

Draft Geospatial Information Regulation Bill, 2016

Context and Issues

Introduction

Geospatial information plays a significant role in a digital economy, as the targeted delivery of services through technology requires the creation and usage of geographical data. The draft Geospatial Information Regulation Bill, 2016 seeks to regulate “the acquisition, dissemination, publication and distribution of geospatial information of India” in the interest of national security, sovereignty and integrity of India. In its current form, the Bill is likely to affect not only digital providers of map services such as Google Maps, but also commonly used software applications which generate geospatial data in any form. These concerns necessitate an examination of the Bill as well as exploring alternate approaches to address the concerns.

Understanding Geospatial Information

Geospatial information, or location information, refers to information regarding the location and names of features on, above or beneath the earth's surface. Geospatial information can also include different location-related datasets combined into geographically mapped layers that show information such as land use and population density.

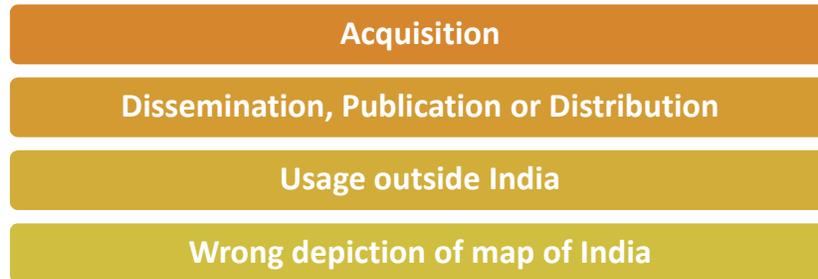
The usage of geospatial information manifests in a wide range government and community activities like disaster management (locating the focal point of disasters) or planning and development of public services (deciding where to build a new hospital or school). Apart from this, geospatial information also aids businesses, non-profit organisations, research organisations, among others. As such, access to geospatial information is crucial for the development of a nation.

The Geospatial Information Regulation Bill: Key Features

1. Regulation of Geospatial Information

The Geospatial Bill seeks to regulate four major aspects regarding geospatial data. These include:

- Acquisition of geospatial information in India
- Dissemination, publication or distribution of geospatial information in India
- Usage of geospatial information outside India
- Wrong depiction of map of India



The Bill prohibits the acquisition of geospatial imagery or data of any part of India either through any space or aerial platforms or terrestrial vehicles, or any other means whatsoever, except under the procedure established by the Act. Moreover, every person who has already acquired any geospatial imagery or data of any part of India, has to within a period of one year, regularize the information by seeking permission from the Security Vetting Authority as constituted by the provisions of this Bill.¹

The Bill also prohibits the dissemination or visualization of any geospatial information of India, either through internet platforms or online services and the usage of geospatial information outside India without obtaining permission from the Security Vetting Authority.²

One of the central features of the Bill is its response to wrongful depictions of the India's territorial boundaries by other nations as well as companies. Section 6 of the Bill prohibits the depiction, dissemination, publication or distribution of any wrong or false topographic information of India including international boundaries through internet platforms or online services or in any electronic or physical form.³

2. Security Vetting Authority

The Bill provides for the setting up of a Security Vetting Authority to carry out security vetting of issues related to Geospatial Information of India in a time bound manner. The Chairman of the Authority shall be of the rank of Joint Secretary to the Government of India or above. The two remaining members of the committee shall include a technical expert and a national security expert.⁴

3. Licensing Process

The Bill provides that a license shall be issued by the Security Vetting Authority to acquire, disseminate, publish or distribute any geospatial information of India. The license shall be issued after ensuring that the applicant has complied with all terms and conditions decided by the Authority.⁵ The license may be revoked if the licensee fails to comply with the terms and conditions prescribed under the license.⁶ Moreover, the licensee is obligated to ensure that information which is not vetted by the Authority is not published or disseminated.⁷

¹ Section 3, The Geospatial Information Regulation Bill, 2016.

² Section 4 & 5, The Geospatial Information Regulation Bill, 2016.

³ Section 6, The Geospatial Information Regulation Bill, 2016.

⁴ Section 8, The Geospatial Information Regulation Bill, 2016

⁵ Section 9, The Geospatial Information Regulation Bill, 2016.

⁶ Section 10, The Geospatial Information Regulation Bill, 2016.

⁷ Section 11, The Geospatial Information Regulation Bill, 2016.

