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Draft Dissent note on the Maharashtra Freedom of Religion Bill, 2026

Through this dissent note, the Citizens for Justice & Peace (cjp.org.in, CJP), a nationwide human rights platform, records its strong objections to the proposed Maharashtra Freedom of Religion Bill, 2026 (Maharashtra Dharma Swatantrya Adhiniyam 2026) that has been without deliberation nor discussion been hurriedly passed through the Maharashtra Vidhan Sabha. While the Bill claims to safeguard religious freedom and prevent coercive conversions, its provisions in effect impose sweeping restrictions on individual autonomy, intimate choice, and the freedom to enter into relationships across faiths.

At its core, the Bill represents a fundamental shift: it brings co-habitation, interfaith relationships, and marriage within the ambit of criminal law, police surveillance, and state control. This is not a law about conversion—it is a law that regulates who individuals may love, live with, and marry. The CJP also lodges its strongest protest at the undemocratic manner in which this Bill has been –without deliberation been drafted and introduced and now hurriedly passed in the Maharashtra Vidhan Sabha and Vidhan Parishad. Any law requires detailed deliberations with all stake holders including the political Opposition, Women and Civil Liberty Groups apart from Minority Groups. Not only has this not been done, but the deliberations of the Committee (under the Director General of Police) mentioned in the Statement of Objects of the Bill, have neither been open to the public-- stake-holders, citizens, civil liberties groups, women’s organisations nor minority groups --nor their deliberations discussed transparently and in-depth with the Opposition in the Maharashtra Assembly. This indicates an undemocratic and unseemly hurry in passing a law that has grave implications on fundamental rights and freedoms.

The Constitution guarantees freedom of religion under Article 25 of the Constitution of India, read with the protections of dignity, privacy, and decisional autonomy under Article 21 of the Constitution of India. These protections include the right to choose a partner, to cohabit, and to determine one’s faith without state interference.

The Bill converts these freedoms into state-monitored activities, subject to prior notice, public disclosure, and criminal sanction. It thereby undermines the constitutional guarantee of autonomy in matters of belief and intimate association.

A law born of rhetoric, not evidence

The present Bill cannot be viewed in isolation from the sustained and polarised rhetoric around so-called “love jihad” and “forced conversions”.

This narrative:

- lacks empirical or legal substantiation,
- has been repeatedly amplified by political actors and majoritarian groups, and
- has created a climate of suspicion around interfaith relationships, particularly targeting Muslim men and policing women’s choices.

The effect has been the creation of a weaponised public consensus, where intimate relationships are recast as sites of criminality and conspiracy.

This Bill translates that rhetoric into law.

Instead of addressing demonstrable harm, it legislates a political narrative, thereby legitimising:

- social hostility,
- vigilantism, and
- state intrusion into private life.

In such a climate, the conferral of broad powers on the police risks not neutral enforcement, but selective and discriminatory application.

Complete absence of transparency and democratic consultation

Equally concerning is the manner in which the Bill has been introduced.

Despite its far-reaching implications:

- no draft was placed in the public domain prior to approval,
- no consultations were conducted with women's groups, civil liberties organisations, or minority communities,
- no meaningful legislative deliberation preceded its passage by the Cabinet.

The Statement of Objects and Reasons refers to a Committee constituted under the Director General of Police. However:

- there is no clarity on when this Committee was formed,
- no record of its deliberations,
- no disclosure of its findings, and
- no evidence of stakeholder consultation.

This lack of transparency raises serious constitutional concerns.

In a democratic framework, laws affecting fundamental rights must emerge through public reasoning, consultation, and accountability. The present Bill reflects none of these.

Further, legislative justification is undermined by the State's own record—where questions raised in the Assembly indicated no substantiated complaints warranting such a law.

The absence of both process and proof renders the legislative exercise constitutionally suspect.

Secular constitutional vision and the right to inter-community relationships

The Bill marks a sharp departure from the constitutional and policy framework historically endorsed by the State.

Drawing from the vision of B. R. Ambedkar, inter-caste and inter-community marriages have long been recognised as instruments of social reform and equality. State policies—including incentive schemes—have actively supported such unions.

This reflects a foundational secular commitment: that the State must enable, not obstruct, the free choice of individuals in matters of marriage, co-habitation, and belief.

The present Bill reverses this position. It:

- treats interfaith relationships as inherently suspect,
- subjects them to criminal scrutiny, and
- undermines the autonomy of consenting adults.

It represents a shift from facilitating social reform to enforcing social conformity.

Gendered control and the policing of women’s autonomy

The proposed Maharashtra Freedom of Religion Bill, 2026 is fundamentally premised on a deeply regressive assumption—that women, particularly in interfaith relationships, lack the capacity to exercise independent judgment in matters of love, faith, and companionship.

