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27 July 2026 ·

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Vande Mataram and the National Honour Bill, 2026: Statutory Parity for the National Song

27 July 2026 · 8 min read ·

✓ Every fact web-verified against primary sources

The Rajya Sabha listed the Prevention of Insults to National Honour (Amendment) Bill, 2026 for consideration and passing on July 27, 2026, to be moved by Union Home Minister Amit Shah. It extends to the National Song Vande Mataram the statutory protection currently available to the National Anthem, the National Flag and the Constitution.

WHAT THE BILL DOES

The Bill was introduced in the Rajya Sabha on July 24, 2026 by Minister of State for Home Affairs Nityanand Rai. It amends **Section 3 of the Prevention of Insults to National Honour Act, 1971**, which punishes anyone who intentionally prevents the singing of Jana Gana Mana, or disturbs an assembly engaged in such singing, with imprisonment up to **three years**, or fine, or both. The amendment applies the same offence and penalty to Vande Mataram, placing the two songs at parity in law.

PROTECTED SYMBOL	PROVISION	BEFORE THE 2026 BILL	AFTER THE BILL
National Flag	Section 2	Up to 3 years, or fine, or both	Unchanged
Constitution of India	Section 2	Up to 3 years, or fine, or both	Unchanged
National Anthem, Jana Gana Mana	Section 3	Up to 3 years, or fine, or both	Unchanged
National Song, Vande Mataram	None	No statutory protection	Section 3, up to 3 years, or fine, or both

A second or subsequent conviction attracts a minimum of one year's imprisonment. Section 2 was widened in 2003 and 2005 to cover practices such as draping the Flag over podiums or using it in clothing.

The immediate context

The move follows an order of the **Ministry of Home Affairs (MHA) dated July 9, 2026**, directing that at official functions Vande Mataram be sung before Jana Gana Mana, that all six stanzas be performed in three minutes and ten seconds, and that the audience stand to attention. The Bill also arrives in the **150th anniversary year of Vande Mataram**, November 7, 2025 to November 7, 2026.

THE HISTORICAL RECORD

Vande Mataram was composed by **Bankim Chandra Chattopadhyay** in Sanskritised Bengali and first published in his journal *Bangadarshan* on **November 7, 1875**. He later wove it into his novel **Anandamath (1882)**, where it became the rallying cry of the sanyasi rebels. It entered nationalist politics when **Rabindranath Tagore sang it at the 1896 Calcutta session of the Indian National Congress (INC)**, and through the Swadeshi movement became the freedom struggle's most widely used slogan.

The 1937 decision on stanzas

The Congress Working Committee (CWC), by a resolution of **October 29, 1937**, adopted only the **first two stanzas**. The later stanzas invoke the motherland in the imagery of the goddess Durga, and Jawaharlal Nehru, then Congress President, had written that the background of *Anandamath* was liable to cause offence to Muslims. Tagore, in a letter to Nehru dated **October 26, 1937**, wrote that he found no difficulty in dissociating the opening portion, with its spirit of tenderness and devotion, from the rest of the poem. The formula was adopted on his advice.

The Constituent Assembly, January 24, 1950

At the last session of the Constituent Assembly on **January 24, 1950**, President **Dr Rajendra Prasad** stated that Jana Gana Mana is the national anthem, and that Vande Mataram, "which has played a historic part in the struggle for Indian freedom, shall be honoured equally with Jana Gana Mana and shall have equal status with it."

THE CONSTITUTIONAL POSITION OF THE NATIONAL SONG

This is the distinction examinations test most often, and it is easy to get wrong.

- The **Constitution nowhere mentions the National Song**, and it does not name the National Anthem either. The status of both rests on the Constituent Assembly declaration of January 24, 1950, a statement recorded in the proceedings, not a constitutional article.
- **Article 51A(a)**, inserted by the 42nd Constitutional Amendment Act, 1976, makes it a Fundamental Duty to respect the Constitution and its ideals and institutions, **the National Flag and the National Anthem. Vande Mataram is not named in Article 51A(a).**

- The statutory tier therefore mattered more. Until this Bill, the Flag, the Constitution and the Anthem had **penal** protection while the National Song had none, despite the 1950 declaration of equal status.

THE JUDICIAL LINE: RESPECT WITHOUT COMPULSION

Indian courts have consistently distinguished disrespect, which is punishable, from non-participation, which is not.

Bijoe Emmanuel v. State of Kerala (August 11, 1986), (1986) 3 SCC 615. Three Jehovah's Witnesses schoolchildren stood respectfully during the National Anthem at assembly but did not sing it, and were expelled. The Supreme Court held that standing respectfully without joining in the singing is not an offence under the 1971 Act, since neither disrespect nor disturbance was caused. The expulsion violated **Article 19(1)(a)**, which includes the right to remain silent, and **Article 25**, freedom of conscience. A Fundamental Duty, the Court held, cannot override a Fundamental Right.

