Title of Paper:

“ Aadhar Card – Perspectives on Privacy”

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Abstract
With an aim to issue unique identification number to its every individual and to avail them with different schemes like gas subsidy, Mahatma Gandhi National Rural Employment Guarantee Act (MGNREGA) like benefits, Government of India initiated the process of Aadhar. However it has come across some privacy issues from different strata of society. This paper attempts to investigate the perspectives of people, legal and Government on leakage of privacy thereby trying to conclude whether there is an infringement of the privacy as raised by some dignities. For identifying people perspectives, 150 respondents from different class group, gender category, different occupations, etc were considered. After analyzing people’s perspective, it has been found that the population who are being asked to link their personal documents, identity and information to their Aadhar Card are wary about the possible loss of privacy. They are aware of the advantages of ALP to the Society. They are hence willing to join the ALP, and thus are ready to sacrifice their privacy. While according to the legal perspective, successive judges in their judgments have dealt with different aspects of privacy with regards to Aadhar and its linking. These judgments would help as a stepping stone for evolution of the idea of protection of privacy of the people of this nation state, within the framework of a secured and socially justified environment attained because of ALP. The third perspective that is of Government concluded that it argues that the fundamental right status does not make privacy the absolute right and hence is superseded by other major concerns of the nation state viz national security of its people, frauds and fake registrations.

Keywords: Aadhar Linking Program (ALP), Privacy,Aadhar.

Introduction
Reckoned as “the world’s most sophisticated programme” by the World Bank’s chief economist Paul Romer (Business Today Online, 2017), Aadhar, which in Indo Aryan Language means “Foundation” or “Base” is a 12 digit unique identification number provided to all the Indians based on their biometric and demographic data. (UIDAI, Unique identification authority of India, Planning Commission, Government of India, 2010).

As the world’s largest democracy, advances its expedition towards becoming a third major economy to reckon with (HSBC Report, 2017), it still struggles in its quest for identity, not for
itself, but for its huge population, that comprises one fifth of the world’s population and boasts of becoming the most populous nation by 2024 (Singh, 2017).

India at this movement is the fourth fastest growing economy of the world (Panos Mourdoukoutas, 2017). The Indian administration has taken bold moves in the recent years towards cleansing the festering sores like black money, corruption and terrorism through demonetization (The Hindu, 2016) followed by complete revamp of its indirect tax regime and introduction of comprehensive goods and services tax. This coupled with large scale investments promised by the administration and floating of schemes, encouraging entrepreneurship, steep fall in interest rates, all indicate a very promising future for the nation which is ready to take a giant leap towards its much aspired position of becoming a developed country.

India has a vast coastline of about 4671 miles (Manaroma Yearbook, 2006) surrounded by the Indian ocean in the south and it shares its land boundaries with developing countries like China, Pakistan, Nepal, Bhutan, Myanmar and Bangladesh. The land borders measure up to 9445 miles and the coastline is of 4671 miles. These boundaries are guarded by 1.4 million active personnel and 1.3 million paramilitary (Year End Review- 2017: Ministry of Defence., 2017), which makes it the largest military forces in the world.

These lengthy borders are characterized by harsh weather and geographical conditions making it very difficult to monitor the movement of people across the border. India has shared the porous border with its neighbors and owning to its comparatively better living conditions and conducive environment has been subject to large scale illegal inward immigration on many occasions. Here arises the need for a system to differentiate on the identity of its citizens from the immigrants. This and many other similar issues gave rise to the concept of Aadhar card.

