



April 1, 2025

To,

Mr. Chandrashekhar Bawankule

Chairperson,

Joint Select Committee on Maharashtra Special Public Security Bill 2024

Maharashtra Legislative Assembly

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Subject: Objections and concerns regarding the Maharashtra Special Public Security Bill, 2024

Respected Sir,

We, Citizens for Justice and Peace, Mumbai, write to express our deep concerns and strong objections on the Maharashtra Special Public Security Bill, 2024 (*MSPS Bill 2024 hereafter*), which was reintroduced in the State Assembly on December 18, 2024. As the Chairperson of the 21-member Joint Select Committee tasked with examining the Bill and presenting its report in the Assembly session, we urge you to consider the grave implications of this legislation for civil liberties in Maharashtra, particularly its potential impact on the fundamental rights to freedom of speech and expression, association and assembly, peaceful protest, and privacy.

The Bill was initially introduced on July 11, 2024, by then Deputy Chief Minister Devendra Fadnavis, who also held the Home, Law, and Judiciary portfolios, on behalf of the government led by former Chief Minister Eknath Shinde. However, it lapsed with the conclusion of the Assembly's term. Its reintroduction in December 2024 has been marked by a troubling lack of transparency. The Bill has not been made available in the public domain, nor has it been subjected to any form of public consultation or scrutiny. Instead, it was directly referred to the Joint Select Committee without being circulated for public discussion. *We strongly object to this opaque legislative process.* A law of such significance, with far-reaching consequences for civil liberties, must be open to rigorous public debate before it is considered by the legislature.

Furthermore, statements made in the Assembly while introducing the Bill have only deepened our apprehensions. Chief Minister Devendra Fadnavis justified the Bill on the grounds that it seeks to combat “Urban Naxalism” in Maharashtra and curb the activities of “frontal organisations” in urban spaces that allegedly create “distrust” about the country and its institutions. We find this reasoning highly problematic, as the notion of “distrust” is both vague and subjective, lacking any clear legal definition. The legitimate right to criticise government policies and demand institutional accountability—an essential part of democratic engagement—could easily be misconstrued as fostering “distrust” and weaponised against

citizens, activists, and human rights defenders. If a section of the public harbours doubts about the state or its institutions, it is the responsibility of the government to address their concerns through transparency and accountability, not by criminalising them.

Ironically, while an entire law is being sought to be framed using a term, Urban Naxals (threat) as the need and basis, the Ministry of Home Affairs has in 2022, and before clearly stated that the government does not use the term “urban naxals” when it comes to left wing extremism (LWE), “be it in urban areas or any other place, a vigil is kept and strict action initiated. (<https://www.mha.gov.in/MHA1/Par2017/pdfs/par2020-pdfs/rs-11032020/1978.pdf>)

In the name of tackling “Urban Naxalism” –as mentioned above, a controversial term with no basis in fact or law--we apprehend that this Bill will, in reality, be deployed to stifle dissent and target independent voices of citizens, artists and others, all those who challenge state policies or expose injustices. Its vague and sweeping provisions (definitions) create the potential for widespread misuse, opening the door to the criminalisation of political opponents, journalists, civil society organisations, and human rights defenders. This raises serious constitutional concerns, as the Bill appears to be in direct conflict with the fundamental rights enshrined in the Indian Constitution.

The justification being put forth behind bringing such a law is that similar versions of the Public Security Act currently are currently in force in Chhattisgarh, Telangana, Andhra Pradesh and Odisha. Another reasoning that is being offered to bring in the MSPS Bill 2024 is that it will provide more effective prevention of certain unlawful activities of individuals and organisations. However, the state of Maharashtra already has the Maharashtra Control of Organised Crimes Act (MCOCA, 1999) under which several abusive prosecutions have been launched.

While the processes are the same as controversial UAPA, 1961 [(Unlawful Activities (Prevention) Act)], the Bill expands its definition of unlawful activity, bringing under its ambit everything from “being a menace to public order” and “interfering with administration of law,” to “generating fear and apprehension in public” and “preaching disobedience of law.” However, with the newly enforced Bharatiya Nyaya Sanhita, 2023 bringing in offenses such as “terrorist activities” (Section 113), “organised crimes” (Section 111) and “petty organised crimes” (Section 112) into the criminal laws governing the country, a separate MSPS Bill was not required at all. Through the BNS, provisions of the Unlawful Activities (Prevention) Act, 1961 and MCOCA have already been centralised, ensuring multiple tools in the land of a State and Police to use against its own citizens, raising questions over the necessity of bringing in the said bill.

