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EDITORIAL NOTE

The Constitution of India begins with the phrase, “We, The people of India”. However, after more than half a century of giving ourselves this Constitution, the term, ‘we’ has been reduced to the privileged classes who can afford to assert the rights enshrined in this document. This epidemic of corruption and the inefficiency of the bureaucracy have exasperated the nation. Corruption has become the ultimate enemy of good governance in India, causing the citizenry to rise up in arms against the political and bureaucratic class.

Given this, the promise of transparency that emerged with AADHAR or the Unique Identification Number (UID) project appeared as a ray of hope to the nation. The UID project headed by Mr. Nandan Nilekani promised to bring the entire nation within the mainstream citizenship by assigning everyone with an identification number. According to Mr. Nilekani, the UID number, besides promising an identification number to everyone would ensure better and effective access to entitlements under various governmental schemes.

Prima facie this would seem as a promising scheme to many. Governments both at the centre and the state usually announce numerous schemes for the upliftment of the poor and the downtrodden. However, lack of effective implementation coupled with an inefficient and corrupt administrative machinery has ensured that the poor receive only a fraction of their legitimate entitlements. The proponents of the UID project envisage that the use of technology will ensure the speedy delivery of entitlements to the destitute

masses, many of whom would resort to bribery to receive their due. Besides this it will create interlinkages with basic service providers such as banks, post offices, mobile phone companies which will enable the citizenry of India to electronically transact their various daily requirements. For example, a fertilizer subsidy can be transferred directly to a farmer's bank account bypassing all other intermediaries and the farmer may be notified of this development via a sms on his mobile phone.

Through these assurances we are convinced of an idyllic future with substantially reduced rates of corruption, yet a careful reading of the National Identification Authority of India (NIDAI) Bill 2010 reveals that none of its provisions provide any assurance of any sort of entitlement and only seeks to provide an identification number. It remains unclear how the marginalised sections of the society are going to receive their entitlements through this project. Nonetheless, the rural population is awed by the promises made to them during the project campaigns. From its inception, the UID project has been peddled to be a welfare project; pegging its legitimacy on the betterment of the people. This encompasses plugging leakages in the public distribution system, easing the payments and entitlements under MGNREGA etc.

Strong opposition from eminent scholars and civil society members compels us to critically examine the rosy picture painted by the proponents of the UID. The main concern related to this project is of weak privacy and security. Project UID is vulnerable to profiling, tracking and surveillance since the issuance of the UID number involves submission of essential biometric information of individuals.

Many might be sceptical about the importance of the privacy of people in a nation where a sizeable population does not have food, clothes or shelter. However, one must also not overlook the basic rights guaranteed by the Indian Constitution such as Article 21 which guarantees right to life

and personal liberty and includes the right to privacy within its ambit. Hence any abrogation of this right in the course of this project would strike at the root of Article 21.

Further, given the enormous impact that the Bill will have on the citizens of this country, the lack of public engagement during its drafting has created misgivings about the actual intention of the government. It is feared that the government is cloaking a massive information collection project for national security purposes in the garb of enabling better access to welfare schemes. In fact, the former chief of Intelligence Bureau, A.K. Doval confessed that UID actually emerged as a strategy of the UPA government to uproot the unauthorised residents of the country. Since the straitjacket use of UID for security purpose might result in unwillingness among people in revealing their private information, the pretext of welfare measures serves as a soothing balm to the fears of the masses.

In fact, critics' concerns about privacy is somewhat vindicated by the fact that Section 33(b) of the Bill makes an expressed declaration that it authorises divulgence of any information related to the number holder in furtherance of national security. Proponents of the UID project argue that there is no harm in strengthening the National Security system if the UID project can afford to do so in addition to meeting the purported aims of the project. However, profiling marginalised people might expose them to graver vulnerabilities since the power structure in the society will remain unaltered. Seven decades ago, the Jewish population in Germany were profiled and subsequently tortured by the Nazis. Such profiling might be dangerous in India also given that we have multiple castes and communities and have also witnessed sporadic incidents of communal violence. If government has access to the records of the citizens, it can grossly misuse it against people who are critical of their regime. Moreover, a criminal would be identified as a criminal throughout his life due to this UID number and any amount

of repentance would not change this categorisation. Similarly, if the records reveal that a person was a psychiatric patient then he would be the subject of constant ridicule which might cause a relapse.

Since the nature of information being collected is all pervasive, there are not only questions about secrecy and privacy but also the security of the people. A recent NASSCOM report reveals that the database made by the UIDAI is vulnerable to exposure. The UIDAI is liable to take only 'reasonable care' to ensure non-leakage of the information stored in the database. Moreover, the authority is authorised to share the information with whoever it deems appropriate. Therefore, the sharing of information becomes discretionary on the authority and is vulnerable to being misused. Also, with the various private sector giants such as IBM winning the tender for collecting information for the database, worries about the data being misused for financial gain is not totally unfounded.

Another concern with the project is the overwhelming budget that has been allocated to the UIDAI. The government remains answerable about the need of further spending large sums on defence and intelligence agencies in our country. Just as centralisation of power is being contested with respect to the Jan Lokpal Bill, making the UID the sole key to identification might be fatal to the promise of life, liberty and privacy guaranteed by the Indian Constitution to its people. In the past, it has been seen that documents like passport, ration card and even PAN cards have been forged. Despite this, there is a complete absence of safeguards to control the forgery of UID cards. Further, a person, who does not have an UID number is denied the status of a resident and denied the services he is entitled to.

There is a pressing need for further deliberation on whether the UID is indeed a tool of state surveillance being shrouded as 'welfare measures'? There would doubtlessly be various advantages that would arise from such a project, enhanced

transparency and accountability being the most prominent. However, given the all encompassing nature of the project we need to tread cautiously, for we are changing the very nature of our democratic society and governance to an invasive one. Especially since sources from within the government have warned us against the government's hidden agenda with regard to this project. Public debate is imperative, there is a need for the government to engage with civil society and endeavour to diffuse this growing atmosphere of mistrust. We have to collectively ponder on the costs and benefits of the UID project before we invest significant resources into the establishment of this project and irrevocably set India onto the pathway of invasive governance.

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