The concept of Aadhar card came into existence in 2004 with the amendment of citizenship act by the then ruling Indian National Congress led UPA government to make way for the National Population Register (NPR), a database record of all the residents of India maintained by the Register General and Census Commissioner of India (Sruthi Radhakrishnan, Krishnadas Rajagopal, 2018). With the administrative approval for the project “Unique ID for Below Poverty Line (BPL) families” in 2006 by the ministry of Communication and Information Technology, the first work regarding issuing Unique IDs to BPL residents of India actually started (Dr Karuna Jain). Year 2008 saw the amalgamation of National Population Register (NPR) under the Citizenship Act, 1955 with the UID project—to conceive Aadhaar (Krishna Kumar, 2017).
This process underwent several improvements put forth later on including constitution of Unique Identification Authority of India (UIDAI) appointing Nandan Nilekani (Infosys co-founder) as the first chairman in 2009, Supreme court’s decision on violation of individual’s privacy in case of Aadhar thereby losing legislative backing in 2012 (Gopal, 2009). Supreme court’s judgment on obstructing from transferring biometric information with an Aadhar number to any other agency without the individual’s consent in writing in 2014 (Moneylife Digital Team, 2014) apex court’s decision on making it mandatory for public distribution system (PDS), and subsidies on cooking gas and kerosene and not mandatory to avail of benefits from government programmes in 2015 (Nimish Sawant, 2017) statutory backing and passing of Aadhar bill (Targeted delivery of financial and other subsidies, benefits and services ) Bill, 2016 as a Money Bill, rejecting Rajya Sabha recommendations in 2016 (Agrawal, 2016), making Aadhar mandatory in 2017 for 3 dozen schemes including midday meal scheme and universal education by the government against Supreme Court’s saying that it can not be made mandatory for welfare schemes (Deepalakshmi, 2017).

Some countries around the world have also used similar concept like Aadhar in their respective territories. Whether it is America to have its Security Number for its residents for getting a job or availing of Government Benefits and taxation purpose (Quint, 2018) or China to issue National Residents Identity Cards to identify the status of citizens since 1986 (Research Directorate, 2005) Or National identity cards issued by the governments of all European Union member states to their citizens as the identity and travel document except Denmark, Ireland (Public Services Card) and the United Kingdom (UK Visas & Immigration,, 2015) or South Africa’s anticipation of implementing Smart ID Cards based on fingerprints as the biometric information (Arcangeli) or Hong Kong issuing HKSAR id Card i.e. Smart Identity Card System in 1990s for registering population. (region, 2015), all have faced pros and cons in their journey. Thus, a number of countries have unique identity system, but most of them are facing security and privacy issues. To give an example, the experience of the United States and Britain about the Unique Identity proofs bearing biometric information is not encouraging (Kaushik, 2010) Aadhaar Card is an ambitious project declared by Government of India in 2009. Inspired by India’s UID project countries like Indonesia and Australia are trying to implement the similar kind of system in their countries (Gerdeman, 2012).
The world's largest biometric ID system, Aadhaar has got enrollment of over 1.171 billion members as of 15 Aug 2017 (Portal, 2017). According to public data portal record, over 99% of Indians aged 18 and above had been enrolled in Aadhaar so far (Portal, State Wise Saturation UIDAI, 2017).

**Literature Review**

Biometric identification, Aadhar has been made mandatory for various schemes including all the post office deposits, Public provident funds (PPFs), National savings certificate schemes and Kisan Vikas Patra (Aadhaar now a must for post office deposits, PPF, KVP, 2017) The Government is studying the viability of making the Aadhar card mandatory for filing of Income Tax returns as well as for applying for a PAN Card (Today I., 2017). RBI, the banking regulator in India clarified that the linking of Aadhar with bank accounts is mandatory (Today B., 2017). However debate is going on as the central government wants to link the Aadhar card with bank accounts. There will be intrusion of privacy but we have to look at the merits and demerits. The state government should scrutinize the matter thoroughly in view of Supreme court’s directives to state governments with regards to privacy.” (Vincent H Pala, 2017). In case of Ration card, the Central government gave clear cut mandate to all the states not to make it compulsory to people for linking their Aadhar card with their ration card after the incidence of Jharkhand State of India where 11 year old girl died when she didn’t receive food grains from ration card authority. “Section 7 specifies that till Aadhar number is prescribed, the benefits should be given through alternate means of identification” Ajay Bhushan Pandey (CEO, UIDAI) said (Lokmat, 2017).

The Election commission of India is considering linking of Aadhar card number to Voter IDs (Chronicle, 2017). Linking Aadhar with Voter ID card will remove duplicity in voter list (H S Bramha, 2015).

Correct demographic information of an individual is collected via Aadhar system like gender which should match with the proper person as and when required. It is also meant to ensure that transactions based on the Aadhar system are non – duplicative in nature and can be tracked from anywhere in India, through online or other electronics means.