The bill also states that a member of an 'unlawful organisation takes part in meetings or activities of any such organisation or contributes or receives or solicits any contribution he shall be punished with imprisonment for a term which may extend to three years and shall be liable to fine up to ₹3 lakh.

Given the significance of this legislation and the potential harm it poses to democratic freedoms, we urge your committee to ensure a transparent and inclusive process that allows for meaningful public engagement before any further steps are taken. We respectfully submit our objections and recommendations for your consideration in the hope that due deliberation will prevent the passage of a law that threatens the core democratic values of Maharashtra and India.

Citizens for Justice and Peace, Mumbai, in consultation with experts and advocates, wishes to provide the following detailed objections pertaining to particular provisions of the Bill.

Problematic Provisions of MSPS 2024

The draft MSPS Bill of 2024 has extremely vague, broad and therefore problematic definitions of “an unlawful activity” ((Section (2) (f) (i) to (vii)). This loose definition is liable to malicious misuse. For instance, the interpretation of the ((Section (2) (f) (i)) phrase ...” which constitutes a danger or **menace** to public order, peace and tranquillity” has been left open for interpretation, with potential for misuse. The usage of the word "menace" in the definition in itself problematic as the term “menace” is not defined anywhere in the law. It is crucial to highlight that the dictionary meaning of the word means, dangerous act of person, and leaves it open to the authorities to bring anything under the Act according to their discretion and penalise the ones being targeted. (They can say cooking on streets is a menace to public and arrest people).

This vagueness of definitions to make and include undefined “acts” as criminal acts is extremely problematic. In any law, any criminal act should be well defined and should not be left to be interpreted loosely by the police. Unfortunately, or rather consciously, this practice has been done away with in order to get away with accountability.

In addition to this, the definition of criminal act under **Section 2(f)** describes unlawful activity as:

(f) "unlawful activity" means any action taken by an individual or organization whether by committing an act or by words either spoken or written or by signs or by visible representation or otherwise,—

(i) which constitute a danger or menace to public order, peace and tranquility; or

(ii) which interferes or tends to interfere with maintenance of public order; or

(iii) which interferes or tends to interfere with the administration of law or its established institutions and personnel; or

(iv) which is designed to overawe by criminal force or show of criminal force or otherwise to any public servant including the Forces of the State Government or the Central Government in exercise of the lawful powers of such public servant and Forces; or

(v) of indulging in or propagating, acts of violence, vandalism or other acts generating fear and apprehension in the public, or indulging in or encouraging, the use of firearms, explosives or other devices or disrupting communications by rail, road, air or water; or

(vi) of encouraging or preaching disobedience to established law and its institutions; or

(vii) of collecting money or goods to carry out any one or more of the unlawful activities mentioned above;

As can be seen in the above provided definition, no concrete ambit is provided, and only vague words are used to define the nature of the acts that can be deemed as unlawful activities by the authorities. The law tends to give arbitrary powers to the police and it is an open secret that the political party in power is many times misusing police authority.

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Constitution of
Advisory Board.

5. (1) The State Government shall constitute, as and when necessary, an Advisory Board for the purposes of this Act.

(2) The Advisory Board shall, consist of three persons who are or have been or qualified to be appointed as judge of the High Court. The Government shall appoint the members and designate one of them as the Chairperson.

(3) The term and other conditions of service of the Chairperson and members shall be such as may be prescribed.

In line with certain special legislations as well as state legislations, Section 5(1) (2) of the MSPS Bill 2024 provides for the setting up of the "Advisory Board" set up under the Act to adjudicate on the Actions of the State Government, police and Administration. Curiously, as per the said provision, the Advisory Board is required to be consisting of "three persons are, have been, or are qualified to be appointed as Judge of the High Court", which means that – instead of Judges or Judicial Officers as in previous laws/legislation enacted to counter criminal even terrorist acts---existing retired or "non-appointed officials or lawyers" also qualify to be appointed to be a part of the Advisory Board. Since the Advisory Board is to be formed by the state government itself, one need not use exercise imagination to think of the ways in which



the said provision can be used (or misused). It is highly likely that, instead of autonomous and independent individuals, trained in judicial and constitutional scrutiny, such person as may be aligned to, or even be stooges of *any government in power may be appointed*.

