

FORTY-SECOND REPORT

STANDING COMMITTEE ON FINANCE
(2011-2012)

(FIFTEENTH LOK SABHA)

MINISTRY OF PLANNING

THE NATIONAL IDENTIFICATION AUTHORITY
OF INDIA BILL, 2010

Presented to Lok Sabha on 13 December, 2011

Laid in Rajya Sabha on 13 December, 2011



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COMPOSITION OF THE STANDING COMMITTEE ON FINANCE
(2011-2012)

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INTRODUCTION

I, the Chairman of the Standing Committee on Finance, having been authorized by the Committee, present this Forty-Second Report on “The National Identification Authority of India Bill, 2010”.

2. The National Identification Authority of India Bill, 2010 introduced in Rajya Sabha on 3 December, 2010 was referred to the Committee on 10 December, 2010 for examination and report thereon, by the Speaker, Lok Sabha under Rule 331E of the Rules of Procedure and Conduct of Business in Lok Sabha.

3. The Committee obtained background note, detailed note and written information on various provisions contained in the aforesaid Bill from the Ministry of Planning.

4. Written suggestions/views/memoranda on the provisions of the Bill were received from various institutions/experts/individuals.

5. The Committee took briefing/oral evidence of the representatives of the Ministry of Planning and the Unique Identification Authority of India (UIDAI) at their sitting held on 11 February, 2011.

6. At the sitting held on 29 June, 2011, the Committee heard the views of the representatives of (i) the National Human Rights Commission (NHRC), and (ii) the Indian Banks Association (IBA), and Dr. Reetika Khera, Visitor, Delhi School of Economics, New Delhi. The Committee also heard the views of the representatives of the Confederation of Indian Industry (CII), and experts namely, Dr. Usha Ramanathan, Independent Law Researcher, New Delhi, Dr. R. Ramakumar, Associate Professor, the Tata Institute of Social Sciences, Mumbai and Shri Gopal Krishna, Member, Citizen Forum for Liberties, New Delhi at the sitting held on 29 July, 2011.

7. The Committee, at their sitting held on 8 December, 2011 considered and adopted this Report.

8. The Committee wish to express their thanks to the officials of the Ministry of Planning and the Unique Identification Authority of India (UIDAI) for furnishing the requisite material and information which were desired in connection with the examination of the Bill. The Committee

would also thank all the institutions and experts for their valuable suggestions on the Bill.

9. For facility of reference, the observations/recommendations of the Committee have been printed in thick type in the body of the Report.

NEW DELHI;
9 December, 2011

20 Agrahayana, 1933 (*Saka*)

YASHWANT SINHA,
Chairman,
Standing Committee on Finance.

REPORT

PART I

A. Introductory

1. With a view to ensure that the benefits of centrally sponsored schemes reaches to right person and not misused, the Central Government had decided to issue unique identification numbers to all residents in India and to certain other persons. The scheme of unique identification involves collection of demographic and biometric information from individuals for the purpose of issuing of unique identification numbers to such individuals. The Central Government, for the purpose of issuing unique identification numbers, constituted the Unique Identification Authority of India (UIDAI) on 28th January, 2009, being executive in nature, which is at present functioning under the Planning Commission.

2. It has been observed and assessed by the Government that the issue of unique identification numbers may involve certain issues, such as (a) security and confidentiality of information, imposition of obligation of disclosure of information so collected in certain cases, (b) impersonation by certain individuals at the time of enrolment for issue of unique identification numbers, (c) unauthorised access to the Central Identities Data Repository (CIDR), (d) manipulation of biometric information, (e) investigation of certain acts constituting offence, and (f) unauthorised disclosure of the information collected for the purpose of issue of unique identification numbers, which should be addressed by law and attract penalties.

3. In view of the foregoing paragraph, the Government has felt it necessary to make the said Authority as a statutory authority for carrying out the functions of issuing unique identification numbers to the residents in India and to certain other persons in an effective manner. It is, therefore, proposed to enact the National Identification Authority of India Bill, 2010 to provide for the establishment of the National Identification Authority of India (NIDAI) for the purpose of issuing identification numbers (which has been referred to as aadhaar number) to individuals residing in India and to certain other classes of individuals and manner of authentication of such individuals to facilitate access to benefits and

services to which they are entitled and for matters connected therewith or incidental thereto.

B. Objectives and Salient Features of the Bill

4. The National Identification Authority of India Bill, 2010, introduced in Rajya Sabha on 3rd December, 2010, *inter-alia*, seeks to provide:—

- (a) for issue of aadhaar numbers to every resident by the Authority on providing his demographic and biometric information to it in such manner as may be specified by regulations;
- (b) for authentication of the aadhaar number of an aadhaar number holder in relation to his demographic and biometric information subject to such conditions and on payment of such fees as may be specified by regulations;
- (c) for establishment of the National Identification Authority of India consisting of a Chairperson and two part-time Members;
- (d) that the Authority to exercise powers and discharge functions which, *inter-alia*, include—
 - (i) specifying the demographic and biometric information for enrolment for an aadhaar number and the processes for collection and verification thereof;
 - (ii) collecting demographic and biometric information from any individual seeking an aadhaar number in such manner as may be specified by regulations;
 - (iii) maintaining and updating the information of individuals in the CIDR in such manner as may be specified by regulations;
 - (iv) specify the usage and applicability of the aadhaar number for delivery of various benefits and services as may be provided by regulations;
- (e) that the Authority shall not require any individual to give information pertaining to his race, religion, caste, tribe, ethnicity, language, income or health;
- (f) that the Authority may engage one or more entities to establish and maintain the CIDR and to perform any other functions as may be specified by regulations;
- (g) for constitution of the Identity Review Committee consisting of three members (one of whom shall be the chairperson) to

ascertain the extent and pattern of usage of the aadhaar numbers across the country and prepare a report annually in relation to the extent and pattern of usage of the aadhaar numbers along with its recommendations thereon and submit the same to the Central Government;

- (h) that the Authority shall take measures (including security safeguards) to ensure that the information in the possession or control of the Authority (including information stored in the CIDR) is secured and protected against any loss or unauthorized access or use or unauthorized disclosure thereof; and
- (i) for offences and penalties for contravention of the provisions of the proposed legislation.

C. Evolution of the UIDAI

5. The concept of a Unique Identification (UID) scheme was first discussed and worked upon since 2006 when administrative approval for the scheme “Unique ID for BPL families” was given on 3rd March, 2006 by the Department of Information Technology, Ministry of Communications and Information Technology.

6. Subsequently, a Processes Committee was set up on 3rd July, 2006 to suggest processes for updation, modification, addition and deletion of data fields from the core database to be created under the said project. The Committee appreciated the need of a UID Authority to be created by an executive order under the aegis of the Planning Commission to ensure a pan-departmental and neutral identity for the Authority.

7. Thereafter, since the Registrar General of India was engaged in the creation of the National Population Register (NPR) and issuance of Multi-purpose National Identity Cards to citizens of India, it was decided with the approval of the Prime Minister, to constitute an Empowered Group of Ministers (EGoM) to collate the two schemes – the NPR under the Citizenship Act, 1955 and the UID scheme. The EGoM was also empowered to look into the methodology and specific milestones for early and effective completion of the scheme and take a final view on these. The EGoM was constituted on 4th December, 2006 and a series of meetings took place as follows:—

- (a) First meeting of EGoM: 22nd November, 2007
 - Recognized the need for creating an identity related resident database regardless of whether the database is

created based on a de-novo collection of individual data or is based on already existing data such as the voter list.

- Need to identify and establish institutional mechanism that will own the database and be responsible for its maintenance.

(b) Second meeting of EGoM: 28th January, 2008

- The proposal to establish UID Authority under the Planning Commission was approved.

(c) Third meeting of EGoM: 7th August, 2008

- Referred certain matters raised with relation to the UIDAI to a Committee of Secretaries for examination.

(d) Fourth meeting of EGoM: 4th November, 2008

- It was decided to notify UIDAI as an executive authority. Decision on investing it with statutory authority would be taken up later.
- UIDAI would be anchored in the Planning Commission for five years after which a view would be taken as to where the UIDAI would be located within Government.

8. The UIDAI was constituted on 28th January, 2009 under the Chairmanship of Shri Nandan M. Nilekani as an attached office under the aegis of the Planning Commission. The UIDAI was *inter-aila* given the responsibility to lay down plan and policies to implement the UID scheme, own and operate the UID database and be responsible for its updation and maintenance on an ongoing basis. The Prime Minister's Council of UIDAI and a Cabinet Committee on UIDAI (called CC-UIDAI) were set up on 30th July, 2009 and 22nd October, 2009 respectively for achieving the objectives of the Authority.

9. Asked why the matter of conferring statutory status to the UIDAI was deferred, the Ministry of Planning have submitted their written response as under:—

“Based on the proposal that formation of the UIDAI under the Planning Commission would ensure better coordination with different departments, it was decided that initially the UIDAI may be notified as an executive authority under the Planning Commission and the issue of investing the UIDAI with statutory authority and the reconciliation of such statutory role with National Registration Authority (NRA) can be considered at an appropriate time.”

10. Justifying the extension of the UID scheme, which is initially intended for BPL families, to all residents and other categories of individuals, the Ministry of Planning in their written response have submitted as under:—

“The UID scheme was extended to all residents and other categories of individuals to gradually do away the *de novo* exercises each time for field level data collection. Simultaneously, it would also ensure that links to more and more identity based databases are created by inclusion of the UID number in their databases”.

11. In this regard, Dr. R. Ramakumar, Expert, in his post-evidence reply has, among other things, added as follows:—

“.....it has been proven again and again that in the Indian environment, the failure to enroll with fingerprints is as high as 15% due to the prevalence of a huge population dependent on manual labour. These are essentially the poor and marginalised sections of the society. So, while the poor do indeed need identity proofs, aadhaar is not the right way to do that....”

12. The Ministry in their written reply have stated, among other things, that:—

“While there may be a number of factors contributing to the failure to enroll (like geography, age groups, occupation etc.) and the figures quoted..... may not hold good in all situations, failure to enroll is a reality.... For enrolment purpose, UIDAI has already built in processes to handle biometric exceptions.”

D. Issuance of Aadhaar Numbers pending passing the Bill by Parliament

13. Justice Dr. M. Rama Jois, MP (Rajya Sabha) in his representation addressed to the Chairman, Standing Committee on Finance has *inter-alia* pointed out since the NIDAI Bill is pending for consideration before the Standing Committee on Finance, implementation of the provisions of the Bill, issue of aadhaar numbers and incurring expenditure from the exchequer by the Government is a clear circumvention of Parliament, and therefore, should be kept in abeyance awaiting debate in and decision of both Houses of Parliament.

14. On being asked about the legal basis under which the UIDAI is functioning at present, and the mechanism that the UIDAI has adopted, since its inception, to deal with any of the issues like security and confidentiality of information and other offences related to issue of the

aadhaar numbers, the Ministry of Planning in a written reply have *inter-alia* stated that:—

“....The matter about commencement of operation of the UIDAI before a legal framework was put in place was referred to the Ministry of Law and Justice wherein opinion was sought on the issue whether in absence of a specific enabling law, would there be any constraints in collecting the data (including biometrics) and in issuing the UID numbers to residents in accordance with the mandate given to the Authority. The Ministry of Law and Justice, after examining the matter, had mentioned that it is a settled position that powers of the Executive are co-extensive with the legislative power of the Government and that the Government is not debarred from exercising its executive power in the areas which are not regulated by specific legislation. It had also been opined that till the time such legislation is framed the Authority can continue to function under the executive order issued by the Government and the scheme that may be prepared by the UIDAI. It was also opined that the Authority can collect information/data for implementation of the UID scheme. Such implementation can be done by giving wide publicity to the scheme and persuading the agencies/individual to part with necessary information.

The UIDAI has not faced issues such as breach of security and confidentiality, manipulation of biometrics, unauthorized access to the CIDR or other related offences since its inception.....till the time Parliament passes the Bill, these matters will be covered by the relevant laws.”

15. The opinion of the Attorney-General of India on the above mentioned issues as obtained by the Ministry of Law and Justice (Department of Legal Affairs) is furnished below:—

“The competence of the Executive is not limited to take steps to implement the law proposed to be passed by Parliament. Executive Power operates independently. The Executive is not implementing the provisions of the Bill. The Authority presently functioning under the Executive Notification dated 28th January, 2009 is doing so under valid authority and there is nothing in law or otherwise which prevents the Authority from functioning under the Executive Authorisation.

The power of Executive is clear and there is no question of circumventing Parliament or the Executive becoming a substitute of Parliament. On the contrary, what is sought to be done is to

achieve a seamless transition of the authority from an Executive Authority into a statutory authority.

All the expenditure which is being incurred is sanctioned by Parliament in accordance with the financial procedure set forth in the Constitution. If the Bill is not passed by any reason and if Parliament is of the view that the Authority should not function and express its will to that effect, the exercise would have to be discontinued. This contingency does not arise.

The present Bill being implemented without Parliaments' approval does not set a bad precedent in the Parliamentary form of Government. On the contrary, the fact that the Authority is sought to be converted from an Executive Authority to a statutory authority, it underlines the supremacy of Parliament."

16. On this issue, Dr. Usha Ramanathan, Expert, in her post-evidence reply has *inter-alia* stated that:—

"Article 73 of the Constitution delineates the extent of executive power of the Union and describes it as extending to matters with respect to which Parliament has power to make laws.....

While the executive power of the Union, and of the States, is co-extensive with the legislative power of the Union and the States, this is a provision that sets out the limits of the power. These are not provisions that are meant to make Parliament, or the legislatures, redundant. While executive power cannot extend beyond the legislative power of the Union and the States, Parliament and the legislatures can, and routinely do, set out the terms on which the executive is to function. This is also how 'delegated legislation' or 'subordinate legislation' has to be within the extent of the 'parent statute'.....

It is a plain misconception to think that the executive can do what it pleases, including in relation to infringing constitutional rights and protections for the reason that Parliament and legislatures have the power to make law on the subject."

E. UID Scheme

17. A resident who seeks to obtain an aadhaar number shall provide his/her demographic and biometric information to enrolling agencies appointed by Registrars. A resident who does not possess any documentary proof of identity or proof of address can obtain an aadhaar number by being introduced by an introducer.

18. The UIDAI has executed Memoranda of Understanding (MoU) with the partners including all the States and Union Territories, 25 financial institutions (including LIC) to act as Registrars for implementing the scheme. The roles and responsibilities of the partners flow from the MoU.

19. The UIDAI requires only basic identity data such as name, age, gender, address and relationship details in case of minors, for issue of unique identity number. This is commonly known as “Know your Resident (KYR).” The partner registrars are using this resident interface as an opportunity to update their own selected data bases such as ration card number, MGNREGS job card number, PAN card etc. This is commonly known as “Know your Resident Plus” (KYR+). Collection of these information is purely an initiative of respective Registrars and not mandatory for issue of aadhaar number.

20. The UIDAI is collecting bare minimum demographic information from the residents; any other kind of information, *viz.*, rural, semi-urban and urban areas, persons with disabilities, migrant unskilled and unorganized workers, nomadic tribes and others who do not have any permanent dwelling house, is not available with UIDAI. Asked how the coverage of marginalized sections of population, without having the data of aadhaar numbers issued to them, could be achieved, the Ministry has submitted that the Authority proposes to cover the marginalized and poor sections of the population through special enrolment camps organized for them.

21. In a news item dated 6th September, 2011, it has been reported that the Ministry of Home Affairs have identified flaws in the enrolment process followed by the UIDAI, citing cases where people have got aadhaar numbers on the basis of false affidavits.

22. Further, an expert has brought to the notice of the Standing Committee on Finance that issues of liability and responsibility for maintaining accuracy of data on the Register, conducting identity checks and ensuring the integrity of the overall operation of the UID scheme have not been resolved. On being asked to comment on this, the Ministry of Planning have submitted a written reply as follows:—

“.....Registrars have to put processes in place to ensure that the data collected is accurate. It is also the responsibility of the Registrars to appoint verifiers (for verifying the documents presented by the resident) and introducers to handle cases where the residents do not have any documents.”

23. It has been reported in a news item that the Ministry of Home Affairs have alleged that some of the registrars have not adhered to the

laid down procedures under UIDAI. It has also been noticed that the Government of Kerala *vide* G.O.(MS)No:16/2011/ITD dated 3rd June, 2011 has *inter-alia* stated that the MoU was signed between UIDAI and Government of Kerala for implemenation of the UID project subject to condition that the clauses on the standards, protocol, criteria etc. in the MoU shall be in accordance with the State IT policy.

F. Global Experience

24. It has been brought to the notice of the Standing Committee on Finance that on the basis of the findings of London School of Economics (LSE) report, the Government of United Kingdom has abandoned its ID project (repealed its Identity Cards Act, 2006) citing a range of reasons, which includes high cost, unsafe, untested and unreliable technology, and the changing relationship between the State and the citizen etc.

To a specific issue of relevance of any of the above mentioned factors in the Indian context, it has been informed by the Ministry as follows:—

“There are significant differences between the UK’s ID card project and the UID project and to equate the two would not be appropriate. The differences are as follows:—

- (a) The UK system involved issuing a card which stored the information of the individual including their biometrics on the card. UID scheme involves issuing a number. No card containing the biometric information is being issued. UK already has the National insurance number which is used often as a means to verify the identity of the individual.
- (b) The statutory framework envisaged made it mandatory to have the UK ID card. Aadhaar number is not mandatory.
- (c) The data fields were large and required the individual to provide accurate information of all other ID numbers such as driver’s license, national insurance number and other such details thereby linking the UK ID card database to all other databases on which the individual was registered. UID Scheme collects limited information and the database is not linked to other databases.
- (d) In UK, the legislative framework and structure approached it from a security perspective. The context and need in India is different. The UID scheme is envisaged as a mean to enhance the delivery of welfare benefits and services.”

