

The UID project in India: Should non-citizen residents be concerned?

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Introduction

This essay attempts to comprehend the potential implications of the Unique Identification project (UID) or “Aadhaar” on non-citizen residents in India, specifically, refugees, asylum seekers, stateless persons and other “illegal” migrants who fall within the grey zones between citizens and non-citizens in India. The Aadhaar project poses a number of questions, including the constitutional right to privacy and issues of surveillance¹, on identity, the costs of the project, and many others. It gives an impression that only welfarist objectives animate the project but given the scale, costs and what it seeks to achieve in reality, it would be naïve to assume that such a system would leave non-citizens untouched especially in the context of the high degree of anxiety over issues of both internal and external national insecurity.

The unique identification number debate, it is argued needs to consider the possible impact it would have on non-citizen residents. They make up a small yet significant cross section of the resident population in India and find themselves in a society and polity that displays unique features in terms of how it regulates the presence and exit of foreigners in its territory. Further, the incoherence of the legal and administrative mechanism regulating asylum seekers, refugees and stateless persons in India has the potential to translate the lack of or precarious legal identities in social life of these individuals in ways that may negatively impact them. At the same time, it would be worth thinking aloud whether, on the contrary, the UID project would benefit refugees in the Indian context given that their limited rights are not translated in reality in the existing social, economic and political institutional set up. Questions of identity, surveillance and the citizenship of refugees/stateless/asylum seekers are all the more relevant given the anxieties displayed by the Indian state in relation to them. It is in this specific context of resident non-citizens that this paper intends to comprehend the complexities of this project.

As the mechanism and institutional structures to implement the Unique Identity Project have been put in place only recently and few reports² evaluating the pilot projects are available, this paper would arguably run the risk of speculation vis-à-vis the impact it would have on “foreigners”. It would thus be important to note that the points flagged and conclusions arrived at are drawn from personal experience of working with refugees and asylum seekers

¹ See for instance Usha Ramanathan, A Unique Identity Bill, 24 July 2010, Vol XLV, No. 30, Economic and Political Weekly, pp. 10-14, Taha Mehmood, The Fuzzy Logic of National Frontiers or a Frontier Nation: Reflections on the Multi-Purpose National Identity Card Scheme in India, Sarai Reader 2007: Frontiers, pp. 144-158.

² Surojit Mahalanobis, People count gaining smooth momentum, 23 July 2004, Times of India, <http://timesofindia.indiatimes.com/articleshow/788272.cms> (last accessed 21 August 2010), Dipak Mishra, Bihar govt refuses to implement ID-Card Plan, 13 February 2003, Times of India, <http://timesofindia.indiatimes.com/articleshow/37306745.cms> (last accessed 21 August 2010), Tusha Mittal, Falling between the barcodes, Vol.6, Issue 33, 22 August 2009, Tehelka, http://www.tehelka.com/story_main42.asp?filename=Ne220809falling_between.asp (last accessed 23 August 2010)

in Delhi as well as in Mizoram and the existing primary and analytical literature on the Unique Identity project.

The Origins and salient features of the UID Project

A pan-India project to “identify” each resident was formally inaugurated in 2009, with the establishment of the Unique Identification Authority of India (UIDAI) as an office attached to the Planning Commission.³ Headed by Mr Nandan Nilekani, the Chairperson with powers equivalent to that of a Minister of a Cabinet Rank, the UIDAI has a mandate to ensure a “unique” number to every resident in India to facilitate easy access to government schemes, eliminate fraud such as duplication of identities resulting in significant savings to the state. The unique number would include an individual’s demographic and personal information and biometric information – finger prints as well as the scan of the iris. The Unique Identity numbers are proposed to be issued between August 2010 and February 2011 and over the next 5 years, it is expected to reach 600 million residents.⁴

The UID “architecture” and the problems in the way the UID is visualized including its objective are well articulated in a recent article by Dr Usha Ramanathan.⁵ Some points may be reiterated as they are relevant in the context of refugees and other immigrant whose legal status is precarious. The UID is not mandatory and is “demand driven” – meaning that the way the project is visualized is to lead to a situation where residents would voluntarily opt for the number because of the benefits that would accrue.⁶ Considering that it is linked to services and benefits and the fact that the UIDAI has signed numerous Memoranda of Understanding (MoUs) with bodies, including banks, public sector agencies, private companies and civil society organizations, it is bound to compel an individual to apply for a number.