Aadhar users can validate their identity by receiving and then using Personal Identification Number or PIN on their mobile phones on biometric reader. The central database of Aadhar can be used by numerous individuals and entities including employers, bank authorities, law representatives in real or near real time (UIDAI). These centralized database system’s authenticity has been questionable on many occasions specially due to security risk that it
possesses and also data infringement, policy paralysis, deliberate leakages from unauthorized sources (REAL ID Act). Many past cases have shown that Aadhar system is facing security leakages problem which invades an individual’s privacy. In early 2017, a large number of similar articles were published about how easily excel files containing demographic data can be retrievable through a simple Google search. One breach occurred from programming error disclosing banking data detail in public platforms (Adhaar, 2017) (Hindustan Times, 2017).

The details of lot of enrollees have been posted online by a handful of Indian government website (Shah, 2017). Two accused held in Indore for making fake Aadhar Cards busting a racket involved in preparing forged Aadhar cards, crime branch of police arrested two persons and recovered large quantity of dummy cards and equipment used to print them. (Mekaad, 2017).

Regarding policy risks, India’s Aadhar system has manifested notable weakness regarding policy paralysis, also including policies regarding basic data protection and privacy practices. The government of India has carried out a slew of activities to enact data protection and privacy legislation for the Aadhar system.

**Objectives**

There have been reports of leniency in handling UID project’s demographic and biometric information of users which put liberty of Indian residents at jeopardy (Greenleaf, 2010). Applying for Aadhar card enrollment is voluntary but its enrollment is mandatory for taking government schemes benefits and services (Ramnathan, 2010). There is also a concern among authorities that personal information of a person might be misused by its possessor (Kaushik, 2010).

While many issues have been surfacing around Aadhar, right to privacy has been amongst one such issue which is now a days becoming prevalent as some people are becoming reluctant to link their ID cards with Aadhar citing privacy reasons. Right to privacy has many perspectives. There are legal, political as well as people’s perspectives. This paper attempts to study these different perspectives.

**Research Methodology**

**Sample Size and method of data collection**

Nearly 150 respondents were randomly selected taking care that there is representation from students, employed, self employed business owners, unemployed and house makers, in equal proportion as much as possible. 20 questions were asked to them by way of a Schedule designed to
gauge the general perception of the people regarding the Government’s initiative to link their Aadhar card with all the important personal documents of identity and otherwise (hereinafter referred to as Aadhar Linking Program abbreviated as ALP by the researcher for the sake of convenience). All questions except one had the options ‘Strongly Disagree’, ‘Disagree’, ‘Neutral’, ‘Agree’ and ‘Strongly Agree’ to respond to. Not all of the 150 respondents responded to all the questions. There were many respondents who did not respond to 1 to 4 questions. Hence the total respondents for each question varies to that extent.

Care was taken that there are no leading questions, and that all the questions, simply asked for the opinion of the people. The Schedule starts with a question regarding their opinion on correctness of the Government Administration’s decision to initiate the ALP. Thereafter, the respondents were asked their opinion on ALP with respect to linking with their Savings Bank Account, PAN Card (Identity document mandated by the Central Bank (RBI) in India for availing financial services in commercial banks in India), LPG cooking gas cylinder registration number, Mobile Phone SIM Card Number, Driving License, Property Ownership/Title documents, Education related documents (viz. Admissions registration numbers, degree, Diploma Certificates etc.), Voter’s Identity Card (mandated by Election Commission for casting vote in elections at various levels of Governance), and Passport.

Respondents were asked whether the Administration should make it mandatory for all the citizens to link their Aadhar card in the ALP. Respondents were asked whether they perceived ALP as a complicated/complex process. They were asked whether a one step (user friendly) process of ALP should be designed to avoid inconvenience. In an open ended question, they were asked to give their suggestions regarding their ideas for a one step user friendly process for ALP.

They were further asked about their awareness regarding advantages and disadvantages of ALP. Some examples of both merits and demerits of ALP were also shared with them and their opinion was asked regarding the applicability of those merits and demerits to the ALP. Merits included ease in opening Jan Dhan Bank Accounts (Administrations’ initiative of starting zero balance bank accounts of people not included in the financial system of the economy under the Jan Dhan Yojna unveiled for rapid expansion of financial inclusion), control on corruption, elimination of duplicate/fake entries and registrations, and direct transfer of subsidies, scholarships and funds into the bank accounts of individual citizens instead of payment through agents and authorities. Demerits included, theft and misuse of individual citizens’ personal data, threat to individual citizens’ privacy, complicated procedures involved in linking Aadhar Card under ALP, and delay in
receiving amounts of subsidy, scholarships and other funds receivable from the Administration under various social welfare schemes.

