

New Delhi, 4 June 2016

To,

The Joint Secretary (Internal Security- I)
Ministry of Home Affairs
New Delhi 110001

Dear Sir/Madam,

Thank you for the opportunity to comment on the draft Geospatial Information Regulation Bill 2016.

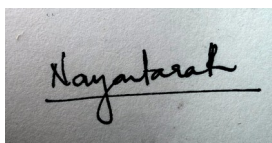
Please find below the response from the Internet Democracy Project (www.internetdemocracy.in). The comments include inputs from Nidhi Goyal, disability and gender rights activist and Sexuality and Disability Project, Point of View.

The Internet Democracy Project is a Delhi-based civil society initiative that works for an internet that supports freedom of expression, democracy and social justice through research, advocacy and debate in India, and beyond.

We have highlighted our concerns with the bill, and we hope that they are taken into consideration.

Thank you and yours sincerely,

For the Internet Democracy Project,



Nayantara Ranganathan
Programme Manager- Freedom of Expression,
Internet Democracy Project

Internet Democracy Project's
Comments to the Geospatial Information Regulation Bill

The Geospatial Information Regulation Bill exceeds its mandate of regulating geospatial information which is likely to affect the security, sovereignty and integrity of India.

Mapping has been a tool that has allowed communities to stake claims on their environment since long before the internet and mobile phones arrived. With the advent of accessible mapping technologies, the benefits have reached a much wider number of people. Liberalisation of geospatial data has made possible the addition of different attributes to maps, for anyone with a GPS device or access to free satellite imagery, and led to the mushrooming of many kinds of businesses that use location data. Collaborative mapping efforts have led to non-commercial and non-proprietary geospatial information being in the public domain. The proliferation of devices that have the ability to capture geographical coordinates has enabled a range of everyday uses at an individual level as well. Going back to a system where the government is the main entity that can acquire/disseminate/publish/distribute geospatial information, is not only untenable (for reasons to follow) but also a regressive step for a country claiming to move towards open access of information and increased digitisation.

The bill does not mitigate the risks it seeks to address, while at the same time harming ease of business and a wide range of communities/activities. It does prevent non-Indians who may wish to acquire/disseminate/publish/distribute information forbidden for Indian citizens, therefore not quite insulating against national security risks that the government imagines to mitigate.

Scope of the bill is extremely wide

The definition of 'geospatial information' is so wide that it covers any information referenced to a co-ordinate system (Section 2(e)). The penalties for acquiring geospatial information in violation of provisions of the bill range from Rs. 1 crore to Rs. 100 crores, and/or imprisonment upto 7 years. In the event that one is unable to pay the heavy fines that the bill stipulates, the government is free to recover the amount as an arrear of land revenue (Section 22)- a highly disproportionate punishment for an offense that might very well be committed inadvertently. Phones are fitted with GPS systems which often record location information as default as part of meta-data of photographs and messages. Simply by taking a picture, a person might inadvertently be responsible for publishing geospatial data and be liable for punishment. Similarly, illegal dissemination, publication or distribution of geospatial information is punishable with a fine upto Rs. 100 crores and/or imprisonment upto 7 years, making it a harsher crime than sexual harassment and attempting acid attacks.

Security Vetting Authority practically useless for many type of applications

Any real use of value-addition to maps would be defeated with the requirement of vetting, as many real-time applications cannot wait for a license in order to utilise information like, say, traffic density data. One of the provisions in the Guidelines for Implementation of National Map Policy is sufficient insofar as it is able to vet any business models that use geospatial data. (*'Procedure for value addition: Inasmuch as the National Map Policy is aimed at encouraging a flourishing geospatial industry and related knowledge services, there is much expectation from the industry to do value additions to the products of SOI. SOI encourages individuals/industry to do value addition. Intending value adders will submit a business model indicating the products to be generated and marketing strategy and also execute a Memorandum of Agreement (MOA) with SOI.'*)

A large part of digitally mediated services make use of geo-referenced data to simplify logistics. Location information is critical to fleet management- the most common examples being food delivery and cab service. Geospatial information is at the core of applications like these and driving innovation in the respective sectors, and a large range of them would be affected with the passage of this bill. A licensing agency that vets every addition to the map cannot address the use-cases of several applications which have constantly changing information, and cannot wait for 3 months in addition to incurring costs arising from such requirement. The load on such an agency would also be enormous, rendering it ineffective and a hindrance to any meaningful use of swiftly-changing geo-referenced information.

