

Bill No. X of 2016

THE CONSTITUTION (AMENDMENT) BILL, 2016

A
BILL

further to amend the Constitution of India.

BE it enacted by Parliament in the Sixty-seventh Year of the Republic of India as follows:—

1. (1) This Act may be called the Constitution (Amendment) Act, 2016.

(2) It shall come into force at once.

5 2. In article 246 of the Constitution,—

(i) clause (2) shall be omitted.

(ii) for clause (3), the following shall be substituted, namely:—

10 "(3) Subject to clause (1), the Legislature of any State has exclusive power to make laws for such State or any part thereof with respect to any of the matters enumerated in List II in the Seventh Schedule (in this Constitution referred to as the "State List")."

Short title
and com-
mencement.

Amendment
of article 246.

Substitution of new article for article 248.

3. For article 248 of the Constitution, the following shall be substituted, namely,—

"248. (1) Parliament has exclusive power to make any law with respect to any matter not enumerated in the State List.

(2) Such power shall include the power of making any law imposing a tax not mentioned in that List."

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Substitution of new article for article 254.

4. For article 254 of the Constitution, the following shall be substituted, namely,—

"254. If any provision of a law made by the Legislature of a State is repugnant to any provision of a law made by Parliament which Parliament is competent to enact, then, the law made by Parliament, whether passed before or after the law made by the Legislature of such State, or, as the case may be, the existing law, shall prevail and the law made by the Legislature of the State shall, to the extent of the repugnancy, be void."

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Amendment of the Seventh Schedule.

5. In the Seventh Schedule to the Constitution,—

(i) for entries in List I—Union List, the following shall be substituted, namely:—

“1. Defence of India and every part thereof including preparation for defence and all such acts as may be conducive in times of war to its prosecution and after its termination to effective demobilisation.

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2. Naval, military and air forces; any other armed forces of the Union.

3. Deployment of any armed force of the Union or any other force subject to the control of the Union or any contingent or unit thereof in any State in aid of the civil power; powers, jurisdiction, privileges and liabilities of the members of such forces while on such deployment.

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4. Delimitation of cantonment areas, local self-government in such areas, the constitution and powers within such areas of cantonment authorities and the regulation of house accommodation (including the control of rents) in such areas.

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5. Naval, military and air force works.

6. Arms, firearms, ammunition and explosives excluding civil use.

7. Atomic energy and mineral resources necessary for its production.

8. Industries declared by Parliament by law to be necessary for the purpose of defence or for the prosecution of war.

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9. Central Bureau of Intelligence and Investigation.

10. Preventive detention for reasons connected with Defence, Foreign Affairs, or the security of India; persons subjected to such detention.

11. Foreign affairs; all matters which bring the Union into relation with any foreign country.

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12. Diplomatic, consular and trade representation.

13. United Nations Organisation.

14. Participation in international conferences, associations and other bodies and implementing of decisions made thereat.

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15. Entering into treaties and agreements with foreign countries and implementing of treaties, agreements and conventions with foreign countries.

