**Dissent and Aadhaar: We have been numbed by a series of lies, myths and fictions about the project**

India is at risk of becoming a surveillance state, with faint resistance from libertarians, intellectuals, political parties, the media, or the Supreme Court. Very soon, almost everyone will have an Aadhaar number, seeded in hundreds of databases. Most of these databases will be accessible to the government without invoking any special powers. Permanent surveillance of all residents becomes a possibility. Only a simpleton would expect this possibility to remain unused.

With everyone on the radar, dissent is bound to be stifled. As it is, many people and institutions are anxious not to get on the wrong side of the government. NGOs are afraid that their registration might be cancelled if they antagonise the authorities. Vice-chancellors and principals are unable to stand up for their students’ right to hold public meetings on sensitive issues. Newspapers treat the government with kid gloves, especially on security matters. Investigative agencies target or spare Opposition leaders at the government’s bidding. Nationalism is confused with obedience to the state. With Aadhaar immensely reinforcing the government’s power to reward loyalty and marginalise dissenters, the embers of democracy are likely to be further smothered.

How did we get there, without even noticing it? One answer is that we have been numbed by a series of lies, myths and fictions about Aadhaar. The first lie was that Aadhaar is a voluntary facility. Today, we know that this was just doublespeak. Soon it will be virtually impossible to live in India without Aadhaar. And if you cannot live without Aadhaar, in what sense is it voluntary? As a columnist aptly put it, Aadhaar must be “the biggest bait-and-switch in history”.

Another early fiction was that the purpose of Aadhaar is to help welfare schemes. The truth is closer to the reverse: Welfare schemes have been used to promote Aadhaar (by creating mass dependence on it), irrespective of the consequences. As it happens, the consequences so far have been disastrous. For the public distribution system, Aadhaar is a calamity: In Jharkhand and Rajasthan, millions of people are deprived of their food rations every month due to technical problems related to Aadhaar-based biometric authentication (ABBA), according to the government’s own data.

Third, Aadhaar was endowed with mythological powers as a weapon against corruption. Many people fell for the simplistic claim that Aadhaar would “ensure that the money goes to the right person”. In reality, Aadhaar can prevent only some types of corruption, mainly identity fraud. If a contractor fleeces the government by over-invoicing, Aadhaar does not help. Sometimes, Aadhaar can make things worse, by disrupting fragile systems and creating confusion. For all we know, it may even create new varieties of identity fraud. Even if Aadhaar proves effective in curbing various forms of corruption, it is not the magic bullet that had been announced.

Fourth came a series of bogus claims about Aadhaar-enabled “savings”. Most of the savings figures have no solid basis. Instead, they acquire an aura of plausibility by repetition. A common pattern is that an official press note mentions a savings figure, say, from a closed-door presentation at the Prime Minister’s Office, newspapers quote that figure without verification, sundry commentators repeat it, and it becomes part of the Aadhaar lore. These dubious figures are then added up to produce an awesome grand total.

Fifth, the technology was claimed to be flawless. Today, there is growing evidence that this is not the case. In ideal conditions, ABBA seems to work most of the time. But often the conditions are far from ideal, causing immense inconvenience. And even the ideal-condition success rates may not be good enough if ABBA is to serve as a common tool of identity verification. In a recent interview, Nandan Nilekani stated that “this is a system which works perfectly in 95 per cent of cases”. That does not sound reassuring: In many contexts, a 95 per cent success rate is far from adequate.

Sixth, there is an ambiguity about the relation between Aadhaar and citizenship. Aadhaar, we are told, is for all residents, whether they are citizens or not. Sure, that is what the Aadhaar Act says. But then, why has enrolment been stalled in Assam? And why is Aadhaar enrolment in Assam being linked to the National Register of Citizens? Aadhaar deprivation could easily be used there as a weapon against illegal migrants, or communities branded as illegal migrants.

Finally, the confidentiality of the identity information collected at the time of Aadhaar enrolment is a myth. The initial draft of the Aadhaar Act, known as the National Identity Authority of India (NIDAI) Bill, did protect that information. But the final version does not. On the contrary, it creates a framework that enables the government to share or sell that information, except for the core biometrics, with any “requesting entity”. A vast collection of lucrative Aadhaar applications is now being built on the back of this information sharing facility. This is almost as big a bait-and-switch as the claim that Aadhaar is voluntary.

All this raises an interesting question: If the government misled the public to no end on this subject, can we trust it not to misuse the formidable powers of Aadhaar? The problem, however, is deeper. Even if it is not misused, the very existence of a huge infrastructure of surveillance is bound to stifle dissent. This ought to be a major concern for anyone committed to democratic rights and civil liberties. (By Jean Dreze, adapted from Indian Express, May 8, 2017)

# Criticism without aadhaar: The unique identification number empowers the people, not the state

Jean Dreze’s article, ‘Dissent and Aadhaar’, and other articles, have argued that with Aadhaar, India is at risk of becoming a surveillance or “Orwellian” state. With due respect to the critics, these apprehensions are unfounded. Aadhaar has emerged as a powerful instrument which enables people to establish their identity, receive their entitlements and exercise their rights without fear of being excluded or having their rights taken away. People use Aadhaar to open bank accounts, avail of doorstep banking, make digital payments and receive benefits under the PDS, MGNREGA, Ujjawala and the LPG subsidy, pensions, and scholarship schemes directly from the government without middlemen usurping them.