25. When asked as to whether any analysis has been carried out on the experience of countries where National IDs are in use as well as countries where it has been discontinued, the Ministry have *inter-alia* informed the Committee in a written reply as follows:—

“In some countries the use of smart cards to store significant data about the resident added to concerns about ID fraud and duplication.....

The comparisons between developed countries, which are looking at additional ID forms from a security perspective, versus India, a developing country which, like Brazil and Mexico, is attempting to, build the basic identity and verification infrastructure essential to delivering welfare benefits, and promoting inclusive growth, is not a reasonable one.”

G. Existing identity forms v/s need for Aadhaar Number

26. A view has been expressed that adding another form of identity (*i.e.* aadhaar number) without studying the possibility of using the existing forms of identity, for example, Voter ID card, to solve the current problems appears to be a waste of resources.

27. The Ministry of Planning in a written submission have *inter-alia* stated the following:—

“..... in the current framework there is no single document which is uniformly acceptable as proof of identity across India – irrespective of age, gender and familial connections. Establishing identity is a challenge for the poor, particularly when they move from place to place as a consequence lack of proof of identity makes it difficult for the poor to access benefits and services.

..... Aadhaar number is an enabler..... The benefits of aadhaar number are:—

For residents: The aadhaar number will become the single source of identity verification. Once residents enroll, they can use the number multiple times – they would be spared the hassle of repeatedly providing supporting identity documents each time they wish to access services such as obtaining a bank account, passport, driving license, and so on.... the number will also give migrants mobility of identity.

For Registrars and enrollers: The UIDAI will only enroll residents after de-duplicating records. This will help Registrars clean out

duplicates from their databases, enabling significant efficiencies and cost savings. For Registrars focused on cost, the UIDAI's verification processes will ensure lower Know Your Resident (KYR) costs. For Registrars focused on social goals, a reliable identification number will enable them to broaden their reach into groups that till now, have been difficult to authenticate. The strong authentication that the aadhaar number offers will improve services, leading to better resident satisfaction.

For Governments: Eliminating duplication under various schemes is expected to save the Government exchequer a substantial amount. It will also provide Governments with accurate data on residents, enable direct benefit programs, and allow Government departments to coordinate investments and share information."

28. The Ministry have further added that:—

"....reason for starting the project is not for overriding existing Ids.....All the above documents are relevant to a domain and for a service. Aadhaar number is to be used as a general proof of identity and proof of address."

H. Identity and Eligibility

29. According to a news item dated 7th July, 2011, the operationalisation of aadhaar, the unique identification number, will make it possible to link entitlements to targeted beneficiaries. But it will not ensure beneficiaries have been correctly identified. Thus, the old problem of proper identification that bedevils the present system will continue.

30. It has also been brought to the notice of the Standing Committee on Finance that a key issue in targeted welfare schemes is said to be of eligibility and not identity. Government entitlements are unavailable to the poor, primarily due to the eligibility determination process having many loopholes and lacunae. One identity like aadhaar number has nothing to do with such entitlements.

31. Asked to furnish comments, the Ministry of Planning in a written reply have stated that:—

"....With aadhaar number integration in various Government schemes, the identity of the beneficiary gets established, by which it is ensured that the government scheme benefits reach the intended beneficiaries. Availability of identity and eligibility information

together provides an important tool to plug the loopholes in the eligibility determination process, and in managing the eligibility life cycle for a beneficiary.”

32. Dr. Reetika Khera, Expert, while deposing before the Committee has *inter-alia* stated as follows:—

“.....exclusion is more on account of poor coverage of these schemes. Say, for instance, in the Public Distribution System, the Planning Commission says that only ‘x’ per cent of the rural population will get the BPL cards and because of that cap that is set at the Central level, we find that lots of people are excluded.”

I. Aadhaar Number and National Population Register (NPR)

33. The Standing Committee on Finance, during briefing on the Bill held on 11th February, 2011, raised *inter-alia* the issue of possibility of dovetailing the UID exercise with the census operation. In this regard, the Ministry of Planning in their written reply have, among other things, stated as follows:—

“the UIDAI is adopting a multiple registrar approach and the Registrar General of India (RGI) will be one of the Registrars of the UIDAI. To synergize the two exercises, an Inter Ministerial Coordination Committee has been set up to minimize duplication. The UIDAI is making all efforts to synergize with National Population Register (NPR) exercise... .”

34. According to a news item dated 6th September, 2011, the Ministry of Home Affairs said that it would not be preferable to rely entirely on private sector players’ for biometric enrolments into the NPR since the population register will form the basis on which citizenship would be determined in the future. Unlike the UIDAI system, the NPR system follows an elaborate procedure to verify and cover the entire population of every area; and the data collected is subjected to ‘social vetting’; and accountability can be fixed under the NPR system.

35. In an another news article it has been reported that while registration to the NPR is compulsory and a National Identity Number is linked to each name, the Citizenship (Registration of Citizens and Issue of National Identity Cards) Rules, 2003 does not approve of linking biometrics with personal information. However, according to, the annual reports of the Ministry of Home Affairs, it said that integration of photographs and finger biometrics of 17.2 lakh out of 20.6 lakh records has been completed.

J. Coordination between the agencies involved in the UID Scheme

36. In a detailed note on the NIDAI Bill, the Ministry of Planning have *inter-alia* submitted that:—

“Implementation of a project of this size is challenging. It involves co-ordination with multiple stakeholders and effective monitoring of implementation at every level.... .”

37. The Ministry of Finance (Department of Expenditure), however, while commenting on embedding aadhaar numbers in databases to enable interaction have stated that:—

“It must be done urgently by single agency, perhaps NPR. Cabinet has approved (22.7.2010) outlay of Rs. 3,023.01 crore *inter-alia* for assistance for Information Communication Technology (ICT) infrastructure of Rs. 450 crore for integrating/synergizing Aadhaar numbers with existing databases. Concerned about lack of coordination leading to duplication effort and expenditure with atleast 6 agencies collecting information (NPR, MNREGA, BPL Census, UID, RSBY and Bank Smart Cards).”

38. It has been reported in a news-item dated 3rd October, 2011 that the UID project has become focus of the ire of various arms of the Government for rather disparate reasons. Asked to furnish the comments on the said news-item, the Ministry of Planning have submitted a written reply as follows:—

Views reported in the news-item	Comments of the Ministry of Planning
1	2
....the Finance Ministry rejected UIDAI's request for Rs.14,000 crore expenditure programme.	It is not correct that the Finance Ministry have rejected the budget expenditure. The proposal for phase III has been recommended by the EFC on 15 September, 2011 after optimizing the cost estimates with certain stipulations to be complied with by the UIDAI to achieve economy of scales, avoid duplication and avail convergence in the programme.
...the planning commission too jumped into the fray, suddenly awakening to the deficiency in the structure and functioning of the Authority.	Aadhaar programme is a complex project of its kind launched first time in the country. EFC is an Inter-Ministerial forum to appraise the proposal rigorously to facilitate

1	2
	<p>decision making by the Competent Authority. Planning Commission is one of the nodal apprising agencies to the EFC forum. On approval by Planning Commission some issues regarding design parameters, cost estimates and manner of implementation were emerged, which could not be visualized at project formulation stage. These issues have been deliberated in the EFC meeting and resolved through certain stipulations to be adhered to by UIDAI during execution of the project.</p>
<p>Adding to the confusion were the apparently negative comments made by the Ministry of Home Affairs(MHA) on the flaws in the enrolment process and the security of the bio-metric data. The Home Ministry's apparently nervous of the UIDAI's efforts to extend its aadhaar enrolment mandate, as the office of the Registrar General of India, an arm of the Ministry, is simultaneously compiling a National Population Register (NPR) which is a comprehensive identity database, as a part of the 2011 census operations currently under way.</p>	<p>While responding to the EFC memo of the UIDAI, the RGI (MHA) have observed as follows:—</p> <p>A security audit of the entire process of UIDAI including enrolment process in UIDAI, the enrolment software, data storage, data management, etc. should be conducted by an appropriate agency.</p> <p>The Comments of the UIDAI on this are:—</p> <p>UIDAI is developing a monitoring and evaluation framework to provide a comprehensive mechanism for continuously monitoring and evaluating the UIDAI programme. Considering that a formal structured monitoring and evaluation framework will form the cornerstone for measuring the outcome of UIDAI programme, a distinct component 'Monitoring and evaluation' has been included in the current EFC proposal. Some of the audits planned on a periodic basis are: (i) Enrolment Client Audit; (ii) Enrolment Process (Field) Audits; (iii) ASDMSA Application Audits; (iv) Authentication User Agency Audits; (v) Data Center Audits; (vi) Security Audits; (vii) Impact Assessment (Grants in Aid for Research); and (viii) Other Third Party Audit Services.</p>

1	2
The confusion about the turf of UIDAI and the MHA is rather surprising, given the fact that an EGoM was constituted as early as 2006 to collate the two schemes, namely the NPR and the unique identification number, as aadhaar was then known.	UIDAI has no comments to offer.
RBI made the waters murkier by first going against the Finance Ministry notification that was issued in 2010 to permit the use of Know Your Customer (KYC) norms by limiting the use of aadhaar numbers to “small accounts”. It then retracted, by allowing use of aadhaar numbers to all bank accounts without any limitations, but only after again insisting that the banks must satisfy themselves about the current address of the customer. RBI’s reluctance to fully accept the aadhaar numbers for the KYC norms is surprising, given that more than a dozen leading banks in the country are partnering with UIDAI to deliver aadhaar numbers to the citizens, and also when the aadhaar number have been accepted by the insurance companies and SEBI for meeting KYC norms.	It is clarified that:— (i) aadhaar is sufficient KYC for opening all bank accounts now. This includes no-frill accounts— as per Reserve Bank’s circular dated January 27, 2011 – and any bank account as per September 28, 2011 circular. (ii) Banks may ask for additional proof of residence if the current residence is not the same as the address given on the aadhaar document. This procedure is consistent with bank policies applicable to all other officially valid documents including passport, driving license and is not specific to aadhaar.

K. Civil Liberties Perspective

39. In a detailed note on the Bill, the Ministry of Planning have stated that issues like access and misuse of personal information, surveillance, profiling, prohibiting other data bases from storing aadhaar numbers; and securing confidentiality of information which is in the registrars domain need to be addressed in larger data protection legislation. In this connection, the Ministry have been asked to comment on the view that the Bill in its current form appears to be unsafe in law as there is no law at present on privacy, and data protection, therefore, it would be appropriate to consider the Bill for legislation only after passing the legislation on privacy, and data protection so as to ensure that there is no conflict between these laws. The Ministry in a written reply have *inter-alia* stated as under:—

“UIDAI has taken appropriate steps to ensure security and protection of data under this law and has incorporated data

protection principles within its policy and implementation framework.....

Since appropriate steps have been taken, there is no dependency on the general data protection law..... when the data protection framework comes into place the Authority will follow the same since a national data protection law will apply to all agencies and institutions collecting information.

Collection of information without a privacy law in place does not violate the right to privacy of the individual.... There is no bar on collecting information, the only requirement to be fulfilled with respect to the protection of the privacy of an individual is that care should be taken in collection and use of information, consent of individual would be relevant, information should be kept safe and confidential...

.....The proposed Privacy law should also seek to strike a balance between the legitimate demands of protecting individual liberties while recognizing the need for larger public interest to prevail in certain well defined circumstances.”

40. Responding to a suggestion received from PRS Legislative Branch that the existence of a unique identifier may facilitate record linkages across separate databases, the Ministry in a written reply have submitted that issues of linking and matching of databases need to be addressed through a data protection legislation which is currently being considered by the Department of Personnel.

41. The National Human Rights Commission (NHRC), on being asked to comment on the implications of the provisions of the Bill on the individual's right to privacy, has *inter-alia* informed the Committee in their post-evidence reply as follows:—

....the right of privacy presupposes that such information relating to an individual which he would not like to share with others will not be disclosed. It may be mentioned that the right of privacy is not an absolute right.....”

42. On the same issue, Dr. Usha Ramanathan, expert, in her post-evidence reply has stated that:—

“....The right to dignity, the right to privacy, personal security and safety, the protection against surveillance, are constitutionally protected. The production of a number accompanied by the use of methods such as fingerprinting and iris scanning is even more

invasive than is permitted to be applied to alleged offenders. Article 20 (3) provides protection against compulsory extraction of personal information. Denying services, and rights, to persons because they are unwilling to part with the information in a manner that is more than likely to result in convergence and commodification of their personal information, surveillance, profiling, tagging and tracking is compulsory extraction that clearly reduces the constitutional rights of an ordinary citizen to less than that of an alleged offender. And that this is being done without the protection of law renders the exercise, per se, illegal. Apart from its 'uses', the potential for abuse is undeniable. In a similar context, another court – the Philippines Supreme Court – said:the data may be gathered for gainful and useful Government purposes; but the existence of this vast reservoir of personal information constitutes a covert invitation to misuse, a temptation that may be too great for some of our authorities to resist."

L. Financial Implications

(i) Feasibility Study

43. The Ministry of Planning in a detailed note on the Bill have stated that aadhaar number is cost-effective compared to other alternate targeted solutions to the problems identified in delivering services and benefits such as eliminating duplicate and fake identities. The Detailed Project Report (DPR) of the UID scheme has been prepared and submitted by M/s. Ernst and Young Pvt. Ltd. in April, 2011.

44. Asked whether any committee has been set up to study the financial implications of the UID scheme; and also to furnish the details of feasibility study carried out, if any, covering all aspects of the UID scheme such as setting up of the proposed NIDAI, and cost-benefit analysis, the Ministry in a written reply have, among other things, submitted that:—

"No committee has been set up to study the financial implications of the UID scheme. As per laid down guidelines/procedure the Expenditure Finance Committee (EFC) reviews project proposals and its financial implications wherein the views of all stakeholders/ministries are taken into account...

.....deliberations were held with all relevant stakeholders including Planning Commission, Registrar General of India, Election Commission of India, Ministry of Rural Development, Ministry of Urban Development and State Governments. A Proof of Concept study was undertaken in the States of Gujarat, Karnataka, U.P. and

Odisha in four rural and one urban locations to establish the feasibility of linking UID with partner-databases and to validate the possibility of one-time linkage which once established would be maintained on an ongoing basis by the UIDAI. An assessment study was carried out in 10 Central Ministries and their respective departments in four States (Karnataka, Uttar Pradesh, Gujarat and West Bengal)."

(ii) Estimated cost of the UID scheme

45. The UID scheme is a Central Sector Scheme. The estimated cost of the Phase-I and Phase-II of the scheme spread over five years is Rs. 3170.32 crore (Rs. 147.31 crore for Phase-I and Rs. 3023.01 crore for Phase-II). The estimated cost includes scheme components for issue of 10 crore UID numbers by March, 2011 and recurring establishment costs for the entire scheme up to March, 2014. The Budget for Phase-III of the scheme to the tune of Rs. 8861 crore has been approved.

46. According to news-items, the total cost of the UID scheme may run up to Rs. 1,50,000 crore. Even after the commitment of such levels of expenditures, the uncertainty over the technological options and ultimate viability of the scheme remains.

(iii) Comparative cost of aadhaar number and existing ID documents

47. Asked to furnish the details of comparative cost of existing ID documents (per individual), namely, Voter Id card, PAN card, driving licence and aadhaar number, the Ministry has *inter-alia* informed the Committee in a written reply that the comparative costs of the documents mentioned above are not available.

(iv) Funding of other bio-metric projects

48. It is noticed that a project namely, Bharatiya — Automated Finger Print Identification System (AFSI), was launched in January, 2009, being funded by the Department of Information Technology, Ministry of Communications and Information Technology, for collection of bio-metric information of the people of the country.

49. Asked to clarify as to whether the bio-metric information (finger prints) being collected under the Bharatiya – AFSI project could also be used by the UIDAI, the Ministry have submitted that:—

"The bio-metrics required for the aadhaar project are iris, ten finger prints and photograph. To ensure uniqueness of the individual, it

is essential that the bio-metrics captured are as per the specifications laid down by the Bio-metrics Standards Committee. The quality, nature and manner of collection of bio-metric data by other bio-metric projects may not be of the nature that can be used for the purpose of the aadhaar scheme and hence it may not be possible to use the fingerprints captured under the Bharatiya—AFSI project.”

(v) Revenue model of the UIDAI

50. According to a detailed note on the bill furnished by the Ministry of Planning, demographic data and address verification will be provided free of cost till a separate pricing policy is announced in due course.

51. However, in a news-item dated 6th September, 2011, it has been reported that the Ministry of Home Affairs pointed out uncertainties in the UIDAI's revenue model.

M. Technology

52. The Bio-metrics Standards Committee set up by the UIDAI has recognized in its report that a fingerprints-based bio-metric system shall be at the core of the UIDAI's de-duplication efforts. It has further noted that it is:—

“...conscious of the fact that de-duplication of the magnitude required by the UIDAI has never been implemented in the world. In the global context, a de-duplication accuracy of 99% has been achieved so far, using good quality fingerprints against a database of up to fifty million. Two factors however, raise uncertainty about the accuracy that can be achieved through fingerprints. First, retaining efficacy while scaling the database size from fifty million to a billion has not been adequately analyzed. Second, fingerprint quality, the most important variable for determining de-duplication accuracy, has not been studied in depth in the Indian context.”

53. Asked to explain the reliability of technical architecture of the UID scheme, the Ministry of Planning in a detailed note on the NIDAI Bill have, among other things, stated as follows:—

“The UID project is a complex technology project. Nowhere in the world has such a large bio-metric database of a billion people being maintained. The frontiers of technology in bio-metrics are being tested and used in the project.....

The technical architecture of the UID scheme is at this point, is based on high-level assumptions. The architecture has been

structured to ensure clear data verification, authentication and de-duplication, while ensuring a high level of privacy and information security.....

The project team is learning and adapting to the challenges and ensuring that the solutions that are being offered are the best in the world to achieve the task.... .”

