

## **"Aadhar Bill, 2016 A Boon or a Bane: Critical Analysis"**

*Sunayana Bhat and Shubhdeep Sarkar*

### **ABSTRACT**

This paper talks about the Aadhar bill that was recently introduced in The Aadhaar (Targeted Delivery of Financial and Other Subsidies, Benefits and Services) Act, 2016 (the "Aadhaar Act") was presented in the Lok Sabha (lower place of the Parliament) by Minister of Finance, Mr. Arun Jaitley, in on March 3, 2016, and was passed by the Lok Sabha on March 11, 2016. It comes with a dream to change and legitimize the sponsorship systems, improve focusing on and proficiency in broad daylight administration conveyance. This paper revolves around the birth of the concept of aadhar and its background. The author also critically analyses the benefits as well as the difficulties and issues regarding the bill. Aadhar was the powerful venture of UPA (United Progressive Alliance) government. This was taken up by the present government and it could be seen that administration was extremely sufficiently sharp to get this Act went in Parliament. They have presented it as Money bill. Subsequent to experiencing the content of the Act which is authoritatively accessible, it could be comprehended that there are some lacunae with regards to the substance. There are procurements which could be supplanted by more proper writings. The constitution of the UIAI (Unique Identification Authority of India) is by all account not the only thing that should be finished. It must be seen that the Information Technology Act is likewise altered or better if information assurance laws are being passed. The present article needs to achieve a general examination of the Aadhar Act. The solidification of the Act is not adequate, there must be something cement to be done with a specific end goal to accomplish the required objective. India is in the travel period, where we need to think on the lines of the created nations with restricted assets. Thus the article needs to draw out these discovers which is essentially the first work of the writer. It is generally taking into account the exposed procurements accessible online on the site of government.

## INTRODUCTION

The Aadhaar (Targeted Delivery of Financial and different Subsidies, advantages and administrations) Act, 2016 is a money bill passed by the Indian Parliament. It expects to give legitimate sponsorship to the Aadhaar one of a kind recognizable identification number project. It was passed on the 11 March 2016 by the lower house of the parliament i.e. Lok Sabha.

Aadhar is a twelve-digit special distinguishing identification proof number issued by the government of India to each individual occupant/ inhabitant of India. The Unique Identification Authority of India (UDAI), which capacities under the Planning Commission of India, is in charge of overseeing Aadhar numbers and Aadhar recognizable identity proof cards.<sup>1</sup>

The Aadhar task was started as an endeavor towards having an individual, one of a kind recognizable proof record or number that would provide all the details on each and every points of interest, including demographic and biometric data, of every Indian citizen.

At present, there are a plenty of personal identity documents possessed by the Indian citizens including travel papers (i.e. passport), permanent account number (i.e. PAN card), driving licenses and ration cards etc. The Aadhar card/UID won't substitute these identification documents (ID) reports yet can be utilized as the sole ID verification when applying for different things within and outside the country.

It will also likewise serve as the premise for Know Your Customer (KYC) standards utilized by banks, financial establishments, telecom firms and various other organizations that keep up client or customer profiles. Aadhaar numbers will in the end serve as the premise for a database with which impeded Indian inhabitants can get to services, welfare programs of the

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<sup>1</sup>Bajpai N, Dholakia RH (2011). "Improving the performance of Accredited Social Health Activists." Working Papers Series, Working Paper No. 1. Columbia Global Centers, South Asia, Columbia University, URL [http://globalcenters.columbia.edu/files/cgc/pictures/Improving\\_the\\_Performance\\_of\\_ASHAs\\_in\\_India\\_CGCSA\\_Working\\_Paper\\_1.pdf](http://globalcenters.columbia.edu/files/cgc/pictures/Improving_the_Performance_of_ASHAs_in_India_CGCSA_Working_Paper_1.pdf). (last accessed on 13<sup>th</sup> July 2016).

