

Aadhaar Bill Debate: Bharat Ramaswami

Q: The government already has the means to collect a lot of information on citizens (example, phone conversations and logs, credit card transactions, income tax records, bank account details, etc.). Conversely, there are many activities which happen under the radar (example, cash transactions, informal sector employment, etc.). What kind of information gathering powers will Aadhaar confer on the State over and above what it already has? Can you give specific examples of incremental power?

The use of *Aadhaar* for purposes other than the delivery of the subsidy is not ruled out by the *Aadhaar* Act. Unique identification that is required for accessing a variety of services could make it possible to profile individuals. For example, individuals staying in hotels are required to submit personal identification such as passports or driving license. If this were replaced by *Aadhaar*, government could possibly track individual movements in real time.

Q: The Supreme Court verdict that Aadhaar cannot be made mandatory to receive benefits reflects the concern that it may increase exclusion errors, either by leaving people out of the net or through technological malfunction. Is this a serious concern?

With *Aadhaar* enrolment exceeding a billion people the lack of an *Aadhaar* ID is unlikely to be a cause for exclusion errors. The key question is whether ID authentication is reliable and speedy for it to be used in all locations and contexts. Where it is not, it may lead to exclusion errors. A more subtle form of exclusion may arise if *Aadhaar* identification requires institutions (example, banks instead of post offices) that are not customarily accessed.

The exclusion errors with *Aadhaar* should be compared with the exclusion errors that exist currently. The procedures for obtaining other forms of identification (example, ration card for food subsidies) are cumbersome and so *Aadhaar* will do better on this score.

Q: On the other hand, supporters express the hope that Aadhaar will reduce inclusion errors and corruption by eliminating ghost beneficiaries, say in schemes like MNREGA (Mahatma Gandhi National Rural Employment Guarantee Act). Are there substantial benefits to be reaped on this account?

Yes, that is likely. For subsidy schemes, the major gain may well come from reducing diversions to the black market.

Q: Most advanced economies have had some version of UID for a long time, example, the Social Security number in the US, the Social Insurance Number in Canada, etc. This is recorded not only in interactions with the State (example, tax filing) but also in many kinds of non-governmental transactions (example, college admissions or property purchase). Yet, it is arguable that these nations have not become police States, occasional abuse notwithstanding. If privacy concerns in India are justified, is it a reflection of the trust deficit in government specific to India (or poorer countries more generally)? Or do you

think schemes like UID inevitably lead to a surveillance State anywhere in the world?

The objective of the *Aadhaar* Act is to enable targeted delivery of subsidies and benefits. While the Bill promises that the biometric information will only be used for enrolment and authentication, the government can obtain the information on the grounds of national security. Since the receipt of subsidies have no conceivable national security implication, the clause must have been inserted to allow for circumstances not specified in the Bill. Such a broad-brush exemption would be troubling anywhere in the world and the trust deficit is not unique to India.

Aadhaar may lead to a surveillance State if its use becomes mandatory for a variety of services such as travel, communications, financial and medical services.

Q: Can something like UID be created without compromising privacy beyond acceptable limits? If so, how should the Aadhaar Bill have been written? What are its specific and avoidable weaknesses?

The main issue is whether *Aadhaar* should be used for anything other than the delivery of subsidies and welfare services. In India, high-value financial transactions and property purchases require tax identification number (PAN). Privacy is eroded for the greater good of combating tax evasion. *Aadhaar* could be a more efficient mechanism than PAN. Such examples apart, the risks of a surveillance State grow with applications of *Aadhaar*.

Clause 57 of the Act explicitly allows the use of *Aadhaar* for any purpose and by anybody. So we need a data privacy law that prevents service providers from profiling users and from sharing the data.

The main amendments I would like to see are (a) removal of the exemption clause for national security when UID is for delivery of subsidies (b) to ring-fence the other applications of UID to principally tax evasion and money transfers and (c) a data privacy act before other applications are permitted.