9. (1) Where an organization has been declared unlawful organization under section 3, the District Magistrate or the Commissioner of Police, as the case may be, within their respective jurisdiction, may notify any place which in his opinion is used for the activities of such unlawful organization. Powers to notify and take possession of places used for purpose of unlawful activities.

Explanation.—For the purpose of this section, place includes a house or a building or part thereof or a tent or a vessel.

(2) When any place is notified under sub-section (1), the District Magistrate or the Commissioner of Police or any officer authorized in this behalf in writing by him may take possession of notified place and evict therefrom any person found therein and the District Magistrate or the Commissioner of Police shall forthwith make a report of taking of possession to the Government :

Provided that, where any such place contains any apartment occupied by women or children, reasonable time and facilities shall be provided for their withdrawal with least possible inconvenience.

(3) A notified place whereof possession is taken under sub-section (2) shall remain in possession of the Government, as long as the notification issued under section 3 is in force or such earlier period as the Government decides.

Section 9, through sub-section 1, provides draconian and arbitrary powers to the administration and the Police (DM or Police Commissioner) to take possession of, or seize any notified area and evict persons from that premise (if women and children live there “reasonable time” is the only protection given to them!). Moreover, **Section 10 (1)** extends this arbitrary power to seize moveable properties, monies etc within this seized property making this one more power given to arbitrary use.

Revision. **12. (1)** A revision petition may be filed before the High Court against any order passed by the Government, under sub-section (1) of section 7 confirming the notification issued under sub-section (1) of section 3 or 30 against any order passed under sub-section (5) of section 3 extending the period of notification or against any order of forfeiture under sub-section (1) of section 11, questioning the legality, correctness or propriety thereof.

(2) A revision petition under this section shall be filed within a period of thirty days from the date of receipt of any order referred to in sub-section (1).

Shockingly, **Section 12** of the draft MSPS Bill, 2024 also denies those arrested under this controversial legislation, any recourse to law at the district level, and mandates only the High Court and Supreme Court as proper forums to file any petition to challenge action against this law. This militates against the four-tier system of Justice Redressal as laid down in the Indian Constitution. The reasoning behind the same remains to be clarified.

Bar of
jurisdiction. **14.** Save as otherwise expressly provided in this Act, and without prejudice to the jurisdiction and powers of the Supreme Court and the High Court under the Constitution of India, no proceeding taken under this Act by the Government or the District Magistrate or the Commissioner of Police, ⁴⁵ or any officer authorized in this behalf by the Government or the District

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Magistrate or the Commissioner of Police, shall be called in question in any court in any suit or proceeding or application or by way of appeal or revision and no injunction shall be granted by any court or other authority in respect of any action taken or to be taken in pursuance of any power conferred by
5 or under this Act.

15. No civil or criminal proceeding shall be instituted against any person for anything done in good faith or intended to be done under this Act or against the Government or any person acting on behalf of or by the authority of the Government, for any loss or damage caused to or in respect
10 of any property, whereof possession has been taken by the Government under this Act. Protection of action taken in good faith.

Under controversial **Sections 14 and 15** of the MSPS Bill 2024, protection has been granted to every and any Police Officer and District Magistrate (bureaucrat) from being penalised or held accountable for any strictures that may be/are passed by the High Court or Supreme Court on misuse of prosecution under the proposed law. These sections lay open the law to misuse as there are no penalties for blatant mis-application or mis-use, as the said two sections state that no actions can be initiated against such officials.

Dangers of New Bill (MSPS Act) in the face of existing BNS, 2023, UAPA, 1967 & PMLA, 2002

The proposed law, the MSPP Bill 2024, must also be seen in the context of the following:

The MSPP Bill 2024 must be critically assessed in light of existing legislation such as the BNS 2023 and the UAPA 1961, which already provide extensive legal frameworks to address activities deemed as ‘terrorist or secessionist’. These laws grant the state significant powers to act against individuals engaging in acts that threaten national security, integrity, or sovereignty.

The introduction of the MSPP Bill, with its broad and vague provisions, raises concerns about unnecessary overreach, as these issues are already adequately addressed by the UAPA and BNS. The creation of an additional law, especially one that appears to expand on the provisions of sedition and terrorism, seems to undermine the spirit of constitutionalism by further eroding fundamental freedoms and judicial safeguards against arbitrary state action.

Most seriously, it lays open blatant misuse, and denial of fundamental rights by persecution of individuals and organisations who function lawfully and constitutionally of *persecution under a multiplicity of statute charges*.