16. War and peace.

17. Foreign jurisdiction.

18. Citizenship, naturalisation and aliens.
19. Extradition.
20. Admission into, and emigration and expulsion from, India; passports and visas.
- 5 21. Pilgrimages to places outside India.
22. Piracies and crimes committed on the high seas or in the air; offences against the law of nations committed on land or the high seas or in the air.
- 10 23. Transport for carriage of goods and persons by Highways, Shipping and navigation on inland waterways or Railways declared by or under law made by Parliament to be national highways, waterways or railways respectively in mechanically propelled vehicles.
- 15 24. Maritime shipping and navigation, including shipping and navigation on tidal waters; provision of education and training for the mercantile marine and regulation of such education and training provided by States and other agencies.
- 25 25. Lighthouses, including lightships, beacons and other provision for the safety of shipping and aircraft.
- 20 26. Ports declared by or under law made by Parliament or existing law to be major ports, including their delimitation, and the constitution and powers of port authorities therein.
27. Port quarantine, including hospitals connected therewith; seamen's and marine hospitals.
- 25 28. Airways; aircraft and air navigation; provision of aerodromes; regulation and organisation of air traffic and of aerodromes; provision for aeronautical education and training and regulation of such education and training provided by States and other agencies.
29. Posts and telegraphs; telephones; wireless, broadcasting and other like forms of communication.
- 30 30. Property of the Union and the revenue therefrom, but as regards property situated in a State subject to legislation by the State, save in so far as Parliament by law otherwise provides.
31. Courts of wards for the estates of Rulers of Indian States.
32. Public debt of the Union.
33. Currency, coinage and legal tender; foreign exchange.
34. Foreign loans.
- 35 35. Reserve Bank of India.
36. Post Office Savings Bank.
37. Trade and commerce with foreign countries; import and export across customs frontiers; definition of customs frontiers.
38. Inter-State trade and commerce.
- 40 39. Incorporation, regulation and winding up of trading corporations, including banking, insurance and financial corporations, but not including co-operative societies.

40. Incorporation, regulation and winding up of corporations, whether trading or not, with objects not confined to one State, but not including universities.
41. Banking.
42. Bills of exchange, cheques, promissory notes and other like instruments. 5
43. Stock exchanges and futures markets.
44. Patents, inventions and designs; copyright; trade-marks and merchandise marks.
45. Establishment of standards of weight and measure.
46. Establishment of standards of quality for goods to be exported out of India or transported from one State to another. 10
47. Industries, the control of which by the Union is declared by Parliament by law to be expedient in the public interest.
48. Regulation and development of oilfields and mineral oil resources; petroleum and petroleum products; other liquids and substances declared by Parliament by law to be dangerously inflammable. 15
49. Regulation of mines and mineral development to the extent to which such regulation and development under the control of the Union is declared by Parliament by law to be expedient in the public interest.
50. Regulation and development of inter-State rivers and river valleys to the extent to which such regulation and development under the control of the Union is declared by Parliament by law to be expedient in the public interest. 20
51. Fishing and fisheries beyond territorial waters.
52. Sanctioning of cinematograph films for exhibition.
53. The institutions known at the commencement of this Constitution as the National Library, the Indian Museum, the Imperial War Museum, the Victoria Memorial and the Indian War Memorial, and any other like institution financed by the Government of India wholly or in part and declared by Parliament by law to be an institution of national importance. 25
54. The institutions known at the commencement of this Constitution as the Benaras Hindu University, the Aligarh Muslim University and the Delhi University; the University established in pursuance of article 371E; any other institution declared by Parliament by law to be an institution of national importance. 30
55. Institutions for scientific or technical education financed by the Government of India wholly or in part and declared by Parliament by law to be institutions of national importance. 35
56. Ancient and historical monuments and records, and archaeological sites and remains, declared by or under law made by Parliament to be of national importance. 40
57. The Survey of India, the Geological, Botanical, Zoological and Anthropological Surveys of India; Meteorological organisations.
58. Census.
59. Union Public Service; All-India Services; Union Public Service Commission. 45

60. Union pensions, that is to say, pensions payable by the Government of India or out of the Consolidated Fund of India.

61. Elections to Parliament, to the Legislatures of States and to the offices of President and Vice-President; the Election Commission.

5 62. Salaries and allowances of members of Parliament, the Chairman and Deputy Chairman of the Council of States and the Speaker and Deputy Speaker of the House of the People.

63. Powers, privileges and immunities of each House of Parliament and of the members and the Committees of each House; enforcement of attendance of persons for giving evidence or producing documents before committees of Parliament or commissions appointed by Parliament.

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64. Emoluments, allowances, privileges, and rights in respect of leave of absence, of the President and Governors; salaries and allowances of the Ministers for the Union; the salaries, allowances, and rights in respect of leave of absence and other conditions of service of the Comptroller and Auditor-General.