Non-commercial uses of maps affected

A range of non-commercial applications of Geographic Information Systems will be hit. Humanitarian efforts have been revolutionised in the aftermath of availability of high-quality satellite imagery. This has led to the mapping of areas after earthquakes and floods have hit areas like Nepal and Chennai, and enabled volunteers to provide information about condition of roads and availability of relief. These use-cases would not be possible with the current bill. By covering practically any visual representation of information about coordinates (Section 4), the bill impedes several academic uses that maps come to in fields like architecture.

Further, the bill disproportionately affects many marginalised communities for whom mapping has been a crucial tool in recording and using information about their surroundings and demanding rights. Two specific examples of marginalised communities affected by regulation of geospatial information are provided below, to highlight the problematic nature of the bill for different kinds of groups-

A. Persons with disabilities

The bill has a huge adverse impact on the independence of persons with disabilities [PWDs]. In the recent past, assistive devices have altered the landscape for persons with disabilities in education, employment and for an overall independent living. Given the ambitious dimensions of the Accessible India campaign, the bill in its current form is a huge impediment to empowering PWDs. Before the

advent of assistive devices, PWDs relied on human assistance to help them reach places. Maps are an integral part of assistive devices, and help PWDs commute and find their offices, homes, places of recreation etc. By regulating map use, the government is essentially pushing the situation of PWDs back by 20 years, putting PWDs back at the mercy of strangers on the street. This is an extremely regressive step.

Women with disabilities are more prone to abuse than non-disabled women. Safety mechanisms for women with disabilities are heavily lacking. Given the inaccessible environment combined with safety issues, women with disabilities find it extremely challenging to independently step out. Maps aid women with disabilities and help ensure that auto rickshaws or taxis take them to the intended destinations. Maps on smartphones are a device that enable safe commute for women with disabilities, and regulating their use of maps end up restricting them to their houses, making it extremely risky to access the outdoors.

B. Forest dwelling communities

Forest dwelling communities have been engaged in the management and conservation of forests they occupy, apart from using it. Rights over homestead land that they have occupied for generations were not recognised before the passage of Scheduled Tribes and Other Traditional Forest Dwellers (Recognition of Forest Rights) Act [FRA] in 2006. The procedure provided in the hard-fought FRA, which recognises claims to forest areas by communities who have resided there for generations, relies on mapping as one of the core evidences.

Introduction of the bill poses a big question mark on the claims process provided for in the FRA, as acquisition of geospatial information by any person is illegal under it. The broad definition of 'geospatial information' draws within its sweep hand-drawn maps that include natural features and landmarks referenced to a coordinate system. The definition also includes the acquisition and use of GPS information. Both of these mapping techniques are widely used in the process of filing individual and community forest rights claims.

The government can very well amend the Act/rules to accommodate the requirements of the bill, but by making the maps of claimants amenable to the Security Vetting Authority and records held by the government, the measure of self-determination that the FRA sought to recognise and vest, is weakened. The FRA is important precisely because it gives the communities an avenue to bring issue over erasure of their existence in forests, and mapping has empowered them where property documents and title deeds have failed.

Government's own plans affected

Some emancipatory uses of technology, as conceptualised by the government also envisage use of geospatial information. The panic button feature, soon to be a mandatory requirement of GPS on all smartphones and feature phones, aims to improve safety of women by leveraging the power of accessible location sharing by almost anyone with a phone. These plans cannot be operationalised if the current bill is passed.

The bill is incompatible with the recently released National Geospatial Policy 2016, which recognises the importance of geospatial data, products, services and solutions in the context of national development. It points to an exponential growth of actors involved in the generation and use of geospatial information and recognises restrictions on map information as a thing of the past.

Wide surveillance powers to Enforcement Authority

The Apex Committee is empowered to ‘do all such acts and deeds that may be necessary **or otherwise desirable**’ including making regulations for surveillance and monitoring to ensure implementation of the bill (Section 7(2)). The bill gives the Enforcement Authority freedom to do surveillance and monitoring ‘as may be required’ (Section 17(3)) and gives unrestricted access for searching any individual and her devices, purely based on suspicion that she might be in violation of the provisions of the bill. (Section 18(2)). These unprecedented powers of surveillance and monitoring of a government authority on the basis of mere suspicion, are shockingly invasive and lend easily to misuse.

In conclusion

For reasons argued above, the bill in its current form hurts the country’s aspirations to allow businesses to innovate, empower citizens and marginalised communities with technology, and enable participatory decision making. The bill is in dissonance with several policies already in place, which account for national security concerns, like the National Map Policy 2005, National Geospatial Policy 2016, Remote Sensing Data Policy 2011. Given that the bill fails to mitigate the risks it seeks to address, the bill in its current form should be withdrawn and measures to strengthen implementation of existing policies related to geospatial information should be explored.