4. Penalties

The Bill provides a penalty ranging from Rs. 1 crore to Rs. 100 crore and/or imprisonment for a period upto seven years, for wrongful acquisition, dissemination, publication, distribution of geospatial information of India and its usage outside India. For the wrongful depiction of the map of India and for the violation of the terms and conditions of the license, the Bill provides a penalty ranging from Rs. 10 lakhs to Rs. 100 crore and/or imprisonment for a period upto seven years.

The Geospatial Information Regulation Bill: Issues

1. Extent and Applicability

The Bill defines 'geospatial information' as "geospatial imagery or data acquired through space or aerial platforms such as satellite, aircrafts, airships, balloons, unmanned aerial vehicles; or graphical or digital data depicting natural or man-made physical features, phenomenon or boundaries of the earth or any information related thereto including surveys, charts, maps, terrestrial photos referenced to a co-ordinate system and having attributes". The definition does not distinguish between different forms of geospatial information such as a spatial data used by road navigation system and sensitive data which may be particularly important for protecting the security and integrity of the state.

In its present form, the Bill may be interpreted to apply to a wide spectrum of applications such as those which use geospatial information for delivery of products, communication, locating services such as taxis, hotels and restaurants, health and fitness based applications which also track distances using geo-spatial information among others. It may also apply to applications which link pictures or data to a geographical coordinate, commonly referred to as geo-tagging. Moreover, since the Bill applies to all individuals and not just corporations, by virtue of its scope, every user of such application may become automatically liable under the Bill for acquisition and distribution of geospatial data. This possible extensive scope of the Bill can make its implementation difficult and thus irrelevant. Therefore, the Bill needs to distinguish between sensitive data and data which is essential for day to day operation in a digital age.



2. Licensing regime

The provisions for the licensing mechanism under the Bill can be difficult to implement. Any acquisition of geospatial data has to be submitted to the Vetting Authority which in turn would vet the data and return it within a stipulated time frame. Given the potential of acquisition of geospatial data at the each level of user, there would be tremendous amount of information requiring vetting by the Authority. This could lead to severe bottlenecks in

disposal leading to the process becoming too arduous and disincentivizing use and development of the huge potential in geo-spatial applications.

Moreover, delays in vetting the information or issuing a license each time would defeat the purpose of using the information in real time for various purposes. Thus, the licensing regime would only create hurdles for the effective use of geospatial information.

3. Conflicting Purposes

The licensing regime created through the legislation comes in direct conflict with other government initiatives such as *Start Up India*, and *Digital India* which promote the dissemination of technology, open data and tries to foster the growth of private enterprises. Most new startups provide targeted services to consumers which require the acquisition and usage of geospatial information. To that effect, the Geospatial Bill may deter the progress made in these initiatives by creating additional hurdles for the setting up of new enterprises and for the dissemination of technology.

Existing Regulatory Framework: Geographical Data in India

India has had a history of regulating the depiction of its borders and dissemination of geographical data since colonial times. This can be attributed to security concerns and partly, to the conflict in the depiction of its borders. There have been policies in place which prevent the inaccurate depiction of maps and illegal distribution of geographical data. The National Map Policy, the Remote Sensing Data policy and the Civil Aviation Policy target the creation of geographical data in areas which are important for national security.

National Map Policy, 2005	<ul style="list-style-type: none"> • Guidelines regarding depiction of Indian territory issued by Survey of India
Remote Sensing Data Policy, 2011	<ul style="list-style-type: none"> • Regulates satellite-based mapping
Civil Aviation Requirement, 2012	<ul style="list-style-type: none"> • Regulates mapping and photography using flights and drones.

Moreover, action against incorrect depiction of the Indian territory can also be pursued under Section 69A of the Information Technology Act, 2000, the Official Secrets Act, 1923, which restricts the collection and sharing of information about 'prohibited places', the Customs Act, 1962, which prohibits the export and import of certain maps, and the Criminal Law (Amendment) Act, 1990. In the existence of these policies, the Geospatial Bill must consider its scope and effectiveness in regulating geospatial data for protecting the sovereignty and security of India.

Conclusion

The Draft Geospatial Information Regulation Bill, 2016 seeks to regulate the geospatial information with the intent to protect the sovereignty and national security of India. However, it stops short of accommodating the immense practical usage of geospatial information in the digital world. Moreover, such regulation creates hurdles for the functioning of a digital economy which relies heavy on geospatial technology. The Bill may require to be revisited to arrive at a reasonable way to distinguish between sensitive and non-sensitive data.