



Centre for Legislative Research and Advocacy

Policy Brief for Parliamentarians

UID or Aadhaar: Unresolved Questions and Concerns

INTRODUCTION

The Government of India has embarked upon an ambitious exercise to provide a “unique identification” (or UID) number to every resident of the country. Each number is to be connected with three types of biometric data: iris scans, fingerprints (all ten fingers) and a picture of the face. UID or Aadhaar, it is claimed, will act as a useful identification facility and help the government root out corruption from social programmes. The project was flagged off with lightning speed in September 2010, when the first residents were “enrolled” under UID in Tembali village, Maharashtra. Since then, no effort has been spared to attract people to enrolment centres.

Meanwhile, the UID project has raised many questions related, for instance, to privacy, civil liberties, financial costs, and even technical feasibility. The authorities have not been able to clarify these misconceptions because their attention

is focused on meeting the enrolment targets. Even the Planning Commission is concerned that disquieting “test results” of the UID project have been ignored. Tall claims that UID will enable better management of welfare schemes like NREGA and the PDS have been challenged. Despite these major concerns, there has been scarce public discussion about key aspects of the UID project. This inadequate probing and questioning has led to a lack of understanding within the general population about UID. With that thought, this policy brief seeks to shed some light on certain aspects of this project to encourage Parliamentarians to ask some tough questions and initiate deeper discussions on this important issue.

Basics of UID UID is a “unique identification” number that is to be assigned to every resident of India – one person, one number. Since it will be issued to every resident, including children above the age of five, it is not a proof of citizenship. The

Spotlight: UIDAI (the Unique Identification Authority of India)

- UIDAI is the authority that has been established to issue UID numbers. Chaired by Mr. Nanadan Nilekani (with a cabinet minister rank in the Indian Government), the authority was set up in January 2009, under Planning Commission, by an executive order, not through a legislative measure such as an Act of Parliament.
- There is no law governing the functioning of UIDAI. The National Identification Authority of India Bill 2010 (“NIAI Bill”) seeks to create a legal framework for UID. Meanwhile, the UID process is already in full swing, without any legal framework.
- UIDAI has relied on 209 registrars as part of its “outsourced service oriented” infrastructure. Concerns have been raised about private enrolment agencies handling personal data such as bank account details as some of them have a stake in the healthcare and insurance sectors.



Ranjana Sonawane received India's First Biometric - AADHAAR UID Number 782474317884

numbers will be issued through various agencies authorized by the UIDAI across the country, called “Registrars”. Registrars include government, public sector and private sector organizations. Enrolment also entails collection of biometric data such as fingerprints and iris scan. This number, being unique for each person, can be verified from his or her fingerprints.

Documents required for registration: The “Handbook for Registrars”, prepared by the UIDAI, lists valid identity documents for UID enrolment, such as the ration card, PAN Card, Voter ID, etc. Those who do not have any of these documents can also apply for a UID number (Aadhaar). In such cases, authorized individuals (introducers), who already have an Aadhaar, can introduce residents who don’t possess any of the requisite documents and certify their identity. Getting a UID number does not entail getting a legit card with the number on it. However, various

government agencies may or may not, subsequently, issue smart cards using the UID data.

The UID project was initiated on the apparent premise that the poor faced great hurdles in accessing benefits and subsidies due to the inability to provide proof of their identity. As a result, every time an individual tries to access a benefit or service, they must undergo a full cycle of identity verification. Essentially:

1. UID is supposed to act as an all-purpose, fool-proof identification device. This could help in facilitating all processes that require identifying oneself – such as opening a bank account or applying for a passport.

2. Will help fight corruption in welfare programmes, enhance inclusiveness in government schemes, and so on. Specific areas where the benefits of UID are supposed to flow are NREGA, PDS and public health, among others.

National ID Systems Across the World

Germany

Beginning in November 2010, German ID cards contained chips with personally identifiable information including a biometric photo and, if desired, two fingerprints. The German government’s new national ID card was publicly hacked on TV. The hackers cracked the PIN system on the cards, which then allowed them to impersonate the cardholder online.

