



Maharashtra Special Public Security Bill 2024

For Prelims: [Supreme Court](#), [Unlawful Activities Prevention Act](#), [National Investigation Agency](#), [Cyber-terrorism](#), [Judicial review](#)

For Mains: [Major Judicial Pronouncements Related to Bail Provisions](#), [Concerns Related to UAPA](#), Maharashtra Special Public Security Bill, 2024

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Why in News?

Recently the Maharashtra government has proposed a comprehensive new law, the **Maharashtra Special Public Security (MSPS) Bill, 2024**, aimed at **addressing the increasing presence of Naxalism** in urban areas.

- The Bill has sparked significant controversy and debate due to its **broad and stringent provisions**.

Note

- **State of Naxalism in India:** During the period from 2018 to 2023 there were **3,544 LWE-related incidents and 949 deaths**.
- **Urban Naxalism:** The term 'Urban Naxal' is based off a Maoist strategy where they look to urban regions for leadership, organising masses and engaging in military tasks like providing personnel and infrastructure.
 - The strategy is based off a document by the CPI (Maoist) called "Urban Perspective," which explains that the focus has to be on organising the working class, which is "the leadership of our revolution".
- However, there is **no official definition** of the term Urban Naxal.

What are the Provisions of the Maharashtra Special Public Security Bill, 2024?

- **Background:**
 - The government contends that **Naxalism**, traditionally confined to remote regions, is now **infiltrating urban areas through frontal organisations** that provide **logistics and safe havens** for armed Naxal cadres.
 - The existing laws, including the [Unlawful Activities Prevention Act \(UAPA\)](#) and the [Maharashtra Control of Organised Crime Act \(MCOCA\)](#), are deemed inadequate

to tackle this evolving threat.

- The MSPS Bill is **modelled after similar legislation** in states like Chhattisgarh, Telangana, Andhra Pradesh, and Odisha, which have enacted **Public Security Acts to curb Naxal activities**.

▪ **Key Provisions of the Bill:**

- The government can **declare any organisation as unlawful** based on its activities.
- The Bill outlines **four main offences related to unlawful organisations**: being a member, raising funds, managing, and assisting in unlawful activities.
 - Penalties range from imprisonment for 2-7 years and fines between Rs 2-5 lakh.
- The offences under the Bill are **cognisable** allowing arrests without a warrant, and **non-bailable**.
- The Bill allows for **faster prosecution by permitting district magistrates** or police commissioners to grant the necessary permissions, bypassing the need for sanction from higher authorities.

▪ **Comparison with UAPA:**

- While the UAPA also targets unlawful activities, the MSPS Bill **expands the definition of "unlawful activity"** to include acts that interfere with public order, and administration of law, and generate fear among the public.
- The UAPA's definitions have been refined by judicial interpretation over the years, whereas the **MSPS Bill's definitions are apparently broader**.
- Moreover, the MSPS **Bill simplifies the prosecution process**, which the government argues **will reduce delays and improve enforcement**.

Unlawful Activities (Prevention) Act (UAPA)

- The **Unlawful Activities (Prevention) Act, 1967** was enacted to provide for more effective **prevention of certain unlawful activities** of individuals and associations, for dealing with terrorist activities, and for matters connected therewith.
 - Unlawful activities are **defined as actions supporting or inciting the cession or secession of any part of India**, or actions questioning or disrespecting its sovereignty and territorial integrity.
- The **National Investigation Agency (NIA)** is empowered by the UAPA to investigate and prosecute cases nationwide.
- It underwent multiple amendments (2004, 2008, 2012 and 2019) expanding provisions related to terrorist financing, **cyber-terrorism, individual designation as terrorist, and property seizure**.
- **Major Provisions:**
 - Till the year 2004, **"unlawful" activities referred to actions related to secession and cession of territory**. Following the 2004 amendment, the "terrorist act" was added to the list of offences.
 - The 2019 amendment empowers **the government** to designate individuals as terrorists.
 - The Act **gives the central government complete authority** to declare any activity as unlawful. If the government considers an activity unlawful, it can **officially declare it so** by publishing a notice in the Official Gazette.
 - Under the UAPA, the **investigating agency can file a charge sheet** in maximum of 180 days after the arrests and the duration can be extended further after intimating the court.
 - Both Indian and foreign nationals can be charged. It will be **applicable to the offenders** in the same manner, even if the crime is committed on a foreign land, outside India.
 - It has the **death penalty** and life imprisonment as the **highest punishments**.
- **Related Judgments:**
 - In **Arup Bhuyan vs State Of Assam, 2011** the Supreme Court ruled that **mere membership of a banned organisation will not incriminate a person**. It can be done if a person resorts to violence or incites people to violence or does an act intended to create disorder.
 - However, in 2023 the Supreme Court ruled that **membership alone in such organisations can be considered an offence** even without the presence of overt violence.