54. Further asked as to given the high degree of assumptions on the reliability of technology adopted by the UIDAI and probability of system failures of different degrees, whether incurring huge costs on the UID scheme is prudent and affordable, the Ministry have stated in a written reply, among other things, as follows:—

“.....UIDAI is cognizant of the fact that biometric matching (which is a patterns matching) by its very nature will suffer from inaccuracy. However, these inaccuracy levels are less than 1%. This cannot be a reason for not attempting to use the technology.

It is well acknowledged that there will be failures in authentication for various reasons. After Proof of Concept studies on authentication, appropriate policies and processes will be developed to take care of situations where failure occurs for various reasons.....The choice of using the authentication services is left to the third party service provider.....Concerned agencies will have to develop policies and procedures to handle such exceptional situations.....”

55. In a news article, one of the representatives of the UIDAI has admitted that the quality of fingerprints is bad because of the rough exterior of fingers caused by hardwork, and this poses a challenge for later authentication.

N. National Security v/s the UID Scheme

(i) Illegal residents

56. A concern over the possibility of illegal residents getting aadhaar numbers, and the safeguards in this regard has been raised by the Standing Committee on Finance during the sitting held on 11 February, 2011. In a written reply, the Ministry of Planning have stated as under:—

“Aadhaar number is not a proof of citizenship or domicile [Clause 6 of the Bill]. It only confirms identity and that too subject to authentication [Clause 4(3)]. This is clearly mandated in the NIDAI Bill and the communication being sent to the resident.

It is the responsibility of the Registrars to enroll a resident after due verification as per the procedure laid down by the UIDAI. If a person is not a resident as per the Bill, the Authority is being vested with the power to omit/deactivate the aadhaar number [Clause 23 (2) (g)]. Subsequent attempts to enter the system can be detected”.

(ii) Involvement of Private agencies

57. On the issue of security of proposed data of UIDAI, an unstarred question (no.2989) was raised in Rajya Sabha. The Minister of State in the Ministry of Planning and Minister of State in the Ministry of Parliamentary Affairs tabled the answer to the above said question in Rajya Sabha on 22 April, 2010 as follows:—

“National Informatics Centre (NIC) had pointed out that the issues relating to privacy and security of UID data, in case the data is not hosted in a Government data centre may be taken into consideration.

UIDAI is of the opinion that the hosting of data in a private data centre does not necessarily lead to a violation of privacy or security. Appropriate contractual arrangement shall be put in place with the data centre space provider to ensure security and privacy of the data.

At present, UIDAI does not have its own permanent facility to house its data centre. Therefore, 75 sq.ft of data centre space has been hired from M/s. ITI Ltd. for proof of concept and pilot on a rental basis”.

58. The Ministry of Home Affairs, according to a news item, have questioned the security of citizens’ biometric data in UIDAI’s ‘outsourced service oriented infrastructure’ model.

59. To a specific query as to could outside agencies be allowed to partake in the UID scheme when doubts have been expressed on possible compromise with the interests of the national security, the Ministry of Planning in a written reply have *inter alia* stated that:—

“....the UIDAI has followed government procurement process and engaged the appropriate agencies for the implementation of the UID scheme....The UIDAI has also implemented a comprehensive information security policy.....”

60. It is, however, reported in various news articles as late as dated 26th November, 2011 that controversies between the Ministry of Home Affairs and the UIDAI over the issues such as manner and processes followed by the UIDAI, duplication of efforts between National Population Register and aadhaar, and security of data remain unresolved.

PART II

OBSERVATIONS/RECOMMENDATIONS

1. The Committee have carefully examined the written information furnished to them and heard the views for and against the National Identification Authority of India (NIDAI) Bill from various quarters such as the Ministry of Planning, the Unique Identification Authority of India (UIDAI), the National Human Rights Commission (NHRC) and experts. The clearance of the Ministry of Law and Justice for issuing aadhaar numbers, pending passing the Bill by Parliament, on the ground that powers of the Executive are co-extensive with the legislative power of the Government and that the Government is not debarred from exercising its Executive power in the areas which are not regulated by the legislation does not satisfy the Committee. The Committee are constrained to point out that in the instant case, since the law making is underway with the bill being pending, any executive action is as unethical and violative of Parliament's prerogatives as promulgation of an ordinance while one of the Houses of Parliament being in session.

2. The Committee are surprised that while the country is on one hand facing a serious problem of illegal immigrants and infiltration from across the borders, the National Identification Authority of India Bill, 2010 proposes to entitle every resident to obtain an aadhaar number, apart from entitling such other category of individuals as may be notified from time to time. This will, they apprehend, make even illegal immigrants entitled for an aadhaar number. The Committee are unable to understand the rationale of expanding the scheme to persons who are not citizens, as this entails numerous benefits proposed by the Government. The Committee have received a number of suggestions for restricting the scope of the UID scheme only to the citizens and for considering better options available with the Government by issuing Multi-Purpose National Identity Cards (MNICs) as a more acceptable alternative.

3. The Committee observe that *prima facie* the issue of unique identification number, which has been referred to as "aadhaar number" to individuals residing in India and other classes of individuals under the Unique Identification (UID) Scheme is

riddled with serious lacunae and concern areas which have been identified as follows:—

- (a) The UID scheme has been conceptualized with no clarity of purpose and leaving many things to be sorted out during the course of its implementation; and is being implemented in a directionless way with a lot of confusion. The scheme which was initially meant for BPL families has been extended for all residents in India and to certain other persons. The Empowered Group of Ministers (EGoM), constituted for the purpose of collating the two schemes namely, the UID and National Population Register (NPR), and to look into the methodology and specifying target for effective completion of the UID scheme, failed to take concrete decision on important issues such as (a) identifying the focused purpose of the resident identity database; (b) methodology of collection of data; (c) removing the overlapping between the UID scheme and NPR; (d) conferring of statutory authority to the UIDAI since its inception; (e) structure and functioning of the UIDAI; (f) entrusting the collection of data and issue of unique identification number and national identification number to a single authority instead of the present UIDAI and its reconciliation with National Registration Authority;
- (b) The need for conferring of statutory authority to the UIDAI felt by the Government way back in November, 2008, but was deferred for more than two years for no reason. In this regard, the Ministry of Planning have informed the Committee that till the time Parliament passes the NIDAI Bill, crucial matters impinging on security and confidentiality of information will be covered by the relevant laws. The Committee are at a loss to understand as to how the UIDAI, without statutory power, could address key issues concerning their basic functioning and initiate proceedings against the defaulters and penalize them;
- (c) The collection of biometric information and its linkage with personal information of individuals without amendment to the Citizenship Act, 1955 as well as the Citizenship (Registration of Citizens and Issue of National Identity Cards) Rules, 2003, appears to be beyond the scope of subordinate legislation, which needs to be examined in detail by Parliament;

- (d) Continuance of various existing forms of identity and the requirement of furnishing 'other documents' for proof of address, even after issue of aadhaar number, would render the claim made by the Ministry that aadhaar number is to be used as a general proof of identity and proof of address meaningless;
- (e) In addition to aadhaar numbers being issued by the UIDAI, the issuance of smart cards containing information of the individuals by the registrars is not only a duplication but also leads to ID fraud as prevalent in some countries; and
- (f) The full or near full coverage of marginalized sections for issuing aadhaar numbers could not be achieved mainly owing to two reasons *viz.* (i) the UIDAI doesn't have the statistical data relating to them; and (ii) estimated failure of biometrics is expected to be as high as 15% due to a large chunk of population being dependent on manual labour.

4. The Committee regret to observe that despite the presence of serious difference of opinion within the Government on the UID scheme as illustrated below, the scheme continues to be implemented in an overbearing manner without regard to legalities and other social consequences:—

- (i) The Ministry of Finance (Department of Expenditure) have expressed concern that lack of coordination is leading to duplication of efforts and expenditure among at least six agencies collecting information (NPR, MGNREGS, BPL census, UIDAI, RSBY and Bank Smart Cards);
- (ii) The Ministry of Home Affairs are stated to have raised serious security concern over the efficacy of introducer system, involvement of private agencies in a large scale in the scheme which may become a threat to national security; uncertainties in the UIDAI's revenue model;
- (iii) The National Informatics Centre (NIC) have pointed out that the issues relating to privacy and security of UID data could be better handled by storing in a Government data centre;
- (iv) The Ministry of Planning have expressed reservation over the merits and functioning of the UIDAI; and the necessity of collection of iris image;

- (v) Involvement of several nodal appraising agencies which may work at cross-purpose; and
- (vi) Several Government agencies are collecting biometric(s) information in the name of different schemes.

5. The Committee are also unhappy to observe that the UID scheme lacks clarity on many issues such as even the basic purpose of issuing aadhaar number. Although the scheme claims that obtaining aadhaar number is voluntary, an apprehension is found to have developed in the minds of people that in future, services/benefits including food entitlements would be denied in case they do not have aadhaar number.

It is also not clear as to whether possession of aadhaar number would be made mandatory in future for availing of benefits and services. Even if the aadhaar number links entitlements to targeted beneficiaries, it may not ensure that beneficiaries have been correctly identified. Thus, the present problem of proper identification would persist.

It is also not clear that the UID scheme would continue beyond the coverage of 200 million of the total population, the mandate given to the UIDAI. In case, the Government does not give further mandate, the whole exercise would become futile.

6. Though there are significant differences between the identity system of other countries and the UID scheme, yet there are lessons from the global experience to be learnt before proceeding with the implementation of the UID scheme, which the Ministry of Planning have ignored completely. For instance, the United Kingdom shelved its Identity Cards Project for a number of reasons, which included:— (a) huge cost involved and possible cost overruns; (b) too complex; (c) untested, unreliable and unsafe technology; (d) possibility of risk to the safety and security of citizens; and (e) requirement of high standard security measures, which would result in escalating the estimated operational costs. In this context, the Report of the 'London School of Economics' Report on UK's Identity Project *inter-alia* States that ".....identity systems may create a range of new and unforeseen problems.....the risk of failure in the current proposals

is therefore magnified to the point where the scheme should be regarded as a potential danger to the public interest and to the legal rights of individuals". As these findings are very much relevant and applicable to the UID scheme, they should have been seriously considered.

7. The UID scheme facilitates the UIDAI and the registrars to create database of information of people of the country. Considering the huge database size and possibility of misuse of information, the Committee are of the view that enactment of national data protection law, which is at draft stage with the Ministry of Personnel, Public Grievances and Pensions, is a pre-requisite for any law that deals with large scale collection of information from individuals and its linkages across separate databases. In the absence of data protection legislation, it would be difficult to deal with the issues like access and misuse of personal information, surveillance, profiling, linking and matching of data bases and securing confidentiality of information etc.

8. The Committee note that the Ministry of Planning have admitted that (a) no Committee has been constituted to study the financial implications of the UID scheme; and (b) comparative costs of the aadhaar number and various existing ID documents are also not available. The Committee also note that Detailed Project Report (DPR) of the UID Scheme has been done much later in April, 2011. The Committee thus strongly disapprove of the hasty manner in which the UID scheme has been approved. Unlike many other schemes/projects, no comprehensive feasibility study, which ought to have been done before approving such an expensive scheme, has been done involving all aspects of the UID scheme including cost-benefit analysis, comparative costs of aadhaar number and various forms of existing identity, financial implications and prevention of identity theft, for example, using hologram enabled ration card to eliminate fake and duplicate beneficiaries.

9. The Committee are afraid that the scheme may end up being dependent on private agencies, despite contractual agreement made by the UIDAI with several private vendors. As a result, the beneficiaries may be forced to pay over and above the charges to be prescribed by the UIDAI for availing of benefits and services, which are now available free of cost.

10. The Committee find that the scheme is full of uncertainty in technology as the complex scheme is built up on untested, unreliable technology and several assumptions. Further, despite adverse observations by the UIDAI's Biometrics Standards Committee on error rates of biometrics, the UIDAI is collecting the biometric information. It is also not known as to whether the proof of concept studies and assessment studies undertaken by the UIDAI have explored the possibilities of maintaining accuracy to a large level of enrolment of 1.2 billion people. Therefore, considering the possible limitations in applications of technology available now or in the near future, the Committee would believe that it is unlikely that the proposed objectives of the UID scheme could be achieved.

11. The Committee feel that entrusting the responsibility of verification of information of individuals to the registrars to ensure that only genuine residents get enrolled into the system may have far reaching consequences for national security. Given the limitation of any mechanism such as a security audit by an appropriate agency that would be setup for verifying the information etc., it is not sure as to whether complete verification of information of all aadhaar number holders is practically feasible; and whether it would deliver the intended results without compromising national security. As the National Identity Cards to citizens of India are proposed to be issued on the basis of aadhaar numbers, the possibility of possession of aadhaar numbers by illegal residents through false affidavits/introducer system cannot be ruled out.

12. The Committee take note that the Ministry of Home Affairs have alleged that some of the registrars have not adhered to the laid down procedures under UIDAI which renders the Memoranda of Understanding (MoU) signed between the UIDAI and the registrars meaningless; and it compromises the security and confidentiality of information of aadhaar number holders. Even, according to the latest media reports, controversies between the Ministry of Home Affairs and the UIDAI over issues such as the manner and processes followed by the UIDAI, duplication of efforts between NPR and aadhaar, and security of data still remain unresolved.

13. In view of the afore-mentioned concerns and apprehensions about the UID scheme, particularly considering the contradictions and ambiguities within the Government on its implementation as well as implications, the Committee categorically convey their unacceptability of the National Identification Authority of India Bill, 2010 in its present form. The data already collected by the UIDAI may be transferred to the National Population Register (NPR), if the Government so chooses. The Committee would, thus, urge the Government to reconsider and review the UID scheme as also the proposals contained in the Bill in all its ramifications and bring forth a fresh legislation before Parliament.

NEW DELHI;
11 December, 2011

20 Agrahayana, 1933 (*Saka*)

YASHWANT SINHA,
Chairman,
Standing Committee on Finance.

APPENDIX I

NOTE OF DISSENT

Shri Raashid Alvi, MP

I do not agree with the paragraph “13” of the draft Report on “The National Identification Authority of India Bill, 2010”.

I suggest to delete “this para”.

Dated: 7 December, 2011

Sd/-
(RAASHID ALVI)

NOTE OF DISSENT

Prem Das Rai, MP

The National Identification Authority of India Bill, 2010

At the outset I do not believe that the bill should be rejected in the manner it has been. Since I have been inducted into the Committee recently I do not have the inputs that went in when the stakeholders and other Government departments were giving witness. I also do not know whether we gave enough time to the UID implementers to give evidence and present their point of view.

Hence, I would like to place on record that the issue of giving out Aadhaar numbers under the UID scheme, I believe, is one of the greatest import for social and economic inclusion in this country. I personally am privy to the kind of work that is needed at the grassroots as I was part of an organisation that did such work in the North East of India and other backward regions using some form of technology to bring in inclusion.

The linking of a person to a number and then being able to make give access to the right to that person is transformational. It is the next phase of transformation that technology can bring about in our own country. This has never been done anywhere in the world and we should be rightly proud of this.

I do agree there may be serious issues that need to be factored in which my esteemed colleagues have pointed out.

I recommend that the Bill may be discussed in Parliament bringing about some of the changes so desired and do not concur that the Bill be brought fresh.

Dated: 8 December, 2011

Sd/-
(PREM DAS RAI)

NOTE OF DISSENT

Manicka Tagore, MP

I could not attend this meeting on adoption of the draft report on the National Identification Authority of India Bill, 2010 because a very important discussion on the price rise was going on in the Lok Sabha. The Government of India with a view to ensure that the benefits of centrally sponsored schemes reaches to right persons and not misused, they had decided to issue unique identification numbers to all residents in India and to certain other persons the basic idea was to identification of the persons. The Aadhar programme has been launched first time in India. The UIDAI officials had taken all possible precautions to make the exercise safe and secure. Both demographic and biometric datas were collected and its method of collecting datas were approved by the Demographic Data Standards and Verification Procedure Committee.

It is surprising to know that the committee members have not yet recognized the value of UID. This system will cut down fraud and corruption in every area of administration.

I dissent the observation and recommendation of the Standing Committee on Finance regarding the Draft Report on the National Identification Authority of India Bill, 2010. I request the Chairman that the UID bill may kindly be considered by the Government with our views and not rejected.

Dated: 10 December, 2011

Sd/-
(MANICKA TAGORE)

NOTE OF DISSENT

Magunta Sreenivasulu Reddy, MP

I am writing this letter as a Dissent Note to the Draft Report on the National Identification Authority of India Bill, 2010 which was adopted in the meeting held on 8.12.11. I could not attend the meeting fully since I was required to attend to Lok Sabha proceedings as my Congress Party had issued a Three Line Whip for 8.12.11 and left after signing.

After the meeting having gone into the matter again, I understand the Standing Committee have adopted the Draft Report with the recommendation as:—

“considering the contradictions and ambiguities within the Government on its implementation as well as implications, the Committee categorically convey their unacceptability of the National Identification Authority of India Bill, 2010 in its present form. The Committee would, thus, urge the Government to reconsider and review the UID Scheme as also the proposals contained in the Bill in all its ramifications and bring forth a fresh legislation before Parliament.”

I personally feel that instead the Bill may be considered in all its merits and the Draft Report may be modified accordingly. More extensive deliberations are therefore required to examine the Bill more thoroughly. This may therefore be treated as my Dissent Note to the Draft Report.

Dated: 14 December, 2011 Sd/-
(MAGUNTA SREENIVASULU REDDY)

APPENDIX II

MINUTES OF THE THIRTEENTH SITTING OF THE STANDING COMMITTEE ON FINANCE (2010-11)

The Committee sat on Friday, the 11th February, 2011 from 1130 hrs. to 1400 hrs.

