

Pwd 21/8/2013 Speedpost

31-034

F. No. 13012/32/2013/Legal-UIDAI/9036
Government of India
Planning Commission
Unique Identification Authority of India

3rd Floor, Tower-II, Jeevan Bharti Building
Connaught Circus, New Delhi - 110001

Dated the 16th August, 2013


To,

✓ **Ms. Qaneez-e-Fatemah Sukhrani**
A/3, Hermes Drome
211/3/1B, Viman Nagar
Pune, Maharashtra - 411014

Subject :- **REPRESENTATION - AADHAAR SCHEME**

Please refer to your Representation dated 30-May-2013 and addressed to the Hon'ble Prime Minister.

2. In this regard, it may be noted that the issues raised vide Para Nos 1 to 7, 9 and 12 to 14 have already been addressed and replied to vide UIDAI Letter No. 13012/32/Legal/2013-UIDAI dated 28th May, 2013 in response to your earlier representation dated 19th April, 2013.
3. With regard to Points at 8, 10 and 11 of the instant representation, it is stated that these are impressions on the part of the Representationist and as UIDAI has no comments to offer.
4. A copy of the reply given to your earlier representation dated 19th April is also enclosed for reference.


(Ashish Kumar)
Assistant Director General
Ph : 011-23466868

Encl :- **As above**

Copy to :-

Sh Amar Dass, Section Officer
Prime Minister's Office, South Block

- w.r.t PMO ID No. 14/3/2013-PMP3/59484
dt 25-06-2013

Advisor (UIDAI)
Planning Commission

- for info

RoB Division/UIDAI HQ

- w.r.t OM No. 4(4)/57/111/2013-RoB
dated 30-07-2013



F.No. 13012/32/Legal/2013-UIDAI ४९९९
Government of India
Planning Commission
Unique Identification Authority of India

3rd Floor, Tower-II, Jeevan Bharti Building
Connaught Circus, New Delhi, 110001
Dated the 28th May, 2013

To,
Qaneez-e-Fatemah Sukhrani
A/3, Hermes Drome
211/3/1B Viman Nagar
Pune, Maharashtra - 411014

Subject :- **REPRESENTATION - AADHAAR SCHEME : MS. QANEEZ-E-FATEMAH SUKHRANI**

Please refer to your representation dated 19th April, addressed to Chairman, UIDAI.

2. In this regard, point-wise reply to the issues raised in the Representation at subject reference is given below :-

3. **Point 1, 2 & 3.** Implementation of the UID project is pursuant to the exercise of the executive powers of the Government of India and does not circumvent legislative process. There are innumerable instances of policy being driven by executive action rather than by legislation. The UID project is just one of those instances. Neither is it unconstitutional nor illegal. Opinion of the Law Ministry and the Attorney General has been taken in this regard, and the considered view was that there is nothing illegal in the continuation of functioning of the Authority.

4. With regard to the observations/recommendations of the Standing Committee of Finance, they were related to certain Legal and Procedural issues contained in the NIDAI Bill and the same is under the examination of the Government. As regards the representationist's claim regarding the NIDAI Bill, allegedly providing an ex post facto blanket approval and regularisation of all the activities undertaken by it before the approval from Parliament. It is stated that this is to provide continuity in the Project.

5. **Point 4.** The definition of resident is in conformity with the definition in "Population Register" as given in Rule 2(l) of the Citizenship (Registration of Citizens and Issue of National Identity Cards) Rules, 2003 which have been framed under the Citizenship Act, 1955. It is also to be noted that the Bill clearly provides that the Aadhaar number or authentication thereof shall not by itself, confer any right of or be proof of citizenship or domicile in respect of the Aadhaar number holder.



6. **Point 5, 6 & 7.** In the absence of any specific legislation, offences will continue to be dealt with under the general laws like the Indian Penal Code, the Information Technology Act, 2000 etc. Measures against the defaulters can be taken under these existing laws.

7. **Point 8.** Enrollment for Aadhaar is voluntary. It is however, the policy decision of the concerned Departments/State Governments to link the benefits alongwith the Aadhaar number and as such, UIDAI has no comments to offer.