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65. Audit of the accounts of the Union and of the States.

66. Constitution, organisation, jurisdiction and powers of the Supreme Court (including contempt of such Court), and the fees taken therein; persons entitled to practise before the Supreme Court.

20 67. Extension of the powers and jurisdiction of members of a police force belonging to any State to any area outside that State, but not so as to enable the police of one State to exercise powers and jurisdiction in any area outside that State without the consent of the Government of the State in which such area is situated; extension of the powers and jurisdiction of members of a police force belonging to any State to railway areas outside that State.

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68. Inter-State migration; inter-State quarantine.

69. Taxes on income other than agricultural income.

70. Duties of customs including export duties.

30 71. Taxes on the capital value of the assets, exclusive of agricultural land, of individuals and companies; taxes on the capital of companies.

72. Taxes other than stamp duties on transactions in stock exchanges and futures markets.

35 73. Rates of stamp duty in respect of bills of exchange, cheques, promissory notes, bills of lading, letters of credit, policies of insurance, transfer of shares, debentures, proxies and receipts.

74. Taxes on the sale or purchase of newspapers and on advertisements published therein.

75. Taxes on the sale or purchase of goods other than newspapers, where such sale or purchase takes place in the course of inter-State trade or commerce.

40 76. Taxes on the consignments of goods (whether the consignment is to the person making it or to any other persons), where such consignment takes place in the course of inter-State trade or commerce.

77. Bankruptcy and insolvency

78. Actionable Wrongs

45 79. Relief and rehabilitation of persons displaced from their original place of residence by reasons of setting up of the Dominion of India and Pakistan.

80. Prevention of the extension from one State to another of infectious or contagious disease or pests affecting men, animals or plants.
81. Price Control.
82. Newspapers, books and printing presses.
83. Gas and gas-works. 5
84. Criminal law, including all matters included in the Indian Penal Code at the commencement of this Constitution but excluding offences against laws with respect to any of the matters specified in List I and excluding the use of naval, military or air forces or any other armed forces of the Union in aid of the civil power excluding state specific laws not contrary to the Central Law. 10
85. Criminal procedure, including all matters included in the Code of Criminal Procedure at the commencement of this Constitution excluding state specific laws not contrary to the Central Law.
86. Preventive detention for reasons connected with the security of a State, the maintenance of public order, or the maintenance of supplies and services essential to the community; persons subjected to such detention excluding state specific laws not contrary to the Central Law. 15
87. Trust and Trustees.
88. Administrators-general and official trustees.
89. Evidence and oaths, recognition of laws, public acts and records, and judicial proceedings. 20
90. Civil procedure, including all matters included in the Code of Civil Procedure at the commencement of this Constitution, limitation and arbitration.
91. Commercial and industrial monopolies, combines and trusts.
92. Charities and charitable institutions, charitable and religious endowments and religious institutions. 25
93. Recovery in a State of claims in respect of taxes and other public demands, including arrears of land-revenue and sums recoverable as such arrears, arising outside that State.
94. Offences against laws with respect to any of the matters in this List. 30
95. Inquires, surveys and statistics for the purpose of any of the matters in this List.
96. Fees in respect of any of the matters in this List, but not including fees taken in any court.
97. Any other matter not enumerated in List II including any tax not mentioned in that List. 35
- (ii) for entries in List II-State List, the following shall be substituted namely:—
1. Public order (but not including the use of any naval, military or air force or any other armed force of the Union or of any other force subject to the control of the Union or of any contingent or unit thereof in aid of the civil power). 40
 2. Police (including railway and village police) subject to the provisions of List I.
 3. Officers and servants of the High Court, procedure in rent and revenue courts; fees taken in all courts except the Supreme Court.

4. Prisons, reformatories, Borstal institutions and other institutions of a like nature, and persons detained therein; arrangements with other States for the use of prisons and other institutions.