Though now projected as aiming to ensure better access to services and benefits for the poor by assigning and authenticating identity, the origins of the project can be traced to a series of events in the 1990s and after and debates within the government on the question of national security, terrorism and illegal immigration in India.⁷ The Kargil conflict between India and Pakistan is considered to have triggered the idea of the need to ensure that “terrorists” are

³ Unique Identification Authority of India, www.uidai.nic.in (accessed 5 August 2010)

⁴ Website of Unique Identification Authority of India, <http://www.uidai.nic.in/> (accessed 5 August 2010).

⁵ Usha Ramanathan, A Unique Identity Bill, 24 July 2010, Vol XLV, No. 30, Economic and Political Weekly, pp. 10-14, See also an earlier article by Taha Mehmood, The Fuzzy Logic of National Frontiers or a Frontier Nation: Reflections on the Multi-Purpose National Identity Card Scheme in India, Sarai Reader, 2007, Frontiers, pp.144-158.

⁶ See the Executive Summary of the document titled, Creating a unique identity number for every resident in India, Unique Identification Authority of India”, Working Paper – version 1.1, November 2009, http://wikileaks.org/wiki/Confidential_plans_for_1.2_billion_ID_cards:_Creating_a_Unique_ID_for_every_resident_in_India,_Nov_2009 (last accessed 21 August 2010). A confidential document of the UIDAI, this is not available on the website of the UIDAI.

⁷ See Taha Mehmood, Multi-Purpose National Identity Card, 9 December 2009, South Asia Citizens Wire, <http://www.sacw.net/article391.html> (accessed 5 August 2010). This article is a comprehensive summary of the events and debates leading up to the proposal for the Unique Identification numbering project. It traces the political developments from the 1990s that initiated the debate on “national security”, “border management” and related issues of “illegal immigration” to the latest in 2007 where the Planning Commission proposed the idea of an integrated smart cards system in a report titled Entitlement Reform for Empowering the Poor: The Integrated Smart Card, http://planningcommission.gov.in/aboutus/committee/wrkgrp11/wg11_smtcard.pdf (accessed 21 August 2010)

not allowed to enter the Indian territory. The Kargil Review Committee⁸ in its recommendations among others, noted the “gross inadequacies in the nation’s surveillance capability...”.⁹ It further recommended that “...steps should be taken to issue ID Cards to border villagers in certain vulnerable areas on a priority basis, pending its extension to other or all parts of the State. Such a policy would also be relevant in the North-East, Sikkim and part of West Bengal”.¹⁰ Several committees/bodies were set up in the 1990s¹¹ with a view to probe issues concerning internal security, border management, etc and evaluate the aspects of national security. The idea of the smart card system is not articulated explicitly anywhere excepting the Recommendations of the Kargil Review Committee but debates in the Lok Sabha between April and December 2001 see a number of questions being asked on smart cards system to be used for various services.¹² In 2006, the national e-governance plan of the Ministry of Information Technology listed the “National Citizens Database”¹³ as one of the 27 Mission Mode Projects towards ushering in “era of e-governance” so that it improves “the delivery of public services and simplify the process of accessing them”.¹⁴ Later in 2007, the Working Group on Development Policy in the Planning Commission came up with a report titled “Entitlement Reform for Empowering the Poor: The Integrated Smart Card Report (ISC)”¹⁵ where the idea of the identity card was elaborated.

The National Identification Authority of India Bill, 2010 (hereafter called the UID Bill) which if passed, would regulate the UIDAI does not mention the government’s national security concerns. Only a passing reference is made in the confidential document published by UIDAI titled ‘Creating a Unique Identity Number for Every Resident in India’¹⁶ where it notes that the inability to identify residents “complicates government efforts to account for residents during emergencies and *security threats*”.¹⁷ The UID Bill¹⁸ makes this clear in its Preamble where it notes that the objective is,

“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”¹⁹ to such individuals to which they are entitled and for matters connected therewith or incidental thereto.”

⁸ The full report of the Kargil Review Committee was not made available to the public and some news reports also suggest that the Prime Minister (at that time) was also not aware of the full contents of the report. However the Executive Summary is available at the following site, <http://nuclearweaponarchive.org/India/KargilRCA.html> (accessed August 2010)

⁹ *ibid*. See the Section on “Intelligence” in the Executive Summary.

