Prevention of Insults to National Honour (Amendment) Bill, 2026

Mains: *GS II – Governance*

Why in News?

The Rajya Sabha introduced the Prevention of Insults to National Honour (Amendment) Bill, 2026 on 24 July 2026.

What is the bill and its background?

- **Protection to national song** – The Bill seeks to extend statutory protection to **Vande Mataram**, India's National Song, by amending the **Prevention of Insults to National Honour Act, 1971**.
- **Criminalising insults** – The Act currently criminalises insults to the **National Flag**, the **Constitution**, and the **National Anthem (Jana Gana Mana)**.
- If enacted, the amendment would make intentional disruption of the singing of *Vande Mataram* a punishable offence.
- **Commemoration of 150th anniversary** – The legislation forms part of the Union Government's year-long commemoration of the **150th anniversary of *Vande Mataram.***
- It follows several executive measures, including protocols governing its rendition at official functions.
- However, the proposal has generated significant constitutional and political debate over the legal status of the National Song, freedom of conscience, and the historical understanding of Indian nationalism.

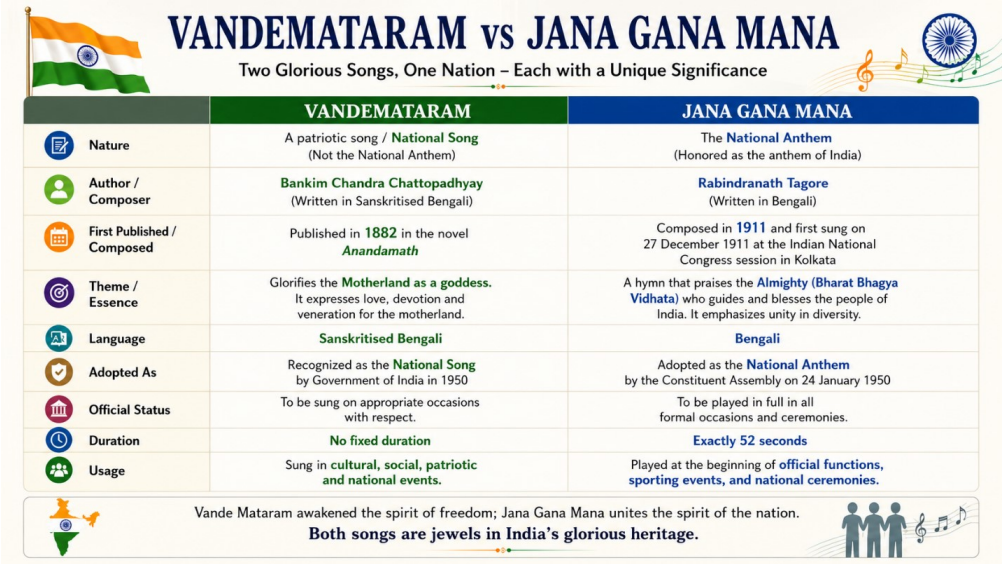
What are the key provisions of the bill?

- **Existing Provision –** At present, Section 3 penalises any person who:
  - Intentionally prevents the singing of the National Anthem; or
  - Causes disturbance to an assembly engaged in singing the National Anthem.
  - The punishment may extend to **three years' imprisonment**, a fine, or both. Repeat offenders are liable to a **minimum imprisonment of one year**.
- **Proposed Amendment –** The Bill proposes to amend **Section 3** of the **Prevention of Insults to National Honour Act, 1971**.
- The Bill extends identical legal protection to **Vande Mataram**. Consequently, any person who:
  - Intentionally prevents the singing of the National Song; or
  - Disturbs an assembly engaged in its rendition,

    - Would face the same penalties applicable to offences involving the National Anthem.
- **Government's Justification –** The Statement of Objects and Reasons accompanying the Bill cites **Dr. Rajendra Prasad's statement of 24 January 1950**, delivered in the Constituent Assembly before the Constitution came into force.
- Rajendra Prasad declared that:
    - **Jana Gana Mana** would be India's National Anthem; and
    - **Vande Mataram**, owing to its historic contribution to the freedom struggle, would enjoy **equal honour**.
- The Government argues that although *Vande Mataram* has long enjoyed equal symbolic respect, no specific statutory provision protects it from deliberate disruption or insult.
- The amendment, therefore, seeks to remove this legal anomaly.

What is the historical evolution of *Vande Mataram*?

- **Origin –** *Vande Mataram* was composed by **Bankim Chandra Chattopadhyay** in **1882** and included in his novel *Anandamath*.
- **Role in freedom movement** – The song became one of the most powerful symbols of anti-colonial nationalism, particularly during the **Swadeshi Movement (1905)** that followed the partition of Bengal.
- Its first two stanzas celebrate the motherland through imagery of natural beauty and inspired generations of freedom fighters.



- **The Controversy over the Later Stanzas –** The later stanzas, however, personify India as Hindu goddesses such as **Durga** and **Lakshmi**, while employing militant religious imagery and references to temples.
- Even during the freedom movement, sections of the Muslim community expressed reservations regarding these verses, arguing that they conflicted with monotheistic religious beliefs and risked alienating non-Hindu communities.
- Several Congress leaders also feared that insisting on the entire song could deepen communal divisions and strengthen the British policy of "divide and rule."
- **Congress Working Committee Settlement –** The controversy culminated in the

Congress Working Committee (CWC) meeting held in **Calcutta in October 1937**.