5. Local government, that is to say, the constitution and powers of municipal corporations, improvement trusts, districts boards, mining settlement authorities and other local authorities for the purpose of local self-government or village administration.

6. Public health and sanitation, hospitals and dispensaries.

7. Pilgrimages, other than pilgrimages to places outside India.

8. Intoxicating liquors, that is to say, the production, manufacture, possession, transport, purchase and sale of intoxicating liquors.

9. Relief of the disabled and unemployable.

10. Burials and burial grounds; cremations and cremation grounds.

11. Libraries, museums and other similar institutions controlled or financed by the State; ancient and historical monuments and records other than those declared by or under law made by Parliament to be of national importance.

12. Communications, that is to say, roads, bridges, ferries and other means of communication not specified in List I; municipal tramways; ropeways; inland waterways and traffic thereon subject to the provisions of List I with regard to such waterways; vehicles other than mechanically propelled vehicles.

13. Transport Services by Railways (excluding projects of national character).

14. Agriculture, including agricultural education and research, protection against pest and prevention of plant diseases.

15. Preservation, protection and improvement of stock and prevention of animal diseases; veterinary training and practice.

16. Pounds and the prevention of cattle trespass.

17. Water, that is to say, water supplies, irrigation and canals, drainage and embankments, water storage and water power subject to the provisions of List I.

18. Land, that is to say, rights in or over land, land tenures including the relation of landlord and tenant, and the collection of rents; transfer and alienation of agricultural land; land improvement and agricultural loans; colonisation.

19. Fisheries within territories.

20. Courts of wards subject to the provisions of List I; encumbered and attached estates.

21. Regulation of mines and mineral development subject to the provisions of List I with respect to regulation and development under the control of the Union.

22. Industries subject to the provisions of List I.

23. Trade and commerce within the State subject to the provisions of List I.

24. Production, supply and distribution of goods subject to the provisions of List I.

25. Markets and fairs.

26. Money-lending and money-lenders; relief of agricultural indebtedness.
27. Inns and inn-keepers.
28. Incorporation, regulation and winding up of corporations, other than those specified in List I, and universities; unincorporated trading, literary, scientific, religious and other societies and associations; co-operative societies. 5
29. Theatres and dramatic performances; cinemas subject to the provisions of List I; sports, entertainments and amusements.
30. Betting and gambling.
31. Works, lands and buildings vested in or in the possession of the State.
32. Election to the Legislature of the State subject to the provisions of any law made by Parliament. 10
33. Salaries and allowances of members of the Legislature of the State, of the Speaker and Deputy Speaker of the Legislature Assembly and, if there is a Legislative Council, of the Chairman and Deputy Chairman thereof.
34. Power, privileges and immunities of the Legislative Assembly and of the members and the committees thereof, and, if there is a Legislative Council, of that Council and of the members and the committees thereof, enforcement of attendance of persons for giving evidence or producing documents before committees of the Legislature of the State. 15
35. Salaries and allowances of Ministers for the State. 20
36. State public services; State Public Service Commission.
37. State pensions, that is to say, pensions payable by the State or out of the Consolidated Fund of the State.
38. Public debt of the State.
39. Treasure trove. 25
40. Land revenue, including the assessment and collection of revenue, the maintenance of land records, survey for revenue purposes and records of rights, and alienation of revenues.
41. Taxes on agricultural income.
42. Duties in respect of succession to agricultural land. 30
43. Estate duty in respect of agricultural land.
44. Taxes on lands and buildings.
45. Duties of excise on the following goods manufactured or produced in the State and countervailing duties at the same or lower rates on similar goods manufactured or produced elsewhere in India:— 35
- (a) alcoholic liquors for human consumption;
- (b) opium, Indian hems and other narcotic drugs and narcotics, but not including medicinal and toilet preparations containing alcohol or any substance included in sub-paragraph (b) of this entry.
46. Taxes on the consumption or sale of electricity. 40
47. Taxes on the sale or purchase of goods other than newspapers, subject to the provisions of List I.

