OPINION

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Amendments are necessary to make Aadhaar succeed

The determination to ensure government programmes and subsidies reaches the poorest of poor, farthest of the far is an article of faith of this government. Aadhaar and Jan Dhan Yojana (JDY) have become the core platforms to do this.

Of course, what is amusing is the Congress stand on this stronger and much more effective Aadhaar now. I don't envy their situation — On one hand they want to claim ownership of it but on the other hand, they want to pretend to apostles of cause of privacy and oppose it. So as our PM said in this house a few days ago — when everything is looked at either from so high in the sky or with tinted political lens — then even the best of initiatives will look bad — be it EVMs or Aadhaar. I urge the Congress to work with the government on the development of this powerful micro-architecture of Aadhaar and JDY that is truly making a difference to crores of Indians lives.

The Narendra Modi government has recognised that new areas like this — legislation needs to keep evolving and hence these amendments. Aadhaar and the wider JDY architecture — together and separately have many more roles it can play in use of technology to deliver better public services and governance in coming years. I welcome these amendments.

I will explain these amendments. These go to make Aadhaar stronger, with more oversight to those concerned about data protection but its important goal is to spreading its coverage and ensuring more and more of the poor get their subsidies and rights without leakage.

Offline verification of Aadhaar number holder: Under the Aadhaar Act, an individual's identity may be verified by Aadhaar 'authentication'. Authentication involves submitting the Aadhaar number, and their biometric or demographic information to the Central Identities Data Repository for verification. The Ordinance additionally allows "offline verification" of an individual's identity, without authentication, through modes specified by the Unique Identification Authority of India (UIDAI) by regulations. During offline verification, the agency must (i) obtain the consent of the individual, (ii) inform them of alternatives to sharing information, and (iii) not collect, use or store Aadhaar number or biometric information.

Voluntary use: The Act provides for the use of Aadhaar number as proof of identity of a person, subject to authentication. The Ordinance replaces this provision to state that an individual may voluntarily use his Aadhaar number to establish his identity, by authentication or offline verification. The Ordinance states that authentication of an individual's identity via Aadhaar, for the provision of any service, may be made mandatory only by a law of Parliament.

The Ordinance amends the Telegraph Act, 1885 and the Prevention of Money Laundering Act, 2002 to state that persons with a licence to maintain a telegraph, banking companies and financial institutions may verify the identity of their clients by: (i) authentication or offline verification of Aadhaar, (ii) passport, or (iii) any other documents notified by the central government. No person shall be denied any service for not having an Aadhaar number.

Entities using Aadhaar: Under the Act, usage of Aadhaar number for establishing the identity of an individual, by the State or a body corporate under any law, is permitted. The Ordinance removes this provision. An entity may be allowed to perform authentication through Aadhaar, if the UIDAI is satisfied that it is: (i) compliant with certain standards of privacy and security, or (ii) permitted by law, or (iii) seeking authentication for a purpose specified by the central government in the interest of the State.

Aadhaar number of children: The Ordinance specifies that at the time of enrolling a child to obtain an Aadhaar number, the enrolling agency shall seek the consent of his parent or guardian. The agency must inform the parent or guardian of the manner in which the information will be used, the recipients with whom it will be shared, and of their right to access the information. After attaining 18 years of age, the child may apply for cancellation of his Aadhaar.

Disclosure of information in certain cases: Under the Act, restrictions on security and confidentiality of Aadhaar related information do not apply in case the disclosure is pursuant to an order of a District Court (or above). The Ordinance amends this to allow such disclosure only for orders by High Courts (or above). Further, under the Act, an officer not below the rank of a Joint Secretary may issue directions for disclosing information in the interest of national security.

UIDAI Fund: Under the Act, all fees and revenue collected by the UIDAI will be credited to the Consolidated Fund of India. The Ordinance removes this provision, and creates the Unique Identification Authority of India Fund. All fees, grants, and charges received by the UIDAI shall be credited to this fund. The fund shall be used for expenses of the UIDAI, including salaries and allowances of its employees.

Complaints: Under the Act, courts can take cognizance of an offence only if the UIDAI registers a complaint. The Ordinance amends this to allow the individual to register complaints in certain cases, including impersonation or disclosure of their identity. The Ordinance defines the Aadhaar ecosystem to include enrolling agencies, requesting agencies, and offline verification-seeking entities. It allows the UIDAI to issue directions to them if necessary for the discharge of its functions under the Act.

Penalties: Under the Ordinance, the UIDAI may initiate a complaint against an entity in the Aadhaar ecosystem for failure to (i) comply with the Act or the UIDAI's directions, and (ii) furnish information required by the UIDAI. Adjudicating Officers appointed by the UIDAI shall decide such matters, and may impose penalties up to one crore rupees on such entities. The Telecom Disputes Settlement and Appellate Tribunal shall be the appellate authority.