

17th February 2025

To,

Mr. Chandrashekhar Bawankule

Chairperson,

Joint Select Committee on Maharashtra Special Public Security Bill 2024

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Sub: Civil Society objections to the Maharashtra Special Public Security Bill 2024

Sir,

We, the undersigned civil society organisations, jointly write to you to register our strong objections and misgivings over the proposed Maharashtra Special Public Security Bill 2024 (hereinafter the “Bill”), re-introduced in the state Assembly on December 18, 2024.

As Chairperson of the 21-member Joint Select Committee, your panel had been mandated to present its report on the Bill in the next Assembly session in February-March 2025, taking into account the views of stakeholders. The budget session of the Maharashtra Legislative Assembly is reportedly scheduled to commence from March 3, 2025. We are deeply concerned about the implications of the Bill for civil liberties in the state, in particular the rights of the citizens to freedom of speech and expression, association and assembly, the right to protest peacefully and the right to privacy.

At the outset, we wish to state that the Maharashtra Special Public Security Bill, 2024, was first introduced in the Maharashtra State Legislative Assembly on July 11, 2024 by the -then deputy Chief Minister Devendra Fadnavis (who also held the home portfolio

and the law and judiciary ministry) on behalf of the government led by former Chief Minister Eknath Shinde. This Bill had lapsed since the term of the assembly had ended.

However, the Maharashtra Special Public Security Bill, 2024 which has now been re-introduced in December 2024, has not been made available in the public domain nor made open to public scrutiny in the form of any public consultation or hearing. It was sent to a Joint Select Committee of which you are the Chair, without any public circulation. We strongly object to the opacity of the entire process. An important Bill of this nature must be discussed in public as it affects the civil liberties of all citizens of Maharashtra.

We accordingly submit the following comments, suggestions and objections to this Bill to your Committee for your perusal, scrutiny and consideration, before you finalise your Report:

1. We wish to state that, in the absence of the Bill introduced in December 2024 being officially circulated, our comments, statements and objections are based upon the provisions of the earlier introduced Maharashtra Special Public Security Bill of 2024. If however a revised version of the Bill was introduced in December 2024, the same should be immediately made public and we also be provided a copy of the same, with an opportunity to present further comments.
2. While introducing the Bill which is under scrutiny before your committee, Chief Minister Devendra Fadnavis said that it would tackle Naxalism in rural areas and frontal organisations in urban areas “which work towards creating distrust about the country and its institutions.” We wish to record our deep misgivings about this sweeping statement. Indeed, the notion of “distrust” is subjective and has no legal definition. Moreover, legitimate criticism of state policies or demand for accountability from institutions, which is the work active citizenry and human rights activists do in exercise of their rights, freedoms and duties under the Indian

Constitution, can be labelled as creating “distrust” and weaponized against dissenters and justice seekers. Also, if citizens have any “distrust” whatsoever, it is the responsibility of the government to dispel this distrust rather than criminalise citizens concerns. We fear that in the name of tackling “Naxalism”, the Bill will, in fact, be directed towards citizens who express their opposition to state policy and who may raise legitimate questions over any wrong-doings. Indeed, any such law would legitimise the criminalisation of dissenting citizens, human rights defenders and political opponents. Accordingly, the draft law is not only unconstitutional and problematic for the reasons set out below, but the stated objective with which it is being proposed is ill-founded and subject to misuse.

3. **Clause 2 (f)** : The Bill intends to provide for “more effective prevention of unlawful activities of individuals and organisations.” However, the definition of an “unlawful activity” is sweeping and over-broad. It states that an unlawful activity is “*any action taken by an individual or organisation whether by committing an act or by words either spoken or written or by signs or by visible representation or otherwise*”. Thus, it would include any form of expression - from spoken words, online messages or articles, artworks, demonstrations etc. Even an act or expression of support or solidarity provided by a person or group of persons could constitute an unlawful activity. It follows that all freedoms protected under Article 19 of the Indian Constitution can thus be curtailed - including freedom of speech and expression, association and assembly, press freedoms, academic freedoms etc. This is wholly dangerous, and can be potentially used against journalists, writers, filmmakers, artists and any citizen expressing their dissent or critiquing the government, in any form or manner.
4. Again, the definition of an ‘unlawful activity’ includes such ‘action’ that can constitute a danger or ‘menace’ to public order, peace and tranquillity and ‘of encouraging or preaching disobedience to established law and its institutions.’ This is again completely sweeping and arbitrary and could be deployed to silence any

legitimate and peaceful protest over any issue. The right of citizens to record their peaceful objections to policies or laws that they may perceive as harmful and to express and demonstrate their objections is being taken away by this repressive provision.