48. Taxes on advertisements other than advertisements published in the newspapers and advertisements broadcast by radio or television.

49. Taxes on goods and passengers carried by road or on inland waterways excluding those nationally taxed.

5 50. Taxes on vehicles, whether mechanically propelled or not, suitable for use on roads, including tramcars subject to the provisions of List I.

51. Taxes on animals and boats.

52. Tolls (If State funded).

53. Taxes on professions, trades, callings and employments.

10 54. Capitation taxes.

55. Taxes on luxuries, including taxes on entertainments, amusements etc.

56. Rates of stamp duty in respect of documents other than those specified in the provision of List 1 with regard to rates of stamp duty.

15 57. Jurisdiction and powers of all courts, except the Supreme Court, with respect to any of the matters in this List.

58. Fees in respect of any of the matters in this List, but not including fees taken in any court.

20 59. Marriage and divorce; infants and minors; adoption; wills, intestacy and succession; joint family and partition; all matters in respect of which parties in judicial proceedings were immediately before the commencement of this Constitution subject to their personal law.

60. Transfer of property other than agricultural land; registration of deeds and documents.

25 61. Contracts, including partnership, agency, contracts of carriage, and other special forms of contracts, but not including contracts relating to agricultural land.

62. Contempt of court, but not including contempt of the Supreme Court.

63. Vagrancy; nomadic and migratory tribes.

30 64. Lunacy and mental deficiency, including places for the reception or treatment of lunatics and mental deficient.

65. Prevention of cruelty to animals.

66. Forests. (Excluding declared national status)

67. Protection of wild animals and birds. (excluding declared national status)

68. Adulteration of foodstuffs and other goods.

35 69. Drugs and poisons

70. Economic and social planning of the state.

71. Population control and family planning.

72. Trade unions; industrial and labour disputes.

73. Social security and social insurance; employment and unemployment.

40 74. Welfare of labour including conditions of work, provident funds, employers; liability, workmen's compensation, invalidity and old age pensions and maternity benefits excluding measures sanctioned by the Union.

75. Education, including technical education, medical education and universities, subject to the provisions of List I; vocational and technical training of labour subject to minimum national criterion.
76. Criminal law, including all matters included in the Indian Penal Code at the commencement of this Constitution but excluding offences against laws with respect to any of the matters specified in List I and excluding the use of naval, military or air forces or any other armed forces of the Union in aid of the civil power excluding central laws not contrary to the State Law. 5
77. Criminal procedure, including all matters included in the Code of Criminal Procedure at the commencement of this Constitution excluding central laws not contrary to the State Law. 10
78. Preventive detention for reasons connected with the security of a State, the maintenance of public order, or the maintenance of supplies and services essential to the community; persons subjected to such detention excluding central laws not contrary to the State Law. 15
79. Legal, medical and other professions.
80. Vital statistics including registration of births and deaths.
81. Ports other than those declared by or under law made by Parliament or existing law to be major ports.
82. Shipping and navigation on inland waterways as regards mechanically propelled vessels, and the rule of the road on such waterways, and the carriage of passengers and goods on inland waterways subject to the provisions of List I with respect to national waterways. 20
83. Trade and commerce in, and the production, supply and distribution of,— 25
- (a) the products of any industry except where the control of such industry by the Union is declared by Parliament by law to be expedient in the public interest, and imported goods of the same kind as such products;
 - (b) foodstuffs, including edible oilseeds and oils;
 - (c) cattle fodder, including oil cakes and other concentrates; 30
 - (d) raw cotton, whether ginned or unginned, and cotton seeds; and
 - (e) raw jute.
84. Custody, management and disposal of property (including agricultural land) declared by law to be evacuee property.
85. Inquiries and statistics except for the purposes of any of the matters specified in List I. 35
86. Fees in respect of any of the matters in this List, but not including fees taken in any court.
87. Factories
88. Boilers. 40
89. Electricity.
90. Corporation tax.
91. Offences against laws with respect to any of the matters in this List.”
- (iii) List III—Concurrent list shall be omitted. 45

STATEMENT OF OBJECTS AND REASONS

Federalism has been part of the public discourse in India for many decades, before and after independence in 1947, but it has gained greater importance since the 1990s when the country's national polity saw and advent of the coalition era.