¹⁰ *Ibid*. See Section on the Civil Military Liaison in the Executive Summary.

¹¹ Taha Mehmood, Multi-Purpose National Identity Card, 9 December 2009, South Asia Citizens Wire, <http://www.sacw.net/article391.html> (accessed 5 August 2010).

¹² *Ibid*. p.7.

¹³ <http://india.gov.in/outerwin.php?id=http://mit.gov.in/default.aspx?id=115> (last accessed 22 August 2010)

¹⁴ See the webpage of the National e-Governance Plan,

<http://india.gov.in/outerwin.php?id=http://mit.gov.in/default.aspx?id=115> (last accessed 22 August 2010)

¹⁵ “Entitlement Reform for Empowering the Poor: The Integrated Smart Card Report (ISC)”, <http://www.planningcommission.nic.in/aboutus/11strindx.html> (last accessed 22 August 2010)

¹⁶ Creating a unique identity number for every resident in India, Unique Identification Authority of India”, Working Paper – version 1.1, November 2009, http://wikileaks.org/wiki/Confidential_plans_for_1.2_billion_ID_cards:_Creating_a_Unique_ID_for_every_resident_in_India,_Nov_2009 (last accessed 21 August 2010).

¹⁷ *Ibid*. p.10

¹⁸ The Bill is available at <http://www.uidai.nic.in/>

¹⁹ Emphasis added.

Thus, the overarching character of the Aadhaar project appears to be “welfare”, which on a perfunctory reading may not amount to a red herring, but nevertheless relegates to the background several other crucial concerns. In giving the “welfare” hue to the Unique Identification numbering project, it makes what is clearly a simple, liner assumption of a direct link between an individual’s identity and access to benefits. The rationale is that the lack of identification results in the denial of services to those entitled to it. The document, ‘Creating a Unique Identity Number for Every Resident in India’²⁰ is relevant, for nowhere else among the UID documentation is this welfare argument explained in more detail. It notes,

*“A crucial factor that determines an individual’s well-being in a country is whether their identity is recognized in the eyes of the government. Weak identity limits the power of the country’s residents when it comes to claiming basic political and economic rights. The lack of identity is especially detrimental for the poor and the underprivileged, the people who live in India’s “social, political and economic periphery”. Agencies in both the public and private sector in India usually require a clear proof of identity to provide services. Since the poor often lack such documentation, they face enormous barriers in accessing benefits and subsidies”.*²¹

For a state that makes a very clear distinction between citizens and non-citizens and ensures that the latter are excluded as not entitled to be part of the membership of the political community, the reference to “residents” and their inability to access benefits is intriguing. Further, the link between a person’s identity and her access to benefits due to her is mediated through a variety of factors, including class, caste, gender, religion, race and access to information. Thus, to assert that the root cause of poverty and marginalization is solely an individual’s inability to identify to the satisfaction of the state is to refuse to acknowledge the role played by these factors in marginalizing individuals and creating an impoverished population. Second, identity itself is a fluid concept and cannot be easily frozen in rigid categories.

The Bill includes two other important points, on the question of surveillance, profiling and safeguarding of the information so that there is no misuse. Section 9 of the Bill states that, “The Authority shall not require any individual to give information pertaining to his race, religion, caste, tribe, ethnicity, language, income or health”. Among the features of the UID, it is noted is that it will not contain intelligence because “loading intelligence into identity numbers makes them susceptible to fraud and theft. The UID will be a random number”²². Lastly, Section 30 of the Bill ensures security and confidentiality of identity information of individuals. Section 33 makes an exception where it states that information can be disclosed if required by an order of a competent court²³ or in the interests of national security.²⁴

It has been argued that even though the Bill is silent and denies either profiling or centralizing information, “convergence is a predictable and inevitable consequence of the

²⁰ Supra note 11

²¹ Ibid. p.10.

²² Supra note 8, p.7.

²³ Section 33(a), UID Bill.

²⁴ Section 33(b) UID Bill.

UID project”.²⁵ Dr Ramanathan goes on to show how the UID along with other initiatives such as the National Intelligence Grid (NATGRID) makes it clear beyond doubt that surveillance is one of the key objectives of the project.²⁶

The “key that opens all doors”²⁷? What does the UID have in store for non-citizen residents?

