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Issue Brief

The Geospatial Information Regulation Bill: A Political Standoff between India, Pakistan and the people of IoK

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On May 4, 2016, the Indian Ministry of Home Affairs proposed the Geospatial Information Regulation Bill (GIRB). The Bill is meant to regulate the acquisition, dissemination, publication and distribution of geospatial information of India. The permission of the Government of India would be mandatory while adding or creating any information related to geospatial imagery, data acquired through space or aerial platforms such as satellites, aircrafts, airships, balloons or unmanned aerial vehicles. Anyone disseminating, publishing or distributing information in contravention of the section 4 of the bill will be punished with a fine ranging from Rs. 1 crore to Rs. 100 crore and/or imprisonment for a period of up to seven years.

Similarly, graphical or digital data showing natural or man-made physical features, phenomenon or boundaries (including international boundaries of the states) on the earth would require the consent of the Indian Security Vetting Authority. The Authority would have the powers to grant licenses to organisations or individuals for the use of geospatial data.

The draft resolution has also proposed the setting up of four enforcement bodies: An Apex Committee, A Security Vetting Authority and an Enforcement and Appellant Authority to ensure non-distribution of the maps deemed "wrong" by the Indian government.

The Bill is apparently designed to ascertain the security, sovereignty and integrity of India. It would have its impact on every individual, organisation or business that may or may not agree with the geospatial definition of Indian geographical boundaries. It is therefore contested over privacy, free flow of information and innovation.

The Bill has stirred serious concerns for Pakistan. The incorporation of Indian Occupied Kashmir (IoK) in Indian Geospatial map has generated controversies over UN resolutions on Occupied Kashmir. A press release from the Pakistan foreign office stated, "through the passage of this Bill, the Indian government would penalise the individuals and organisations who depict Jammu and Kashmir as a disputed territory as per the United Nations Security Council (UNSC) resolutions".

The statement by the spokesman of Indian External Affairs Ministry Vikas Swarup that the state of (Jammu & Kashmir) was an integral part of India, and that the proposed Geospatial Information

Regulation Bill was an "entirely internal legislative matter of India"¹, is a blatant mockery of the world opinion.

Illustrated by the map published in *The Hindu* on May 9, 2016, the bill is an addition to the draconian laws already imposed in the IoK. It inflicts non-democratic restrictions by bringing back the days of license regime, for example, for the businessman of IoK who would require permission from the Central government of India for the initiation of any business or trade. Licences will be given to only a select few. The Bill also endangers intra-Kashmir trade which is a vital component of the peace process between India and Pakistan.



Source: The Hindu, May 9, 2016

Kashmir is a disputed territory and is a core issue between India and Pakistan. It is an underlying cause of tension between the two. Efforts have been made to resolve the issue both on multilateral and bilateral forums. More than one hundred and fifty rounds of talks have been held between India and Pakistan but the issue has deepened even further within the folds of asymmetrical perceptions. The map published by *The Hindu* as part of the new Bill shows not only the Northern Areas of Pakistan as part of the Indian Union, but also the areas of Aksai Chin that is a part of China. The Bill and the map challenge the legality of the UN resolutions on the status of Kashmir, and present a one-sided interpretation of the boundaries of present day India.

¹ "Indian Maps Bill a travesty of history, international law: Pak's UN envoy", *Dawn*, (Islamabad), May 18, 2016.

The issue of Jammu and Kashmir has a validity according to UN Security Council's Resolutions 47 and 49, stating that:

"The question of the accession of the state of Jammu & Kashmir to India or Pakistan will be decided through the democratic method of free and impartial plebiscite."²

The obligations and implementation of the UN resolutions is reiterated in Article 25 of the UN Charter.

The Bill presents a classic illustration of the concerns of an insecure Indian state fostering its own existence at the cost of basic liberties. Privacy, open data sharing, human dignity, constructive speech or expressions are all assaulted by the justification of "national security" and "nationalism".

Kashmir is already being victimised by the dual strategy of territorial nationalism through judicial adjustments made in Article 370 of Indian Constitution. According to this Article, loK enjoys a special status. The Article is being gradually eroded in order to consolidate the state into the mainstream of Indian politics. The inclusion of loK in the plans of GIRB is in the same vein.

With the enforcement of a licence regime through the implementation of the GIRB, the Indian government now seeks to control the activities of the license holders and their outputs. The state can punish its license holders for depicting Indian boundaries contrary to its policies, particularly in the regions of Jammu and Kashmir and sometimes even of Arunachal Pradesh. Foreign publications have often shown the two regions outside India's borders.

Moreover, the Bill also jeopardises the public opinion. The recent interpretation of the Article 370 by the Srinagar High Court has rejected the political position of the incumbent Indian government by stating that:

"The territory of India-held Kashmir retains an element of sovereignty and cannot be integrated into India at all".³

Similarly, the Supreme Court in its one of the decisions had concluded earlier:

"By mere signing of the Instrument of Accession, the sovereignty of the Maharaja of Kashmir does not get affected".⁴

². "Indian policy in Occupied Kashmir", *The Nation*, May 17, 2016.

³ Ahmer Bilal Sufi, "Kashmir Talks: A legal obligation", *Dawn*, (Islamabad), December 1, 2015.

The question arises for how and why should the change in the map by the Indian authority be accepted under the circumstances? It is an eminent threat to the fundamental rights of the people of Jammu and Kashmir and their will for self-determination. With an Indian desire of sticking to the Radcliff Award, which left many spaces for both India and Pakistan to contest on, the boundaries obsession is increasingly becoming rigid. Time often softens stances but in case of Jammu & Kashmir, it has become irrationally firm for all the political forces of India.

History records that 14 out of 21 inter-state wars since WWII were caused by boundary disputes and that there were 60 ongoing ones as of 1995. They have been either resolved by swapping lands as between India and Bangladesh or on the basis of economic compromises. The Kashmir issue does not hold any such possibility.

Pakistan's permanent representative to the UN Maleeha Lodhi in her letter to the Secretary General and the Security Council in May, 2016, has lamented at the response of the international community for not honouring the UN resolutions in 65 years, and having failed to fulfill its responsibility.⁵

The geo-referenced boundaries belief rooted in the interpretation of Radcliff Award since Nehru's times and reiterated by the introduction of the GIRB, would keep the rigidity alive in the relationship of India and Pakistan. If it becomes a law, it would contribute more to the destabilization of the region by adding to the stressed political environment of Jammu & Kashmir.

Exasperated by the perpetual violation of the fundamental human rights in IoK by the state of India, the Kashmir issue is a massive challenge for the world conscience. When domestic proceedings to help address human rights violations fail, it becomes compulsory for the world community to ensure that international human rights standards are indeed respected, implemented and enforced. The global history of cartography is intimately linked with the political and economic interests but the support given by the UN Security Council to geopolitical, economic and strategic preferences of the Western Powers in India despite appalling human rights violations in IoK, is a teasing question on UN partiality.

⁴ Ibid.

⁵ "Maps depicting Kashmir as India's Part can't alter State's status, says Maleeha", *The Nation*, May 19, 2016.