5. Other provisions of what constitute 'unlawful activity' relate to the use of violence or criminal force. But these activities are already dealt with very strongly in existing laws, including the Bharatiya Nyaya Samhita and do not require a separate law to address them.
6. **Clause 2 (d)** : The Bill provides a very broad definition of an "organisation" as *'any combination, body or group of persons, whether known by any distinctive name or not, and whether registered under any relevant law or not, and whether governed by any written constitution or not'* This is a deliberate and dangerous conflation of any group of people who come together for any purpose. Even an innocuous and completely informal book club, cultural group, citizen's forum or an ALM (advanced locality management) of residents to take up civic issues, would fall under this rubric and could attract penal provisions for activity which may be problematic to the government. The Constitution of India guarantees the right to form associations or unions or co-operative societies (Art 19 (1) (c)). We believe that the hidden purpose of this expansive definition is to mark out, monitor and potentially criminalise any attempt by citizens to "organise" themselves collectively for any purpose whatsoever, informally or otherwise.
7. **Clause 2 (g)**: The definition of an 'unlawful organisation' is any organisation which indulges in 'unlawful activity' or abets or assists or gives aid, or encourages directly or indirectly, to unlawful activity, through any medium, devices or otherwise. Taken along with the definition of an organisation and of unlawful activity, it is clear that any organisation can be deemed to be "unlawful" merely for coming together and for raising a voice about any issue.

8. **Clause 3 (1) and Clause 3 (2):** The Bill lays down completely opaque provisions by which the Maharashtra government may declare any organisation as “unlawful”. The government may issue a notice in the government gazette but it is shocking that this is an entirely arbitrary process and without any scrutiny whatsoever. No hearing whatsoever is provided before issuing such a notification against the organisation. In fact, the notification regarding declaration of unlawful organisation only requires the grounds to be stated if the Government deems it necessary and even this disclosure can be dispensed with by the Government in public interest! This is an alarming overreach and completely open to misuse.
9. There is no burden of proof whatsoever on the government for declaring any persons or group and their activities as unlawful. In effect, the Bill gives the government the power to go after any individual or organisation that it perceives as a threat, can declare all its activities (including non-violent activity, speech or communications) as unlawful, and restrict its activities and punish some or all the individuals associated with it. Furthermore, the loose wording makes the provision capable of serious misuse by bringing an entirely fictitious “organisation” into existence, simply on account of a common purpose or shared ideology of a group of individuals, to act against the individuals that it deems to be associated with it, even in the absence of any evidence to substantiate the claim.
10. **Clause 3 (5) :** Moreover, an organisation may be declared unlawful for a period of one year at a time and this notification can be extended indefinitely, a year at a time, without disclosing grounds if the government feels it is not in public interest.
11. **Clauses 9 (1-2) :** The Bill seeks to delegate powers to a District Magistrate or Commissioner of Police or any officer authorized by them, who can notify a particular area or a particular building which in their opinion is used for “unlawful activities”, and then proceed to take possession of it, seize all articles in it and evict

all persons in it. No notice or opportunity of hearing is provided before issuing a notification in respect of an area or building; instead sweeping powers have been given to notify, raid and take over possession of notified places without recourse to the aggrieved organisation or individuals. Discretionary powers have been given to take possession of moveable property (including moneys, security and other assets found in the notified place) and even forfeit articles in favour of the government after considering representation of the person claiming the same. Even appeal from such order of forfeiture is before the Government itself! We believe that this is a draconian provision and open to harassment of citizens, besides rendering them homeless and instantly reducing them to penury. In fact, the Supreme Court has, in orders related to “bulldozer injustice”, issued guidelines against such punitive and “high-handed” behaviour of officers against those accused. But the repressive and harassing provisions in the Bill will completely undermine such guidelines.