As mentioned in the foregoing section, neither the UID Bill nor other related documents of the Authority make any mention of resident non-citizens, who include asylum seekers, refugees, stateless persons or “illegal” migrants or the likely implications the project may have on them given that it makes some strong assertions of the problems it seeks to remedy. It is thus logical to assume that the Bill is an innocent and innocuous piece of legislation with the sole purpose of assigning, verifying and authenticating “identity” with the aim to ensure better access to benefits for the poor. However, going by the history of the identity cards the world over²⁸, and India’s perennial anxiety over “terrorists” and “infiltrators”, it would be naïve to conclude that the project would exclude from its scope a small yet significant chunk of the population in India, which has continued to be seen as a “national security” concern for the state.

Should then this category of residents be concerned about the UID project? Will they benefit considering that they are easy targets for discrimination and exploitation in India or do the costs to them (in terms of monitoring, surveillance and profiling) outweigh the likely benefits? It would be pertinent to sketch in detail the nature and character of migration, their experiences and the broad framework under which they are regulated before an attempt is made to answer some of these questions.

Refugees, asylum seekers, stateless persons and other “illegal migrants” form a broad category of residents with fluid identity in India. A large majority of them share some form of ties with India – historical, religious, ethnic, language. The legal basis for their stay is varied. For instance, Nepali nationals are allowed to live, own property and carry out economic activities²⁹ under the Indo-Nepal Treaty of Peace and Friendship, 1950. Refugees

²⁵ Usha Ramanathan, A Unique Identity Bill, 24 July 2010, Vol XLV, No. 30, Economic and Political Weekly, pp. 10-14, at p.11.

²⁶ *ibid.*

²⁷ See for instance, Training Module on UIDAI and Aadhaar, Module I, UIDAI, Unique Identification Authority of India, Undated, p.10, <http://uidai.gov.in/documents/training/Module1-UID%20and%20AADHAR-Ver1.0.pdf> (accessed 23 August 2010). In the context of explaining the benefits of Aadhaar for residents, it notes, “The large number of residents who currently don’t have any identity documents and are therefore “excluded” from beneficiary lists can also get an ‘identity’ through the ‘**Introducer**’ system. AADHAAR number (or the UID) will thus become the ‘key that opens all doors’ – especially for the deprived and marginalized”. (emphasis in original)

²⁸ See for instance, Frequently Asked Questions put up on the website of the Privacy International, http://www.privacyinternational.org/issues/identity/identity_faq.html (last accessed 20 August 2010), See also Identity Cards Scheme will be axed ‘within 100 days’, 27 May 2010, BBC News, http://news.bbc.co.uk/2/hi/uk_news/politics/8707355.stm (last accessed 25 August 2010)

²⁹ Article 6 and 7 of the India Nepal Treaty of Peace and Friendship, 1950 are relevant.

Article 6 states, “Each government undertakes, in token of the neighbourly friendship between India and Nepal, to give to the nationals of the other, in its territory, national treatment with regard to participation in industrial and economic development of such territory and to the grant of concessions and contracts relating to such development”.

Article 7 states, “The Governments of India and Nepal agree to grant, on a reciprocal basis, to the nationals of one country in the territories of the other the same privileges in the matter of residence, ownership of property, participation in trade and commerce, movement and other privileges of a similar nature.” http://untreaty.un.org/unts/1_60000/3/9/00004432.pdf (accessed 23 August 2010)

and asylum seekers usually have some form of identification³⁰ and are considered to live legally in India. This category includes nationals from the African continent (Somalis, Sudanese, Congolese, Ethiopians), those from within the South Asian region, including the Burmese, Sri Lankan Tamils and Sinhalese, Bangladeshis, Pakistanis, Afghans, and Tibetans and lastly others from outside of South Asia including the Palestinians, Iranians, and Iraqis. It is impossible to say with accuracy, at least in case of those who share common ties with those of the North East India for instance, whether they are foreigners or part of Assam, Manipur, Mizoram or Arunachal. Some others such as stateless (for instance the Nepalis of Bhutanese origin who are unable to go back to Bhutan and are not recognized in India) and refugees who do not submit a claim for protection to UNHCR in New Delhi are “illegal foreigners” and if detected, are subject to deportation.