PRESENT

Shri Yashwant Sinha — *Chairman*

MEMBERS

Lok Sabha

2. Shri Bhartruhari Mahtab
3. Smt. Jaya Prada Nahata
4. Shri Rayapati Sambasiva Rao
5. Dr. Kavuru Sambasiva Rao
6. Shri Manicka Tagore

Rajya Sabha

7. Shri S.S. Ahluwalia
8. Shri Raashid Alvi
9. Shri Piyush Goyal
10. Shri Moinul Hassan

SECRETARIAT

- | | |
|---------------------------------|------------------------------|
| 1. Shri A.K. Singh | — <i>Joint Secretary</i> |
| 2. Shri T.G. Chandrasekhar | — <i>Additional Director</i> |
| 3. Shri Ramkumar Suryanarayanan | — <i>Deputy Secretary</i> |
| 4. Smt. B. Visala | — <i>Deputy Secretary</i> |

WITNESSES

Ministry of Planning

1. Ms. Sudha Pillai, Member-Secretary
2. Shri Pronab Sen, Pr. Adviser
3. Shri Chaman Kumar, Addl. Secretary and FA
4. Shri C. Muralikrishna Kumar, Sr. Adviser
5. Shri T.K. Pandey, Joint Secretary (Admn.)

Unique Identification Authority of India (UIDAI)

1. Shri Nandan Nilekani, Chairman
2. Shri R.S. Sharma, Director-General

2. The Committee took evidence of the representatives of the Ministry of Planning and Unique Identification Authority of India (UIDAI) in connection with the examination of the National Identification Authority of India Bill, 2010. Major issues discussed with the representatives included, need for providing statutory status to the Unique Identification Authority of India (UIDAI); Definition of 'Resident'; provision for deactivating the Aadhaar Number; collection of demographic information and biometric information; nature of enrolment and special measures for enrolment of weaker sections. The Chairman directed the representatives to furnish replies to the points raised during the sitting within one week.

The witnesses then withdrew.

A verbatim record of proceedings was kept.

The Committee then adjourned.

MINUTES OF THE NINETEENTH SITTING OF THE STANDING
COMMITTEE ON FINANCE (2010-11)

The Committee sat on Wednesday, the 29th June, 2011 from
1130 hrs. to 1400 hrs.

PRESENT

Shri Bhartruhari Mahtab — *Acting Chairman*

MEMBERS

Lok Sabha

2. Shri C.M. Chang
3. Shri Bhakta Charan Das
4. Shri Gurudas Dasgupta
5. Shri Nishikant Dubey
6. Shri Mangani Lal Mandal
7. Shri Magunta Sreenivasulu Reddy
8. Dr. Kavuru Sambasiva Rao
9. Shri Sarvey Sathyanarayana
10. Shri Dharam Singh

Rajya Sabha

11. Shri S.S. Ahluwalia
12. Shri Raashid Alvi
13. Shri Moinul Hassan

SECRETARIAT

- | | | |
|------------------------------|---|----------------------------|
| 1. Shri A.K. Singh | — | <i>Joint Secretary</i> |
| 2. Shri R.K. Jain | — | <i>Director</i> |
| 3. Shri T.G. Chandrasekhar | — | <i>Additional Director</i> |
| 4. Shri Kulmohan Singh Arora | — | <i>Under Secretary</i> |

PART-I
(1130 HRS. TO 1145 HRS.)

2. In the absence of the Chairman, the Committee chose Shri Bhartuhari Mahtab, M.P. to chair the sitting under Rule 258(3) of the Rules of Procedure.

3. *** *** *** *** ***
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PART-II
(1145 hrs. to 1215 hrs.)

WITNESSES

National Human Rights Commission (NHRC)

1. Shri Rajiv Sharma — Secretary-General
2. Shri A.K. Garg — Registrar (Law)
3. Shri J.P. Meena — Joint Secretary (P&A)

4. The Committee heard the representatives of the National Human Rights Commission on "The National Identification Authority of India Bill, 2010". The major issues discussed during the sitting broadly related to nature, objective and beneficiaries of aadhaar number; possible discrimination and specific provisions that are required to be built in; safeguards needed for securing the stored information by the proposed National Identification Authority of India; implications of the provisions of the Bill on the individual's right to privacy, etc. The Chairman directed the representatives of the National Human Rights Commission to furnish replies to the points raised by the Members during the discussion within a week.

The witnesses then withdrew.

PART-III
(1215 hrs. to 1300 hrs.)

WITNESSES

Indian Banks' Association (IBA)

1. Shri M.D. Mallya — Chairman
2. Dr. K. Ramakrishnan — Chief Executive
3. Shri M.R. Umarji — Chief Advisor-Legal

5. Subsequently, the Committee heard the representatives of the Indian Banks' Association (IBA) on "The National Identification Authority of India Bill, 2010". The major issues discussed during the sitting broadly related to stipulations prescribed by the Ministry of Finance and the Reserve Bank of India for using aadhaar numbers for opening bank accounts; new account holders added through aadhaar numbers; and utility of aadhaar number in financial inclusion, social sector lending, etc. The Chairman directed the representatives of Indian Banks' Association (IBA) to furnish replies to the points raised by the Members during the discussion within a week.

The witnesses then withdrew.

PART-IV
(1300 hrs. to 1400 hrs.)

WITNESS

Dr. Reetika Khera, Visitor, Centre for Development Economics,
Delhi School of Economics.

6. The Committee then heard Dr. Reetika Khera, on "The National Identification Authority of India Bill, 2010". The major issues discussed broadly related to nature of Aadhaar number; existing ID proof documents and need for aadhaar number; usage and benefits of aadhaar number particularly in Mahatama Gandhi National Rural Employment Guarantee Scheme, Public Distribution System, implications of the UID programme; relevance of Report of London School of Economics on UK's Identity Act, 2006 in the context of aadhaar number etc. The Chairman directed the expert to furnish replies to the points raised by the Members during the discussion within a week.

A verbatim record of the proceedings was kept.

The witness then withdrew.

The Committee then adjourned at 1400 hours.

MINUTES OF THE TWENTY-SECOND SITTING OF THE
STANDING COMMITTEE ON FINANCE (2010-11)

The Committee sat on Friday, the 29th July, 2011 from 1100 hrs.
to 1715 hrs.

PRESENT

Shri Yashwant Sinha — *Chairman*

MEMBERS

Lok Sabha

2. Dr. Baliram (Lalganj)
3. Shri C.M. Chang
4. Shri Gurudas Dasgupta
5. Shri Nishikant Dubey
6. Shri Bhartruhari Mahtab
7. Shri Mangani Lal Mandal
8. Dr. Kavuru Sambasiva Rao
9. Shri Manicka Tagore

Rajya Sabha

10. Shri S.S. Ahluwalia
11. Shri Raashid Alvi
12. Shri Moinul Hassan
13. Shri Satish Chandra Misra
14. Shri Mahendra Mohan
15. Dr. Mahendra Prasad
16. Dr. K.V.P. Ramachandra Rao

SECRETARIAT

- | | | | |
|----|------------------------------|---|-------------------------|
| 1. | Shri A.K. Singh | — | <i>Joint Secretary</i> |
| 2. | Shri R.K. Jain | — | <i>Director</i> |
| 3. | Shri Ramkumar Suryanarayanan | — | <i>Deputy Secretary</i> |
| 4. | Shri Kulmohan Singh Arora | — | <i>Under Secretary</i> |

PART-I

(1100 hrs. to 1130 hrs.)

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PART-II

(1130 hrs. to 1300 hrs.)

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| 3. | *** | *** | *** | *** | *** |
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PART-III

(1400 hrs. to 1715 hrs.)

WITNESSES

Confederation of Indian Industry (CII)

1. Mr. Arun Duggal,
Vice Chairman, International Asset Reconstruction Company
(IARC) and Chairman, Shriram Capital Limited
2. Mr. Chirag Jain,
Chief Operating Officer
Canara HSBC Oriental Bank of Commerce Life Insurance
Company Limited
3. Mr. Ravi Gandhi, VP,
Corporate Regulatory Affairs
Bharti Airtel
4. Mr. Rameesh Kailasam,
Program Director
IBM India Pvt. Limited
4. The Committee heard the representatives of Confederation of Indian
Industry (CII) in connection with examination of 'The National
Identification Authority of India Bill, 2010'. The major issues discussed

included, existing ID proof documents and the rationale and necessity of aadhaar number; usage, benefits and objects of aadhaar number; role of aadhaar number in planning and formulation of social policies; collection of biometric and demographic information; measures for enrolment of certain categories like persons with disability; exploration of alternate and economical identity system; opening up of Registrars and enrolment agencies to private sector; technological issues involved in the UID project; financial implications of the UID project; impact of the provisions of the Bill on the individual's right to privacy; potential of possible use of aadhaar numbers by illegal residents; lessons learnt from global practice and failures experienced in different countries in establishment of identity system similar to aadhaar number especially relevance of report of London School of Economics on UK Identity Act, 2006; legality of implementation of the UID project before the law is enacted by the Parliament; making the penal provisions of the Bill in line with IT Act, 2000 etc. The Chairman directed the representatives of Confederation of Indian Industry (CII) to give suggestions clause-by-clause alongwith the replies to the points raised by the Members within ten days.

The witnesses then withdrew.

WITNESSES

Experts

1. Dr. Usha Ramanathan,
Independent Law Researcher on the jurisprudence on Law,
Poverty and Rights, New Delhi
2. Dr. R. Ramakumar,
Associate Professor,
Tata Institute of Social Sciences, Mumbai
3. Shri Gopal Krishna,
Member, Citizen Forum for Civil Liberties, New Delhi
5. The Committee then heard the experts on "The National Identification Authority of India Bill, 2010". The major issues discussed broadly related to beneficiaries of aadhaar number including the eligibility of children; feasibility study on the UID project; costs and benefits analysis of the UID project; global experience in creation of a national data base of its citizens with biometrics; convergence of data, its usage and its consequences; functioning of the UIDAI under Executive order and implementation of the UID project before an enactment of law; impact of the provisions of the Bill on civil rights and liberties; implications of

the provisions of the Bill on RTI Act, 2005; responsibilities of 'Introducer' and liability of the UIDAI; outsourcing of works by the UIDAI and its responsibilities; alternate system of identification etc. The Chairman directed the experts to furnish replies to the points raised by the Members during the discussion within ten to fifteen days.

A verbatim record of the proceedings was kept.

The witnesses then withdrew.

The Committee then adjourned.

MINUTES OF THE SIXTH SITTING OF THE STANDING
COMMITTEE ON FINANCE (2011-12)

The Committee sat on Thursday, the 8th December, 2011 from
1500 hrs. to 1615 hrs.

PRESENT

Shri Yashwant Sinha — *Chairman*

MEMBERS

Lok Sabha

2. Shri Shivkumar Udasi
3. Shri Harishchandra Deoram Chavan
4. Shri Bhakta Charan Das
5. Shri Nishikant Dubey
6. Shri Chandrakant Khaire
7. Shri Bhartruhari Mahtab
8. Shri Prem Das Rai
9. Dr. Kavuru Sambasiva Rao
10. Shri Rayapati S. Rao
11. Shri Magunta Sreenivasulu Reddy
12. Shri G.M. Siddeswara
13. Shri Yashvir Singh
14. Shri R. Thamaraiselvan
15. Dr. M. Thambidurai

Rajya Sabha

16. Shri S.S. Ahluwalia
17. Shri Raashid Alvi

18. Shri Vijay Jawaharlal Darda
19. Shri Moinul Hassan
20. Shri Satish Chandra Misra
21. Shri Mahendra Mohan
22. Dr. Mahendra Prasad
23. Dr. K.V.P. Ramachandra Rao
24. Shri Yogendra P. Trivedi

SECRETARIAT

1. Shri A.K. Singh — *Joint Secretary*
 2. Shri R.K. Jain — *Director*
 3. Shri Ramkumar Suryanarayanan — *Deputy Secretary*
2. The Committee took up the following draft Reports for consideration and adoption:—
- (i) The Insurance Laws (Amendment) Bill, 2008;
 - (ii) The Banking Laws (Amendment) Bill, 2011; and
 - (iii) The National Identification Authority of India Bill, 2010.
3. The Committee adopted the above draft reports with some minor modifications/changes as suggested by Members. The Committee authorised the Chairman to finalise the Reports in the light of the modifications suggested and present these Reports to Parliament.

The Committee then adjourned.

APPENDIX III

AS INTRODUCED IN THE RAJYA SABHA

Bill No. LXXV of 2010

THE NATIONAL IDENTIFICATION AUTHORITY OF INDIA BILL, 2010

ARRANGEMENT OF CLAUSES

CHAPTER I

PRELIMINARY

CLAUSES

1. Short title, extent and commencement.
2. Definitions.

CHAPTER II

AADHAAR NUMBERS

3. Aadhaar number.
4. Properties of aadhaar number.
5. Authentication of aadhaar number.
6. Aadhaar number not evidence of citizenship or domicile, etc.
7. Central Identities Data Repository.
8. Updation of certain information.
9. Prohibition on requiring certain information.

10. Special measures for issuance of aadhaar number to certain categories of persons.

CHAPTER III

NATIONAL IDENTIFICATION AUTHORITY OF INDIA

11. Establishment of Authority.
12. Composition of Authority.
13. Qualifications for appointment of Chairperson and Members of Authority.
14. Term of office and other conditions of service of Chairperson and Members.
15. Removal of Chairperson and Members.
16. Restrictions on Chairperson or Members on employment after cessation of office.
17. Functions of Chairperson.
18. Meetings.
19. Vacancies, etc. not to invalidate proceedings of Authority.
20. Officers and other employees of Authority.
21. Functions of chief executive officer of Authority.
22. Transfer of assets, liabilities of Authority.
23. Powers and functions of Authority.

CHAPTER IV

GRANTS, ACCOUNTS AND AUDIT AND ANNUAL REPORT

24. Grants by Central Government.
25. Other fees and revenue.

CLAUSES

26. Accounts and audit.
27. Returns and annual report, etc.

CHAPTER V

IDENTITY REVIEW COMMITTEE

28. Review Committee.
29. Functions of Review Committee.

CHAPTER VI

PROTECTION OF INFORMATION

30. Security and confidentiality of information.
31. Alteration of demographic information or biometric information.
32. Access to own information and records of requests for authentication.
33. Disclosure of information in certain cases.

CHAPTER VII

OFFENCES AND PENALTIES

34. Penalty for impersonation at time of enrolment.
35. Penalty for impersonation of aadhaar number holder by changing demographic information or biometric information.
36. Penalty for impersonation.
37. Penalty for disclosing identity information.
38. Penalty for unauthorised access to the Central Identities Data Repository.

39. Penalty for tampering with data in Central Identities Data Repository.
40. Penalty for manipulating biometric information.
41. General penalty.
42. Offences by companies.
43. Act to apply for offence or contravention committed outside India.
44. Power to investigate offences.
45. Penalties not to interfere with other punishments.
46. Cognizance of offences.

CHAPTER VIII

MISCELLANEOUS

47. Power of Central Government to supersede Authority.
48. Members, officers, etc., to be public servants.
49. Power of Central Government to issue directions.
50. Delegation.
51. Protection of action taken in good faith.
52. Power of Central Government to make rules.
53. Power of Authority to make regulations.
54. Laying of rules and regulations before Parliament.
55. Application of other laws not barred.
56. Power to remove difficulties.
57. Savings.

AS INTRODUCED IN THE RAJYA SABHA

Bill No. LXXV of 2010

THE NATIONAL IDENTIFICATION AUTHORITY
OF INDIA BILL, 2010

A

BILL

to provide for the establishment of the National Identification Authority of India for the purpose of issuing identification numbers to individuals residing in India and to certain other classes of individuals and manner of authentication of such individuals to facilitate access to benefits and services to such individuals to which they are entitled and for matters connected therewith or incidental thereto.

BE it enacted by Parliament in the Sixty-first Year of the Republic of India as follows:—

CHAPTER I

PRELIMINARY

1. (1) This Act may be called the National Identification Authority of India Act, 2010.

Short title,
extent and
commence-
ment.

(2) It shall extend to the whole of India except the State of Jammu and Kashmir and save as otherwise provided in this Act, it applies also to any offence or contravention thereunder committed outside India by any person.

(3) It shall come into force on such date as the Central Government may, by notification in the Official Gazette, appoint; and different dates

may be appointed for different provisions of this Act and any reference in any such provision to the commencement of this Act shall be construed as a reference to the commencement of that provision.

Definitions. 2. In this Act, unless the context otherwise requires,—

(a) “aadhaar number” means the identification number issued to an individual under sub-section (2) of section 3;

(b) “aadhaar number holder” means an individual who has been issued an aadhaar number under this Act;

(c) “authentication” means the process wherein, aadhaar number along with other attributes (including biometrics) are submitted to the Central Identities Data Repository for its verification and such Repository verifies the correctness thereof on the basis of information or data or documents available with it;

(d) “Authority” means the National Identification Authority of India established under sub-section (1) of section 11;

(e) “biometric information” means a set of such biological attributes of an individual as may be specified by regulations;

(f) “Central Identities Data Repository” means a centralised database in one or more locations containing all aadhaar numbers issued to aadhaar number holders along with the corresponding demographic information and biometric information of such individuals and other information related thereto;

(g) “Chairperson” means the Chairperson of the Authority appointed under section 12;

(h) “demographic information” includes information relating to the name, age, gender and address of an individual (other than race, religion, caste, tribe, ethnicity, language, income or health), and such other information as may be specified in the regulations for the purpose of issuing an aadhaar number;

(i) “enrolling agency” means an agency appointed by the Authority or by the Registrars, as the case may be, for collecting information under this Act;

(j) “enrolment” means such process, as may be specified by regulations, to collect demographic information and biometric information from individuals by the enrolling agencies for the purpose of issuing of aadhaar number to such individuals under this Act;

(k) “identity information” in respect of an individual means biometric information, demographic information and aadhaar number of such individuals;

(l) “Member” includes the Chairperson and a part-time Member of the Authority appointed under section 12;

(m) “notification” means a notification published in the Official Gazette and the expression “notified” with its cognate meanings and grammatical variations shall be construed accordingly;

(n) “prescribed” means prescribed by rules made under this Act;

(o) “Registrar” means any entity authorised or recognised by the Authority for the purpose of enrolling the individuals under this Act;

(p) “regulations” means the regulations made by the Authority under this Act;

(q) “resident” means an individual usually residing in a village or rural area or town or ward or demarcated area (demarcated by the Registrar General of Citizen Registration) within a ward in a town or urban area in India;

(r) “Review Committee” means the Identification Review Committee constituted under sub-section (1) of section 28.