The emergence of regional parties in India has led to a targeted growth ensuring social security measures to the residents of this respective States. In a maturing democracy, the core components of nation building lies with solutions that pertain to a local population rather than a nation-wide policy. Thus, working on the idea of cooperative federalism entails the transfer of power so as to empower the Union with matters of national and internal security measures, upliftment of Fundamental Rights and fulfilment of national interest while the State Governments provide for the provisions of facilities and utilities required for economic and social growth.

Mahatma Gandhi also favored the decentralised structure and preferred a panchayat/ village based federation. In India, there are two governments in existence, the Union Government and the State Government. The two governments are not subordinate to each other rather cooperate with each other while working independently. Though the Indian constitution has the traits of being a federal constitution, but in its strict sense, it is not. The presence of features which are necessary for existence of a federation is an unique aspect of Indian Constitution but on the other side, there are provisions which give more power to the Union Government *vis-a-vis* State governments. Hence, the Indian Constitutional structure is a quasi-federal structure and it was made like this in the 1935 Act. This Act laid down the foundations of federal form of government, in India. It provided for the distribution of legislative power between the Union and the provinces, the structure at that time. A well designed, and more important, well-functioning system of federal governance, by virtue of its manifold benefits, plays a key role in promoting the stability and prosperity of nations as the heights attained in development by the leading federations of the world—USA, Canada, Australia and Switzerland—demonstrate.

Former Chief Justice Beg, in *State of Rajasthan versus Union of India*, 1977 called the Constitution of India as 'amphibian'. He said that "... if then our Constitution creates a Central Government which is 'amphibian', in the sense that it can move either on the federal or on the unitary plane, according to the needs of the situation and circumstances of a case...".

Similarly in *S.R. Bommai versus Union of India*, "pragmatic federalism" was used. Quoting Justice Ahmadi, "...It would thus seem that the Indian Constitution has, in it, not only features of a pragmatic federalism which, while distributing legislative powers and indicating the spheres of governmental powers of State and Central Governments, is overlaid by strong unitary features...".

In a truly federal Constitution, there is no need for a concurrent sphere of legislative powers and now, the time has come for a complete and mutually exclusive division of power between the Union and State Governments.

Hence this Bill.

VIVEK GUPTA

ANNEXURE

EXTRACTS FROM THE CONSTITUTION OF INDIA

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SEVENTH SCHEDULE

(Article 246)

List I—Union List

1. Defence of India and every part thereof including preparation for defence and all such acts as may be conducive in times of war to its prosecution and after its termination to effective demobilisation.
2. Naval, military and air forces; any other armed forces of the Union.
 - 2A. Deployment of any armed force of the Union or any other force subject to the control of the Union or any contingent or unit thereof in any State in aid of the civil power; power, jurisdiction, privileges and liabilities of the members of such forces while on such deployment.
3. Delimitation of cantonment areas, local self-government in such areas, the constitution and powers within such areas of cantonment authorities and the regulation of house accommodation (including the control of rents) in such areas.
4. Naval, military and air force works.
5. Arms, firearms, ammunition and explosives.
6. Atomic energy and mineral resources necessary for its production.
7. Industries declared by Parliament by law to be necessary for the purpose of defence or for the prosecution of war.
8. Central Bureau of Intelligence and Investigation.
9. Preventive detention for reasons connected with Defence. Foreign Affairs, or the security of India; persons subjected to such detention.
10. Foreign affairs; all matters which bring the Union into relation with any foreign country.
11. Diplomatic, consular and trade representation.
12. United Nations Organisation.
13. Participation in international conferences, associations and other bodies and implementing of decisions made thereat.
14. Entering into treaties and agreements with foreign countries and implementing of treaties, agreements and conventions with foreign countries.
15. War and peace.
16. Foreign jurisdiction.
17. Citizenship, naturalisation and aliens.
18. Extradition.
19. Admission into, and emigration and expulsion from, India; passports and visas.
20. Pilgrimages to place outside India.