government or any other right that have been denied to them because of absence of recognizable identification documents and records.<sup>2</sup>

### **HISTORY (BIRTH OF AADHAR)**

In the year 1999 prior to the Kargil war, the Kargil Review Committee, headed by security analyst K. Subrahmanyam, was formed to contemplate the condition of national security. They presented its report to Prime Minister Atal Bihari Vajpayee on 7 January 2000. He suggested that the citizens staying in the rural areas near border region be issued identification cards on requirement basis. A Group of Ministers (GoM), headed by L. K. Advani, was framed to contemplate the proposals and inspect conceivable implementation. The GoM presented its report in May 2001. It had acknowledged the proposal for an identification card. The card would be initially issued in rural areas near the border region and later elsewhere. At that point in late September in the same year, the Ministry of External Affairs recommended that a required national personality card.<sup>3</sup>

At that point around the same time, the Ministry of External Affairs recommended that a compulsory national personality card is issued. Later was the pilot venture, taken up in April 2003, and covering 29 Lakh individuals in 13 states seemed to have experienced some change over the span of its implementation, strikingly in the expansion of biometrics for all adults and in the doing without end of various aren't hued cards. A few associations drove by the MNIC set up a base that included 20 centres to handle the national database. In December, The Citizenship (Amendment) Bill, 2003 was presented in the Lok Sabha by L. K. Advani. It essentially means to give various rights to people of Indian origin. With the adjustment in the governing party, an enabled group of ministers (EGOM) headed by Shri Pranab Mukherjee was built. A proposition to set up the UIDAI was mooted in August 2008 and before long, the choice to inform the UIDAI as an official power under the arranging commission was taken.

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<sup>2</sup> V Nalinakanthi, 'All you wanted to know about Aadhar Bill' also available on <http://www.thehindubusinessline.com/opinion/columns/all-you-wanted-to-know-about-aadhaar-bill/article8381808.ece> (last accessed on 13<sup>th</sup> July 2016).

<sup>3</sup> Amber Sinha, 'The Aadhar act is not a money bill' also available on <http://thewire.in/31297/the-aadhaar-act-is-not-a-money-bill/> (last accessed on 13<sup>th</sup> July 2016).

The UIDAI was created on 28 January 2009 after the Planning Commission of India issued a notification. On 23 June 2009, Nandan Nilekani, the prime supporter of Infosys, was delegated by the United Progressive Alliance government to head the task. He was given the recently made position of the Chairman of UIDAI which was proportional to a Cabinet minister.

In April 2010, the logo and the brand name Aadhaar was propelled by Nilekani. Around the same time in the month of May, Nilekani said he would vehemently support an enactment to protect the information held by the UIDAI. In July, UIDAI provided with a list of 15 of agencies which were qualified to provide training to the personnels to be involved in the enrollment procedure.

It additionally published a list of 220 organizations which were qualified to join in the enrollment procedure. On 7 February 2012, the UIDAI dispatched an online confirmation framework for Aadhaar numbers. Utilizing the framework banks, telecom organizations, and government divisions could enter an Aadhaar number and confirm if the individual was an inhabitant of India. As on November 26 2012, Prime Minister Manmohan Singh dispatched an Aadhaar-linked direct benefits transfer (DBT) plan. The undertaking was aimed to dispose of spillages in the framework by specifically transferring the cash to the financial balance of the beneficiary. On 23 September 2013, the Supreme Court issued an interim order stating that the government cannot deny a service or welfare of any individual who does not have Aadhaar, as it is discretionary or voluntary. On 9 October 2013, the National Payments Corporation of India propelled an Aadhaar-based settlement framework. Utilizing the system funds could be transferred to any Aadhaar-connected bank account, if just the Aadhaar number was known.<sup>4</sup>

In March 2014, Nandan Nilekani resigned from the Chairmanship of UIDAI to challenge in the general election on an Indian National Congress nomination. His obligations assumed control by 1981-group Indian Administrative Service officer Vijay Madan, who was given an augmentation of his term as the director general and mission director by the government.