12. **Clauses 8 (1-4), Clauses 10 (1-8):** The Bill has several provisions on the disposal of properties and money, assets, securities and even livestock and perishable items of those accused, in a clear attempt to hit at their economic condition and incapacitate them financially. This is inherently unjust and, especially for adivasis or marginalised sections of society, will render any efforts to defend oneself from charges next to impossible.
13. **Clauses 5 (1) and (2), Clauses 6 (1-5) -:** The Bill provides for an Advisory Board to review the declaration of any organisation as ‘unlawful’. However, the process clearly undermines and robs such a “review” of any meaning. Firstly, the very Advisory Board is set up by the same government, comprising judges of the High Court, or any person *‘eligible to be appointed as a judge of the High Court’*, to review its own acts! We are apprehensive that this Advisory Board will comprise pro-government persons and will be in danger of excluding independent legal experts or members of civil society. Secondly, the government “may” send a reference to the Advisory Board within six weeks of the of the government notification, but even this

step has a rider: that the government may not disclose any “fact” if it considers it against the public interest. Thirdly, the organisation deemed ‘unlawful’ is granted an opportunity to make a representation to the government only within 15 days of such notification. Fourthly, taking absurdity of process to its height, personal hearings before the Advisory Board are provided only to the authorized office bearer of the organisation, which is deemed to be unlawful, thus putting any person identified as a member of such an organisation at risk of immediate arrest!

14. The Bill gives excessive powers to the Government to issue orders for investigation. This can act as a warrant to empower police officers to enter into the premise of any individual and conduct searches. This raises the fear that individuals can be targeted and accused of unlawful activity merely for possessing books deemed controversial. It is also a violation of the fundamental right to privacy of such individuals.
15. **Clauses 8 (1-4), Clauses 16 (1-2)** : The Bill has a list of penalties for different crimes and these are arbitrarily defined with the accused being variously liable for imprisonment of two to seven years. All offences are cognisable and non-bailable. Mere membership of an unlawful organisation is punishable with three years; and even a person who is not a member, but who contributes, solicits contributions, harbours a member of an unlawful organisation would be punishable with imprisonment of two years.
16. Meanwhile, the Bill contemplates the framing of Rules. However, the proposed Rules have not been made public, raising questions on the manner in which the proposed law will be implemented.
17. According to the Bill’s **Statement of Objects and Reasons**, the States of Chhattisgarh, Telangana, Andhra Pradesh and Odisha have enacted similar acts for the prevention of “unlawful activities” and banned 48 frontal organisations. Furthermore, the government has stated that such “unlawful activities need to be

controlled by effective lawful means.” However, to state that the existing laws are ineffective or inadequate to tackle the existing menace of Naxalism is erroneous and misleading.

18. Unfortunately, despite all proclamations of successive governments and ministers, the truth is that such laws have not proved effective in curbing unlawful activities nor used for that purpose. Indeed, in multiple reports by both journalists and human rights organisations, the manner in which these draconian laws have been misused has been well documented. The Chhattisgarh Vishesh Jan Suraksha Adhiniyam (2005) (“Chhatisgarh Act”) and The Andhra Pradesh Special Public Security Act (1992) received extensive criticism for being used to target journalists, lawyers, environmental defenders, citizen activists and adivasi protestors who have dissented against state action. A constitutional challenge to the Chhattisgarh Act is pending before the Hon’ble Supreme Court. As responsible civil society organisations, we are very apprehensive that the deployment of such repressive legislations will actually be misused against citizens of Maharashtra and curb the legitimate expression of the state’s rich and vibrant social and political life.

Sir, Maharashtra is one of the premier states in India and has a long and illustrious history of social reform. It has always been at the forefront of political movements for democracy, before and after Independence. The people of Maharashtra have worked hard and sacrificed their lives for freedom. We believe that this Bill will seek to destroy this historical legacy of democratic spirit and enquiry.

In sum, we believe that the provisions of The Maharashtra Special Public Security Bill, 2024, are unconstitutional, overbroad, arbitrary and inherently allow for misuse. We request your select committee to provide us with a personal hearing to present the above objections from civil society. We urge you, as well as other members of your select committee, to reject the Bill outright and affirm Maharashtra’s commitment to its democratic ethos and progressive character.