Various sections in the BNS, 2023 including Section 152, which reintroduces ‘Sedition’ under IPC 124-A and has been described by experts as being ‘Sedition Plus’, Section 113, which criminalises acts vaguely defined as terrorist acts, and Section 111, which brings in organised crimes, give arbitrary powers to the authorities to take action against those individuals who commit actions deemed to be against national integrity and national security. Again here, in the BNS 2023 the definitions of ‘national integrity’ and ‘national security’ are fundamentally problematically as the Hon’ble Supreme Court has, on numerous occasions struck down the application of the original ‘Sedition Section’ under Section 124-A of the former Indian Penal Code (IPC) on grounds that it is only acts of violence that specifically render possible use of this draconian section valid. In fact the Hon’ble Supreme Court has expressed the opinion that such a section should find *no place on the statute books of a functioning democracy*. Unfortunately, instead of respecting this evolving jurisprudence, the Union government has re-introduced ‘Sedition’ as a crime in BNS, 2023, albeit under a differently defined name!!

CJP would specifically like to highlight **Section 152** of the BNS, which states that “acts that are endangering sovereignty, unity and integrity of India, purposefully or knowingly, by words, either spoken or written, or by science, or by visible representation, or by electronic communication or by use of financial means or otherwise, excites or attempts to excite cessation or armed rebellion or subversive activities, or encourages feeling of separatist activities, or endangers sovereignty or unity and integrity of India’ or indulges in or commits any such acts shall be punished with imprisonment for life or with imprisonment which may extend to 7 years, and shall also be liable to fine.” While being vague and broad by themselves, the MSPS Bill 2024, also bears an uncanny resemblance to the said provision.

Additionally, **Section 113 (1)** of the BNS, 2023, which covers under its ambit anyone who commits any act with the intent to threaten or likely to threaten the unity, integrity, sovereignty, security, or economic security of India or with the intent to strike terror or likely to strike terror in the people or any section of the people in India or in any foreign country, **mirrors Section 15 of the UAPA, 1961**. The only difference is that it deals with acts committed in a **foreign country** as well.

Similarly, Section 113 (2) that deals with committing *of such a terrorist act that results in death or otherwise*, **mirrors Section 16 of the UAPA verbatim**. Section 113 (3), which covers those who *conspires or attempts to commit, or advocates, abets, advises or incites, directly or knowingly facilitates the commission of a terrorist act or any act preparatory to the commission of a terrorist act*, **mirrors Section 18 of the UAPA verbatim**. Section 113 (4), which deals with those who organise or cause to be organised any camp or camps for imparting training in terrorist act **mirrors Section 18A of the UAPA verbatim**. Section 113 (5) states that any person who is a member of an organisation which is involved in terrorist act **mirrors Section 20 of the UAPA verbatim**.

Section 113 (6), which covers the offense of *voluntarily harbours or concealing those such person that commits a terrorist*, has been taken from **Section 19 of the UAPA verbatim**.

Section 113 (7), which criminalises the offense of knowingly possessing any property derived or obtained from commission of any terrorist act, has been taken **from Section 21 of the UAPA, present in BNS with a wider ambit**.

In light of the current legal landscape, the MSPP Bill 2024 represents an unnecessary and dangerous extension of already draconian measures under laws like the UAPA 1961 and PMLA, 2002. The incorporation of such stringent provisions into Maharashtra's criminal laws, especially without the necessary safeguards, raises serious concerns about the potential for misuse. Given the current climate of *intolerance of any political or creative opposition to government policies, individuals in power etc* and the abuse of power by investigative agencies, this Bill only deepens the risk of arbitrary state action and further threatens fundamental rights. The question remains:

Why create yet another law that only serves to entrench an atmosphere of fear and repression, rather than address the genuine concerns it claims to tackle?

Persecution by Multiplicity of Statute Charges

Another dangerous implication that will accompany this attempt to enact one more draconian state law is its impact on the provision for undertrials seeking statutory bail under the Bharatiya Nagarik Suraksha Sanhita, 2023. Section 479 of the BNSS contains very stringent bail provisions for statutory bail. The said section limits the conditions for granting statutory bail to under trials—is a section in the new law which corresponds to section 436 A of the CrPc, provides for the procedure to be adopted in case the under trial is to be given statutory bail after spending a particular period under detention. In the older CrPC, if an under trial has spent half of the maximum period of imprisonment for an offence in detention, they must be released on a personal bond (not to be applied to offences which are punishable by death) BNSS, 2023 retains the said provision, and makes it further stringent.