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<sup>4</sup> Insights, 'Discuss the salient features of the Aadhaar (Target Delivery of Financial and Other Subsidies, Benefits and Services) Bill, 2016. Examine why making it a Money Bill is dubbed as unnecessary and unfortunate' also available on <http://www.insightsonindia.com/2016/03/04/3-discuss-salient-features-aadhaar-target-delivery-financial-subsidies-benefits-services-bill-2016-examine-making-money-bill-dubbed-unnecessary-unf/> (last accessed on 13<sup>th</sup> July 2016).

Before the elections in March, BJP national representative Meenakshi Lekhi and general secretary Ananth Kumar had censured the venture for issuing Aadhaar to illicit immigrants. On 1 July 2014, the previous UIDAI Chairman Nandan Nilekani met the Prime Minister and Finance Minister to persuade them regarding the project's benefits. Later around the same time, Modi reported that his administration hold the venture and requested the official to look into connecting the project with passports. In March 2015, the Aadhaar-connected DigiLocker service was propelled, utilizing which Aadhaar-holders can scan and save their reports on the cloud and can impart it to the government authorities at whatever point required with no need to carry them.

In the year 2016 on 11 March, the Aadhaar (Targeted delivery of financial and other subsidies, Benefits and Services) Bill, 2016, was passed in the lower house i.e. the Lok Sabha. Starting 31 March, (99.9 crores) 999 million Aadhaar numbers have been issued under the project.

## **CRITICAL ANALYSIS OF THE ACT**

The Aadhaar Act has been realized to give authoritative sponsorship to the most forceful individual identity program on the planet which expects to give a novel identity number to the whole populace of India. The reason behind this plan is to accurately recognize the recipients of government plans and endowments so that spillages in government sponsorships might be decreased. In encouragement of this method of reasoning the Aadhaar Act gives the Unique Identification Authority of India ("UIDAI") the ability to enlist people by gathering their demographic and biometric data and issuing an Aadhaar number to them. The following is an investigation of the Act taking into account the security standards specified by the A.P. Shah Committee Report<sup>5</sup>.

### **I. Accumulation Limitation**

Accumulation of Biometric and Demographic Information: The Aadhaar Act entitles each "resident" [1] to acquire an Aadhaar number by presenting his/her biometric (photo, unique

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<sup>5</sup> Dr. Anjani Singh Tomar, 'A critical analysis of aadhar act 2016' also available on <http://www.worldwidejournals.com/paripex/articles.php?val=NDg3MQ==&b1=293&k=74> (last accessed on 13<sup>th</sup> July 2016).

finger impression, Iris output) and demographic data (name, date of birth, address [2]) [3]. It must be noticed that the Act leaves scope for additional data to be incorporated into the accumulation procedure if so indicated by directions. It must be noticed that despite the fact that the Act particularly gives what data can be gathered, it doesn't particularly deny the accumulation of additional data. This gets to be pertinent on the grounds that it makes it possible for selecting organizations to gather additional data identifying with people with no legitimate ramifications of such act.

## **II. Verification Records:**

The UIDAI is commanded to keep up verification records for a period which is yet to be determined (and might be directed in the regulations) yet it cannot gather or keep any data with respect to the reason for which the validation solicitation was made [4].

## **III. Unapproved Collection:**

Any individual who is not approved to gather data under the Act, and imagines that he is approved to do as such, might be culpable with detainment for a term which may stretch out to three years or with a fine which may reach out to Rs. 10,000/- or both. If there is any corporation or any organizations the most extreme fine sum would be expanded to Rs. 10,00,000/- [5]. It must be noticed that the section, as it is presently worded appears to criminalize the demonstration of mimic of approved individuals and the genuine accumulation of data is not required to finish this offense. It is not clear in the event that this section will apply if an individual who is approved to gather data under the Act when all is said in done, gathers some data that he/she is not approved to gather.