Under the guise of preventing “forced conversions,” the Bill constructs a framework in which women’s decisions are treated as inherently suspect, especially when they involve relationships across religious boundaries. This framing does not operate in a neutral manner; rather, it reflects and reinforces longstanding patriarchal anxieties around women’s sexuality, mobility, and choice.

The effect of this framework is to transfer control over women’s personal decisions from the individual to the State, the police, and, significantly, to families and community actors. It creates conditions where:

- adult women’s choices in relationships are open to challenge and investigation,
- familial and societal disapproval can translate into legal action, and
- the State becomes an arbiter of the legitimacy of intimate relationships.

This is particularly concerning in the context of the politically sanctioned and polarised rhetoric around “love jihad”, which has consistently portrayed interfaith relationships as deceptive or coercive, despite the absence of credible empirical evidence. Such rhetoric has already led to increased surveillance, harassment, and moral policing of interfaith couples, including in urban centres such as Mumbai and Pune.

By embedding this suspicion within law, the Bill risks institutionalising this climate of distrust and legitimising interference in consensual adult relationships, thereby exposing women—especially those from minority and vulnerable communities—to heightened coercion and violence.

The Constitution protects decisional autonomy and privacy under Article 21 of the Constitution of India, and guarantees the freedom of conscience under Article 25 of the Constitution of India. These protections necessarily include the right of women to choose their partners, enter into relationships, and adopt or change their faith without interference.

The Bill, in effect, undermines these guarantees by recasting women’s autonomy as a problem to be regulated rather than a right to be protected.

Unconstitutional interference with freedom of conscience

At the heart of the Bill lies a fundamental misunderstanding of the constitutional nature of religious freedom.

Freedom of religion under Article 25 of the Constitution of India is rooted in the freedom of conscience. It protects the individual's right to adopt, reject, or change religious beliefs without state interference. Conversion, whether motivated by faith, conviction, or personal circumstances, is a natural exercise of this freedom.

While the State may legitimately prohibit conversions obtained through force or fraud, the present Bill goes far beyond such regulation. By imposing procedural barriers and criminal penalties on the process of conversion itself, the law effectively transforms the exercise of a fundamental right into a state-regulated activity.

A constitutional freedom cannot be made contingent upon administrative approval or subject to public scrutiny.

Detailed concerns with the specific provisions of the Bill are as follows:

I. Vague and overbroad definitions enable arbitrary criminalisation

The Bill, through Section 2, introduces extremely broad definitions of “allurement”, “misrepresentation”, and “brainwashing”, which risk criminalising legitimate religious and charitable activities.

The definition of “allurement” [Section 2(a)], for instance, includes promises of better lifestyle, free education, employment, or other material benefits. Religious organisations frequently engage in charitable and welfare activities such as running schools, hospitals, and social support programmes. Under the present formulation, such activities could easily be construed as unlawful inducement.

Similarly, the inclusion of “*glorifying one religion vis-a-vis another religion*” [Section 2(a)(vii)] or “*portraying practice, rituals and ceremonies or, any integral part of a religion in a detrimental way vis-a-vis another religion*” [Section 2(a)(vi)] within the definition of unlawful conversion raises serious concerns. Religious discourse and theological debate inherently involve expressions of belief about the truth or superiority of a faith tradition. Criminalising such expression risks infringing both religious freedom and freedom of speech.

Even more troubling is the inclusion of “*brainwashing through medium of education*” [Section 2(p)] as a ground for unlawful conversion. The Bill provides no objective criteria for determining what constitutes “brainwashing”. This vague terminology invites arbitrary interpretation and could potentially criminalise ordinary religious teaching or missionary activity.

Penal laws must be precise and narrowly tailored. The vague terminology used in the Bill fails to meet this standard and creates the risk of misuse.

II. Overbroad criminalisation of religious conversion

Section 3 of the Bill, which prohibits conversion by “*misrepresentation, force, undue influence, coercion, allurement, fraudulent means or by marriage*”, employs terminology that is excessively broad and vague.

The provision fails to clearly distinguish between unlawful coercion and legitimate religious propagation. By placing such wide prohibitions on the process of conversion itself, Section 3 risks criminalising voluntary acts of religious persuasion that are protected under Article 25 of the Constitution of India.

The lack of precise statutory definitions creates significant scope for arbitrary interpretation and enforcement by law enforcement authorities.

III. Criminalising co-habitation and relationships

Section 3(b) criminalises conversion where it is associated with:

- marriage,
- relationships in the nature of marriage, and
- promise of marriage.