CHAPTER II

AADHAAR NUMBERS

Aadhaar number.

3. (1) Every resident shall be entitled to obtain an aadhaar number on providing of his demographic information and biometric information to the Authority in such manner as may be specified by regulations:—

Provided that the Central Government may, from time to time, notify such other category of individuals who may be entitled to obtain an aadhaar number.

(2) On receipt of the demographic information and biometric information under sub-section (1), the Authority shall, after verifying the information, in such manner as may be specified by regulations, issue an aadhaar number to such resident.

Properties of aadhaar number.

4. (1) An aadhaar number, issued to an individual shall not be re-assigned to any other individual.

(2) An aadhaar number shall be a random number and bear no attributes or identity data or part thereof, relating to the aadhaar number holder.

(3) An aadhaar number shall, subject to authentication, be accepted as proof of identity of the aadhaar number holder.

5. (1) The Authority shall perform authentication of the aadhaar number of a aadhaar number holder in relation to his biometric information and demographic information subject to such conditions and on payment of such fees and in such manner as may be specified by regulations.

Authentica-
tion
of aadhaar
number.

(2) The Authority shall respond to an authentication query with a positive or negative response or with any other appropriate response excluding any demographic information and biometric information.

6. The aadhaar number or the authentication thereof shall not, by itself, confer any right of or be proof of citizenship or domicile in respect of an aadhaar number holder.

Aadhaar
number not
evidence of
citizenship
or domicile,
etc.

7. The Authority may engage one or more entities to establish and maintain the Central Identities Data Repository and to perform any other functions as may be specified by regulations.

Central
Identities
Data
Repository.

8. The Authority may require the aadhaar number holders to update their demographic information and biometric information, from time to time, in such manner as may be specified by regulations so as to ensure continued accuracy of their information in the Central Identities Data Repository.

Updation of
certain
information.

9. The Authority shall not require any individual to give information pertaining to his race, religion, caste, tribe, ethnicity, language, income or health.

Prohibition
on requir-
ing
certain
information.

10. The Authority shall take special measures to issue aadhaar number to women, children, senior citizens, persons with disability, migrant unskilled

Special
measures
for issuance
of aadhaar

number
to certain
categories
of persons.

and unorganised workers, nomadic tribes or to such other persons who do not have any permanent dwelling house and such other categories of individuals as may be specified by regulations.

CHAPTER III

NATIONAL IDENTIFICATION AUTHORITY OF INDIA

Establish-
ment of
Authority.

11. (1) The Central Government shall, by notification, establish an Authority to be known as the National Identification Authority of India to exercise the powers conferred on it and to perform the functions assigned to it under this Act.

(2) The Authority shall be a body corporate by the name aforesaid, having perpetual succession and a common seal, with power, subject to the provisions of this Act, to acquire, hold and dispose of property, both movable and immovable, and to contract, and shall, by the said name, sue or be sued.

(3) The head office of the Authority shall be in the National Capital Region referred to in clause (f) of section 2 of the National Capital Region Planning Board Act, 1985.

2 of 1985.

(4) The Authority may, with the prior approval of the Central Government, establish its offices at other places in India.

Composi-
tion of
Authority.

12. The Authority shall consist of a Chairperson and two part-time Members to be appointed by the Central Government.

Qualifica-
tions for
appoint-
ment of
Chairperson
and
Members of
Authority.

13. The Chairperson and Members of the Authority shall be persons of ability, integrity and outstanding calibre having experience and knowledge in the matters relating to technology, governance, law, development, economics, finance, management, public affairs or administration.

14. (1) The Chairperson and the Members appointed under this Act shall hold office for a term of three years from the date on which they assume office and shall be eligible for reappointment:

Term of office and other conditions of service of Chairperson and Members.

Provided that no person shall hold office as a Chairperson or Member after he has attained the age of sixty-five years:

Provided further that the Chairperson of the Unique Identification Authority of India appointed before the commencement of this Act by notification A-43011/02/2009-Admn. I (Vol. II) dated the 2nd July, 2009 shall continue as a Chairperson of the Authority under this Act for the term for which he had been appointed.

(2) The Chairperson and every Member shall, before entering upon their office, make and subscribe to, an oath of office and of secrecy, in such form and in such manner and before such Authority as may be prescribed.

(3) Notwithstanding anything contained in sub-section (1), the Chairperson or Member may—

(a) relinquish his office, by giving in writing to the Central Government, a notice of not less than thirty days; or

(b) be removed from his office in accordance with the provisions of section 15.

(4) The Chairperson shall not hold any other office during the period of holding his office in the Authority as such.

(5) The salaries and allowances payable to, and the other terms and conditions of service of, the Chairperson and allowances or remuneration payable to part-time Members shall be such as may be prescribed:

Provided that the salary, allowances and the other terms and conditions of service of the Chairperson shall not be varied to his disadvantage after his appointment.

Removal of
Chairperson
and
Members.

15. (1) The Central Government may remove from office the Chairperson, or a Member, who—

(a) is, or at any time has been adjudged as an insolvent;

(b) has become physically or mentally incapable of acting as the Chairperson or, as the case may be, a Member;

(c) has been convicted of an offence which, in the opinion of the Central Government, involves moral turpitude;

(d) has acquired such financial or other interest as is likely to affect prejudicially his functions as the Chairperson or, as the case may be, a Member; or

(e) has, in the opinion of the Central Government, so abused his position as to render his continuance in office detrimental to the public interest.

(2) The Chairperson, or a Member shall not be removed under clause (d) or clause (e) of subsection (1) unless he has been given a reasonable opportunity of being heard in the matter.

Restrictions
on Chair-
person or
Members
on employ-
ment after
cessation of
office.

16. The Chairperson or a Member, ceasing to hold office as such, shall not, without previous approval of the Central Government,—

(a) accept any employment in, or connected with the management or administration of, any person which has been associated with any work under the Act, for a period of three years from the date on which they cease to hold office:

Provided that nothing contained in this clause shall apply to any employment under the Central Government or a State Government or local authority or in any statutory authority or any corporation established by or under any Central, State or provincial Act or a Government Company, as defined in section 617 of the Companies Act, 1956;

(b) act, for or on behalf of any person or organisation in connection with any specific proceeding or transaction or negotiation or a case to which the Authority is a party and with respect to which the Chairperson or such Member had, before cessation of office, acted for or provided advice to, the Authority;

(c) give advice to any person using information which was obtained in his capacity as the Chairperson or a Member and being unavailable to or not being able to be made available to the public;

(d) enter, for a period of three years from his last day in office, into a contract of service with, accept an appointment to a board of directors of, or accept an offer of employment with, an entity with which he had direct and significant official dealings during his term of office as such.

17. The Chairperson shall have powers of general superintendence, direction in the conduct of the affairs of the Authority and he shall, in addition to presiding over the meetings of the Authority, and without prejudice to any of the provisions of this Act, exercise and discharge such other powers and functions of the Authority as may be prescribed.

Functions
of Chairper-
son.

18. (1) The Authority shall meet at such times and places and shall observe such rules of procedure in regard to the transaction of business

Meetings.

at its meetings (including quorum at such meetings) as may be specified by regulations.

(2) The Chairperson, or, if for any reason, he is unable to attend a meeting of the Authority, the senior most Member shall preside over the meetings of the Authority.

(3) All questions which come up before any meeting of the Authority shall be decided by a majority of votes by the Members present and voting and in the event of an equality of votes, the Chairperson or in his absence the Member presiding over shall have a second or casting vote.

(4) All decisions of the Authority shall be authenticated by the signature of the Chairperson or any other Member authorised by the Authority in this behalf.

(5) If any Member, who is a director of a company and who as such director, has any direct or indirect pecuniary interest in any matter coming up for consideration at a meeting of the Authority, he shall, as soon as possible after relevant circumstances have come to his knowledge, disclose the nature of his interest at such meeting and such disclosure shall be recorded in the proceedings of the Authority, and the Member shall not take part in any deliberation or decision of the Authority with respect to that matter.

Vacancies,
etc., not to
invalidate
proceedings
of
Authority.

19. No act or proceeding of the Authority shall be invalid merely by reason of—

(a) any vacancy in, or any defect in the constitution of, the Authority;

(b) any defect in the appointment of a person as a Member of the Authority; or

(c) any irregularity in the procedure of the Authority not affecting the merits of the case.

20. (1) There shall be a chief executive officer of the Authority, not below the rank of the Additional Secretary to the Government of India, who shall be the Member-Secretary of the Authority, to be appointed by the Central Government.

Officers
and other
employees
of
Authority.

(2) The Authority may, with the approval of the Central Government, determine the number, nature and categories of other officers and employees required to the Authority in the discharge of its functions.

(3) The salaries and allowances payable to, and the other terms and conditions of service of, the chief executive officer and other officers and other employees of the Authority shall be such as may be specified by regulations with the approval of the Central Government.

21. (1) The chief executive officer shall be the legal representative of the Authority and shall be responsible for—

Functions
of chief
executive
officer of
Authority.

(a) the day-to-day administration of the Authority;

(b) implementing the work programmes and decisions adopted by the Authority;

(c) drawing up of proposal for the Authority's work programmes;

(d) the preparation of the statement of revenue and expenditure and the execution of the budget of the Authority.

(2) Every year, the chief executive officer shall submit to the Authority for approval—

(a) a general report covering all the activities of the Authority in the previous year;

(b) programmes of work;

(c) the annual accounts for the previous year; and

(d) the budget for the coming year.

(3) The chief executive officer shall have administrative control over the officers and other employees of the Authority.

Transfer
of assets,
liabilities of
Authority.

22. On and from the establishment of the Authority—

(1) all the assets and liabilities of the Unique Identification Authority of India, established *vide* notification of the Government of India in the Planning Commission number A-43011/02/2009-Admin. I, dated the 28th January, 2009, shall stand transferred to, and vested in, the Authority.

Explanation.— The assets of such Unique Identification Authority of India shall be deemed to include all rights and powers, and all properties, whether movable or immovable, including, in particular, cash balances, deposits and all other interests and rights in, or arising out of, such properties as may be in the possession of such Unique Identification Authority of India and all books of account and other documents relating to the same; and liabilities shall be deemed to include all debts, liabilities and obligations of whatever kind;

(2) without prejudice to the provisions of sub-section (1), all data and information collected during enrolment, all details of authentication performed, debts, obligations and liabilities incurred, all contracts entered into and all matters and things engaged to be done by, with or for such Unique Identification Authority of India immediately before that day, for or in connection with the purpose of the said Unique Identification Authority of India, shall be deemed to have been incurred, entered into or engaged to be done by, with or for, the Authority;

(3) all sums of money due to the Unique Identification Authority of India immediately before that day shall be deemed to be due to the Authority; and

(4) all suits and other legal proceedings instituted or which could have been instituted by or against such Unique Identification Authority of India immediately before that day may be continued or may be instituted by or against the Authority.

23. (1) The Authority shall develop the policy, procedure and systems for issuing aadhaar numbers to residents and perform authentication thereof under this Act.

Powers and functions of Authority.

(2) Without prejudice to the provisions contained in sub-section (1), the powers and functions of the Authority may, *inter alia*, include all or any of the following matters, namely:—

(a) specifying, by regulation, demographic information and biometric information for enrolment for an aadhaar number and the processes for collection and verification thereof;

(b) collecting demographic information and biometric information from any individual seeking an aadhaar number in such manner as may be specified by regulations;

(c) appointing of one or more entities to operate the Central Identities Data Repository;

(d) generating and assigning aadhaar numbers to individuals;

(e) performing authentication of the aadhaar numbers;

(f) maintaining and updating the information of individuals in the Central

Identities Data Repository in such manner as may be specified by regulations;

(g) omitting and deactivating of an aadhaar number and information relating thereto in such manner as may be specified by regulations;

(h) specify the usage and applicability of the aadhaar number for delivery of various benefits and services as may be provided by regulations;

(i) specifying, by regulation, the terms and conditions for appointment of Registrars, enrolling agencies and service providers and revocation of appointments thereof;

(j) establishing, operating and maintaining of the Central Identities Data Repository;

(k) sharing, in such manner as may be specified by regulations, the information of aadhaar number holders, with their written consent, with such agencies engaged in delivery of public benefits and public services as the Authority may by order direct;

(l) calling for information and records, conducting inspections, inquiries and audit of the operations for the purposes of this Act of the Central Identities Data Repository, Registrars, enrolling agencies and other agencies appointed under this Act;

(m) specifying, by regulation, various processes relating to data management, security protocols and other technology safeguards under this Act;

(n) specifying, by regulation, the conditions and procedures for issuance of new aadhaar number to existing aadhaar number holder;

(o) levy and collect the fees or authorise the Registrars, enrolling agencies or other service providers to collect such fees for the services provided by them under this Act in such manner as may be specified by regulations;

(p) appoint such committees as may be necessary to assist the Authority in discharge of its functions for the purposes of this Act;

(q) promote research and development for advancement in biometrics and related areas, including usage and applications of aadhaar numbers through appropriate mechanisms;

(r) specifying, by regulation, the policies and practices for Registrars, enrolling agencies and other service providers;

(s) setting up facilitation centres and grievance redressal mechanisms for redressal of grievances of residents, Registrars, enrolling agencies and other service providers;

(t) such other powers and functions as may be prescribed.

(3) The Authority may,—

(a) enter into a Memorandum of Understanding or agreement, as the case may be, with Central Government or State Governments or Union territories or other agencies for the purpose of performing any of the functions in relation to collecting, storing, securing or processing of information or performing authentication;

(b) by notification, appoint such number of Registrars, engage and authorise such agencies to collect, store, secure, process

information or do authentication or perform such other functions in relation thereto,

as may be necessary for the purposes of this Act.

(4) The Authority may engage such consultants, advisors and other persons as may be required for efficient discharge of its functions under this Act on such allowances or remuneration and terms and conditions as may be specified by regulations.

CHAPTER IV

GRANTS, ACCOUNTS AND AUDIT AND ANNUAL REPORT

Grants by
Central
Government.

24. The Central Government may, after due appropriation made by Parliament by law in this behalf, make to the Authority, grants of such sums of money as the Central Government may think fit for being utilised for the purposes of this Act.

Other fees
and
revenue.

25. The fees or revenue collected by the Authority shall be credited to the Consolidated Fund of India and the entire amount so credited be transferred to the Authority.

Accounts
and audit.

26. (1) The Authority shall maintain proper accounts and other relevant records and prepare an annual statement of accounts in such form as may be prescribed by the Central Government in consultation with the Comptroller and Auditor-General of India.

(2) The accounts of the Authority shall be audited annually by the Comptroller and Auditor-General of India at such intervals as may be specified by him and any expenditure incurred in connection with such audit shall be payable by the Authority to the Comptroller and Auditor-General.

(3) The Comptroller and Auditor-General and any person appointed by him in connection with the audit of the accounts of the Authority under this Act shall have the same rights and privileges and authority in connection with such audit as the Comptroller and Auditor-General generally has in connection with the audit of Government accounts, and in particular, shall have the right to demand production of books, accounts, connected vouchers and other documents and papers, and to inspect any of the offices of the Authority.

(4) The accounts of the Authority, as certified by the Comptroller and Auditor-General or any other person appointed by him in this behalf, together with the audit report thereon shall be forwarded annually to the Central Government by the Authority and the Central Government shall cause the audit report to be laid, as soon as may be after it is received, before each House of Parliament.

27. (1) The Authority shall furnish to the Central Government at such time and in such form and manner as may be prescribed or as the Central Government may direct, such returns and statements and particulars in regard to any matter under the jurisdiction of the Authority, as the Central Government may from time to time require.

Returns and
annual
report, etc.

(2) The Authority shall prepare, once in every year, and in such form and manner and at such time as may be prescribed, an annual report giving—

(a) a description of all the activities of the Authority for the previous years;

(b) the annual accounts for the previous year; and

(c) the programmes of work for coming year.

(3) A copy of the report received under sub-section (2) shall be laid by the Central Government, as soon as may be after it is received, before each House of Parliament.

CHAPTER V

IDENTITY REVIEW COMMITTEE

Review
Committee.

28. (1) The Central Government may, by notification, constitute the Identity Review Committee to discharge functions specified under sub-section (1) of section 29 in respect of any matter connected with the usage of the aadhaar numbers.

(2) The Review Committee shall consist of three members (one of whom shall be chairperson designated as such by the Central Government) who are persons of eminence, ability, integrity and standing in public life having knowledge and experience in the fields of technology, law, administration and governance, social service, journalism, management or social sciences.

(3) The members of the Review Committee shall be appointed by the Central Government on the recommendations of a committee consisting of—

(a) the Prime Minister, who shall be the Chairperson of the committee;

(b) the Leader of Opposition in the Lok Sabha; and

(c) a Union Cabinet Minister to be nominated by the Prime Minister.

Explanation.— For the removal of doubts, it is hereby declared that where the Leader of the Opposition in the House of the People has not been recognised as such, the Leader of the single largest group in Opposition of the Government

in the House of the People shall be deemed to be the Leader of the Opposition.

(4) The member of the Review Committee shall not be a Member of Parliament or Member of the Legislature of any State or Union territory, as the case may be, or a member of any political party.

(5) The members of the Review Committee shall hold office for a term of three years from the date on which they enter upon office and shall not be eligible for reappointment.