The respondents were also asked a straight question on whether they perceived ALP as something that disturbs their privacy. From a perspective of possible future scope of research, respondents were asked about their general awareness of the upcoming UPI based ‘Aadhar Pay system’a system of payments linked with the Aadhar number, and also their comfort level in case such a payment system is implemented by the Administration in the near future.

**Generalization of Interpretation and limitations**

Data was collected from respondents during the period of two months between November and December 2017. This entails that the perception of the people during this period was captured.

Since the respondents include representation from different categories and classes viz students, employed, self employed, house wives, it can be assumed to be representative of the whole population. Hence the data collected, the analysis done and the interpretations derived are generalisable.

In the absence of the information regarding opinion of the population regarding the questions asked, the population mean has been assumed to be neutral for all the responses. With this assumption, the Z score for all the responses was calculated using the z test, at 5 % level of significance. On comparing the results with the normal distribution curve, it was found out whether the variables being examined in each of the questions are significant or not.

**Analysis**

Skewness values were also calculated for the data pertaining to each question. The significance of each variable and the skewness values have been tabulated and represented in Table No. 01. Significance of a variable informs us whether the variable is quite different from our population mean of “Neutral” response. Skewness tells us about the direction or side of the mean where data is concentrated i.e. whether the majority of our sample respondents’ opinion belongs towards left side or right side of the sample mean.

**Table No. 01**

<p>| Summarised Analysis of the respondents regarding their perception on Linking of Aadhar Card |</p>
<table>
<thead>
<tr>
<th>Q No</th>
<th>Agreement</th>
<th>Significance</th>
<th>Skewness</th>
<th>Agree (Percent of respondents)</th>
<th>Disagree (Percent of respondents)</th>
</tr>
</thead>
<tbody>
<tr>
<td>1</td>
<td>Agreement with Govt. Decision to link Aadhar Card with all personal documents</td>
<td>Yes</td>
<td>-0.287</td>
<td>66</td>
<td>20</td>
</tr>
<tr>
<td>2</td>
<td>Bank Account</td>
<td>Yes</td>
<td>-0.142</td>
<td>62</td>
<td>16</td>
</tr>
<tr>
<td>3</td>
<td>PAN Card</td>
<td>Yes</td>
<td>-0.213</td>
<td>66</td>
<td>16</td>
</tr>
<tr>
<td>4</td>
<td>LPG Cylinder Registration</td>
<td>Yes</td>
<td>-0.124</td>
<td>75</td>
<td>17</td>
</tr>
<tr>
<td>5</td>
<td>Mobile Phone Number</td>
<td>Yes</td>
<td>-0.849</td>
<td>74</td>
<td>16</td>
</tr>
<tr>
<td>6</td>
<td>Driving License</td>
<td>Yes</td>
<td>-0.100</td>
<td>72</td>
<td>12</td>
</tr>
<tr>
<td>7</td>
<td>Property Ownership/ Title Documents</td>
<td>Yes</td>
<td>-1.258</td>
<td>49</td>
<td>31</td>
</tr>
<tr>
<td>8</td>
<td>Education related documents</td>
<td>Yes</td>
<td>-0.171</td>
<td>68</td>
<td>14</td>
</tr>
<tr>
<td>9</td>
<td>Voter ID Card</td>
<td>Yes</td>
<td>-0.852</td>
<td>76</td>
<td>7</td>
</tr>
<tr>
<td>10</td>
<td>Passport</td>
<td>Yes</td>
<td>-0.822</td>
<td>76</td>
<td>13</td>
</tr>
<tr>
<td>11</td>
<td>Should the linking of Aadhar card be made compulsory</td>
<td>Yes</td>
<td>-1.145</td>
<td>50</td>
<td>27</td>
</tr>
<tr>
<td>12</td>
<td>Is linking Aadhar card a complicated process</td>
<td>No</td>
<td>-0.787</td>
<td>40</td>
<td>34</td>
</tr>
<tr>
<td>13</td>
<td>Should Govt. come up with a one step process of linking Aadhar card with all personal documents</td>
<td>Yes</td>
<td>-0.940</td>
<td>71</td>
<td>16</td>
</tr>
<tr>
<td>15</td>
<td>General awareness about Advantages and Disadvantages of Aadhar linking Program</td>
<td>Yes</td>
<td>0.361</td>
<td>45</td>
<td>15</td>
</tr>
<tr>
<td>A1 6a</td>
<td>Agreement on Advantages of Aadhar Linking Program</td>
<td>Yes</td>
<td>-0.266</td>
<td>63</td>
<td>10</td>
</tr>
<tr>
<td>A1 6b</td>
<td>Ease of opening Jan Dhan Yojna Accounts</td>
<td>Yes</td>
<td>-0.369</td>
<td>60</td>
<td>21</td>
</tr>
<tr>
<td>A1 6c</td>
<td>Control on Corruption</td>
<td>Yes</td>
<td>-0.925</td>
<td>70</td>
<td>12</td>
</tr>
<tr>
<td>A1 6d</td>
<td>Elimination of Duplicate entries</td>
<td>Yes</td>
<td>-0.887</td>
<td>78</td>
<td>7</td>
</tr>
<tr>
<td>D1 6a</td>
<td>Agreement on Disadvantages</td>
<td>Yes</td>
<td>-1.031</td>
<td>62</td>
<td>14</td>
</tr>
<tr>
<td>D1 6b</td>
<td>Loss of Individual Privacy</td>
<td>Yes</td>
<td>0.486</td>
<td>53</td>
<td>15</td>
</tr>
</tbody>
</table>
Table No.1.