Aadhaar has thus brought transparency in governance and cleansed delivery databases of fakes, duplicates and con men/intermediaries, which have yielded savings of about Rs 50,000 crore in the last two years. In an independent study by the World Bank, ‘Digital Dividend 2016’, it has been estimated that Aadhaar can potentially save Rs 72,000 crore every year by plugging leakages. The transformational potential of Aadhaar has been recognised by the Supreme Court which has directed the use of Aadhaar to address the problems of leakages, fakes and duplicates.

No doubt, Aadhaar has also enhanced the government’s ability to directly connect, reach, and serve the people, which unfortunately is being projected as an increase in the state’s power and has led to Aadhaar being perceived as an instrument of state surveillance. The critics tend to forget that Aadhaar empowers the people, not the state. India’s effort to provide unique identification to its people and digitise its citizen databases, public or private, is mistaken as an exercise towards invasion of privacy. They must realise that non-digitisation of databases is not an option in the digital era. Often, the current debate reminds us of Europe’s Luddite movement in the 19th century when mechanisation was opposed due to fears of job loss.

It is pertinent to know how other developed democracies have used unique identification numbers to cleanse their system. The US introduced the Social Security Number (SSN) through an enactment in 1935 for the limited purpose of providing social security benefits during the Great Depression. However, in 1942, President [Franklin D. Roosevelt](http://indianexpress.com/about/franklin-d-roosevelt) expanded the scope through the historic Executive Order No. 9397 which mandated all federal agencies to use the SSN in their programmes. In 1962, the SSN was adopted as the official Tax Identification Number (TIN) for income tax purposes (just as India’s Parliament recently introduced Section 139 AA in the Income Tax Act to mandatorily require Aadhaar for PAN and Income Tax returns). In 1976, the Social Security Act was further amended to say that any state may, in the administration of any tax, general public assistance, driver’s licence, or motor vehicle registration law, utilise the social security account numbers for the purpose of establishing the identification of individuals and may require any individual to furnish the SSN. Section 7 of the Aadhaar Act seeks to do the same in India. The mandatory use of the SSN by the state did not go unchallenged in US courts which eventually held it to be constitutional. In Doyle vs Wilson, it was held that “mandatory disclosure of one’s social security number does not so threaten the sanctity of individual privacy as to require constitutional protection.” In the UK, too, almost every important service requires the National Insurance Number (NIN).

Critics will say that neither the SSN nor NIN is based on biometrics. But critics need to specify what they are objecting to — collection of biometrics or the system of a central number which can potentially link all the databases or both? Collection of biometrics for a legitimate purpose is an established practice sanctioned by law in India. If you want a driver’s licence, sell or buy properties, or want a passport, you are statutorily required to give your biometrics.

As regards objections to the state creating a central number in a central database, critics of Aadhaar need to ask themselves whether widespread mandatory usage of the SSN in the US or the NIN in the UK and the presence of these numbers in most citizen databases which potentially empowers the state to track every person from cradle to grave has made these countries surveillance states. They would say there are safeguards which prevent such things happening there.

So, now let us examine what the safeguards are in Aadhaar which will prevent it from being used as an “electronic leash” or an “instrument of state surveillance”. Aadhaar accords the highest importance to privacy. Since its inception, it has adopted the principle of privacy by design which is achieved through minimal data, federated databases and optimal ignorance which in turn ensures that no agency is able to track and profile any individual. The UIDAI during Aadhaar enrolment collects minimal data — that is, name, address, date of birth, gender and biometrics. When people use Aadhaar for accessing services, their information remains in silos of federated databases of those agencies. No one agency can have a 360 degree view of a person. Each agency remains optimally ignorant.

But critics have apprehensions that an agency, particularly the state, may not choose to remain optimally ignorant forever and start connecting the silos of databases through Aadhaar. It will serve them better if they read the Aadhaar Act 2016 and the Regulations. The Act covers the basic tenets of privacy protection measures relating to informed consent, collection limitation, use and purpose limitation and sharing restrictions. I am yet to see another law in India which accords such importance to privacy and data protection. The restrictions on use and sharing imposed under the Act are equally applicable to the state or a private entity. Any violation is a criminal offence punishable with three years imprisonment. The UIDAI will welcome any constructive debate or suggestions to further strengthen the legal provisions, but to say that there is no privacy law and therefore Aadhaar cannot be allowed to go ahead is not correct.

Aadhaar is also criticised for failures and issues relating to implementation. Here, too, the UIDAI remains open to constructive suggestions and will continuously review and strengthen its system. Finally, Aadhaar is India‘s technological marvel which, while empowering people, will enable India to leapfrog towards the status of a developed nation. (By Ajay Bhushan Pandey, adpated from Indian Express, May 13, 2017)