All together for the peruser to better comprehend the casing of reference on which we should examine the Aadhaar Act, the nine standards contained in the report of the Group of Experts on Privacy are clarified in a nutshell beneath:

Principle 1: Notice - Does the enactment/direction require that substances administered by the Act offer easy to comprehend notification of its data practices to all people, in clear and brief dialect, before any individual data is gathered from them.

Principle 2: Choice and Consent - Does the enactment/control require that elements represented under the Act furnish the person with the choice to select in/quit giving their own data.

Principle 3: Collection Limitation - Does the enactment/control require that elements represented under the Act gather individual data from people just as is important for a reason recognized.

Principle 4: Purpose Limitation - Does the enactment/control require that individual information gathered and handled by substances represented by the Act be sufficient and pertinent to the reasons for which they are prepared.

Principle 5: Access and Correction - Does the enactment/direction permit people: access to individual data about them held by a substance represented by the Act; the capacity to look for adjustment, revisions, or erasure of such data where it is erroneous, and so forth.

Principle 6: Disclosure - Does the enactment guarantee that data is just uncovered to outsiders after notification and educated assent is gotten. Is divulgence took into account law authorization purposes done as per laws in power.

Principle 7: Security - Does the enactment/control guarantee that data that is gathered and handled under that Act, is done as such in a way that ensures against misfortune, unapproved access, decimation, and so forth.

Principle 8: Openness - Does the enactment/control require that any substance preparing information find a way to actualize hones, methods, arrangements and frameworks in a way corresponding to the scale, degree, and affectability to the information that is gathered and handled and it is safe to say that this is data made accessible to all people in an understandable structure, utilizing clear and plain dialect?

Principle 9: Accountability - Does the enactment/control accommodate measures that guarantee consistence of the security standards? This would incorporate measures, for example, components to actualize security strategies; including instruments, preparing, and instruction; and outside and inside reviews.

Aadhar is presently a reality. There was time in India that its presence is greatly faced off regarding and contradicted however now the things have been greatly changed. The general population who were lethal against it are currently applauding this and are additionally endeavoring every single conceivable push to get this into ground reality. This is great as we are creating towards the worldwide competence and in the meantime numerous more countries are looking at India for the direction. The Aadhar Act or the Aadhaar (Targeted

Delivery of Financial and Other Appropriations, Benefits and Services) Act, 2016, is focusing on convenient conveyance of financial and related various other subsidies that are provided by government of India, additionally every one of the advantages and administration that are given by it. In this manner there is one clarity, it is not required for the state governments that they need to rely on the Aadhar number for giving any facility or making any provision for the persons in their states.

We should comprehend the idea of this advantage might be connected to the Aadhar, the Act<sup>1</sup> characterizes advantage as: "benefit<sup>2</sup>" means any advantage, gift, reward, relief, or payment, in cash or kind, provided to an individual or a group of individuals and includes such other benefits as may be notified by the Central Government.

So unmistakably the Aadhar is currently an obligatory record that should be there with each occupant in India that is taking any kind of advantage from Government of India. The Act is including two things, one being the biometric data and center biometric data which incorporates as, "biometric information<sup>3</sup>" means photograph, finger print, Iris scan, or other such biological attributes of an individual as may be specified by regulations "core biometric information<sup>4</sup>" means finger print, Iris scan, or such other natural quality of a person as might be indicated by directions. This is the thing that should be made as distinction here is that Act does the separation just on the premise on the presence of photo of the individual. Without photograph it will be center biometric and with photograph it will be termed as the biometric data. While the character data is put with the meaning of, "character information<sup>5</sup>" in admiration of an individual, incorporates his Aadhaar number, his biometric data and his demographic data. The demographic data is characterized as, "demographic information<sup>6</sup>" incorporates data identifying with the name, date of birth, location and other important data of a person, as might be determined by regulations for the motivation behind issuing an Aadhaar number, yet should exclude race, religion, standing, tribe, ethnicity, dialect, records of qualification, salary or restorative history.