Percentage of respondents that agree or disagree to each question has also been mentioned in the Table No. 01. Out of the different variables examined three variables were found to be not significant. One of the three was the complicatedness of the ALP (whether people perceived ALP involved complicated process) was insignificant indicating that overall the people were not very much concerned about the process being complicated. It had a negative skewness of -0.787, with 40% agreeing & 34% disagreeing that the process of ALP is complicated.

The other two factors found to be not significant were about general awareness about upcoming Aadhar pay system and comfort level in using such a system. This being beyond the scope of the current research work, has not been further interpreted.

All the other variables dealt with in different questions have been found to be significant. Their sample mean appear beyond 96.1% on a normal distribution curve drawn with assumed population mean.

Except for the three variables out of these viz awareness about merits and demerits of ALP, loss of privacy due to ALP and delay in receiving social benefits into bank accounts, all other variables had a negative skewness values. These three variables showed a positive skewness value, indicating more number of responses towards left side of sample mean. A majority of 55% of respondents either disagreed (15%) or were neutral (40%) about their awareness regarding merits of Aadhar. This is evident from the positive skewness value of 0.361.
32% of respondents were neutral about loss of Individual privacy as being a demerit of ALP & 15% disagreed to it. A thin majority of 53% agreed with the notion that ALP posed a threat to their privacy. This variable has a positive skewness value of 0.486.

43% of respondents agreed with the question that use of Aadhar card resulted in delay in receipt of subsidy in their bank account. 57% either were neutral or disagreed regarding delay in receipt of subsidy in bank account. It has a positive skewness value of 0.201.

**Peoples’ Perspective**

Respondents overwhelmingly accepted linking their Aadhar to all their personal identity and useful documents. They were between 62% to 76% of the respondents. However only 49% agreed to link their property documents. This shows that a thin majority of the respondents wanted to have secrecy regarding their immovable property.

As far as ‘concern for loss of privacy’ is concerned, it is evident that majority of the respondents agreed to the possibility of misuse of data, loss of privacy and disturbance of their privacy. It is clear that a good majority agreed with the advantages to the society as a whole associated with the impact of ALP. It can be assumed that awareness and acknowledgement of these positive expectations regarding ALP, lead to their overwhelming willingness to participate in the ALP despite they having their legitimate and reasonable concern regarding their loss of individual privacy.

The perceived benefits of the process somehow seemed to outweigh the possible and inherent constraints and risks imbibed in it, leading to its wide acceptance among the masses.