This provision goes far beyond regulating coercion—it directly targets consensual adult relationships, bringing co-habitation and intimate association within the ambit of criminal law.

Its consequences are severe and immediate:

- the mere act of entering into an interfaith relationship is rendered legally vulnerable,
- relationships may be retrospectively scrutinised for alleged “intent”, and
- private, voluntary decisions are converted into grounds for criminal prosecution.

By collapsing the distinction between coercion and consent, Section 3(b) criminalises the exercise of choice itself.

In effect, it strikes at the core of decisional autonomy by placing the right to choose a partner, to cohabit, and to form intimate associations under constant threat of state intervention.

IV. Voidance of marriage

Section 4 empowers courts to declare a marriage null and void on the ground that it was entered into for the purpose of conversion.

This provision is constitutionally untenable.

It requires courts to undertake intrusive and speculative inquiries into the subjective intentions of individuals, an exercise that is both legally indeterminate and deeply violative of privacy.

Further, it opens the door to:

- challenges by third parties motivated by familial or ideological opposition,
- post facto de-legitimisation of valid marriages, and
- prolonged legal uncertainty for couples.

By conditioning the validity of marriage on state scrutiny of motive, the provision undermines the stability of marital relationships and subjects them to social and institutional suspicion.

Marriage, in a constitutional framework, is an expression of personal liberty—not a transaction to be validated through state-approved intent.

V. Extension of penal consequences to children

Section 5 extends the consequences of alleged “unlawful conversion” to children born from such marriages or relationships.

This provision is deeply problematic in both principle and effect.

It:

- imposes stigma on children based on the circumstances of their parents’ relationship,
- regulates a child’s religious identity through state prescription, and
- extends punitive consequences across generations.

By attributing legal consequences to children for acts they neither commit nor control, the provision violates basic principles of fairness, dignity, and child welfare.

It also represents a grave intrusion into family autonomy by allowing the State to determine identity and status within the private sphere of the family.

Such a framework is incompatible with constitutional morality, which demands that the State protect—rather than penalise—children, and respect the autonomy of familial relationships.

VI. Mandatory prior notice requirement violates privacy and personal autonomy

One of the most troubling provisions of the Bill is the requirement that individuals intending to convert must submit a prior declaration to the District Magistrate at least sixty days before conversion, following which the information may be publicly displayed and objections invited, provided under Section 6.

This requirement is constitutionally problematic for several reasons.

First, it forces individuals to disclose deeply personal religious choices to the state and the wider public. Such compelled disclosure intrudes directly into the private sphere of belief and conscience.

Second, it exposes individuals to potential harassment, intimidation, and social pressure from family members, community groups, or vigilante actors who may seek to prevent the conversion.

Third, the requirement violates the right to privacy recognised by the Supreme Court in *Justice K.S. Puttaswamy v. Union of India* (2017), which affirmed that personal decisions relating to identity, belief, and conscience fall within the protected zone of privacy.

Religious belief is among the most intimate aspects of individual identity. Requiring prior state notification before exercising this freedom constitutes an impermissible intrusion into personal autonomy.

VII. Excessive police powers and potential for harassment

The Bill confers sweeping powers on law enforcement authorities in Section 8. Complaints may be filed not only by the person who has converted but also by family members or relatives. Police officers are further empowered to initiate action suo-motu, and offences under the Bill are made cognizable and non-bailable.

These provisions create a framework in which criminal investigations may begin even where the person who has converted has raised no grievance. This opens the door to harassment driven by familial objections, community pressure, or ideological opposition to interfaith relationships.

The risk of misuse is particularly acute in cases involving interfaith marriages or conversions undertaken by consenting adults. In the current social context, this is particularly dangerous.

It creates the conditions for:

- policing of consensual relationships,
- harassment driven by familial or communal disapproval, and
- targeted enforcement against minorities.

The law thus risks transforming the police into regulators of intimacy and arbiters of legitimacy in personal relationships.

This is not incidental—it is a structural consequence of the Bill.

VIII. Paternalistic treatment of women and marginalised communities

Section 9 (2) of the Bill provides enhanced penalties for conversions involving women, minors, persons of unsound mind, and members of Scheduled Castes or Scheduled Tribes.

While the protection of vulnerable persons is a legitimate legislative objective, the Bill proceeds on the problematic assumption that adult women and members of marginalised communities are inherently incapable of making independent religious choices.

Such paternalistic assumptions undermine the constitutional principles of equality and dignity. Adult individuals, regardless of gender or social background, possess the autonomy to determine their beliefs and faith.

IX. Reversal of the burden of proof

Through Section 13, the Bill also introduces a provision that places the burden of proof on the person conducting or facilitating a conversion to demonstrate that the conversion was not unlawful.

