

Re: Queries from Asia Times for a story on Aadhaar

From: **Sanjay Jain** |

Monday, 7 Jan, 12:13 AM

To: **Sharad Sharma** |

Cc: **saikat datta** |

Sanjay Jain |

Dear Saikat

Thank you for sharing the recording. None of the people who feature in the recording recollect being aware of this recording, and hence is unauthorized. I believe that what you hear in the recording is a conversation where we were discussing the second blog that I was writing at that time, and speculating on how we see the scenario unfolding, eventually melding into the topic of the meeting. For a 4 minute conversation, this is a wide swathe to cover. Our final views have been published, and I have already sent them your way([here](#), [here](#), and [here](#)). However, I do think that it allows us the opportunity to provide you with our responses to your questions, and context.

1. It appears that your understanding of the Supreme Court judgement on Aadhaar is very different from ours. We have elaborated on our view in the published pieces that I sent you earlier. To summarize (and provide context for this message): We believe that the court primarily upheld the Act, with some changes. The Supreme Court has clearly stated in multiple places, that there is no bar on a user using his identity to access services. The change to section 57 in particular, appear to derive from a need for judicial oversight (The majority judgement actually says so). Hence, for any use of Aadhaar, the government needs to provide a backing law. If required, this can be tested in the court for constitutionality.

2. Our view, at that time, was that the govt will modify the act, to bring it in compliance with the judgement. This would become law, and then subordinate rules / regulations would be published, so that the ecosystem can function smoothly.

This is not any kind of policy capture, but trying to read the tea leaves so that we could inform the startup community, and also respond to the data protection bill appropriately. In fact, that point is made in the recording as well: That we see the judgement, and the data protection bill are aligned.

3. iSPIRT has provided feedback on the data protection bill (available on our website). We are hopeful that the govt will introduce this bill to the parliament shortly. We really have no strong views on the sequence of introduction between the data protection bill, and the aadhaar amendment bill, as long as both come in. Beyond the public feedback, we have not had any interactions with the govt on either bill.

4. You have pointed to a published iSPIRT video, and appear to have misunderstood what was being said.

Could you please point out where we are positioning iSPIRT as an effort to avoid scrutiny RTI and CAG audits?

5. You have also asked for our views on the use of data:

The published iSPIRT view is that data must be used to empower individuals - which means that it must be used with their consent for purposes that they approve of.

My view has been that the data belongs to the individual, the government (via the UIDAI) is only a custodian. The system must empower people to use this identity for their benefit. BTW, this is true for any identity - for instance, the RTO does not dictate (outside of driving a vehicle) where I can, and cannot use my drivers license as an id. Similarly, the role of the UIDAI is being a custodian of the user data, and issuer of the id. They should have a role in defining the standards on access to the UIDAI servers, and how the data must be stored, and handled. The use should be defined by user consent.

Note: This is my personal view. I accept that a democratically elected govt, through a constitutional process may have a different view. In fact, the previous law, the supreme court judgements, and the current amendment provides the govt / UIDAI with much more control than this. Interestingly, some parts of the Supreme Court judgement do echo this sentiment, that the user can use this identity where they like.

6. There is no conflict of interest in my sequential employments at the UIDAI and Khosla Labs. This was clarified by the UIDAI, and Khosla Labs. There was a period of about 3 years between my leaving the UIDAI, and the launch of Aadhaar Bridge. There was no allegation that Khosla Labs received any undue favors from the UIDAI. The UIDAI clarification was clear that there was no special access granted to Khosla Labs.

There is nothing inappropriate in any of these conversations / actions at iSPIRT.

I believe that, even though the recording was unauthorized, and of deliberations that were work in progress, I have answered all your questions fairly. In return, I would ask that your reporting on this story be fair. Specifically, to ensure that this is not activism in the guise of journalism, we would like our response to be published in full.

Regards
Sanjay Jain