**Legal Perspective**

Neither a law nor any privacy provision for data was in place while UIDAI project started its enrollments for Aadhar in 2010. The first bill in regards to privacy protection was the National Identification Authority of India Bill 2010 but was rejected by the parliamentary Standing Committee. (Reddy P, 2011). The second bill to curb privacy of data issue was put forth in 2012 the Privacy Bill, 2011 which was also not got passed in parliament. As per legal expert Usha Ramanathan, the main reason behind rejection of these bills was the disorganization. Due to lack of privacy protection law, many illegal immigrants too were got enrolled. Headed by Justice A.P.Shah, a group of judges formally considered and evaluated applicable international privacy standards for India. Submission of a report containing nine principles related to privacy
protection was done finally in 2012 (Justice A.P.Shah, October 16, 2012.). These Nine principles were inspired from the Organization for Economic Cooperation and Development’s (OECD) Fair Information Practices (FIPs) (Hoofnagle). This 91 pages report was the first concrete step towards privacy protection in case of Aadhar data. Justice A.P. Shah stated: “These principles, have been included from best practices internationally, and adapted suitably to an Indian context, will be able to regulate the baseline level of privacy protection to all individual data subjects.” Finally a new bill in 2014 came into existence which incorporated recommendations from the group of experts. However, the 2014 bill has grown weak; it still is officially pending in Parliament. (CIS, India, 2014).

Chief Justice H.L. Dattu directed that the “enrollment for Aadhar card was voluntary in nature” and obligation of it can not be done on an individual. The bench further stated that the voluntary nature of Aadhar would continue to be in place until a larger Supreme Court bench of judges decided whether the biometric authentication scheme violated the privacy of Indians (Analysis, 2017).

The Supreme Court in its judgment has overruled verdicts given in the M.P. Sharma case in 1958 and the Kharak Singh case in 1961, both of which said that the right to privacy is not protected under the Indian constitution. (The Wire, 2017). On 27 March 2017, the Apex Court mandated that Aadhaar card compulsion for availing benefits under welfare schemes can not be done though government can check feasibility of making it mandatory for other purposes (such as income tax filings, bank accounts etc.) (Correspondent, Legal, 2017). Supreme court is studying the validity of aadhar on privacy issue. As of April 2017, a constitution Bench of the apex court is taking into consideration the legal validity of Aadhar on right to privacy grounds. (Bhadra Sinha, 2017). A nine-judge bench of the Supreme Court has given verdict that citizens of India enjoy a fundamental right to privacy, that it is intrinsic to life and liberty and thus comes under Article 21 of the Indian constitution (The Wire, 2017). Regarding privacy issue the Supreme court directed concerned government authorities not to share personal information of Aadhar card holders with any private or unauthorized sources (India today, 2015). Legal Expert Usha Ramanathan commented that rather than focusing on the use or benefits of Aadhar in future, government is giving emphasis on the number of enrollments (Mukherjee, 2011). As private agencies or an undesirable person or a group might have catch hold of Aadhar’s data, it will be difficult to maintain the privacy of an individual intact (Greenleaf, 2010) (Ramanathan, 2010).

Some judges have different opinions on how privacy should be defined. According to Justice Chelameswar definition of privacy comprises of three aspects: “repose, sanctuary and intimate
decision”. Repose means essentially an individual is independent of unwanted stimuli, sanctuary contains protection against invasive observation and intimate decision is giving preference to personal life choices. This judgment will be helpful in future in order to make Aadhar system more secured (The Wire Analysis, 2017). Justice Sanjay Kishan Kaul in his judgment stated that the security environment throughout the world makes the safety of all to be balanced against the right to privacy.

The Supreme Court Judges Justice Chelameswar and Justice Nariman stated that the right to privacy will have impact on other domains such as Section 377 based on case to case basis. The laws that attempt to restrict privacy must be fair and affordable but also serve some compelling state interest.

**Government’s perspectives**

Though the High Court mandated about the voluntariness of Aadhar Card enrollment in March 2016, the government proposed the Aadhar Act. The Targeted Delivery of Financial and Other Subsidies, Benefits and Services) Act, 2016 (The Targeted Delivery of Financial and Other Subsidies, Benefits and Services Act, 2016) was passed in the Lok Sabha on 11 March 2016. On 26 March 2016, this Act was notified in the Gazette of India.

The Aadhar Act has many lacunas including no privacy provisions, no data security measures as comprised in the Privacy Bill of 2014. On the contrary, IT minister Ravi Shankar Prasad in his statement over twitter said that the government is in favor of a fundamental right to privacy. Prasad also pointed out that the Supreme court has not admitted privacy to be an absolute right and rather than that it would be balanced by certain reasonable restrictions. However Rohatgi and Venugopal’s perspective was that privacy as a concept was too vague to be called a fundamental right and concretely opposed it in court. In other argument privacy was an elitist concept and impoverished Indians do not fall in it. Finance Minister Arun Jaitley as a government representative in Rajyasabha supported right to privacy as a fundamental right of an individual but Government did not take similar stand before Supreme Court. (Analysis, 2017).