- In the ***People's Union for Civil Liberties v. Union of India, 2004***, the Court decreed that if human rights are violated in combating terrorism, it will be self-defeating.
 - The court held that a former police officer is not a good choice to be appointed as a member of the **National Human Rights Commission (NHRC)** as their experience is more related to investigating crimes rather than protecting and promoting human rights.
- In the ***Mazdoor Kisan Shakti Sangathan v. Union of India, 2018***, the Court said that protests against governmental and parliamentary actions are legitimate, although such protests and assemblies are supposed to be peaceful and non-violent.

Initiative of Government Against Naxalism

- [National Policy and Action Plan to address Left Wing Extremism 2015](#)
- [SAMADHAN](#)
- [Aspirational Districts Programme](#)
- **Security Related Expenditure (SRE) Scheme:** Scheme implemented in 10 LWE affected States for Security Related Expenditure.
 - It **relates to training and operational needs of security forces**, ex-gratia payment to the family of civilians/security forces killed/injured in LWE violence, rehabilitation of surrendered LWE cadres, community policing, village defence committees and publicity materials.
- **Special Central Assistance (SCA) for most LWE Affected Districts:** It aims to fill the critical gaps in [Public Infrastructure and Services](#), which are of emergent nature.
- **Scheme of Fortified Police stations:** Under the scheme, 604 fortified police stations have been constructed in LWE affected areas.
- **Road Connectivity Project for LWE Affected Areas (RCPLWE):** It aims at improving road connectivity in LWE affected States.

What are the Criticisms and Implications of the Bill?

- **Criticism:**
 - **Vagueness and Overreach:** Critics argue that the Bill's **definitions are too vague and broad**, which could lead to misuse. Terms like "menace to public order" and "encouraging disobedience" are seen as subjective and open to interpretation.
 - **Threat to Civil Liberties:** There are concerns that the Bill could be **used to suppress dissent and target activists**, journalists, and political opponents under the guise of combating Naxalism.
 - **Judicial Oversight:** Unlike the UAPA, which requires **confirmation of unlawful organisation declarations by a High Court judge-led tribunal**, the MSPS Bill allows an advisory board of ex-judges or eligible persons to perform this function, raising concerns about adequate judicial oversight.
 - **Potential for Misuse:** Provisions allowing the **seizure of property and eviction without proper notice** or hearing are seen as prone to abuse. The Bill's power to penalise non-members for aiding unlawful organisations also raises concerns about overreach.
- **Legal and Social Implications:**
 - **Impact on Freedom of Expression:** The broad definitions of unlawful activities could **criminalise legitimate protests**, criticism of the government, and investigative journalism.
 - **Judicial Precedents:** Courts have emphasised the **need for stringent laws to be narrowly defined** and strictly interpreted. The MSPS Bill's broader definitions could conflict with established judicial principles.
 - **Role of Civil Society:** The Bill's potential to curb civil liberties may **lead to increased**

activism and opposition from human rights organisations, highlighting the delicate balance between security and freedom in democratic societies.

Conclusion

The **Maharashtra Special Public Security Bill, 2024**, represents a significant shift in the state's approach to combating Naxalism. While the **government justifies the Bill as a necessary tool to address** the evolving threat of urban Naxalism, the **broad and stringent provisions raise serious concerns** about civil liberties and potential misuse. The **balance between ensuring public security and protecting democratic freedoms** will be crucial in determining the Bill's future and its impact on Maharashtra's legal and social fabric.

Drishti Mains Question:

Q. Discuss the effectiveness of government policies and measures in addressing the Naxalite insurgency in India. What challenges do these measures face?

UPSC Civil Services Examination, Previous Year Question (PYQ)

Mains:

Q. The persisting drives of the government for development of large industries in backward areas have resulted in isolating the tribal population and the farmers who face multiple displacements. With Malkangiri and Naxalbari foci, discuss the corrective strategies needed to win the Left-Wing Extremism (LWE) doctrine that affected citizens back into the mainstream of social and economic growth. **(2015)**

Q. Article 244 of the Indian Constitution relates to administration of scheduled areas and tribal areas. Analyze the impact of non-implementation of the provisions of the Fifth schedule on the growth of Left-wing extremism. **(2018)**

Q. What are the determinants of left-wing extremism in the Eastern part of India? What strategy should the Government of India, civil administration and security forces adopt to counter the threat in the affected areas? **(2020)**