(6) The Central Government may by order remove from office any member of the Review Committee, who—

(a) is, or at any time has been adjudged as an insolvent;

(b) has become physically or mentally incapable of acting as a member;

(c) has been convicted of an offence which, in the opinion of the Central Government, involves moral turpitude;

(d) has acquired such financial or other interest as is likely to affect prejudicially his functions as a member; or

(e) has, in the opinion of the Central Government, so abused his position as to render his continuance in office detrimental to the public interest:—

Provided that a Member shall not be removed under clause (d) or clause (e) unless he has been given a reasonable opportunity of being heard in the matter.

29. (1) The Review Committee shall ascertain the extent and pattern of usage of the aadhaar numbers across the country and prepare a report

Functions
of Review
Committee.

annually in relation to the extent and pattern of usage of the aadhaar numbers along with its recommendations thereon and submit the same to the Central Government.

(2) The manner of preparation of the report referred to in sub-section (1) shall be such as may be determined by the Review Committee.

(3) A copy of the report along with the recommendations of the Review Committee shall be laid by the Central Government, as soon as may be after it is received, before each House of Parliament.

CHAPTER VI

PROTECTION OF INFORMATION

Security and confidentiality of information.

30. (1) The Authority shall ensure the security and confidentiality of identity information and authentication records of individuals.

(2) The Authority shall take measures (including security safeguards) to ensure that the information in the possession or control of the Authority (including information stored in the Central Identities Data Repository) is secured and protected against any loss or unauthorised access or use or unauthorised disclosure thereof.

(3) Notwithstanding anything contained in any other law and save as otherwise provided in this Act, the Authority or any of its officer or other employee or any agency who maintains the Central Identities Data Repository shall not, whether during his service as such or thereafter, reveal any information stored in the Central Identities Data Repository to any person:—

Provided that an aadhaar number holder may request the Authority to provide access to his identity information in such manner as may be specified by regulations.

31. (1) In case any demographic information relating to an aadhaar number holder is found incorrect or changes subsequently, the aadhaar number holder shall request the Authority to alter such demographic information in his record in the Central Identities Data Repository in such manner as may be specified by regulations.

Alteration of demographic information or bio-metric information.

(2) In case any bio-metric information of aadhaar number holder is lost or changes subsequently for any reason, the aadhaar number holder shall request the Authority to make necessary alteration in his record in the Central Identities Data Repository in such manner as may be specified by regulations.

(3) On receipt of any request under sub-section (1) or sub-section (2), the Authority may, if it is satisfied, make such alteration as may be required in the record relating to such aadhaar number holder and intimate such alteration to the concerned aadhaar number holder.

32. (1) The Authority shall maintain details of every request for authentication of the identity of every aadhaar number holder and the response provided thereon by it in such manner and for such time as may be specified by regulations.

Access to own information and records of requests for authentication.

(2) Every aadhaar number holder shall be entitled to obtain details of request for authentication of his aadhaar number and the response provided thereon by the Authority in such manner as may be specified by regulations.

33. Nothing contained in sub-section (3) of section 30 shall apply in respect of—

Disclosure of information in certain cases.

(a) any disclosure of information (including identity information or details of authentication) made pursuant to an order of a competent court; or

(b) any disclosure of information (including identity information) made in the

interests of national security in pursuance of a direction to that effect issued by an officer or officers not below the rank of Joint Secretary or equivalent in the Central Government specifically authorised in this behalf by an order of the Central Government.

CHAPTER VII

OFFENCES AND PENALTIES

Penalty for impersonation at time of enrolment.

34. Whoever impersonates or attempts to impersonate another person, whether dead or alive, real or imaginary, by providing any false demographic information or bio-metric information shall be punishable with imprisonment for a term which may extend to three years and with a fine which may extend to ten thousand rupees.

Penalty for impersonation of aadhaar number holder by changing demographic information or bio-metric information.

35. Whoever, with the intention of causing harm or mischief to a aadhaar number holder, or with the intention of appropriating the identity of a aadhaar number holder changes or attempts to change any demographic information or bio-metric information of a aadhaar number holder by impersonating or attempting to impersonate another person, dead or alive, real or imaginary, shall be punishable with imprisonment for a term which may extend to three years and shall be liable to a fine which may extend to ten thousand rupees.

Penalty for impersonation.

36. Whoever, not being authorised to collect identity information under the provisions of this Act, by words, conduct or demeanour pretends that he is authorised to do so, shall be punishable with imprisonment for a term which may extend to three years or with a fine which may extend to ten thousand rupees or, in the case of a company, with a fine which may extend to one lakh rupees or with both.

37. Whoever, intentionally discloses, transmits, copies or otherwise disseminates any identity information collected in the course of enrolment or authentication to any person not authorised under this Act shall be punishable with imprisonment for a term which may extend to three years or with a fine which may extend to ten thousand rupees or, in the case of a company, with a fine which may extend to one lakh rupees or with both.
- Penalty for disclosing identity information.
38. Whoever, not being authorised by the Authority, intentionally,—
- Penalty for unauthorised access to the Central Identities Data Repository.
- (a) accesses or secures access to the Central Identities Data Repository; or
 - (b) downloads, copies or extracts any data from the Central Identities Data Repository or stored in any removable storage medium; or
 - (c) introduces or causes to be introduced any virus or other computer contaminant in the Central Identities Data Repository; or
 - (d) damages or causes to be damaged the data in the Central Identities Data Repository; or
 - (e) disrupts or causes disruption of the access to the Central Identities Data Repository; or
 - (f) denies or causes a denial of access to any person who is authorised to access the Central Identities Data Repository; or
 - (g) provides any assistance to any person to do any of the acts aforementioned; or
 - (h) destroys, deletes or alters any information stored in any removable storage media or in the Central Identities Data

Repository or diminishes its value or utility or effects it injuriously by any means; or

(i) steals, conceals, destroys or alters or causes any person to steal, conceal, destroy or alter any computer source code used by the Authority with an intention to cause damage,

shall be punishable with imprisonment for a term which may extend to three years and shall be liable to a fine which shall not be less than one crore rupees.

Explanation.— For the purposes of this section, the expressions “computer contaminant”, “computer virus” and “damage” shall have the meanings respectively assigned to them in the Explanation to section 43 of the Information Technology Act, 2000.

21 of 2000.

Penalty for tampering with data in Central Identities Data Repository.

39. Whoever, not being authorised by the Authority, uses or tampers with the data in the Central Identities Data Repository or in any removable storage medium with the intent of modifying information relating to aadhaar number holder or discovering any information thereof shall be punishable with imprisonment for a term which may extend to three years and shall be liable to a fine which may extend to ten thousand rupees.

Penalty for manipulating bio-metric information.

40. Whoever gives or attempts to give any bio-metric information which does not pertain to him for the purpose of getting an aadhaar number or authentication or updating his information, shall be punishable with imprisonment for a term which may extend to three years or with a fine which may extend to ten thousand rupees or with both.

General penalty.

41. Whoever, commits an offence under this Act for which no penalty is provided elsewhere than in this section, shall be punishable with imprisonment for a term which may extend to

three years or with a fine which may extend to twenty-five thousand rupees or, in the case of a company, with a fine which may extend to one lakh rupees or with both.

42. (1) Where an offence under this Act has been committed by a company, every person who at the time the offence was committed was in charge of, and was responsible to, the company for the conduct of the business of the company, as well as the company, shall be deemed to be guilty of the offence and shall be liable to be proceeded against and punished accordingly:

Offences by companies.

Provided that nothing contained in this sub-section shall render any such person liable to any punishment provided in this Act if he proves that the offence was committed without his knowledge or that he had exercised all due diligence to prevent the commission of such offence.

(2) Notwithstanding anything contained in sub-section (1), where any offence under this Act has been committed by a company and it is proved that the offence has been committed with the consent or connivance of, or is attributable to, any neglect on the part of any director, manager, secretary or other officer of the company, such director, manager, secretary or other officer shall also be deemed to be guilty of the offence and shall be liable to be proceeded against and punished accordingly.

Explanation.— For the purposes of this section—

(a) “company” means any body corporate and includes a firm or other association of individuals; and

(b) “director”, in relation to a firm, means a partner in the firm.

Act to apply for offence or contravention committed outside India.

43. (1) Subject to the provisions of sub-section (2), the provisions of this Act shall apply also to any offence or contravention committed outside India by any person, irrespective of his nationality.

(2) For the purposes of sub-section (1), the provisions of this Act shall apply to any offence or contravention committed outside India by any person, if the act or conduct constituting the offence or contravention involves the Central Identities Data Repository.

Power to investigate offences.

44. Notwithstanding anything contained in the Code of Criminal Procedure, 1973, a police officer not below the rank of Inspector of Police shall investigate any offence under this Act. 2 of 1974.

Penalties not to interfere with other punishments.

45. No penalty imposed under this Act shall prevent the imposition of any other penalty or punishment under any other law for the time being in force.

Cognizance of offences.

46. (1) No court shall take cognizance of any offence punishable under this Act, save on a complaint made by the Authority or any officer or person authorised by it.

(2) No court inferior to that of a Chief Metropolitan Magistrate or a Chief Judicial Magistrate shall try any offence punishable under this Act.

CHAPTER VIII

MISCELLANEOUS

Power of Central Government to supersede Authority.

47. (1) If, at any time, the Central Government is of the opinion,—

(a) that, on account of circumstances beyond the control of the Authority, it is unable to discharge the functions or perform the duties imposed on it by or under the provisions of this Act; or

(b) that the Authority has persistently defaulted in complying with any direction given by the Central Government under this Act or in the discharge of the functions or performance of the duties imposed on it by or under the provisions of this Act and as a result of such default the financial position of the Authority or the administration of the Authority has suffered; or

(c) that circumstances exist which render it necessary in the public interest so to do, the Central Government may, by notification, supersede the Authority for such period, not exceeding six months, as may be specified in the notification and appoint a person or persons as the President may direct to exercise powers and discharge functions under this Act:—

Provided that before issuing any such notification, the Central Government shall give a reasonable opportunity to the Authority to make representations against the proposed supersession and shall consider the representations, if any, of the Authority.

(2) Upon the publication of a notification under sub-section (1) superseding the Authority,—

(a) the Chairperson and other members shall, as from the date of supersession, vacate their offices as such;

(b) all the powers, functions and duties which may, by or under the provisions of this Act, be exercised or discharged by or on behalf of the Authority shall, until the Authority is reconstituted under sub-section (3), be exercised and discharged by the person or persons referred to in sub-section (1); and

(c) all properties owned or controlled by the Authority shall, until the Authority is reconstituted under sub-section (3), vest in the Central Government.

(3) On or before the expiration of the period of supersession specified in the notification issued under sub-section (1), the Central Government shall reconstitute the Authority by a fresh appointment of its Chairperson and other members and in such case any person who had vacated his office under clause (a) of sub-section (2) shall not be deemed to be disqualified for reappointment.

(4) The Central Government shall cause a copy of the notification issued under sub-section (1) and a full report of any action taken under this section and the circumstances leading to such action to be laid before each House of Parliament at the earliest.

Members,
officers,
etc.,
to be
public
servants.

48. The Chairperson, Members, officers and other employees of the Authority shall be deemed, while acting or purporting to act in pursuance of any of the provisions of this Act, to be public servants within the meaning of section 21 of the Indian Penal Code.

45 of 1860.

Power of
Central
Government
to issue
directions.

49. Without prejudice to the foregoing provisions of this Act, the Authority shall, in exercise of its powers or the performance of its functions under this Act be bound by such directions on questions of policy, other than those relating to technical and administrative matters, as the Central Government may give, in writing to it, from time to time:—

Provided that the Authority shall, as far as practicable, be given an opportunity to express its views before any direction is given under this sub-section.

(2) The decision of the Central Government, whether a question is one of policy or not, shall be final.

50. The Authority may, by general or special order in writing, delegate to any Member, officer of the Authority or any other person, subject to such conditions, if any, as may be specified in the order, such of its powers and functions under this Act (except the power under section 53) as it may deem necessary.

Delegation.

51. No suit, prosecution or other legal proceeding shall lie against the Central Government or the Authority or the Chairperson or any Member or any officer, or other employees of the Authority for anything which is in good faith done or intended to be done under this Act or the rule or regulation made thereunder.

Protection of action taken in good faith.

52. (1) The Central Government may, by notification, make rules to carry out the provisions of this Act.

Power of Central Government to make rules.

(2) In particular, and without prejudice to the generality of the foregoing power, such rules may provide for all or any of the following matters, namely:—

(a) the form and manner in which and the Authority before whom the oath of office and of secrecy is to be subscribed by the Chairperson and Members under sub-section (2) of section 14;

(b) the salary and allowances payable to, and other terms and conditions of service of, the Chairperson and the allowances or remuneration payable to Members of the Authority under sub-section (5) of section 14;

(c) the other powers and functions of the Chairperson of the Authority under section 17;

(d) the other powers and functions of the Authority under clause (i) of sub-section (2) of section 23;

(e) the form of annual statement of accounts to be prepared by the Authority under sub-section (1) of section 26;

(f) the form and the manner in which and the time within which returns and statements and particulars are to be furnished under sub-section (1) of section 27;

(g) the form and the manner and the time at which the Authority shall furnish annual report under sub-section (2) of section 27;

(h) any other matter which is required to be, or may be, prescribed, or in respect of which provision is to be or may be made by rules.

Power of
Authority
to make
regulations.

53. (1) The Authority may, by notification, make regulations consistent with this Act and the rules made thereunder, for carrying out the provisions of this Act.

(2) In particular, and without prejudice to the generality of the foregoing power, such regulations may provide for all or any of the following matters, namely:—

(a) the biometric information under clause (e) and the demographic information under clause (h) of section 2;

(b) the process of collecting demographic information and biometric information from the individuals by enrolling agencies under clause (j) of section 2;

(c) the manner of furnishing the demographic information and biometric information by the resident under sub-section (1) of section 3;

(d) the manner of verifying the demographic information and biometric

information for issue of aadhaar number under sub-section (2) of section 3;

(e) the conditions, fees and manner of authentication of the aadhaar number under sub-section (1) of section 5;

(f) the other functions to be performed by Central Identities Data Repository under section 7;

(g) the manner of updating biometric information and demographic information under section 8;

(h) the other categories of individuals under section 10 for whom the Authority shall take special measures for issue of aadhaar number;

(i) the time and places of meetings of the Authority and the procedure for transaction of business to be followed by it (including the quorum) under sub-section (1) of section 18;

(j) the salary and allowances payable to, and other terms and conditions of service of, the chief executive officer, officers and other employees of the Authority under sub-section (3) of section 20;

(k) the demographic information and biometric information and process for their collection and verification under clause (a) and the manner of their collection under clause (b) of sub-section (2) of section 23;

(l) the manner of maintaining and updating the information of individuals in the Central Identities Data Repository under clause (f) of sub-section (2) of section 23;

(m) the manner of omitting and deactivating an aadhaar number and information relating

thereto under clause (g) of sub-section (2) of section 23;

(n) the usage and applicability of the aadhaar number for delivery of various benefits and services under clause (h) of sub-section (2) of section 23;

(o) the terms and conditions for appointment of Registrars, enrolling agencies and other service providers and the revocation of appointments thereof under clause (i) of sub-section (2) of section 23;

(p) the manner of sharing information of aadhaar number holder under clause (k) of sub-section (2) of section 23;

(q) various processes relating to data management, security protocol and other technology safeguards under clause (m) of sub-section (2) of section 23;

(r) the procedure for issuance of new aadhaar number to existing aadhaar number holder under clause (n) of sub-section (2) of section 23;

(s) manner of authorising Registrars, enrolling agencies or other services providers to collect such fees for services provided by them under clause (o) of sub-section (2) of section 23;

(t) policies and practices to be followed by the Registrar, enrolling agencies and other service providers under clause (r) of sub-section (2) of section 23;

(u) the allowances or remuneration and terms and conditions of consultants, advisors and other persons under sub-section (4) of section 23;

(v) the manner in which an aadhaar number holder can access his identity information under sub-section (3) of section 30;

(w) the manner of alteration of demographic information under sub-section (1) and biometric information under sub-section (2) of section 31;

(x) the manner of and the time for maintaining the details of request for authentication and the response thereon under sub-section (1) of section 32;

(y) the manner of obtaining, by the aadhaar number holder, the records of request for authentication of his aadhaar number and response thereon under sub-section (2) of section 32;

(z) any other matter which is required to be, or may be, specified, or in respect of which provision is to be or may be made by regulations.

54. Every rule and every regulation made under this Act shall be laid, as soon as may be after it is made, before each House of Parliament, while it is in session, for a total period of thirty days which may be comprised in one session or in two or more successive sessions, and if, before the expiry of the session immediately following the session or the successive sessions aforesaid, both Houses agree in making any modification in the rule or regulation, or both Houses agree that the rule or regulation should not be made, the rule or regulation shall thereafter have effect only in such modified form or be of no effect, as the case may be; so, however, that any such modification or annulment shall be without prejudice to the validity of anything previously done under that rule or regulation.

Laying of rules and regulations before Parliament.

55. The provisions of this Act shall be in addition to, and not in derogation of, any other law for the time being in force.

Application of other laws not barred.

Power to
remove
difficulties.

56. (1) If any difficulty arises in giving effect to the provisions of this Act, the Central Government may, by order, published in the Official Gazette, make such provisions not inconsistent with the provisions of this Act as may appear to be necessary for removing the difficulty:—

Provided that no such order shall be made under this section after the expiry of two years from the commencement of this Act.

(2) Every order made under this section shall be laid, as soon as may be after it is made, before each House of Parliament.

Savings.

57. Anything done or any action taken by the Central Government under the Resolution of the Government of India, Planning Commission bearing notification number A-43011/02/2009-Admin. I, dated the 28th January, 2009, shall be deemed to have been done or taken under the corresponding provisions of this Act.

