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QANEEZ-E-FATEMAH SUKHRANI

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By Registered A/D

19th April 2013

To,

Mr. Nandan Nilekani,

Chairperson - Unique Identification Authority of India,

Planning Commission, Government of India,

3rd floor, Tower II, Jeevan Bharat Building,

Connaught Circus, 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 for the following primary reasons :

1. Draft NIAI Bill is proceeding on the strength of notification no. A-43011/02/2009-Admn.I dated 28.01.2009 issued and based on 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 its report {42} dated 09th December 2011. This project still continues thereby circumventing the role of Legislature altogether although India has a parliamentary form of democracy.
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 SCofF report.
3. Draft NIAI Bill 2010 seems to provide ex-post-facto blanket approval and regularisation of all activities undertaken by it before approval from Parliament.
4. 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 widespread technical pogrom being conducted on citizens of India is considered encroaching / invasion of privacy and cannot be done without a law being enacted on this by Parliament.
5. Collection of biometrics and demographic data is without enactment of National Protection Law which is a pre-requisite to deal with having safeguards to protect, prevent tampering, syphoning of such large scale database handled by multiple third parties. This violates the individual's fundamental right to privacy under Article 21.

6. When there is no legislation, there can be no law. Without a law in place, there can be no penalisation of any offense / violation committed. Hence when there is no penalty, there is bound to be security lapses, theft, misuse and multiple negative issues arising out of it.
7. By UIDAI entering into MOUs with states, UT, quasi government, institutions and private organisations to act as Registrars this kind of collection of data compromises the security, privacy and confidentiality of individuals at large. Because of this the Government has felt it necessary to provide the said Authority with statutory powers, albeit under an executive order.
8. Although the scheme is claimed to be voluntary, in actual fact it is involuntary in terms of UIDAI entering into MOUs directly with those very organisations and authorities who have assured their customer base of maintaining confidentiality.
9. Clause 23 (1) (k) of the draft Bill allows NIAI to share the information gathered from Aadhar number holder with agencies involved in the delivery of public services and benefits. This may be on the one time consent on the enrolment application form, may be open to misuse by multiple handlers and ultimately invade the individual's privacy.
10. On the Aadhar Enrolment / Correction form, the applicant can either choose verification type as document or introducer based. Easiest way for an illegal immigrant to become a tax paying citizen of India, first is to get an Aadhar number allotted by obtaining an introducer's details on his / her form, then apply for a passport and / or PAN card.
11. Thereafter the Aadhar number holder can start availing schemes and cash back benefits as the Aadhar letter does not categorise / differentiate between a citizen and a resident.
12. Ministry of Petroleum & Natural Gas through an order G.S.R. 718 (E) dated 26.08.2011 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.
13. When NPR established under the Registrar General and Census Commissioner of India was already conducting a comprehensive identification database of citizens under the census program, there was no evident necessity to commence a similar project under UIDAI by adding biometric data to the list.
14. At an estimated initial project cost pegged at Rs. 72,000 crores (Phase I, Phase II, Phase III) has been undertaken without conducting comprehensive feasibility study. Apart from which there is an evident overlap of data collected by UIDAI and NPR which results in duplication and not de-duplication as claimed.

As such, with immediate effect, you are requested to stall / stop all enrolment / activity under the Aadhar - UIDAI project without any conditions being imposed on any citizens / resident / individual that would compromise them.

Kindly inform me of action taken latest by 30th April 2013. In the absence of this response, I shall be constrained to seek legal option.

Thanking you,

Yours faithfully,

Qaneez-e-Fatemah Sukhrani