However now, under Section 479, the provision of granting bail to under trial prisoners will now be limited to those under trials who are first-time offenders if they have completed one-third of the maximum sentence. Since charge sheets often mention multiple offences, this may make many under trials ineligible for mandatory bail. Furthermore, through the said provision, the prohibition of getting bail under the said section had also been expanded to those offences that are punishable with life imprisonment. Therefore, the following under trials is barred from applying for statutory bail under the said section if: offences punishable by life imprisonment, and persons who have pending proceedings in more than one offence.

The introduction of the MSPB Bill 2024, when combined with existing laws such as the BNSS 2023 and the UAPA 1961, poses a significant threat to the rights of undertrials, particularly in terms of access to statutory bail. Under Section 479 of the BNSS 2023, the already stringent bail provisions have been made even more restrictive, barring first-time offenders from obtaining bail unless they have served one-third of their sentence. For those accused under the

MSPP Bill 2024, in conjunction with other laws like the UAPA 1961 or BNSS 2023, this could result in individuals being denied bail for extended periods, even if they are ultimately found innocent. With charges often encompassing multiple offences, including those punishable by life imprisonment, undertrials might find themselves ineligible for mandatory bail. The impact of this could be devastating, as innocent individuals may be forced to languish in detention for years, unable to challenge their prolonged incarceration due to the overwhelming power granted to the state under these laws. This raises grave concerns about the fairness of the legal system and the potential for the indefinite detention of individuals without trial, further undermining the principle of justice.

It is also to be noted that petitions challenging 2019 amendments to the UAPA, particularly sections 35 and 36, which grant the government broad powers to designate individuals as terrorists and include them in Schedule IV, remain pending, with the Supreme Court directing High Courts to hear them first. The petitioners have contended that such labelling will be violative of the fundamental rights guaranteed under Articles 14, 19 and 21 of the Indian Constitution.

Our Constitution, our laws

Despite successive governments' claims that such laws are necessary to curb unlawful activities, history has shown otherwise. In practice, such draconian laws have been widely misused, as extensively documented by journalists and human rights organisations. The Chhattisgarh Vishesh Jan Suraksha Adhiniyam (2005) and the Andhra Pradesh Special Public Security Act (1992) serve as glaring examples, having been used against journalists, lawyers, environmental defenders, citizen activists, and Adivasi protestors for merely exercising their constitutionally protected right to dissent. A constitutional challenge to the Chhattisgarh Act is currently pending before the Hon'ble Supreme Court. Given this alarming precedent, we are deeply concerned that similar repressive legislation in Maharashtra will not be used to address genuine security threats but instead to target its own citizens, curbing the state's dynamic social and political life.

Maharashtra has always been a torchbearer of democratic values and social reform, with its people playing a crucial role in shaping India's political and constitutional history. This Bill, however, directly contradicts the principles enshrined in the Constitution of India, particularly the fundamental rights guaranteed under Part III. The right to freedom of speech and expression (Article 19(1) (a)), the right to peaceful assembly (Article 19(1)(b)), and the right to form associations (Article 19(1)(c)) are essential to a functioning democracy. Any restrictions on these rights must meet the test of reasonableness under Article 19(2) and should not be arbitrary, excessive, or disproportionate. The vague and sweeping provisions of this Bill fail to meet this constitutional standard and open the door to unchecked state repression.

Furthermore, the potential for misuse of this Bill raises concerns about violations of personal liberty and due process under Article 21 of the Constitution. By criminalising dissent and enabling the suppression of legitimate political and social activism, the Bill not only weakens



the fundamental rights of Maharashtra's citizens but also sets a dangerous precedent for the erosion of democratic governance.

In conclusion, we firmly believe that the Maharashtra Special Public Security Bill, 2024, is unconstitutional, overbroad, arbitrary, and designed in a manner that invites misuse. We urge your Select Committee to grant us a personal hearing to present these concerns in greater detail. Furthermore, we call upon you and the members of the Committee to reject this Bill outright, thereby upholding Maharashtra's proud democratic traditions and safeguarding the constitutional rights of its people.

Yours Sincerely,

Nandan Maluste
President, Citizens for Justice and Peace, Mumbai

Teesta Setalvad
Secretary, Citizens for Justice and Peace, Mumbai