Shyam Narayan Chouksey v. Union of India. An interim order of **November 30, 2016** made it mandatory for cinema halls to play the National Anthem before feature films. In **2018** the Court modified this, holding the practice **optional and directory**.

The proposition is settled: the State may protect national symbols from desecration, but may not compel veneration.

THE DEBATE: PARITY AND LIBERTY

The case for the amendment. The 1971 Act was drafted when only three symbols were thought to need protection. If the Constituent Assembly conferred equal status in 1950, leaving the National Song unprotected is a statutory anomaly. Deliberately disrupting an official rendition is a public-order harm whichever song is sung, and the Bill creates no new offence, it extends an existing one at identical punishment.

The civil-liberties concern. Three objections arise.

- **Definitional vagueness.** "Insult", "prevent" and "cause disturbance" are open-textured. Without a stated mens rea **threshold**, the provision can be invoked against silence, non-attendance or academic criticism, none of which the drafters intend to reach.
- **Risk of vexatious prosecution.** Where any private person can set the criminal law in motion, such an offence can become an instrument of harassment.
- **Compelled patriotism.** Article 19(1)(a) protects the right not to speak and Article 25 protects conscience. The comparison often drawn is **Texas v. Johnson (1989)**, where the Supreme Court of the United States held 5:4 that burning the flag in protest was protected speech. India permits reasonable restrictions under Article 19(2), but the tension is the same.

A drafting question also arises: the CWC adopted two stanzas in 1937, while the MHA order of July 9, 2026 prescribes all six.

WAY FORWARD

- ❶ **Define the offence tightly.** Add statutory definitions of “insult” and “disturbance” with an express requirement of **deliberate** intent, excluding non-participation on the face of the statute.
- ❷ **Prior sanction for prosecution.** Require sanction from a designated authority before cognisance, a filter used in several special statutes.
- ❸ **Codify the Bijoe Emmanuel rule.** Add an explanation that standing respectfully without singing is not an offence.
- ❹ **Education over enforcement.** Pair the provision with civic education, so reverence is built by persuasion rather than prosecution.

UPSC RELEVANCE

GS Paper 2: Indian Constitution, significant provisions; Fundamental Rights and Fundamental Duties; landmark judgments of the Supreme Court.

GS Paper 1: The Freedom Struggle and its important contributors; Indian culture, literature and cultural symbols in the national movement.

Prelims pointers:

- Composed by Bankim Chandra Chattopadhyay, published in *Bangadarshan* on November 7, 1875.
- It appeared in the novel *Anandamath* (1882); Rabindranath Tagore first sang it at the 1896 Calcutta session of the Indian National Congress.
- The Congress Working Committee adopted only the first two stanzas, by resolution of October 29, 1937.
- Dr Rajendra Prasad declared its equal status in the Constituent Assembly on January 24, 1950.
- Article 51A(a) names the Constitution, National Flag and National Anthem, but not the National Song.
- Section 2 of the 1971 Act covers the Flag and the Constitution; Section 3 covers the National Anthem.
- Proposed penalty: up to three years, or fine, or both, with a one-year minimum on a second conviction.
- *Bijoe Emmanuel v. State of Kerala*, August 11, 1986, turned on Articles 19(1)(a) and 25.

Mains question: “The Prevention of Insults to National Honour (Amendment) Bill, 2026 aligns law with a declaration made in 1950, but revives an old question about the limits of legally enforced reverence.” Discuss with reference to Article 51A(a) and the jurisprudence on national symbols. (250 words)

★ FACTS CORNER, KNOWLEDGEPIEDIA

VANDE MATARAM, KEY DATES:

Published in *Bangadarshan*: November 7, 1875

Included in *Anandamath*: 1882

First sung at the Calcutta INC session by Rabindranath Tagore: 1896

First two stanzas adopted by the Congress Working Committee: October 29, 1937

Equal status declared by the Constituent Assembly: January 24, 1950

150th anniversary year: November 7, 2025 to November 7, 2026

NATIONAL SYMBOLS, LEGAL BASIS:

National Flag: Flag Code of India, 2002 and Section 2 of the 1971 Act

National Anthem: adopted January 24, 1950; Section 3 of the 1971 Act; in Article 51A(a)

National Song: not in Article 51A(a); protection proposed by the 2026 Bill

Rendition: Jana Gana Mana, 52 seconds; Vande Mataram, 3 minutes 10 seconds

KEY CONCEPTS:

National Song: a song recognised by declaration, distinct in law from the National Anthem

Fundamental Duties: non-justiciable obligations in Part IVA, Article 51A, added by the 42nd Amendment, 1976

Mens rea: the mental element of intent required for a criminal offence

Directory provision: a rule guiding conduct without making non-compliance an offence

Sources: PRS Legislative Research, PIB, Ministry of Home Affairs, The Hindu

Source: Vande Mataram and the National Honour Bill, 2026: Statutory Parity for the National Song — Ujyari.com
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