This reversal of the burden of proof departs from a foundational principle of criminal jurisprudence: that the prosecution must prove guilt beyond reasonable doubt.

By presuming the illegality of a conversion and requiring the accused to establish innocence, the Bill undermines fundamental safeguards of due process. Such reverse burden provisions are constitutionally suspect and must be justified by compelling reasons, which are absent in the present context.

X. Interference with the right to choose a partner

The Bill also provides that marriages undertaken for the purpose of unlawful conversion may be declared null and void under Section 4.

This provision risks enabling intrusive scrutiny of interfaith marriages and may discourage legitimate relationships between consenting adults. Family members opposing such marriages may invoke the provisions of the Bill to initiate criminal proceedings.

The Supreme Court has consistently affirmed that the right to choose a partner forms an integral component of personal liberty under Article 21 of the Constitution of India, including in *Shafin Jahan v. Asokan K.M.* (2018), where the Court emphasised that the choice of faith and marriage partner belongs to the individual alone.

XI. Institutionalising social surveillance

By requiring public disclosure of intended conversions and allowing objections from third parties, the Bill through Section 6 effectively institutionalises social surveillance over personal religious choices.

This framework risks encouraging vigilantism and community policing of individual faith decisions. Instead of protecting social harmony, it may deepen suspicion and hostility between communities.

The role of the State should be to safeguard individual liberty, not to enable collective interference in matters of personal conscience.

XII. Absence of demonstrated legislative necessity

The Statement of Objects and Reasons accompanying the Bill asserts that unlawful conversions are increasing and threaten public order. However, no empirical evidence or official data has been presented to substantiate these claims.

Restrictions on fundamental rights must satisfy the tests of necessity, proportionality, and reasonableness. In the absence of demonstrable evidence, the sweeping provisions of the Bill appear disproportionate and unjustified.

XIII. Absence of necessity and failure of constitutional proportionality

The proposed Maharashtra Freedom of Religion Bill, 2026 is marked by a complete absence of demonstrable necessity.

No credible empirical data, legislative study, or publicly available material has been produced to establish the existence of a widespread or systemic problem of “forced conversions” that would warrant such an intrusive legal framework. In fact, even the State’s own institutional mechanisms—set up to examine inter-community relationships—have reportedly not yielded substantiated complaints necessitating legislative intervention.

In constitutional terms, any restriction on fundamental rights must satisfy the well-established tests of necessity, proportionality, and reasonableness, flowing from Article 21 of the Constitution of India and Article 25 of the Constitution of India.

The present Bill fails each of these requirements:

- Absence of necessity: It seeks to remedy a harm that has not been empirically established.
- Lack of proportionality: It imposes sweeping restrictions—criminal sanctions, prior restraints, and intrusive scrutiny—on constitutionally protected freedoms.
- Unreasonableness: It adopts vague and expansive definitions that enable arbitrary enforcement.

The Bill is overbroad in scope, capturing within its ambit legitimate and voluntary acts of faith and intimate association. It is vague in its terminology, allowing subjective interpretation by executive authorities. Most critically, it is excessive in its consequences, exposing individuals to criminal prosecution, social harassment, and administrative intrusion.

In effect, the legislation inverts the constitutional standard: instead of narrowly tailoring a response to a clearly established harm, it imposes a wide-ranging regime of control in the absence of such harm.

A law that addresses no proven mischief, yet severely curtails fundamental freedoms, cannot withstand constitutional scrutiny.

XIV. Demand for transparency and democratic scrutiny

The Indian National Congress demands and urges the ruling dispensation to:

1. Immediately make the draft bill public.
2. Initiate a process of public consultation involving civil society, women's groups, legal experts, and minority rights organisations.
3. Refer the bill to a legislative standing committee for detailed scrutiny.
4. Refrain from introducing or passing the legislation without meaningful democratic debate.
5. Put out data on so called 'forced' conversions by marriage or otherwise which is necessitating such a law in Maharashtra

Legislation affecting fundamental rights must not be passed through opaque procedures or rushed legislative processes.

Conclusion

The Maharashtra Freedom of Religion Bill, 2026, in its current form, raises serious constitutional concerns.

By imposing prior notice requirements, expanding vague criminal provisions, reversing the burden of proof, and granting sweeping powers to the police, the Bill undermines the fundamental freedoms guaranteed under the Constitution.

Rather than safeguarding religious liberty, it creates a framework that risks surveillance, harassment, and discrimination against individuals exercising their right to choose their faith.

For these reasons, the undersigned respectfully record dissent and urge that the Bill not be enacted in its present form, and that any legislation addressing unlawful conversions be narrowly tailored to target genuine coercion or fraud without infringing constitutional rights.