STATEMENT OF OBJECTS AND REASONS

The Central Government had decided to issue unique identification numbers to all residents in India and to certain other persons. The scheme of unique identification involves collection of demographic information and biometric information from individuals for the purpose of issuing of unique identification numbers to such individuals. The biometric information would involve taking of a set of biological attributes of such individuals.

2. The Central Government, for the purposes of issue of the unique identification numbers, constituted, *vide* its notification dated the 28th January, 2009 being of executive in nature, the Unique Identification Authority of India, which is at present functioning under the Planning Commission.

3. It has been observed and assessed that the issue of unique identification numbers may involve certain issues, such as (a) security and confidentiality of information, imposition of obligation of disclosure of information so collected in certain cases, (b) impersonation by certain individuals at the time of enrolment for issue of unique identification numbers, (c) unauthorised access to the Central Identities Data Repository, (d) manipulation of biometric information, (e) investigation of certain acts constituting offence, and (f) unauthorised disclosure of the information collected for the purposes of issue of the unique identification numbers which should be addressed by law and attract penalties.

4. In view of the foregoing paragraph, it has been felt necessary to make the said Authority as a statutory authority for carrying out the functions of issuing identification numbers to the residents in India in an effective manner. It is, therefore, proposed to enact the National Identification Authority of India Bill, 2010 to provide for the establishment of the National Identification Authority of India for the purpose of issuing identification numbers (which has been referred to as aadhaar number) to individuals residing in India and to certain other classes of individuals and manner of authentication of such individuals to facilitate access to benefits and services to such individuals to which they are entitled and for matters connected therewith or incidental thereto.

5. The National Identification Authority of India Bill, 2010, *inter alia*, seeks to provide—

- (a) for issue of aadhaar numbers to every resident by the Authority on providing his demographic information and biometric information to it in such manner as may be specified by regulations;
- (b) for authentication of the aadhaar number of an aadhaar number holder in relation to his biometric information and demographic information subject to such conditions and on payment of such fees as may be specified by regulations;
- (c) for establishment of the National Identification Authority of India consisting of a Chairperson and two part-time Members;
- (d) that the Authority to exercise powers and discharge functions which, *inter alia*, include—
 - (i) specifying the demographic information and biometric information for enrolment for an aadhaar number and the processes for collection and verification thereof;
 - (ii) collecting demographic information and biometric information from any individual seeking an aadhaar number in such manner as may be specified by regulations;
 - (iii) appointing of one or more entities to operate the Central Identities Data Repository;
 - (iv) maintaining and updating the information of individuals in the Central Identities Data Repository in such manner as may be specified by regulations;
 - (v) specify the usage and applicability of the aadhaar number for delivery of various benefits and services as may be provided by regulations;
- (e) that the Authority shall not require any individual to give information pertaining to his race, religion, caste, tribe, ethnicity, language, income or health;
- (f) that the Authority may engage one or more entities to establish and maintain the Central Identities Data Repository and to perform any other functions as may be specified by regulations;
- (g) for constitution of the Identity Review Committee consisting of three members (one of whom shall be the chairperson) to

ascertain the extent and pattern of usage of the aadhaar numbers across the country and prepare a report annually in relation to the extent and pattern of usage of the aadhaar numbers along with its recommendations thereon and submit the same to the Central Government;

- (h) that the Authority shall take measures (including security safeguards) to ensure that the information in the possession or control of the Authority (including information stored in the Central Identities Data Repository) is secured and protected against any loss or unauthorised access or use or unauthorised disclosure thereof;
- (i) for offences and penalties for contravention of the provisions of the proposed legislation.

6. The notes on clauses explain in detail the various provisions contained in the Bill.

7. The Bill seeks to achieve the above objectives.

NEW DELHI;
The 8th November, 2010.

MANMOHAN SINGH

NOTES ON CLAUSES

Clause 2.— This clause contains definitions of certain words and expressions used in the proposed legislation. These definitions, *inter alia*, include the definitions of “aadhaar number”, “authentication”, “Central Identities Data Repository”, “demographic information”, “Identity information”, “resident”, “Review Committee”, etc.

Clause 3.— This clause provides for entitlement to obtain an aadhaar number by every resident. It proposes that every resident shall be entitled to obtain an aadhaar number after providing his demographic information and biometric information to the Authority in such manner as specified by regulations. It further provides that the Central Government may from time to time notify the other category of individuals who may be entitled to obtain an aadhaar number. It also provides that the Authority after verifying the demographic information and biometric information provided by the resident, issue an aadhaar number to such resident.

Clause 4.— This clause deals with the properties of aadhaar number. It provides that any aadhaar number issued to an individual shall not be re-assigned to any other individual; it shall be a random number and bear no attributes or identity data relating to the aadhaar number holder. It further provides that the aadhaar number can be accepted as proof of identity of its holder but subject to authentication.

Clause 5.— This clause empowers the Authority to perform authentication of the aadhaar number of a aadhaar number holder in relation to his biometric information and demographic information subject to such conditions and on payment of such fees and in such manner as specified by regulations. It further empowers the Authority to respond to an authentication query with a positive or negative response or with any other appropriate response excluding any demographic information and biometric information.

Clause 6.— This clause lays down that the aadhaar number or the authentication thereof shall not, by itself, confer any right of or be proof of citizenship or domicile in respect of an aadhaar number holder.

Clause 7.— This clause empowers the Authority to engage one or more entities to establish and maintain the Central Identities Data Repository and to perform any other functions as provided under regulations.

Clause 8.— This clause deals with the updating of the demographic information and biometric information of the aadhaar number holders, from time to time, in such manner as specified by regulations so as to ensure continued accuracy of their information in the Central Identities Data Repository.

Clause 9.— This clause prohibits the Authority from requiring any individual to give information pertaining to his race, religion, caste, tribe, ethnicity, language, income or health.

Clause 10.—This clause empowers the Authority to take special measures to issue aadhaar number to women, children, senior citizens, persons with disability, migrant un-skilled and unorganised workers, nomadic tribes or to such other persons who do not have any permanent dwelling house and such other categories of individuals which are specified by regulations.

Clause 11.— This clause provides for establishment of the National Identification Authority of India, by the Central Government, to exercise the powers conferred on it and to perform the functions assigned to it under the proposed legislation. The said Authority shall be a body corporate, having perpetual succession and a common seal, with power, subject to the provisions of the proposed legislation, to acquire, hold and dispose of property, both movable and immovable, and to contract, and shall, by the said name, sue or be sued. It further provides for the location of the head office of the Authority in the National Capital Region and with the prior approval of the Central Government, to establish its offices at other places in India.

Clause 12.—This clause lays down the composition of the Authority consisting of a Chairperson and two part-time Members to be appointed by the Central Government.

Clause 13.—This clause provides for qualifications for appointment of Chairperson and Members of the Authority. It provides that persons of ability, integrity and outstanding calibre having experience and knowledge in the matters relating to technology, governance, law, development, economics, finance, management, public affairs or administration shall be qualified as Chairperson and Members of the Authority.

Clause 14.— This clause provides for term of office and other conditions of service of Chairperson and Members. It provides that the Chairperson and the Members shall hold office for a term of three years from the date on which they assume office and shall be eligible for reappointment. It also provides that the Chairperson or Member of the

Authority shall not hold office as such after he has attained the age of sixty-five years.

It also provides that the Chairperson of the Unique Identification Authority of India appointed before the commencement of the proposed legislation by notification A-43011/02/2009-Admn.I (Vol.II) dated the 2nd July, 2009 shall continue as a Chairperson of the Authority under the proposed legislation for the term for which he had been appointed.

It also provides that the Chairperson and every Member shall, before entering upon their office, make and subscribe to, an oath of office and of secrecy, in such form and in such manner and before such Authority as may be prescribed.

It also provides that notwithstanding anything contained in sub-clause (1), the Chairperson or Member may relinquish his office, by giving in writing to the Central Government, a notice of not less than thirty days; or be removed from his office in accordance with the provisions of clause 15. It also provides that the Chairperson shall not hold any other office during the period of holding their office in the Authority as such.

It also provides that the salaries and allowances payable to, and the other terms and conditions of service of, the Chairperson and allowances or remuneration payable to part-time Members shall be such as may be prescribed by the Central Government but neither the salary, allowances nor the other terms and conditions of service of the Chairperson shall be varied to his disadvantages after his appointment.

Clause 15.— This clause provides for removal of Chairperson and Members of the Authority. It provides that the Central Government may remove from office the Chairperson or a Member of the Authority on any of the grounds enumerated in this clause.

It further provides that the Chairperson or a Member shall not be removed from his office on the grounds specified in item (d) or (e) of sub-clause (1) unless he has been given a reasonable opportunity of being heard in respect of those charges.

Clause 16.— This clause prohibition as to holding of offices by the Chairperson or a Member on ceasing to be such Chairperson or a Member of the Authority. It provides that on ceasing to hold office, the Chairperson or Member of the Authority, as the case may be, shall subject to the provisions of the proposed legislation, be ineligible, for further employment in, or, connected with the management or administration of, any person which has been associated with any work under the Act,

for a period of three years. It also provides that the clause shall not apply to any employment under the Central Government or a State Government or local authority or in any statutory authority or any corporation established by or under any Central, State or provincial Act or a Government Company, as defined in section 617 of the Companies Act, 1956.

It also provides prohibition to act, for or on behalf of any person or organisation in connection with any specific proceeding or transaction or negotiation or a case to which the Authority is a party and with respect to which the Chairperson or such Member had, before cessation of office, acted for or provided advice to, the Authority; to give advice to any person using information which was obtained in his capacity as the Chairperson or a Member and being unavailable to or not being able to be made available to the public; to enter, for a period of three years from his last day in office, into a contract of service with, accept an appointment to a board of directors of, or accept an offer of employment with, an entity with which he had direct and significant official dealings during his term of office as such.

Clause 17.— This clause lays down the functions of the Chairperson. It provides that the Chairperson shall have powers of general superintendence, direction in the conduct of the affairs of the Authority in addition to presiding over the meetings of the Authority and without prejudice to any of the provisions of the proposed legislation, to exercise and discharge such powers and functions of the Authority as may be prescribed.

Clause 18.— This clause empowers the Authority to determine the procedure for the transaction of business in its meetings including times and places of such meetings. It provides that the Chairperson, or, if for any reason, he is unable to attend a meeting of the Authority, the senior most Member shall preside over the meetings of the Authority.

It further provides that all questions which come up before any meeting of the Authority shall be decided by a majority of votes by the Members present and voting and in case of an equality of votes, the Chairperson or in his absence the Member presiding over shall have a second or casting vote and all such decisions of the Authority shall be authenticated by the signature of the Chairperson or any other Member authorised by the Authority in this behalf.

It also provides that any Member, who is a director of a company and who as such director, has any direct or indirect pecuniary interest in any matter coming up for consideration at a meeting of the Authority,

he shall, as soon as possible after relevant circumstances have come to his knowledge, disclose the nature of his interest at such meeting and such disclosure shall be recorded in the proceedings of the Authority, and the Member shall not take part in any deliberation or decision of the Authority with respect to that matter.

Clause 19.—This clause enumerates the circumstances under which the acts or proceedings of the Authority shall not be invalidated. It provides that no act or proceeding of the Authority shall be invalid merely by reason of, any vacancy in, or any defect in the constitution of, the Authority; any defect in the appointment of a person as a Member of the Authority; or any irregularity in the procedure of the Authority not affecting the merits of the case.

Clause 20.—This clause makes provision for appointment of officers and other employees of Authority. It provides for the appointment of a chief executive officer of the Authority by the Central Government, who shall act as the Member-Secretary of the Authority. It also provides for determining the number, nature and categories of other officers and employees required to the Authority in the discharge of its functions.

It also provides for the determination of the salaries and allowances and the other terms and conditions of service of, the chief executive officer and other officers and other employees of the Authority lay regulation with the approval of the Central Government.

Clause 21.—This clause lays down functions of the chief executive officer. The functions of the chief executive officer, who shall be the legal representative of the Authority, *inter alia*, shall be the day-to-day administration and implementing the work programmes and decisions adopted by the Authority; drawing up of proposal for the Authority's work programmes; the preparation of the statement of revenue and expenditure and the execution of the budget of the Authority; submitting, every year a general report covering all the activities of the Authority in the previous year and programmes of work; and the annual accounts for the previous year and the budget for the coming year.

It further lays down that the chief executive officer shall have administrative control over the officers and other employees of the Authority.

Clause 22.—This clause makes provision for transfer of assets, liabilities of the Authority. It provides that on and from the establishment of the Authority, all the assets and liabilities of the Unique Identification Authority of India, established *vide* notification of the Government of India

in the Planning Commission number A-43011/02/2009-Admin.I, dated the 28th January, 2009, shall stand transferred to and vested in the Authority to be established under the proposed legislation.

It further provides that all data and information collected during enrolment, all details of authentication performed, debts, obligations and liabilities incurred, all contracts entered into and all matters and things engaged to be done by, with or for such Unique Identification Authority of India for or in connection with the purpose of the said Unique Identification Authority of India, shall be deemed to have been incurred, entered into or engaged to be done by, with or for, the Authority and all sums of money due shall be deemed to be due to the Authority and all suits and other legal proceedings instituted or which could have been instituted by or against such Unique Identification Authority of India may be continued or may be instituted by or against the Authority.

Clause 23.— This clause lays down the powers and functions of Authority. It provides that the Authority shall develop the policy, procedure and systems for issuing aadhaar numbers to residents and perform authentication thereof under this Act. It further specifies the powers and functions of the Authority which, *inter alia*, include; specifying, by regulation, demographic information and biometric information for enrolment for an aadhaar number and the processes for collection and verification thereof; collecting demographic information and biometric information from any individual seeking an aadhaar number in such manner as may be specified by regulations; appointing of one or more entities to operate the Central Identities Data Repository; generating and assigning aadhaar numbers to individuals; performing authentication of the aadhaar numbers; maintaining and updating the information of individuals in the Central Identities Data Repository in such manner as may be specified by regulations; specify the usage and applicability of the aadhaar number for delivery of various benefits and services as may be provided by regulations; specifying, by regulation, the terms and conditions for appointment of Registrars, enrolling agencies and service providers and revocation of appointments thereof; establishing, operating and maintaining of the Central Identities Data Repository; calling for information and records, conducting inspections, inquiries and audit of the operations for the purposes of the proposed legislation of the Central Identities Data Repository, Registrars, enrolling agencies and other agencies appointed under this Act; specifying, by regulation, the conditions and procedures for issuance of new aadhaar number to existing aadhaar number holder; levy and collect the fees or authorise the Registrars, enrolling agencies or other service providers to collect such fees for the services provided by them under the proposed legislation in such manner as may be specified by regulations.

It also empowers the Authority to enter into a Memorandum of Understanding or agreement, as the case may be, with the Central Government or State Governments or Union territories or other agencies for the purpose of performing any of the functions in relation to collecting, storing, securing or processing of information or performing authentication; and appoint by notification, such number of Registrars, engage and authorise such agencies to collect, store, secure, process information or do authentication or perform such other functions in relation thereto, as may be necessary for the purposes of the proposed legislation or to engage such consultants, advisors and other persons as may be required for efficient discharge of its functions under this Act on such allowances or remuneration and terms and conditions as may be specified by regulations.

Clause 24.—This clause makes provision for grants by the Central Government. It provides that after due appropriation made by Parliament by law the Central Government may make grants of such sums of money as it may think fit to the Authority for being utilised for the purposes of the proposed legislation.

Clause 25.—This clause provides for other fees and revenue. It provides that fees or revenue collected by the Authority shall be credited to the Consolidated Fund of India and entire amount so credited shall be transferred to the Authority.

Clause 26.—This clause makes provision for accounts and audit. It provides that the Authority shall maintain proper accounts and other relevant records and prepare an annual statement of accounts in such form as may be prescribed by the Central Government in consultation with the Comptroller and Auditor-General of India.

It further provides that the accounts of the Authority shall be audited annually by the Comptroller and Auditor-General of India at such intervals as may be specified by him and any expenditure incurred in connection with such audit shall be payable by the Authority to the Comptroller and Auditor-General.

It also provides that the accounts of the Authority, as certified by the Comptroller and Auditor-General or any other person appointed by him in this behalf, together with the audit report thereon shall be forwarded annually to the Central Government by the Authority and the Central Government shall cause the audit report to be laid, as soon as may be after it is received, before each House of Parliament.

Clause 27.—This clause provides for returns and annual report, etc. It provides that the Authority shall furnish to the Central Government

at such time and in such form and manner as may be prescribed or as the Central Government may direct, such returns and statements and particulars in regard to any matter under the jurisdiction of the Authority, as the Central Government may from time to time require.

It further provides that the Authority shall prepare, once in every year, and in such form and manner and at such time as may be prescribed, an annual report giving a description of all the activities of the Authority for the previous years; the annual accounts for the previous year; and the programmes of work for coming year. A copy of such report shall be laid by the Central Government before each House of Parliament.

Clause 28.— This clause provides for the Review Committee. It provides that the Central Government may, by notification, constitute the Identity Review Committee, consisting of three members (one of whom shall be the chairperson as such designated by the Central Government) who are persons of eminence, ability, integrity and standing in public life having knowledge and experience in the fields of technology, law, administration and governance, social service, journalism, management or social sciences, to discharge functions specified under sub-clause (1) of clause 29 in respect of any matter connected with the usage of the aadhaar numbers.

It further provides that the members of the Review Committee shall be appointed by the Central Government on the recommendations of a committee consisting of the Prime Minister, who shall be the chairperson of the committee; the Leader of Opposition in the Lok Sabha; and a Union Cabinet Minister to be nominated by the Prime Minister.

It also provides that the member of the Review Committee shall not be a Member of Parliament or Member of the Legislature of any State or Union territory, as the case may be, or a member of any political party. A member of the Review Committee shall hold office for a term of three years from the date on which they enter upon office and shall not be eligible for reappointment and may be removed by the Central Government on the grounds specified under sub-clause (6).