A UIDAI Report of 2010 opined that the people have fright of coming into government’s scrutiny with UID unnecessarily, so they are loosing trust and confidence in Government (UIDAI, Unique identification authority of India, Planning Commission, Government of India, , 2010). In addition to this, there are also cases of disagreements within the government mechanism. The Registrar General of India is not in favor of data collection procedure through private organization which
could lead to data leakages and eventually hampering privacy in some cases. Also the Ministry of Home Affairs declared not to accept the data unless and until proper processes are followed. (Mukherjee, 2011).

Chief Information Security officer of the ministry of home affairs, Dr. Rudra Murthy has given assurance about the Aadhar card system’s data and safety. He also pointed out that it is very difficult to hack the Aadhar card data. (Times of India, 2017)

This project has been opposed by some civil liberty groups, like Citizens Forum for Civil Liberties and Indian Social Action Forum (INSAF), citing privacy concerns (Arun, et al.). “I am opposed to the UID project on grounds of civil liberties. Let us not be naive. This is not a social policy initiative - it is a national security project.” (Jean Dreze, 2010). Government has been criticized for forcing people to link Aadhar cards with their mobile connection over privacy invasion issue. So it is considering the option of allowing other identity proofs to complete the verification process. Apex court has directed to have a credible authentication mechanism. (Dovali, 2017)

Conclusion

People’s Perspective – The population who are being asked to link their personal documents, identity and information to their Aadhar Card have to decide between two conflicting options of Advantages to the Society in general of which they are a part, and loss of their personal privacy. It is a trade off. The collective decision making comes into play wherein each element of the society take a decision which effectively becomes the decision of the society. There may be differing opinions about the decision, but these differing opinions do not convert into collective decisions. The people are wary about the possible loss of privacy. They are aware of the advantages of ALP to the Society. They are hence willing to join the ALP, and thus are ready to sacrifice their privacy.

Legal Perspective – While the Indian judiciary in its judgments during 2011-17 became more protective about privacy of the population with regards to Aadhar card, no judgment straight away scrapped the Aadhar scheme totally. Broadly they mentioned that Aadhar could not be made compulsory for provision of basic services. Nevertheless, many consecutive judges have had differing opinions on this issue and the Supreme Court’s opinion kept on changing with the judges. The 2017 apex court judgment refrained Government from making Aadhar compulsory for welfare schemes although it empowered Government to make it mandatory for financial services and tax
payments. Right to privacy was accorded the status of fundamental right, in 2017, but here again, no observation was made about ALP infringing this right.

Successive judges in their judgments have dealt with different aspects of privacy with regards to Aadhar and its linking. These judgments would help as a stepping stone for evolution of the idea of protection of privacy of the people of this nation state, within the framework of a secured and socially justified environment attained because of ALP.

**Government’s Perspective** – The Government of India seem to have fallen in line with the Supreme Court’s observation of privacy being the fundamental right, even after initially opposing it during the earlier hearings before the court. However it argues that fundamental right status does not make privacy the absolute right and hence is superseded by other major concerns of the nation state viz national security of its people, frauds and fake registrations.

The Government has been swift in implementing the ALP with respect to linking Aadhar with Bank Accounts, Mobile Telephone Numbers and certain welfare schemes and government controlled services and subsidies thereon. This has evoked criticism from the political parties in opposition and certain liberal activists. Critics have accused the Government of working in violation of the ruling of Supreme Court, which refrains the Government from making Aadhar compulsory for welfare schemes. The Government seems to be making very well calculated approach and reaction towards the critics as well as the apex court observations and rulings. It does not want itself to be looked upon as at loggerheads with the Supreme Court over this issue of ALP. Hence it is continually claiming to agree with the Supreme Court rulings. It has not been very hard-pressed over the deadlines for linking of Aadhar card. But at the same time, it has left no stone unturned and invested much of its time, resources and governments machinery towards implementing ALP as of this point of time.

Surely the Government wants to waste no time and wants to do the ground work, while the collective decision of people, the judiciary and the public representatives headed by itself evolves. The Government it seems is determined and hopeful to turn the tables, in due period of time so as to be in comfortable majority in the parliament to bring about concrete laws to enable ALP implementation without any hindrance. This observation may seem to be far fetched. The mammoth size of the population makes ALP a huge exercise, and would certainly need years if not decades for its complete implementation.
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