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Legislating Respect: What the Vande Mataram Amendment Gets Right, and the One Precedent It Must Not Cross

 **MINT**

7 August 2026

POLITY**GS2**

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Legislating Respect: What the Vande Mataram Amendment Gets Right, and the One Precedent It Must Not Cross

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INTERVIEW ANGLE

"The Supreme Court in Bijoe Emmanuel drew a line between compelling respect (no insult) and compelling participation (forced singing). If a new law expands what counts as insult without touching that line, has it actually changed anything, or just raised the stakes of getting the line wrong?"

 Every fact web-verified against primary sources

THE LIFT LINE

A law can require silence to be respectful. It cannot require silence to become song.

WHY THIS EDITORIAL MATTERS FOR YOUR EXAM

Polity answers on fundamental rights routinely cite Article 25 in the abstract. This editorial gives you a live 2026 statute to anchor it to, and a precise 1986 precedent, Bijoe Emmanuel, that already answers the exact question the new law raises: what is the difference between requiring respect and requiring participation. Naming both together is what separates a Prelims-fact answer from a Mains-grade one.

GS Paper 2: Indian Constitution: historical underpinnings, evolution, features, amendments, significant provisions and basic structure; fundamental rights; comparison of the Indian constitutional scheme with other countries; Parliament and State legislatures: structure, functioning, conduct of business, powers and privileges.

CONCEPT	MEANING	WHY IT IS TESTABLE
Prevention of Insults to National Honour Act, 1971	Penalises insults to the National Flag, the Constitution and the National Anthem	The parent statute the 2026 Bill amends
Prevention of Insults to National Honour (Amendment) Bill, 2026	Extends the same protection to Vande Mataram, criminalising intentional prevention or disturbance of its singing	Live legislative fact, passed 30 July 2026
National Anthem vs National Song	Jana Gana Mana (National Anthem) and Vande Mataram (National Song) hold equal status by a 1950 Constituent Assembly resolution, not by identical constitutional text	Frequently confused distinction, high-yield for Prelims
Bijoe Emmanuel v. State of Kerala (1986)	SC held that standing in respectful silence, without singing, satisfies the duty of respect; singing cannot be compelled	Direct precedent for testing the new amendment's implementation
Article 25(1)	Freedom of conscience and free profession, practice and propagation of religion	Constitutional ground of the Bijoe Emmanuel verdict

BACKGROUND AND CONTEXT

The trigger is a **Mint Quick Edit**, published 7 August 2026, titled “Questions of legal liability for insults to national honour demand wide deliberation,” responding to Parliament’s passage of the **Prevention of Insults to National Honour (Amendment) Bill, 2026**. The Bill was introduced in the **Rajya Sabha on 24 July 2026** and **passed by Parliament on 30 July 2026**.

The parent law, the **Prevention of Insults to National Honour Act, 1971**, currently penalises insults to the **National Flag**, the **Constitution of India**, and the **National Anthem**. Until the 2026 amendment, **Vande Mataram**, India’s National Song, carried no equivalent **statutory** protection, despite having been given status equal to the National Anthem by a **Constituent Assembly resolution of 24 January 1950**, the same date on which Jana Gana Mana was adopted as the National Anthem. The amendment closes this gap by making it an offence, under a new provision inserted into Section 3, to intentionally prevent the singing of the National Song or to cause a disturbance to an assembly engaged in singing it, punishable with imprisonment of up to three years, a fine, or both, with a minimum one-year term prescribed for second and subsequent convictions under the parent Act.

The editorial’s concern, that implementation could create conflicts of conscience for some citizens, is not new. It is exactly the fact pattern the Supreme Court resolved in **Bijoe Emmanuel v. State of Kerala (1986)**, when three Jehovah’s Witness schoolchildren were expelled from a Kerala school for standing respectfully but not singing the National Anthem, citing their faith’s prohibition on singing what they considered non-religious hymns. The Supreme Court held the expulsion unconstitutional under **Article 25(1)**.