Signed by,

1. People's Union for Civil Liberties
2. Forum Against Oppression of Women
3. Hazrat-e-Zindagi Mamuli
4. Pani Haq Samiti
5. Jan Swasthya Abhiyan, Mumbai
6. Justice Coalition of Religious – West India
7. Free Speech Collective
8. Citizens for the Constitution
9. Human Rights Defenders Alert – India
10. Jan Hakk Sangharsh Samiti – Mumbai
11. People's Watch
12. Centre for Promoting Democracy
13. Fatima Shaikh Study Circle
14. Loktantrik Kamgar Union
15. ANHAD
16. Centre of Indian Trade Unions, Maharashtra
17. Indian Muslims for Secular Democracy
18. Lokshahi Jaagar Samiti
19. Citizens for Justice and Peace
20. Kashtakari Sangathana
21. Bebaak Collective
22. CDRA, Mumbai
23. Agrani Social Foundation, Sangli
24. Maharashtra Rajya Bandhkam Kamgar Sanghatna Swatantr Kriti Samiti
25. Maharashtra Hawker Federation
26. Mahatma Gandhi Foundation
27. All India Lawyers Association for Justice

28. Shramik Janata Sangh, Thane
29. Labour Study and Research Centre, Wardha
30. National Alliance of People's Movements
31. All India Hawker's Forum
32. Kamgar Ekta Union
33. Centre for Financial Accountability
34. Collective, Mumbai
35. Pakistan India People's for Peace and Democracy, Pune
36. Minorities' Voice, Pune
37. Fridays for Future, Mumbai
38. New Socialist Alternative, Pune
39. Atlas Movement India
40. Yuva Bharat, Maharashtra
41. Arogya Sena, Pune
42. National Alliance for Justice Accountability and Rights
43. Jagrut Kashtakari Sangathana, Karjat
44. Bangla Manabadhikar Suraksha Mancha (MASUM)
45. Indian Christian Women's Movement, Maharashtra
46. Ambedkarite India Mission
47. ICAN, Wardha
48. Virodhi Sanskrutik Chalval, Maharashtra
49. Bombay Catholic Sabha
50. City Makers Mission International
51. Ghar Hakka Sangharsh Samiti, Navi Mumbai
52. Melghat Jan Adhikar Andolan
53. Maharashtra Small Scale Traditional Fishworkers Union, Raigad
54. Indian Social Action Forum, Nagpur
55. All India Kisan Sabha
56. Rashtra Seva Dal, Pune
57. Shaheed Bhagat Singh Hawkers Union, Mumbai

58. Niwara Bandkam Kamgar Sangathana, Sangli
59. Maharashtra Asha Gatpravartak v Arogya Karamchari Sangathana, Sangli
60. Maharashtra lal Bawata General Kamgar Union, Sangli
61. Purogami main jhopadpatti Sangathana, Sangli
62. Association for Protection of Civil Rights
63. Samvidhan Sanvardhan Samiti
64. Rashtriya Ekta Samiti
65. Adivasi Hakka Sanvardhan Samiti, Mumbai
66. Sarvahara Jan Andolan, Raigad,
67. Lok Sangharsh Morcha, Jalgaon
68. Paranparik Machchimar Samajik Kruti Samiti, Uran
69. Shewa Koliwada Visthapit Mahila Sanghatana, Uran
70. Shewa Koliwada Samajik Gram Vikas Mandal, Uran
71. Shri Hanuman Koliwada Machchimar V.K.S. Sanstha Maryadit, Uran
72. Gavhan Koliwada Matsyavyavasaya Sahakari Sanstha Maryadit, Panvel
73. Swaraj Abhiyan, Maharashtra
74. Vidrohi Mahila Manch
75. Veshya Anyay Mukti Parishad
76. Muskan Sanstha
77. Shetkari Shetmajoor Panchayat, Maharashtra
78. Marathwada Labour Union
79. Antar Bharati, Pune Branch

Copy to : 1. Mr. Devendra Fadnavis, Chief Minister &
Home Minister, Maharashtra Home Department,
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cm@maharashtra.gov.in

2. Other members of the Committee