Clause 29.— This clause makes provision for functions of the Review Committee. It provides that the Review Committee shall ascertain the extent and pattern of usage of the aadhaar numbers across the country and prepare a report annually in relation to the extent and pattern of usage of the aadhaar numbers along with its recommendations thereon and submit the same to the Central Government. This clause further empowers the Review Committee to determine the manner of preparation of the report. It also provides that a copy of the report along with the

recommendations of the Review Committee shall be laid by the Central Government, as soon as may be after it is received, before each House of Parliament.

Clause 30.—This clause provides for security and confidentiality of information. It provides that the Authority shall ensure the security and confidentiality of identity information and authentication records of individuals and take measures (including security safeguards) to ensure that the information in the possession or control of the Authority (including information stored in the Central Identities Data Repository) is secured and protected against any loss or unauthorised access or use or unauthorised disclosure thereto.

It further provides that notwithstanding anything contained in any other law for the time being in force and save as otherwise provided in the proposed legislation, the Authority or any of its officer or other employee or any agency who maintains the Central Identities Data Repository shall not reveal any information stored in the Central Identities Data Repository to any person but an aadhaar number holder may request the Authority to provide access to his identity information in such manner as may be specified by regulations.

Clause 31.—This clause makes provision relating to alteration of demographic information or biometric information. It provides that in case any demographic information relating to an aadhaar number holder is found incorrect or it changes subsequently, and in case any biometric information of aadhaar number holder is lost or changes subsequently for any reason, then the aadhaar number holder shall request the Authority to alter such demographic information or biometric information in his record in the Central Identities Data Repository in such manner as may be specified by regulations.

It further provides that on receipt of any request for alteration of demographic information or biometric information, the Authority may, if it is satisfied, make such alteration as may be required in the record relating to such aadhaar number holder and intimate such alteration to the concerned aadhaar number holder.

Clause 32.—This clause makes provision for access to own information and records of requests for authentication. It provides that the Authority shall maintain details of every request for authentication of the identity of every aadhaar number holder and the response provided thereon by it in such manner and for such time as may be specified by regulations. It further provides that every aadhaar number holder shall be entitled to obtain details of request for authentication of his aadhaar

number and the response provided thereon by the Authority in such manner as may be specified by regulations.

Clause 33.—This clause provides for disclosure of information in certain cases. It provides that provisions of sub-clause (3) of clause 30 which impose restrictions on providing information shall not apply in respect of any disclosure of information (including identity information or details of authentication) made pursuant to an order of a competent court; or any disclosure of information (including identity information) made in the interests of national security in pursuance of a direction to that effect issued by an officer or officers not below the rank of Joint Secretary or equivalent in the Central Government specifically authorised in this behalf by an order of the Central Government.

Clause 34.—This clause provides for penalty for impersonation at time of enrolment. It provides that whoever impersonates or attempts to impersonate another person, whether dead or alive, real or imaginary, by providing any false demographic information or biometric information shall be punishable with imprisonment for a term which may extend to three years and with a fine which may extend to ten thousand rupees.

Clause 35.—This clause provides for penalty for impersonation of Aadhaar number holder by changing demographic information or biometric information. It provides that whoever, with the intention of causing harm or mischief to a aadhaar number holder, or with the intention of appropriating the identity of a aadhaar number holder changes or attempts to change any demographic information or biometric information of a aadhaar number holder by impersonating or attempting to impersonate another person, dead or alive, real or imaginary, shall be punishable with imprisonment for a term which may extend to three years and shall be liable to a fine which may extend to ten thousand rupees.

Clause 36.—This clause provides for penalty for impersonation. It provides that whoever, not being authorised to collect identity information under the provisions of this Act, by words, conduct or demeanour pretends that he is authorised to do so, shall be punishable with imprisonment for a term which may extend to three years or with a fine which may extend to ten thousand rupees or, in the case of a company, with a fine which may extend to one lakh rupees or with both.

Clause 37.—This clause provides for penalty for disclosing identity information. It provides that whoever, intentionally discloses, transmits, copies or otherwise disseminates any identity information collected in the course of enrolment or authentication to any person not authorised

under this Act shall be punishable with imprisonment for a term which may extend to three years or with a fine which may extend to ten thousand rupees or, in the case of a company, with a fine which may extend to one lakh rupees or with both.

Clause 38.— This clause provides for penalty for unauthorised access to the Central Identities Data Repository. It provides that whoever, not being authorised by the Authority, intentionally, (a) accesses or secures access to the Central Identities Data Repository or (b) downloads, copies or extracts any data from the Central Identities Data Repository; or stored in any removable medium; or (c) introduces or causes to be introduced any virus or other computer contaminant; in the Central Identities Data Repository; or (d) damages or causes to be damaged the data in the Central Identities Data Repository; (e) disrupts or causes disruption of the access to the Central Identities Data Repository; or (f) denies or causes a denial of access to any person who is authorised to access the Central Identities Data Repository; or (g) provides any assistance to any person to do any of the acts aforementioned; (h) destroys, deletes or alters any information stored in any removable storage media or in the Central Identities Data Repository or diminishes its value or utility or effects it injuriously by any means; (i) steals, conceals, destroys or alters or causes any person to steal, conceal, destroy or alter any computer source code used by the Authority with an intention to cause damage, shall be punishable with imprisonment for a term which may extend to three years and shall be liable to a fine which shall not be less than one crore rupees.

It further defines the expressions “computer contaminant”, “computer virus” and “damage” to have the same meanings for the purposes of this clause as are respectively assigned to them in the Explanation to section 43 of the Information Technology Act, 2000.

Clause 39.—This clause provides for penalty for tampering with data in Central Identities Data Repository. It provides that whoever, not being authorised by the Authority, uses or tampers with the data in the Central Identities Data Repository or in any removable storage medium with the intent of modifying information relating to aadhaar number holder or discovering any information thereof shall be punishable with imprisonment for a term which may extend to three years and shall be liable to a fine which may extend to ten thousand rupees.

Clause 40.— This clause provides for penalty for manipulating biometric information. It provides that whoever gives or attempts to give any biometric information which does not pertain to him for the purpose of getting an aadhaar number or authentication or updating his

information, shall be punishable with imprisonment for a term which may extend to three years or with a fine which may extend to ten thousand rupees or with both.

Clause 41.— This clause provides for general penalty. It provides that whoever, commits an offence under the proposed legislation for which no penalty is provided elsewhere than in this clause, shall be punishable with imprisonment for a term which may extend to three years or with a fine which may extend to twenty-five thousand rupees or, in the case of a company, with a fine which may extend to one lakh rupees or with both.

Clause 42.— This clause deals with the offences by companies. It provides that where an offence under the proposed legislation has been committed by a company then every person who at the time when the alleged offence was committed was in charge of, and was responsible to, the company for the conduct of the business of the company, as well as the company, shall be deemed to be guilty of the offence and shall be liable to be proceeded against and punished accordingly.

It further provides that if any such person proves that the offence was committed without his knowledge or that he had exercised all due diligence to prevent the commission of such offence, then he shall not be liable for the said punishment.

It also provides that where any offence under the proposed legislation has been committed by a company and it is proved that the offence has been committed with the consent or connivance of, or is attributable to, any neglect on the part of any director, manager, secretary or other officer of the company, such director, manager, secretary or other officer shall also be deemed to be guilty of the offence and shall be liable to be proceeded against and punished accordingly.

Clause 43.— This clause makes provision for application of the proposed legislation in relation to offence or contravention committed outside India. It provides that the provisions of the proposed legislation shall apply also to any offence or contravention committed outside India by any person, irrespective of his nationality, if the act or conduct constituting the offence or contravention involves the Central Identities Data Repository.

Clause 44.— This clause provides for power to investigate offences. It provides that notwithstanding anything contained in the Code of Criminal Procedure, 1973, a police officer not below the rank of Inspector of Police shall investigate any offence under the proposed legislation.

Clause 45.— This clause relates to penalties not to interfere with other punishments. It provides that no penalty imposed under the proposed legislation shall prevent the imposition of any other penalty or punishment under any other law for the time being in force.

Clause 46.— This clause provides for cognizance of offences. It provides that any court shall not take cognizance of any offence punishable under the proposed legislation, save on a complaint made by the Authority or any officer or person authorised by it.

It further provides that any court inferior to that of a Chief Metropolitan Magistrate or a Chief Judicial Magistrate shall not try any offence punishable under the proposed legislation.

Clause 47.— This clause empowers the Central Government to supersede Authority. It provides that the Central Government may after satisfying on the grounds mentioned under this clause supersede the Authority by issuing a notification for such period not exceeding six months and appoint a person or persons as the President may direct to exercise powers and discharge functions under the proposed legislation.

It further provides that before issuing any such notification, the Central Government shall give a reasonable opportunity to the Authority to make representations against the proposed supersession and shall consider the representations, if any, of the Authority.

It also provides that upon the publication of a notification superseding the Authority, (a) the Chairperson and other members shall, as from the date of supersession, vacate their offices as such; (b) all the powers, functions and duties which may, by or under the provisions of this Act, be exercised or discharged by or on behalf of the Authority shall, until the Authority is reconstituted be exercised and discharged by the person or persons referred to in sub-clause (1); and (c) all properties owned or controlled by the Authority shall, until the Authority is reconstituted under sub-section (3), vest in the Central Government.

It also provides that the Central Government shall reconstitute the Authority, before the expiration of the period of supersession, by a fresh appointment of its Chairperson and other members and in such case any person who had vacated his office due to supersession of the Authority shall not be deemed to be disqualified for reappointment.

It also provides that the Central Government shall cause a copy of the notification and a full report of any action taken under this clause and the circumstances leading to such action to be laid before each House of Parliament at the earliest.

Clause 48.— This clause provides that Members, officers, etc., to be public servants. It provides that the Chairperson, Members, officers and other employees of the Authority shall be deemed, while acting or purporting to act in pursuance of any of the provisions of the proposed legislation, to be public servants within the meaning of section 21 of the Indian Penal Code.

Clause 49.— This clause empowers the Central Government to issue directions. It provides that without prejudice to the foregoing provisions of the proposed legislation, the Authority shall, in exercise of its powers or the performance of its functions, be bound by such directions on questions of policy, other than those relating to technical and administrative matters, as the Central Government may give, in writing to it, from time to time.

It further provides that the Authority shall, as far as practicable, be given an opportunity to express its views before any direction is given under this clause. It also provides that the decision of the Central Government, whether a question is one of policy or not, shall be final.

Clause 50.— This clause provides for delegation. It provides that the Authority may, by general or special order in writing, delegate to any Member, officer of the Authority or any other person, subject to such conditions, if any, as may be specified in the order, such of its powers and functions under this Act (except the power under clause 53 relating to making of regulations) as it may deem necessary.

Clause 51.— This clause provides for protection of action taken in good faith. It provides that any suit, prosecution or other legal proceeding shall not lie against the Central Government or the Authority or the Chairperson or any Member or any officer, or other employees of the Authority for anything which is in good faith done or intended to be done under the proposed legislation or the rules or regulations made thereunder.

Clause 52.— This clause empowers the Central Government to make rules. It provides that the Central Government may, by notification, make rules to carry out the provisions of the proposed legislation. It further specifies the matters in respect of which such rules may be made.

Clause 53.— This clause empowers the Authority to make regulations. It provides that the Authority may, by notification, make regulations for carrying out the provisions of the proposed legislation consistent with the proposed legislation and the rules made thereunder. It further specifies the matters in respect of which such regulations may be made.

Clause 54.— This clause provides for laying of rules and regulations before Parliament. It provides that every rule and every regulation made under the proposed legislation shall be laid, as soon as may be after it is made, before each House of Parliament.

Clause 55.— This clause provides that the provisions of the proposed legislation shall be in addition to, and not in derogation of, any other law for the time being in force.

Clause 56.— This clause makes provision for removal of difficulties. It provides that if any difficulty arises in giving effect to the provisions of the proposed legislation then the Central Government may, by order, published in the Official Gazette, make such provisions not inconsistent with the provisions of the proposed legislation as may appear to be necessary for removing the difficulty.

It further provides that any such order for removal of difficulty shall be made under this section within a period of two years from the commencement of the proposed legislation.

It also provides that every order made under this clause shall be laid, as soon as may be after it is made, before each House of Parliament.

Clause 57.— This clause provides for savings. It provides that anything done or any action taken by the Central Government under the Resolution of the Government of India, Planning Commission bearing notification number A-43011/02/2009-Admin.I, dated the 28th January, 2009, shall be deemed to have been done or taken under the corresponding provisions of the proposed legislation.

FINANCIAL MEMORANDUM

Clause 11 provides for establishment of the National Identification Authority of India which shall be a body corporate having perpetual succession and a common seal with power to acquire, hold and dispose of property and sue or be sued with the head office in the National Capital Region and may establish its offices at other places in India. Clause 12 provides that Authority shall consist of a Chairperson and two part-time Members. Sub-clause (5) of clause 14 makes provision for salaries and allowances payable to the Chairperson and allowances or remuneration payable to part-time Members. Sub-clause (3) of clause 20 makes provision for salaries and allowances payable to the chief executive officer and other officers and other employees of the Authority.

2. Item (j) of sub-clause (2) of clause 23 provides for establishment, operation and maintenance of the Central Identity Data Repository.

3. Clause 24 provides that the Central Government may after due appropriation made by Parliament by law in this behalf, make to the Authority, grants of such sums of money as the Central Government may think fit for being utilised for the purposes of the proposed legislation.

4. Clause 25 of the Bill provides that the fees or revenue collected by the Authority shall be credited to the Consolidated Fund of India and the entire amount so credited will be transferred to the Authority.

5. It is estimated that there would be an expenditure of approximately Rs. 3023.01 crore in phase two of the scheme. Out of this, an amount of Rs. 477.11 crore would be towards recurring establishment expenditure and Rs. 2,545.90 crore would be towards non-recurring project related expenditure. The estimated cost for the first phase of the scheme was Rs. 147.31 crore towards the setting up necessary infrastructure for offices at headquarters and regional headquarters, creating testing facilities for running the pilots and proof of concept studies, initial work of creating standards in various areas of operations, and setting up of a project management unit and hiring of consultants.

6. The Bill does not envisage any other expenditure of recurring or non-recurring nature.

MEMORANDUM REGARDING DELEGATED LEGISLATION

Sub-clause (1) of clause 52 of the Bill empowers the Central Government to make, by notification, rules to carry out the provisions of the proposed legislation. Sub-clause (2) specifies the matters in respect of which such rules may be made. These matters, *inter alia*, include: (a) the form and manner in which and the authority before whom the oath of office and of secrecy is to be subscribed by the Chairperson and Members under sub-clause (2) of clause 14; (b) the salary and allowances payable to, and other terms and conditions of service of, the Chairperson and the allowances or remuneration payable to Members of the Authority under sub-clause (5) of clause 14; (c) the other powers and functions of the Chairperson of the Authority under clause 17; (d) the other powers and functions of the Authority under item(t) of sub-clause (2) of clause 23; (e) the form of annual statement of accounts to be prepared by Authority under sub-clause (1) of clause 26; (f) the form and the manner in which and the time within which returns and statements and particulars are to be furnished under sub-clause (1) of clause 27; (g) the form and the manner and the time at which the Authority shall furnish annual report under sub-clause (2) of clause 27; (h) any other matter which is required to be, or may be, prescribed, or in respect of which provision is to be or may be made by rules.

2. Sub-clause (1) of clause 53 of the Bill empowers the National Identification Authority of India to make, by notification, regulations to carry out the provisions of the proposed legislation consistent with the provisions of the proposed legislation and the rules made thereunder. Sub-clause (2) specifies the matters in respect of which such regulations may be made. These matters, *inter alia*, include: (i) the biometric information under sub-clause (e); the demographic information under sub-clause (h); the process of collecting demographic information and biometric information from the individuals by enrolling agencies under sub-clause (j) of clause 2; (ii) the manner of furnishing the demographic information and biometric information by the resident under sub-clause (1) of clause 3; and the manner of verifying the demographic information and biometric information for issue of aadhaar number under sub-clause (2) of clause 3; (iii) the procedure for authentication of the aadhaar number under sub-clause (1) of clause 5; (iv) the other functions to be performed by Central Identities Data Repository under clause 7; (v) the manner of updating biometric information and demographic information under clause 8; (vi) the other categories of individuals under clause 10 for whom

the Authority shall take special measures for allotment of aadhaar number; (vii) the time and places of meetings of the Authority and the procedure for transaction of business to be followed by it (including the quorum) under sub-clause (1) of clause 18; (viii) the salary and allowances payable to, and other terms and conditions of service of, the chief executive officer, officers and other employees of the Authority under sub-clause (3) of clause 20; (ix) various matters specified under clause 23; (x) the manner of accessing the identity information by the aadhaar number holder under sub-clause (3) of clause 30; (xi) the manner of alteration of demographic information under sub-clause (1) and biometric information under sub-clause (2) of clause 31; (xii) the manner of and the time for maintaining the request for authentication and the response thereon under sub-section (1) and the manner of obtaining, by the aadhaar number holder, the records of request for authentication and response thereon under sub-clause (2) of clause 32; (xiii) any other matter which is required to be, or may be, specified, or in respect of which provision is to be or may be made by regulations.

3. Clause 54 provides that every rule and every regulation made under the proposed legislation shall be laid, as soon as may be after it is made, before each House of Parliament.

4. The matters in respect of which rules and regulations may be made are matter of procedure or administrative detail and it is not practicable to provide for them in the Bill itself. The delegation of legislative power is therefore of a normal character.

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to provide for the establishment of the National Identification Authority of India for the purpose of issuing identification numbers to individuals residing in India and to certain other classes of individuals and manner of authentication of such individuals to facilitate access to benefits and services to such individuals to which they are entitled and for matter connected therewith or incidental thereto.

(Shri V. Narayanasamy, Minister of State in the Ministry of Planning and Parliamentary Affairs)