THE ANALYSIS

- 1. The amendment corrects a real inconsistency, not a manufactured one.** Vande Mataram has held constitutional parity with the National Anthem since 1950, but statutory criminal protection only for the Anthem for over five decades. Extending equivalent protection is a coherent legislative choice, not an arbitrary expansion.
- 2. The offence, as drafted, tracks the Bijoe Emmanuel line.** The 2026 amendment criminalises intentional prevention of singing or disturbance to those singing, both active acts, not passive non-participation. On its text, the Bill does not criminalise standing silently, which is precisely the conduct Bijoe Emmanuel protected.
- 3. The risk is in application, not drafting.** Mint's caution is well placed because criminal statutes are enforced by police and lower courts long before an appellate bench gets to clarify intent. A single overzealous FIR treating silent non-participation as disturbance would functionally undo Bijoe Emmanuel's protection for the individual involved, even if ultimately overturned on appeal, since the process itself is a burden.
- 4. Vande Mataram carries an additional sensitivity the National Anthem does not.** Some communities have historically raised concerns about specific verses in the full composition (commonly resolved in practice by singing only the first two stanzas, which the Constituent Assembly itself endorsed as free of religious reference). A new criminal-liability regime around its singing should be alert to this history, distinct from the National Anthem's comparatively less contested reception.
- 5. The remedy is administrative discipline, not legislative rollback.** Since the statute's text already respects the Bijoe Emmanuel line, the operative fix is guidance to enforcement authorities, explicitly citing the precedent, so that field-level application does not drift from what Parliament actually enacted.

DATA AND INSTITUTIONS VAULT

PRELIMS-GRADE FACTS:

Prevention of Insults to National Honour Act, 1971: penalises insults to the National Flag, the Constitution, the National Anthem

Prevention of Insults to National Honour (Amendment) Bill, 2026: introduced in Rajya Sabha 24 July 2026, passed by Parliament 30 July 2026

New offence: intentionally preventing the singing of the National Song, or disturbing an assembly singing it; punishable with up to 3 years’ imprisonment, fine, or both; minimum 1 year for repeat convictions

National Anthem: Jana Gana Mana; National Song: Vande Mataram; both given equal status by a Constituent Assembly resolution dated 24 January 1950

Bijoe Emmanuel v. State of Kerala (1986): SC held standing respectfully without singing satisfies the duty of respect; expulsion for non-singing on grounds of religious conscience violated Article 25(1)

WATCH THE TRAP: DO NOT WRITE THAT VANDE MATARAM IS THE NATIONAL ANTHEM, OR THAT IT HOLDS IDENTICAL CONSTITUTIONAL STATUS TO JANA GANA MANA; IT IS THE NATIONAL SONG, GIVEN EQUAL (NOT IDENTICAL) STATUS BY A 1950 RESOLUTION, AND ONLY IN 2026 DID IT RECEIVE EQUIVALENT STATUTORY CRIMINAL PROTECTION.

THE DEBATE

Argument FOR the amendment. Vande Mataram has carried constitutional parity with the National Anthem since 1950; a five-decade gap in statutory protection was an inconsistency, not a *deliberate* restraint, and closing it through Parliament, after full legislative debate and passage in both Houses, is the appropriate route for expanding protection of a national symbol against active insult.

Argument AGAINST rushed implementation. Criminal liability provisions are only as protective of conscience as their enforcement, and India’s record of FIRs filed on contested or overbroad readings of symbolic-insult laws, including past cases around the National Anthem itself, gives real reason for caution. Wide deliberation, as Mint’s Quick Edit title urges, is warranted before enforcement machinery is activated at the state and local level.

Balanced verdict. The Bill’s text does not conflict with Bijoe Emmanuel; its risk lies entirely in enforcement discretion. The appropriate response is neither opposing the amendment nor treating it as risk-free, but demanding that the Ministry of Home Affairs and state police issue explicit implementation guidance anchored in the 1986 precedent before the provision is actively enforced.

HOW TO THINK ABOUT THIS

The transferable pattern: **when a law protects a symbol's honour, separate the duty it can lawfully impose (respect, meaning no active insult or disruption) from the duty it cannot (participation, meaning compelled performance), and check any new statute's text and its enforcement against that line separately.**