In this manner it might be clear with this that the Aadhar is needy on taking after critical data that should be given by the Indian citizens to the Authorities for getting all the advantages and administrations connected to Aadhar. This incorporated the biometric data, and demographic data, as may be determined by the direction, which implies that there may be a possibility of this definition being changed, corrected or all together modified structure time to time. The creator does not believe that it will happen mandatorily however there is

probability of same. We have seen this now and again that things have changed in numerous reports and documents in our nation. The best perspective of this is it avoided in all circumstance the details about race, religion, rank, tribe, ethnicity, and dialect, records of privilege, wage or medical history. In any case, in the event that if these necessities are changed in future what will transpire record and whole process, it is not recommended.

There are numerous issues related with his Act. Above all else the preamble of the act itself is saying about the load of this number to be borne by the merged asset of India. This is most certainly not just bizarre yet exceptionally strange, as nowhere this kind of procurements are said in the introduction as it were. Doubtlessly it is a Central Act and it must be managed by the assets that are inside its domain, there was no compelling reason to get it said in the preamble itself. The general comprehension of the word, benefit make it clear that it incorporates all the kind of the services provided by the Indian government, be it the Public Distribution system, Banks or Railways. On the off chance that an inhabitant wants to avail these provisions, he should have the Aadhar number and more over must be validated Aadhar. As specified there is no procurement of individual who are likewise getting the advantages of the central government be that as it may, are not occupant of India. So also it has been specified that these information, once gathered by the Unique Identification Authority of India, here in after, UIAI, it won't be exchanged to anybody, including the government offices aside from on two conditions, one is the call for the national security and other is on the requests of the courts. Again writer would like to state here that the word national security more likely than not been characterized in the Act itself. The force given in the hands of officials is exceptionally tremendous for this situation. Numerous times in our history it is seen this is abused. The Act itself gives that the data related with Aadhar should be upgraded occasionally by the sovereignty, which implies that individual living in rural parts of the country need to keep a watch on this progressions, rather it was suggestive that another option strategy could be recommended as renewing process after some time and that too by the sovereign powers mentioned at division of the Aadhar holder

## CONCLUSION

Aadhar Bill is passed, yet nation needs to confront a great deal of obstacle because of powerless outsourced infrastructure, delicate system availability and biometric issues because of maturing and individuals occupied with long hour of physical work. Aadhar will turn into a reason for not conveying the contribution and irritating them for the sake of confirmation.

The very plan of the Aadhar Act, its targets and reason appear to be exceptionally right and fitting. India is a quickly developing nation and we have parcel of PC asset. There are parcel of our data which is put away in the PC frameworks, now with this Act, extremely fundamental data about each Indian will be put away in PCs. We are confronting significant issues with the Information Technology Act, as it is quiet in numerous matters, however now with coming up of the Aadhar Act will make it basic that we ought to revise our current laws. Alternately else make one that will suit every one of us. The way this Act has been passed was likewise not anticipated. Here it is appropriate to note that what will happen if the work of the gathering of information for Indians will go in hands of privately owned businesses from India and abroad, with no legitimate laws set up? By what means will my security will be guarantees? Worth to say here around an article of Ms. Usha Ramanathan distributed on sixteenth March 2016<sup>2</sup>, in which it was uncovered that some privately owned business in Delhi was asserting about the biometric data of the persons that might be utilized as assistants at home. This is little however extremely enormous effect viewpoint which need prompt consideration of government that may prompted abuse of our data. Whether this case is correct or wrong, no one but examinations can uncover it. In any case, with this article it is a solicitation to the legislature to relook into the matters concerning Aadhar and settle every one of our stresses by authorizing solid laws of Data security in India.