News

The 2025 Maharashtra Special Public Security Act makes dissent illegal under the pretense of protection.

> The Act progressively weakens constitutional protections while expanding the toolkit of legislation used to stifle civic society.

Passed on July 9, 2025, the Maharashtra Special Public Security Act, 2025 (MSPS Act) criminalizes dissent under the pretense of public safety, marking a troubling change in the State's legal system.

More effective prevention of "**certain unlawful activities of individuals and organizations**" is the goal of the Act. Such political rhetoric enables the state to portray any group as a threat to the public based only on opposition, including civil rights organizations, student collectives, and farmers' unions. This poses serious constitutional issues and essentially

skews the legislative meaning.

The Act's different provisions are explained in the first section of this article. It draws attention to how the broad and ambiguous wording could be abused by the government. The second section concentrates on the concept of "unlawful activity" as stated under the Act considering the jurisprudence surrounding the freedom of speech. The limitation's language is very similar to that of the Information Technology Act's now-overturned Section 66A.

Executives can declare organizations "**unlawful**" without the Advisory Board's consent under Sections 3 through 7 of the Act. This Board lacks independence and impartiality because it is composed of a government pleader, a district judge, and a former High Court judge. Crucially, impacted parties are powerless to challenge monitoring, cross-examination, gag orders, or evidentiary standards. Due process is compromised by a lack of judicial independence, procedural fairness, and transparency.

Membership, meetings, funding, publishing, and sponsorship of any "illegal" association are all prohibited by Section 8 of the Act. The punishment ranges from three to seven years in prison, regardless of the level of aggression. These laws, which have a lower threshold than the Unlawful Activities (Prevention) Act (UAPA), stifle free speech, democratic mobilization, and ideological affinity.

> The State government and the District Magistrate/Commissioner of Police may, in accordance with Sections 9 and 10, seize the notified locations of an illegal organization, remove people from them, confiscate any movable property they may have, seize their finances, and restrict access.
> The liberties of association, life, liberty, and property may be violated by these government activities.

Section 11 extends authoritarianism to asset seizure and financial monitoring. The government can seize funds used by **"illegal organizations**" without a court order. Hearings are permitted for 15 days, but the executive has the last say. Unchecked powers erode due process and judicial scrutiny while encouraging fiscal repression.

By prohibiting district courts from considering petitions and restricting judicial review to the Supreme Court and High Courts, Sections 12 and 14 restrict the scope of available remedies. The impoverished and marginalized who turn to lesser courts for remedy suffer as a result of this exclusion, which also undermines India's four-tiered legal system. It is against the provisions of Articles 14 and 21, which guarantee justice and a fair trial.

The Act only permits petitions to the High Court challenging government decisions pertaining to (i) the designation or extension of an illegal business and (ii) the seizure of cash. The statute prohibits court appeals and stays in any other situations.

Section 17, which grants sweeping immunity to government employees **"in good faith,"** is arguably the worst. There is no supervision, no accountability for incorrect prosecution, and no independent remedy. It promotes the abuse of authority against protesters, dissenters, and opposition voices and institutionalizes impunity.

Breaking procedural rules

The following describes the process for classifying an organization as unlawful. The government issues a declaration to the public. The government is required to revoke the notice if the Advisory Board later examines the case and finds it to be invalid. Since the Act does not require the publication of the Advisory Board's report evaluating the validity of an organization's classification as illegal, this raises questions about the suitability of such a method.

On the other hand, as determined in the **Maneka Gandhi** v. **Union of India case,** the law does not meet the requirements for a fair, just, and reasonable process as outlined in Article 21 of the Constitution. In that instance, the Court came to the conclusion that fair, not formal, procedure is what Article 21 refers to. Therefore, executive authorities must be careful to ensure that justice is not only carried out but also clearly seems to be carried out when conducting administrative action that involves any denial or restriction of people' inherent fundamental rights.

Given that an illegal government action could cause serious harm to an organization, including harm to its reputation, the current legal system does not pass this standard. These consequences might happen before the organization has an opportunity to make its case. Additionally, the MSPS does not require that the Tribunal's decision, which performs a similar review function, be published in the gazette; only the UAPA does.

This goes against the rule set by the **Bharatiya Nagarik** Suraksha Sanhita (BNSS), which stipulates that a court magistrate must issue warrants for such actions. If quick action is required, BNSS permits a search without a warrant. In these situations, the officer must record the basis for his suspicions and the reason for the search. The judicial magistrate

must receive a copy of this record. On the other hand, no court review is required for these activities under the Act.

Furthermore, the Supreme Court has stated that strict legal standards must be imposed because search is fundamentally an arbitrary process. The Act does not provide provisions for protection against such searches, in contrast to current law. In the case of State of Rajasthan v. Rehman, the Court decided that officials exercising powers under specific legislative frameworks must conform to the general procedural norms such as the CrPC when undertaking searches. It further concluded that failing to comply with procedural obligations, like noting reasons for a search, can invalidate the search and any future legal actions drawn from it.

Violation of freedom of speech

The Supreme Court in Shreya Singhal v. Union of India stated that a lack of definition for words might considerably restrict a substantial volume of protected and benign communication, as it nullified Section 66A of the Information Technology Act, 2000. The provision penalised communication deemed disagreeable, menacing, or highly unpleasant, without providing additional explication of these phrases. The Court judged the phrases imprecise and indeterminate, rendering them unlawful and stated that limitations on freedom of speech and expression must have a direct link or nexus to dangers to public order; distant or hypothetical links cannot justify reasonable limits. The Act's Section 2 definition of "danger or menace to peace or tranquility" may only apply to law and order issues (localized disturbances) and not meet the requirements for a threat to public order (wider disruptions affecting the entire community). Additionally, it ruled that broad and unclear criteria could have a chilling effect, leading people to self-censor their speech in order to avoid possible offenses. Therefore, any vague or unclear legislative restriction is against Articles 14 and 21.

According to the Court's detailed definition in **Dr. Ram Manohar Lohia** v. State of Bihar and Others, "law and order constitutes the broadest circle, within which lies the circle of public order, and the smallest circle signifies the security of the State." One could claim that restrictions on actions that "**tend to interfere"** only have a weak or theoretical connection, making them ineligible for a reasonable restriction.

Section 2 of the Act restricts speech and expression that might not be considered inciting. Expressions that **"promote or advocate disobedience to the law and its established institutions**" are prohibited.

Further the Supreme Court in 1960 overturned an identical clause of the Uttar Pradesh Special Powers Act, 1932. The provision prohibited any speech or expression that "incites any individual or group to evade or postpone obligations." The Court stated that it cannot support the ideas that an agitational approach is not permitted in a democratic setting or that encouraging people to break unfair laws is always a violation of public order.

In conclusion

There is no legal void surrounding the MSPS Act. While central laws like the UAPA and the Bharatiya Nyaya Sanhita (BNS), 2023, offer comprehensive frameworks to deal with terrorism, separatism, and organized crime, Maharashtra already possesses the Maharashtra Control of **Organised** Crime Act (MCOCA). With these existing statutes in place, the MSPS Act adds an unnecessary, redundant, and overly restrictive legal weapon. It dilutes constitutional protections even further and adds to the armory of measures used to stifle civic society. There have been serious problems with the legislative process itself. Civil society concerns and opposition voices were not taken into consideration by the Joint Committee that was established to review the Act. Despite holding five sittings, it rejected in-person appearances, ignored hundreds of written objections, and had no public hearings. Even opposing viewpoints were not recorded in the final report. The procedure exposes a performative exercise meant to legitimize preset results rather than invite examination.

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