8. **Point 9.** Data protection features have been included in the architecture of the UID Project and as such, the interests of the residents are taken care of. At the cost of repetition, it stated that in the absence of any specific legislation, offences will continue to be dealt with under the general laws like the IPC, and the IT Act and measures against defaulters can be taken under these existing laws. UIDAI also has its data sharing policy that seeks security and privacy of the data being maintained.

9. **Point 10 & 11.** With regard to the petitions allegations on the Introducer system of verification, it is stated that the mere details of the introducer are not adequate. The introducer has to personally certify about the details of the introduced resident. Further, merely having the Aadhaar does not entitle the resident to avail of direct benefit transfer schemes. This will require the concerned Departments' accepting the claims of the resident.

As regards, the representationist's allegations that the introducer system is the easiest way for an illegal immigrant to become a tax paying citizen of India, UIDAI states that this is the representationist's own interpretation and UIDAI, as such, has no comments to offer.

Aadhaar numbers are issued to all residents as a developmental initiative. The key role of UID number is thus, that of an enabler – a number that helps Governments design better welfare programmes, enables residents to access resources and services more easily wherever they live, and allows agencies and programmes – such as the NREGA, PDS, SSA – to deliver benefits and services effectively and transparently.

10. **Point 12.** In this regard, it is stated that the Representationist has referred to a decision taken by the Ministry of Petroleum and Natural Gas, and as such, UIDAI has no comments to offer in this regard.

11. **Point 13.** The RGI is mandated to create a NPR of persons usually residing in India and issue National Identity Cards under the Citizenship (Registration of Citizens and Issue of National Identity Cards) Rules, 2003 read with the Citizenship Act, 1955. The identity Cards will also carry the Aadhaar numbers.

The purpose of the UID project is to promote inclusion and benefit to marginalized sections of society who have no formal proof of identity vis-à-vis the State and hence experience difficulties in accessing various welfare schemes that are implemented by the Government of India and State Governments. The key role of UID number is that of an enabler - a number that helps Governments design better welfare programmes, enables residents to

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access resources and services more easily wherever they live, and allows agencies and programmes – such as the NREGA, PDS, SSA - to deliver benefits and services effectively and transparently. The number will thus be an identity infrastructure, and the foundation over which multiple services and applications can be built for the resident.

12. **Point 14.** It is wrong to state that no feasibility study has been conducted. In this context, the study conducted by the NIPFM is an example of study conducted. The UIDAI website has numerous other reports which address in detail the various aspects of UIDAI project.

The source of the quoted project cost stated in the representation is not known and cannot be commented or replied to.

The UIDAI is enrolling the residents through the multiple registrar model and RGI is one of the Registrars of UIDAI. The Govt. has decided that in states where UIDAI has made good progress or where States/UTs/Administrations have given commitment for Aadhaar and are planning to integrate with various service delivery mechanisms, Aadhaar enrolments will move at full speed. Accordingly, certain states have been specified where the non-RGI registrars of UIDAI can collect data. It has also been decided that the NPR enrolment will continue as envisaged, but if in the course of enrolment, a person indicates that he/she is already enrolled for Aadhaar, the biometric data will not be captured by the NPR. Instead, the Aadhaar number / enrolment number will be recorded in the NPR and the biometric data will be given to the NPR.



(Ashish Kumar)
Assistant Director General
Ph : (011) 23466-828

QANEEZ-E-FATEMAH SUKHRANI

A/3 HERMES DROME, 211/3/1B VIMAN NAGAR, PUNE 411 014

CELL # 9822056782

By Registered A/D

30 May 2013

To,
Shri Manmohan Singh,
Hon'ble Prime Minister,
Government of India,
South Block, Raisina Hill
New Delhi 110 001.

Sub : Representation – Aadhar UIDAI Scheme

Dear Sir,

Aadhar UIDAI scheme which collects biometric and demographic details from citizens / residents / individuals in India is untenable in law and not acceptable to citizens of India for the following primary reasons :