For the purposes of the law however, these are foreigners whose entry, stay and exit is regulated by a collective of legislations and orders passed under the Foreigners Act, 1946, the Registration of Foreigners Act, 1939, the Passports Act and the Citizenship Act. As these legislations emerged in a specific context of history and therefore do not take into consideration the complexities of immigration in India, they are inadequate in dealing with this category of non-citizens. Be that as it may, experience suggests that this they are dealt with uniformly (as in, treating all of them as foreigners, as opposed to recognizing the differences between a recognized refugee, a stateless person or a migrant), without acknowledging the specificities of their presence.

Most, if not all immigrants falling within this category share some similarities with the local host population, as in case of Bangladeshis, the Burmese, Nepalis, Sri Lankan Tamils and Pakistanis. Although the government has managed to monitor its borders on the western front more successfully and shows visible hostility towards the citizens from Pakistan, migration from across Bangladesh³¹ and Burma³² is relatively easier due to easy permeability of the borders, and informal trade. Bangladeshi nationals in the current political and economic dispensation have also attracted immense hostility.³³

Immigration and immigration management is complex because under the broad framework of the Constitution and the laws applying to foreigners and citizens is a combination of mostly ad-hoc administrative policies, agreements and practices that reflect the nature of migration, the nationality of immigrants, India’s foreign policy and the political relations between the two countries. The powers of the Central government are plenary³⁴ and because

³⁰ They are required to register with UNHCR in Delhi and hold at least an Under Consideration Certificate, which is made infructuous until the decision on their refugee claim is made final.

³¹ Among the studies that look in detail at the Bangladeshi migration into India from a non-strategic studies perspective include, Ranabir Samaddar, *The Marginal Nation: Transborder Migration from Bangladesh to West Bengal*, New Delhi, Sage Publications, 1999.

³² Literature on Burmese migration into India abounds. See for instance, Subir Bhaumik, *The Returnees and the Refugees: Migration from Burma*, in Ranabir Samaddar (Ed) *Refugees and the State: Practices of Asylum and Care in India, 1947-2000*, pg. 182-210, Sage Publications, 2003. Sabyasachi Basu Ray Chaudhuri, *Burma: Escape to Ordeal*, in Banerjee, Ray Chaudhuri and Das, *Internal Displacement in South Asia*, Sage Publications, 2005. For news reports, see Khonumthung News, www.khonumthung.org, a print media in exile based in Aizawl, Mizoram.

³³ See for instance the 175th Report of the Law Commission of India on the Foreigners (Amendment) Bill 2000, (available at <http://lawcommissionofindia.nic.in/reports/175thReport.pdf>). The report focused on the “illegal immigration” from “neighbouring countries” but refers almost exclusively to “infiltrators” from Bangladesh.

³⁴ Immigration and citizenship falls under the Union List of the Constitution.

they involve questions of “national security”, policies and regulations may be kept outside the purview of the citizen’s right to information. This information asymmetry has practical and adverse implications for refugees and asylum seekers and generally in understanding the framework within which this specific category of non-citizen residents are managed and regulated.

Furthermore, under the broad policy can be seen a network of institutions at the Central as well as State level that through various practices regulate and monitor the immigrant population in India. Important to name at the central level is the Ministry of Home Affairs (MHA) which is overall in charge of immigration and citizenship, the Foreigners Regional Registration Office, a body constituted under MHA which monitors and registers all foreigners entering India, including refugees, the Office of the United Nations High Commissioner for Refugees (UNHCR), which within a limited mandate in India carries out refugee status determination of individuals other than nationals from Sri Lanka and Tibet, the police and civil society groups. At the state level, similar bodies and authorities are mandated with powers in relation to immigration, citizenship and foreigners.

Ad-hocism in the existing broad immigration policy means that each refugee or immigrant community is dealt with separately in terms of its rights and entitlements. It may not always be detrimental for it offers space for refugees, in certain situations to use this ad-hocism to their advantage. A classic instance is the ease with which Burmese nationals who as recognized refugees in India are able to hold Indian passports.

Thus what is true of one refugee community may not necessarily apply to others. Two examples may be given as an illustration of the ad-hoc nature of the policy. Sri Lankan Tamil nationals and the Tibetans in India are recognized as refugees fleeing persecution and are accorded a legal status. This overt acknowledgment by the government of their status as refugees affords them opportunities for employment, education and health care. In case of the Sri Lankan Tamils, for example, the Government of Tamil Nadu is closely involved in monitoring and assistance. On the other hand, the Somalis and other refugees from the African region receive a minimal support in reality even though they are accorded refugee status by UNHCR. Most Somalis for instance, due to reasons of race, religion, absence of the knowledge of the local language etc are unable to access opportunities, social and economic protection and legal rights that is in theory open to them.