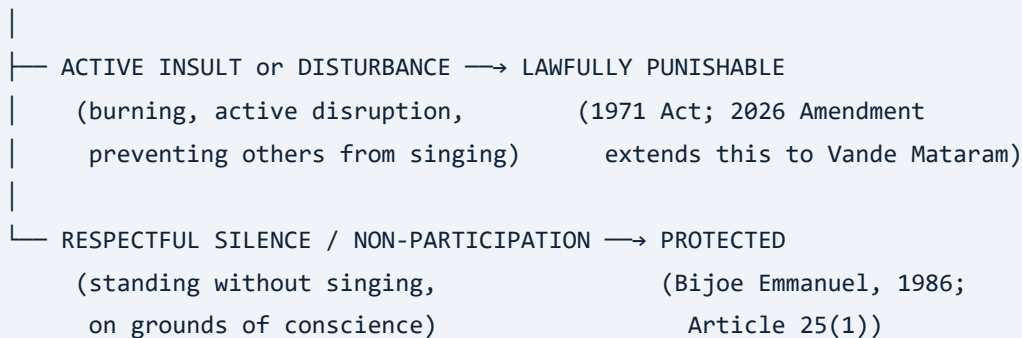
Respect and participation are frequently conflated in public discourse around national symbols, but constitutional law treats them differently: the state's legitimate interest in protecting a symbol from active insult does not extend to compelling an individual's active performance of reverence, which is where freedom of conscience under Article 25 begins. A statute can be textually sound on this line while still being applied incorrectly by enforcement authorities who have not internalised the distinction, which is why implementation guidance matters as much as legislative drafting.

This same test recurs in other symbolic-respect contexts: compulsory flag salutes, mandatory participation in state ceremonies, and even workplace or institutional loyalty pledges all raise the identical question of where respect ends and compelled performance begins.

DIAGRAM-IN-WORDS

THE RESPECT VERSUS PARTICIPATION LINE

NATIONAL SYMBOL (Flag / Anthem / National Song)



THE 2026 AMENDMENT'S TEXT SITS ON THE CORRECT SIDE OF THIS LINE.

THE RISK IS ENFORCEMENT DRIFT ACROSS IT.

TAKEAWAY BOX

Parliament expanded what counts as insult. The Constitution, since 1986, has already decided what does not.

*Prevention of Insults to National Honour Act, 1971; 2026 Amendment Bill introduced **24 July 2026**, passed **30 July 2026**; penalty up to **3 years**; Vande Mataram given parity with the National Anthem by **Constituent Assembly resolution, 24 January 1950**; **Bijoe Emmanuel v. State of Kerala (1986)**, Article 25(1).*

when the state expands legal liability around a symbol of collective identity, what obligation does it owe to citizens whose individual conscience, protected by the same Constitution, may come into tension with that expansion?

UPSC has examined fundamental rights, freedom of religion and the tension between individual conscience and collective symbols in multiple past years; this editorial supplies a fresh 2026 statutory hook (the Amendment Bill) to pair with the well-established Bijoe Emmanuel precedent.

“A statute that expands legal liability for insults to a national symbol does not, by itself, resolve the constitutional question of where mandatory respect ends and compelled participation begins.” Examine with reference to the Prevention of Insults to National Honour (Amendment) Bill, 2026 and relevant Supreme Court precedent.

Sources: *Mint, PRS Legislative Research, PIB, Indian Kanoon*

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● KEY ARGUMENTS AT A GLANCE

Mint's Quick Edit on Parliament's move to widen legal liability for insults to national honour is right to urge caution: the Prevention of Insults to National Honour (Amendment) Bill, 2026, which extends to Vande Mataram the same statutory protection long given to the National Anthem, raises a genuine risk of criminalising conscientious non-participation rather than actual insult, a distinction the Supreme Court settled definitively in *Bijoe Emmanuel v. State of Kerala* (1986) and which any new enforcement regime must not blur.