1. Draft NIAI Bill is proceeding on the strength of notification no. A-43011/02/2009-Admn.1 dated 28.01.2009 issued on the basis of an executive order. The said Bill was presented to both Houses of Parliament who referred it to the Standing Committee on Finance. The said Bill was rejected by the Standing Committee by it's report {42} dated 09th December 2011. The report was thereafter presented before both Houses of Parliament on 13.12.2011 after which there has been no known discussion, debate or decision. However, this project still continues thereby circumventing the role of Legislature altogether.
2. Executive power vested under Art 73 of the Constitution cannot be exercised in isolation by avoiding the consideration, discussion and debate of a Bill on the same subject pending before Parliament since 13.12.2011 and after it was rejected by the SCoF report.
3. As we have a parliamentary form of democracy, the Government cannot continue to implement it's executive order without bringing the Bill for consideration before the Parliament for purpose of further discussion, debate and passing for it to be enacted or rejected
4. The life of the draft Bill has long expired as it has remained pending and not discussion or decided in Parliament after the SCoF presented it's report {42} on 13th December 2011.
5. Draft NIAI Bill 2010 seems to provide ex-post-facto blanket approval and regularisation of all activities undertaken by it before approval from Parliament.



6. This is without enactment of National Law on Protection & Privacy by Parliament which is a pre-requisite to having safeguards to protect, prevent tampering, syphoning of such large scale biometrics and demographic database handled by multiple out-sourced third parties. This violates the individual's fundamental right to privacy under Article 21.
7. When there is no legislation, there can be no law. Without a law, there is no offense for any violation committed. Hence when there is no offense, there are bound to be security lapses / theft / misuse / issues arising out of it.
8. Although in 2006 the idea was mooted to have an unique identification for 'Below Poverty line' families, in 2009 UIDAI announced that it's mandate was to give identification to all residents of India (which would include citizens, illegal and other residents) giving a single link for delivery of welfare services
9. Collection of biometrics is not within the ambit of the Citizenship Act 1955 and Citizenship Rules 2003. The Act does not recognise non-citizens at par with citizens. Such a widespread technical pogrom being conducted on citizens of India is considered to be dangerous while encroaching on and invading their privacy. And cannot be executed and implemented without a law being enacted on this by Parliament.
10. In addition, since UID is not an intelligent identification, this project that has put citizens and residents on the same platform by issuing random identification numbers without differentiating between both categories and is a serious threat to the sovereign state of our country.
11. The mandate of NPR which is conducting a census for citizens of India, is in direct contravention to the mandate given to UIDAI which is providing identification to all residents in India. Even more unacceptable is that NPR will have to migrate their database to UIDAI.
12. If you allow the Aadhar number / letter as one of the proof of resident & identification for application of passport issuance, then this could lead to undesired trouble in the future. It is an obvious fact that it is very easy to get a Aadhar number by submitting bogus and false documents, especially when a verifier's signature is submitted in case no true supporting document is available. Thereafter after getting an Aadhar number based on false submission, it is very simple to submit this Aadhar number for an illegal immigrant to become a citizen of an India.
13. Ministry of Petroleum & Natural Gas through Gazette order G.S.R. 718 (E) dated 26.09.2011 and G.S.R. 791 (E) dated 26.10.2012 under powers conferred by section 3 of the Essential Commodities Act 1955 has amended the Liquefied Petroleum Gas (Regulation of Supply and Distribution) Order 2000 vide Amendment Order 2011 to make Aadhar - UID number a necessity for supply of cylinders to the consumers. Under sec 3 of the ECA Act 1955 it may have powers to maintain and / or increase production, supply, distribution, etc of essential commodities but it has no power to link supply of cylinders to only those persons possessing UID numbers.
14. Likewise, other ministries such as RBI, MEA, MHA, PDS are insisting / coercing citizens on the requirement of UID number for establishing Bank KYC and / or opening accounts, issuing their own dedicated intelligent identity cards such as PAN card, Passport, Driving Licence, Ration card. This is mainly because UIDAI has executed MoUs with States, UTs, private and public institutes to act as Registrars and enrol for UID. This has become a numbers game.

You are requested to look into this issue very seriously on high priority and revoke and / or recall all / any orders, government resolutions and notifications issued by the Government of India to all States / UTs and departments and / or authorities under it for linking with the Aadhar - UIDAI project without any conditions & risks being imposed on any citizens that would compromise them and the sovereign state of India.

Kindly have your office inform me of the action taken latest by 10th June 2013. In the absence of a response from your office, I shall be constrained to seek legal option.

Thanking you,

Yours faithfully,


Qaneez-e-Fatemah Sukhrani