While differences in policy have a bearing on the practices of care, the geographic location of refugees/asylum seekers/stateless persons also assumes an important role and determines the response of various administrative bodies. Thus for instance, recognized Somali refugees living in Delhi and those living in Hyderabad get treated differently. Those in Delhi get a monetary assistance from UNHCR, those in Hyderabad are denied the same. This is due mainly to the inability of UNHCR to monitor refugees in Hyderabad.

The question of identity assumes importance in the context of refugees, asylum seekers and stateless persons. For instance, the Burmese, especially the Chins, Kachins, Arakanese and the Burmans, are known to seek asylum in India. However, the fact that the Chins, Kachins, and Arakanese are also native of India (the Chins, Kachins and Arakanese were divided

during the partition into two separate states of India and Burma) and live in Mizoram, Manipur and Arunachal Pradesh makes it difficult to identify with accuracy an Indian from a Burmese.³⁵ The problems that this may create are not difficult to anticipate like the following example suggests.³⁶ An article in *Business World* reported how Indian citizens were categorized as foreigners despite holding valid Voters Identity Card issued by the Election Commission of India because they identified Nepali as their mother tongue.

In yet another instance, Chin refugees (who mostly flee from Chin state and Sagaing Division in Burma) are most often indistinguishable from the Mizos in Mizoram. Additionally the informal trade and the political situation in Chin state has led to a large number of Chins to live and work. This is recognized and allowed with the active knowledge of those in power. Informal conversations with UNHCR and unverified reports from the Burmese community in Delhi also suggest that Mizos have claimed refugee status pretending to be Chins as this community has benefited the most from resettlement initiatives. In responding to the large influx of Chins in Mizoram, a civil society group called the Young Mizo Association recently initiated a project of identifying each Chin in the entire state. Though conceived in earnestness with a view to deport those that engage in “criminal” activities, it has not been possible for such a mapping to succeed.³⁷

In a last example, the Kachin refugees from Burma, though small in number in comparison to the Chin refugees (approximately 1 per cent of the approximately 8000 Burmese refugees in India³⁸) share ethnic, religious and cultural similarities from the Kachins who are found to live in Arunachal Pradesh. What is being suggested is that events such as seasonal migration, and factors such as religious and ethnic ties call into question the assertion that identity can be frozen, verified and authenticated thereby resolving either issues of security or access to welfare measures. Likewise, the Afghans, Somalis and other nationalities who arrive in Delhi, Hyderabad or other cities in India are equally subject to fluid identities; some are students, others asylum seekers, and yet others stateless because neither government – the state of which the person is a national or the state in which he seeks asylum – recognizes him as a member of its community.³⁹

The experience of refugees and asylum seekers in urban cities like Delhi in the way they relate to institutions and the society are mixed. There exists a high level of distrust with state institutions such as the Ministry of Home Affairs, the FRRO and the Police.⁴⁰ A sense of ineffectiveness with other institutions like the health care system and the educational system is also prevalent. Under the UNHCR policy and the informal understanding between the government and the UNCHR, refugees and asylum seekers are entitled to state support in

³⁵ It is a different matter that individuals from the “North East” and the Burmese living in India are often called “Nepali”, a derogatory term disliked by both the North Easterners and the Burmese.

³⁶ Jyothi Thapa Mani, *Citizenship issues plague Nepali-speaking Indians too*, 14 March 2008, *Business World*, <http://www.businessworld.in/index.php/Miscellaneous/Identity-Crisis.html> (last accessed 26 August 2010)

³⁷ Sahana Basavapatna, *Sanitized Society and Dangerous Interlopers II: Law and the Chins in Mizoram*, pp. 31-49 at p. 38, in Anjuman Ara Begum, Chitra Ahanthem and Sahana Basavapatna, *Endangered Lives on the Border: Women in the North East, Policies and Practices*, No. 33, May 2010, Mahanirban Calcutta Research Group.

³⁸ From UNHCR monthly brief for India - numbers

³⁹ Shanta Thiagarajan, *Palestinian refugee rendered stateless in India*, *Times of India*, 19 August 2010, <http://timesofindia.indiatimes.com/articleshow/6333369.cms> (accessed 19 August 2010).

