a Constitution bench. On Friday, it kicked up more dust when the Lok Sabha passed a Bill to give statutory backing to the unique identity number scheme.

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There was an earlier attempt to give legislative backing to this project by the UPA government, but a parliamentary standing committee, led by BJP leader Yashwant Sinha, had rejected the bill in 2011 on multiple grounds. In an about-turn, the BJP-led NDA government decided to continue with Aadhaar despite most of those grounds still remaining.

Separately, there have been orders passed by the Supreme Court that prohibit the government from making Aadhaar mandatory for availing government services whereas this Bill seeks to do precisely that, contrary to the government's argument that Aadhaar is voluntary.

In some respects, the new Aadhaar Bill is a significant improvement over the previous version. It places stringent restrictions on when and how the UID Authority (UIDAI) can share the data, noting that biometric information — fingerprint and iris scans — will not be shared with anyone. It seeks prior consent for sharing data with third party. These are very welcome provisions.

But a second reading reveals the loopholes.

The government will get sweeping power to access the data collected, ostensibly for "efficient, transparent, and targeted delivery of subsidies, benefits and services" as it pleases "in the interests of national security", thus confirming the

suspicions that the UID database is a surveillance programme masquerading as a project to aid service delivery.

The safeguards related to accessing the identification information can be overridden by a district judge. Even the core biometric information may be disclosed in the interest of national security on directions of a joint secretary-level officer. Such loopholes nullify the privacy-protecting provisions.

Amongst the privacy concerns raised by the Aadhaar system are the powers it provides private third parties to use one's UID number. This concern, which wouldn't exist without a national ID squarely relates to Aadhaar and needs a more comprehensive data protection law to fix it. The supposed data protection under the Information Technology Act is laughable and inadequate.

The Bill was introduced as a Money Bill, normally reserved for matters related to taxation, borrowing and the Consolidated Fund of India (CFI), and it would be fair to question whether this was done to circumvent the Rajya Sabha.

None of the above arguments even get to the question of implementation.

Aadhaar hasn't been working. When looking into reasons why 22% of PDS cardholders in Andhra Pradesh didn't collect their rations it was found that there was fingerprint authentication failure in 290 of the 790 cardholders, and in 93 instances there was an ID mismatch. A recent paper in the Economic and Political Weekly by Hans Mathews, a mathematician with the CIS, shows the programme would fail to uniquely identify individuals in a country of 1.2 billion.

The debate shouldn't be only about the Aadhaar Bill being passed off as a Money Bill and about the robustness of its privacy provisions, but about whether the Aadhaar project can actually meet its stated goals.

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