United Kingdom

The government’s attempts to impose compulsory ID cards were abandoned after the Home Affairs committee criticized it for infringing civil liberties and for being too expensive (an estimated £4.5 bn).

United States of America

The Social Security programme number is used as the national identification number, but attempts at introducing biometric national cards (REAL ID) came under fire from rights groups. After 25 states approved resolutions not to participate in the programme, the Obama administration introduced Pass ID. It does not collect personal information of individuals and store it in a centralized database, accessible by any state authority.

People’s Republic of China

The Chinese government had implemented a system of ID cards containing very basic information to every citizen since 1985. By 2004, government introduced the “second generation” mandatory ID cards, involving contactless chips containing a small storage capacity (restricting information to name, gender, ethnicity, residence and date of birth). They deliberated on incorporating fingerprints but decided against it as they found the system to be very challenging to handle for a large population and had reservations about its reliability.

Australia

Australia witnessed the most forceful protests and campaigns against the proposal of a national ID. The idea was eventually withdrawn.

Pakistan

Established in the year 2000, the National Database and Registration Authority (NADRA) is Pakistan’s state-owned IT services company, specializing in implementing multi-biometric national identity cards, but it is plagued with fake ID card allegations. Another sticky issue is that of Afghan refugees living in Pakistan and the consequence of giving them Pakistani nationality.

Concerns of UID and Welfare Schemes:

NREGA

Claim: Once each citizen with a job card provides his UID number before claiming employment, the potential for ghost or fictitious beneficiaries is eliminated.

Clarification: Elimination of ghost beneficiaries would require compulsory and universal enrolment. Yet public statements convey that UID enrolment will be voluntary.

Claim: In many areas the wages continue to be paid in the form of cash.

Clarification: Payment of NREGA wages through banks and post offices have been made mandatory since 2008. About 83% of NREGA job card holders have an account. Even though the introduction of payments through bank or post office accounts has reduced corruption; three ways of siphoning off money still remain - extortion, collusion and fraud. Extortion means that when “inflated” wages are withdrawn by labourers from their account, the middleman turns extortionist and takes a share. Collusion occurs when the labourer and the middleman agree to share the inflated wages that are credited to the labourer’s account. Fraud means that middlemen open and operate accounts on behalf of labourers, and pay them in cash.

Biometric-enabled UID to authenticate identity can only help to prevent “fraud”, but is of little use in preventing collusion or extortion. UID can address the wage-related fraud in NREGA; it can do little about material-related corruption. Also, delivery of service will depend on beneficiary verification. This means that all NREGA worksites (600,000) will have to be equipped with a biometric reader and any technological glitch will disrupt service.

PDS

Claim: Many poor people do not benefit from government welfare schemes such as the PDS because they do not have proper identification proof.

Clarification: In the case of PDS, two main reasons for the poor being excluded are (a) low coverage because the government is willing to provide subsidized food to very few people and (b) exclusion of many poor families because the government’s criteria for identifying the poor and the implementation of these guidelines are

problematic. One of the major problems with the existing targeted PDS is that of classification errors; UID can do nothing about such problems.

Claim: UID will help in elimination of “bogus” cards.

Clarification: UID can help deal with “ghost cards” and duplicates, but not where ineligible households or persons have claimed benefits.

Claim: With UID, beneficiaries can claim their benefits wherever they are.

Clarification: UID is portable; benefits are not, because the latter implies operational issues that cannot be solved by the UID.

A common problem facing PDS is that dealers give people less than their entitlement, and make them “sign” for the full amount. Again, UID will be of little help here because if customers can be duped into signing (or giving their thumbprint) for more than what they are given, they can surely be convinced to give their UID number for the same purpose. A large part of PDS leakages happen before the food grains reach the PDS dealer and UID is not designed to deal with such upstream leakages.

Technology Concerns

Security Risk: Since the UID database has to be accessible over networks in real time, it involves major operational and security risks. The identification system may collapse before network failure and hacking. There is also a significant risk of transmitting biometric data over networks where they may be intercepted, copied, and actually tampered with, often without any detection.