⁴⁰ See for instance, *Battling to Survive: A Study of Burmese Asylum Seekers and Refugees in Delhi*, 2010, The Other Media Publications.

areas of health care and education. Employment is legally not permitted but a large number of refugees and asylum seekers work in the informal sector. State support means that with the assistance of UNHCR and its Implementing partner agencies, refugees and asylum seekers have avenues for health care and education in state institutions. As several studies suggest, multiple factors such as lack of information, insufficient support structures, and absence of documents are responsible for the extent of success.⁴¹

This sketch of the non-citizen resident population brings the question of identity, surveillance and welfare to the centre stage. In a paradoxical situation, the institutional hold over the refugee in the existing scenario is immense but at the same time, there is enough opportunity to get past the institutional barriers. What is intended to be conveyed by the foregoing sketch of the situation of refugees and others is that they inhabit a zone of the excluded with attempts to take on the identity that is convenient to them to ensure that the law does not reach them merely because the political realities does not favour their presence within the territory. The exclusion is built into the political system; a clear instance of which is the absence of a refugee law but covert recognition of some refugee groups.⁴² The UID then is a technology that assists in further excluding the already marginalized. The project asserts that it is only in the “identity business”⁴³ and that the “responsibility of tracking beneficiaries and the governance of service delivery will continue to remain with the respective agencies...”⁴⁴

Conclusion

If the basic assumptions made in the UID project is any indication, residents of India are unlikely to benefit from such a project. Access to benefits and schemes and detection and elimination of fraud are worthy goals and are not denied. However, there exists numerous ways in which residents’ identity is verified and sufficient documents that aid in authenticating the same. If the passports and ration cards run the risk of being misused, there is no guarantee, given the scale and the reach of technology in India, that the unique numbering project will be error free.

It is important to reiterate that the assumptions made are an oversimplification of a complex society that witnesses the interplay of caste, class, gender in relating to individuals and the

⁴¹ An example of how ad-hoc the refugee policy in India is, relates to a case of a Burmese refugee who was able to undergo a heart surgery free of cost in a government hospital. The cost of the surgery was around Rs 40,000 which the refugee would not have been able to afford as he had practically no income. Sahana Basavapatna, Access to Health Care for Refugees in Delhi, March 2009, Refugee Watch Online, <http://refugeewatchonline.blogspot.com/2009/03/access-to-health-care-for-refugees-in.html> (accessed 26 August 2010)

⁴² An example are the Burmese refugees, who on recognition are entitled to the Residence Permits, issued by the FRRO. This under refugee law amount to covert recognition of the Burmese as refugees in India. On the other hand, other refugee groups such as the Somalis or the Iranians for instance are not given Residence Permits. For more on this aspect, see Basavapatna Sahana, (August 2009), Residence Permits for Refugees in India: Ad-hocism, Confusion and lack of clarity within the government, <http://refugeewatchonline.blogspot.com/2009/08/residence-permits-for-refugees-in-india.html> (last accessed 26 August 2010)

⁴³ Creating a unique identity number for every resident in India, Unique Identification Authority of India”, Working Paper – version 1.1, November 2009, p.26, http://wikileaks.org/wiki/Confidential_plans_for_1.2_billion_ID_cards:_Creating_a_Unique_ID_for_every_resident_in_India,_Nov_2009 (last accessed 21 August 2010).

⁴⁴ Ibid.

society as a whole. To then assert that technology will play a role in overcoming all these barriers is to valorize technology at the cost of social, economic and political realities.

Earlier in this essay, while pointing out that the importance given to the welfare goal in the project may not be a red herring, I wish to indicate that given the experiences of individuals who find themselves in the margins of the political society, the over emphasis on welfare for the poor and the marginalized does deflect attention from the core issue – i.e., the use of this mechanism to monitor the movements of immigrant in India. Going by the track record of various identity card projects, it is safe to conclude that detection of and control of illegal immigration has been one of the important reasons for opting for such a mechanism.⁴⁵ It is for the immigrant community, including those who are illegalized and criminalized in law to be aware of the ramifications of such an initiative.

⁴⁵ A useful explanation on the Privacy International website is on the main motivation behind the identity card project generally. See http://www.privacyinternational.org/issues/idcard/idcard_faq.html (last accessed 20 August 2010).