- Contrary to later political interpretations, the decision was not that of **Jawaharlal Nehru alone**.
- The resolution was, Moved by **Rajendra Prasad,** Seconded by **Sardar Vallabhbhai Patel,** Attended by **Mahatma Gandhi and** Supported after consultation with **Rabindranath Tagore**
- Tagore advised that **only the first two stanzas** should be used during public and official ceremonies because they celebrated the motherland without invoking sectarian religious imagery.
- The Congress Working Committee unanimously accepted this recommendation, thereby establishing a political consensus that shaped later constitutional practice.
- **Position Adopted by the Constituent Assembly –** On **24 January 1950**, Constituent Assembly President **Rajendra Prasad** announced that:
  - **Jana Gana Mana** would be the National Anthem.
  - **Vande Mataram** would receive equal honour because of its historic role in India's freedom struggle.
- However, the Assembly did **not** adopt any constitutional provision placing the National Song on the same legal footing as the National Anthem.
- This distinction has continued since Independence.

To know more about vande mataram click *here*

What is the constitutional and legal position?

- **Constitutional Framework –** Article **51A(a)** of the Constitution lists among the Fundamental Duties:
  - Respect for the Constitution,
  - The National Flag, and
  - The National Anthem.
- Notably, **the National Song is not mentioned**.
- **Prevention of Insults to National Honour Act, 1971** – This act grants statutory protection only to:
  - The National Flag,
  - The Constitution, and
  - The National Anthem.
- **Bijoe Emmanuel v. State of Kerala (1986) –** In this landmark judgment, the Supreme Court held that students belonging to the Jehovah's Witnesses faith could not be compelled to sing the National Anthem, provided they stood respectfully during its rendition.
- The Court ruled that compelling participation violated the freedoms guaranteed under **Articles 19(1) (a)** (freedom of speech and expression) and **25** (freedom of conscience and religion).
- **Supreme Court Observation (2017) –** In 2017, the Supreme Court observed that while the Constitution recognises the **National Anthem**, there is **"no concept of a National Song" in law**, reinforcing the distinction between the two.

What are the objections raised?

- **Congress' Position –** The Congress views the amendment as part of the BJP government's broader effort to redefine Indian nationalism through a Hindutva framework.
- Senior Congress leader **Jairam Ramesh** has argued that the **1937 decision** limiting official use to the first two stanzas represented a collective decision of the national movement rather than an act of political appeasement.
- He pointed out that the settlement was endorsed by leaders including:
  - Mahatma Gandhi
  - Rajendra Prasad
  - Vallabhbhai Patel
  - Maulana Abul Kalam Azad
  - Subhas Chandra Bose
  - Govind Ballabh Pant
  - Acharya J.B. Kripalani
- He also highlighted Rabindranath Tagore's important advisory role in shaping that consensus.
- **CPI (M)'s Constitutional Objections –** Rajya Sabha MP **John Brittas** opposed the Bill on constitutional grounds.
- According to him, Rajendra Prasad's 1950 statement carried symbolic significance but did **not** confer constitutional status equal to the National Anthem.
- Article 51A (a) deliberately omits the National Song.
- Parliament reflected this constitutional distinction in the 1971 Act.
- He further argued that criminalising conduct relating to *Vande Mataram* could infringe rights guaranteed under:
  - **Article 14** (Equality before law)
  - **Article 19(1)(a)** (Freedom of speech and expression)
  - **Article 21** (Right to life and personal liberty)
  - **Article 25** (Freedom of conscience and religion)
- **Concerns over the 2026 Government Protocol –** Legal activists have also criticised the **Government Protocol Order of 28 January 2026**, which directs that **all six stanzas** of *Vande Mataram* be played at specified official functions while attendees stand at attention.
- Critics contend that this departs from the **1937 political settlement**, which restricted official use to the first two stanzas.
- They also argue that compelling participation would be inconsistent with the Supreme Court's ruling in **Bijoe Emmanuel**, which affirmed that citizens cannot be forced to participate in patriotic observances against their conscience.
- If participation in the National Anthem cannot be made compulsory, critics argue, compulsory participation in the National Song would be even more difficult to justify, given its lack of equivalent constitutional or statutory status.
- **Concerns Raised by Muslim Organisations –** Several Muslim organisations, have expressed concern that making *Vande Mataram* effectively compulsory may violate the constitutional guarantees of freedom of conscience and religion.
- Their principal objection relates to the later stanzas, which invoke Hindu deities and religious symbolism, making compulsory participation inconsistent with certain

religious beliefs.

What lies ahead?

- The Prevention of Insults to National Honour (Amendment) Bill, 2026 represents a significant development in India's evolving approach to national symbols.
- While the Government argues that the Bill merely extends legal protection to a song that played a defining role in the freedom struggle, critics maintain that it alters a carefully negotiated constitutional balance that has existed since Independence.
- The debate ultimately raises broader questions about the relationship between patriotism and individual liberty, the constitutional limits of compelling symbolic expression, and the need to preserve India's pluralistic traditions while honouring its national heritage.
- Any legislative framework concerning national symbols must therefore reconcile respect for national unity with the constitutional guarantees of freedom of speech, conscience, and religion that form the foundation of India's democratic order.

Reference

[The Hindu| Prevention of Insults to National Honour (Amendment) Bill, 2026]

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