Reliability: Another concern is the reliability of biometrics. Worn-out fingers of farmers and manual labourers will be difficult to scan, and an iris scan can’t be done on people with corneal blindness or corneal scars. There were recent reports of elderly citizens being turned away from enrolment centres for failure in meeting biometric requirements. Besides the financial costs and time and effort to enrol individuals and collect their biometric data, 100% reliability in authentication can still never be guaranteed. Diverse conditions will throw up more challenges to such a system.

National Security and NATGRID

The UID number will be fed into a database to be shared with NATGRID, which includes 11

security and intelligence agencies (Intelligence Bureau, Research and Analysis Wing, CBI, Central Boards of Excise and Direct Taxes, etc). These databases would be integrated with information available not just with government agencies and public sector, but also private organizations such as banks, insurance companies, airlines, railways, telecom service providers, etc. This would give security agencies the power to access sensitive personal information such as bank account details, market transactions, websites visited, credit card transactions, etc. and enable them “to detect patterns, trace sources for monies and support, track travellers, and identify those who must be watched, investigated, disabled and neutralized”.

Civil Liberties

The proposed NIAI Bill seeks to establish the National Identification Authority of India (NIAI) as a statutory authority and lay down rules, processes and safeguards concerning Aadhaar. Under Clause 33 (b), the NIAI is required to disclose identity information in the interest of national security, if so directed by an authorized officer of the rank of Joint Secretary or above in the central government.

The right to privacy by the Supreme Court has been defined in its scope to be qualified by national interest. The Supreme Court in the case of *People's Union for Civil Liberties v. Union of India* held that, in context of infringement of right to privacy via telephone tapping, is justified if done under compelling public interest or to protect public health or morality. While information gathered by UID can be shared in the interest of national

security, however, no review mechanism has been offered. In case of misuse, NIAI Bill does not allow prosecution to be launched except on a complaint made by the authority or someone authorized by it.

Key Concerns to be Addressed by Parliament

- **Resolution of concerns regarding security and privacy of information**
 - The definitions of the information to be collected leave a wide ambit for additions that can be made by UIDAI. The danger here lies in allowing a statutory rather than a democratic body to make choices about the privacy of individuals.
 - Although the bill excludes and prohibits the collection of certain information, even basic personal information can be used by any ‘authorized person’ for profiling of individuals and there exists no protection under this bill.
 - Since private agencies that have stakes in healthcare and insurance sectors are involved in the registration process; access to this information by private entities poses a grave danger to privacy of people.
 - The information should be revealed after the consent of the individual whose information is in question.
- **Appointment of Registrar and Voluntary Registration**
 - A ‘Registrar’ is anyone authorized by UIDAI for enrolling individuals. However,

Cost-Benefit Analysis

Since its introduction in 2009, the cumulative revised budget estimate of the UID project is Rs. 1660 crore for 2010-11 and 2011-12 put together. The Union Government has already pumped more than Rs. 556 crore and issued more than 5.75 million UID cards. Apart from this, the Government of India is expected to spend as much as \$250 billion over five years on programmes aimed at the poor, including subsidies for food, diesel, fertilizer and jobs.

Also, a recent report advanced by the Parliamentary Standing Committee on Finance put the NIAI Bill on hold. Keeping all the constraints in mind the parliamentarians can review the cost and propose a sound financial plan for the project.

The committee responsible for the implementation of the UID scheme, headed by Mr. Nandan Nilekani, has been criticized by various sections of the society including governmental and non-governmental organizations. The best possible stance that could be adopted by the parliamentarians in this respect would be to analyze the huge cost and effort that the plan calls for. The bid could at least be based on approximation, since the estimation of actual outflow of funds is subject to change.

Better coordination between the implementing agency and the government could help resolve this concern and consequently facilitate effective utilization of resources. There is an immediate need for a white paper on usage and cost-benefit analysis of UID if we want to prevent wasteful expenditure of taxpayer’s money.

who these registrars would be, should be made clear in the enabling process itself to avoid conflicts at a later stage.