✓ SUPPORTING

- The underlying statute, the Prevention of Insults to National Honour Act, 1971, already penalises insults to the National Flag, the Constitution of India, and the National Anthem; the 2026 Amendment Bill, introduced in the Rajya Sabha on 24 July 2026 and passed by Parliament on 30 July 2026, adds Vande Mataram to this list by making it an offence to intentionally prevent its singing or to cause a disturbance to an assembly engaged in singing it, punishable with imprisonment of up to three years, a fine, or both, with a minimum one-year term for repeat convictions under the parent Act.
- Vande Mataram and Jana Gana Mana occupy formally distinct constitutional positions: Jana Gana Mana is the National Anthem, while Vande Mataram is the National Song, given equal status with the National Anthem by a Constituent Assembly resolution of 24 January 1950, not by the Constitution's text itself. The 2026 amendment is the first time this cultural-parity resolution has been converted into equivalent statutory criminal liability.
- The precedent that must govern implementation is *Bijoe Emmanuel v. State of Kerala* (1986), in which the Supreme Court held that expelling three Jehovah's Witness schoolchildren for standing respectfully but not singing the National Anthem, on grounds of religious conscience, violated their fundamental right to freedom of conscience under Article 25(1). The Court found that respectful silence already discharges the duty of respect; singing cannot be compelled.
- Mint's caution is specific: implementation, not the text of the amendment, is where the risk lies. A prosecutor or local authority applying the new offence without internalising the *Bijoe Emmanuel* distinction could treat non-participation itself as disturbance, precisely the error the 1986 judgment forecloses.

⚠ COUNTER

National symbols carry a genuine unifying and constitutional-value function, and a state has a legitimate interest in protecting them from active insult, a category distinct from compelling

participation. Extending equal protection to Vande Mataram, which the Constituent Assembly itself placed on par with the National Anthem in 1950, closes an inconsistency in the law rather than creating a new one, and treating every expansion of national-symbol protection as inherently risky understates the real problem the amendment responds to: deliberate disruption of public singing, which the Bijoe Emmanuel judgment never protected.

**WAY FORWARD**

The amendment's text draws the offence narrowly, intentional prevention or disturbance, not mere non-participation, so the wayforward is implementation discipline rather than legislative change: the Ministry of Home Affairs and state police should issue explicit guidance citing Bijoe Emmanuel, clarifying that respectful silence or standing without singing is not an offence under the amended Act; any prosecution should require clear evidence of active disruption, not passive non-participation; and Parliament's own Standing Committee record and floor debate on the Bill should be preserved as legislative intent evidence for courts asked to interpret the amendment's scope in future cases.


MAINS ANSWER FRAMEWORK
QUESTION

*Discuss the constitutional basis on which the Supreme Court, in *Bijoe Emmanuel v. State of Kerala* (1986), distinguished between mandatory respect for and mandatory participation in national symbols. Examine how this precedent should inform any legislative expansion of liability for insults to national honour. (250 words)*

INTRODUCTION

The Prevention of Insults to National Honour Act, 1971 penalises insults to the National Flag, the Constitution of India and the National Anthem. The Prevention of Insults to National Honour (Amendment) Bill, 2026, passed by Parliament on 30 July 2026, extends equivalent statutory protection to Vande Mataram, the National Song, making it an offence to intentionally prevent its singing or disturb an assembly singing it. The amendment brings statutory law into line with the Constituent Assembly's 1950 resolution giving Vande Mataram status equal to the National Anthem, but it also revives a constitutional question the Supreme Court settled nearly four decades ago: where does mandatory respect end and compelled participation begin.

BODY

In *Bijoe Emmanuel v. State of Kerala* (1986), three Jehovah's Witness schoolchildren were expelled for standing respectfully during the National Anthem without singing it, on the ground that singing violated the tenets of their faith. The Supreme Court held the expulsion unconstitutional, finding that the children's conduct, standing in silence, showed no disrespect, and that Article 25(1)'s guarantee of freedom of conscience protects an individual's right not to participate in an act that conflicts with genuine religious belief, so long as no actual insult or disruption occurs.

The judgment drew a precise line: the state may require and protect respect for national symbols, but it may not compel active participation such as singing. The 2026 amendment's offence provisions are, on their text, consistent with this line, since they criminalise intentional prevention of singing or disturbance to those singing, not the act of remaining silent.

The risk Mint's editorial flags is not in the statute's wording but in its application: an overzealous prosecution or local authority could conflate non-participation with disturbance, precisely the error *Bijoe Emmanuel* forecloses, especially given that Vande Mataram carries its own history of contested reception among some religious communities over specific verses, a sensitivity the National Anthem does not carry in quite the same form.

CONCLUSION

The amendment itself does not need to be opposed; its stated purpose, closing the gap between Vande Mataram's 1950 constitutional-parity status and its 1971 statutory protection, is defensible. What is needed is implementation discipline: explicit guidance to police and prosecutors anchored in *Bijoe Emmanuel*, so that the line the Supreme Court drew between respect and participation is not blurred in practice even though it was preserved in the Bill's text.

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