- When institutions such as banks are given the responsibility to enrol in an effort to further a social welfare scheme, chances are that in order to increase registration demand a UID number becomes a necessity to claim scheme benefits. A person could be denied benefits for mere lack of UID number and hence the basis of voluntary registration is lost.
- With the focus being only towards increasing enrolment, multiple registrars have been appointed leading to duplication of work.
- **Verification and Authenticity of Information collected.**
 - The bill does not clearly address the issue of verification of information recorded / collected.
 - The UIDAI delegates the responsibility to registrars and other enrolling agencies, but the possibility of flaws in recording information even by negligence remains unaddressed.
- **Adoption of a direct approach**
 - The government should clearly state whether the procurement of UID number is optional

or mandatory. The UIDAI claims that UID is a “voluntary facility” – no one is obliged to enrol. However, government agencies are free to make UID compulsory for their own purposes. If opening a bank account requires one to hold a UID number, then the enrolment in the UID scheme should be made compulsory by the government. Parliamentarians should more diligently resolve the ambiguity surrounding the eligibility of the UID scheme.

- As categorically stated by Mr. Nandan Nilekani, UID is not a proof of citizenship, it is meant for all residents of India. It could be the case that those who aren't legal citizens (e.g. illegal migrants) might claim to be lawful residents and assert their privileges on account of holding a UID number. In its report the Parliamentary Standing Committee on Finance stated that “while the country is on one hand facing a serious problem of illegal immigrants and infiltration from across the borders, the National Identification Authority of India Bill, 2010, proposes to entitle every resident to obtain an Aadhaar number”. This will, they apprehend, make even illegal immigrants entitled for an Aadhaar number.

- **Privacy Law**

- Law enforcement is one of the areas that need to be critically considered upon by the

Standing Committee Rejects UID Bill

On 8 December 2011, the Standing Committee on Finance chaired by Yashwant Sinha suggested the government reconsider and review the UID scheme. The committee in its report rejected the UID Bill citing that the concept lacked clarity and structure in execution. The panel is of the view that the project has been implemented in a ‘hasty’ manner and is directionless in its approach.

The committee also voiced concerns over the misuse of data by private players after taking note of the failure of similar initiative in other countries. The same rejection comes as no surprise ever since opposition to the scheme was voiced by the not only the Finance Ministry but also the Home Ministry and the Planning Commission, the comments of which were noted by the committee. The report suggested that the ‘Empowered Group of Ministers’, set up for collating the UID and National Population Register (NPR), had “failed to take concrete decision on important issues”. These include:

- (a) Identifying the focused purpose of the resident identity database
- (b) Methodology of data collection
- (c) Removing overlapping between UID scheme and NPR
- (d) Conferring of statutory authority to the UIDAI since its inception
- (e) Structure and functioning of the UIDAI
- (f) Entrusting data collection and issue of unique identity number and national identification number to a single authority instead of the present UIDAI and its reconciliation with National Registration Authority

government before coming out with any verdict on the UID scheme. In the absence of any statutory law in the area of privacy rights, the enforcement of such a scheme directly involves a huge risk to confidentiality of personal information.

- **Overlapping between UID scheme and NPR.**

- While UID was an initiative with National Population Register via Census, yet UIDAI has proceeded on its own accord to record information leading to duplication of work.
- The existence of two parallel schemes has lead to confusion between the two, among state officials and also discrepancy in the data record. For instance, in Secunderabad the Census recorded 13000 people whereas *Aadhaar* counted over 37000 people. This raises questions on the authenticity of the data and the procedure employed in the collection.

- **Use of simpler technology in welfare programmes**

- Parliamentarians need to question how reliable and useful such a technology will be in a vast country like India where a large population is still illiterate and not accustomed to such complex technologies.
- Many model states such as Tamil Nadu have made vast improvements in the functioning of welfare programmes by using simpler technologies, such as GPS trackers on trucks leaving food procurement centres and SMS systems which alert people. Such measures do not necessitate a massive investment on part of the government, nor do they rely on complicated technology.

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