21. Piracies and crimes committed on the high seas or in the air; offences against the law of nations committed on land or the high seas or in the air.

22. Railways.

23. Highways declared by or under law made by Parliament to be national highways.

24. Shipping and navigation on inland waterways, declared by Parliament by law to be national waterways, as regards mechanically propelled vessels; the rule of the road on such waterways.

25. Maritime shipping and navigation, including shipping and navigation on tidal waters; provision of education and training for the mercantile marine and regulation of such education and training provided by States and other agencies.

26. Lighthouses, including lightships, beacons and other provision for the safety of shipping and aircraft.

27. Ports declared by or under law made by Parliament or existing law to be major ports, including their delimitation, and the constitution and powers of port authorities therein.

28. Port quarantine, including hospitals connected therewith: seamen's and marine hospitals.

29. Airways: aircraft and air navigation: provision of aerodromes: regulation and organisation of air traffic and of aerodromes; provision for aeronautical education and training and regulation of such education and training provided by States and other agencies.

30. Carriage of passengers and goods by railways, sea or air, or by national waterways in mechanically propelled vessels.

31. Posts and telegraphs; telephones, wireless, broadcasting and other like forms of communication.

32. Property of the Union and the revenue therefrom, but as regards, property situated in a State subject to legislation by the State, save in so far as Parliament by law otherwise provides.

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34. Courts of wards for the estates of Rulers of Indian States.

35. Public debt of the Union.

36. Currency, coinage and legal tender, foreign exchange.

37. Foreign loans.

38. Reserve Bank of India.

39. Post Office Savings Bank.

40. Lotteries organised by the Government of India or the Government of a State.

41. Trade and commerce with foreign countries: import and export across customs frontiers; definition of customs frontiers.

42. Inter-State trade and commerce.

43. Incorporation, regulation and winding up of trading corporations, including banking, insurance and financial corporations, but not including co-operative societies.

44. Incorporation, regulation and winding up of corporations, whether trading or not, with objects not confined to one State, but not including universities.

45. Banking.

46. Bills of exchange, cheques, promissory notes and other like instruments.

47. Insurance.
48. Stock exchanges and futures markets.
49. Patents, inventions and designs: copyright: trade-marks and merchandise marks.
50. Establishment of standards of weight and measure.
51. Establishment of standards of quality for goods to be exported out of India or transported from one State to another.
52. Industries, the control of which by the Union is declared by Parliament by law to be expedient in the public interest.
53. Regulation and development of oilfields and mineral oil resources: petroleum and petroleum products; other liquids and substances declared by Parliament by law to be dangerously inflammable.
54. Regulation of mines and minerals development to the extent to which such regulation and development under the control of the Union is declared by Parliament by law to be expedient in the public interest.
55. Regulation of labour and safety in mines and oilfields.
56. Regulation and development of inter-State rivers and river valleys to the extent to which such regulation and development under the control of the Union is declared by Parliament by law to be expedient in the public interest.
57. Fishing and fisheries beyond territorial waters.
58. Manufacture, supply and distribution of salt by Union agencies; regulation and control of manufacture, supply and distribution of salt by other agencies.
59. Cultivation, manufacture, and sale for export, of opium.
60. Sanctioning of cinematograph films for exhibition.
61. Industrial disputes concerning Union employees.
62. The institutions known at the commencement of this Constitution as the National Library, the Indian Museum, the Imperial War Museum, the Victoria Memorial and the Indian War Memorial, and any other like institution financed by the Government of India wholly or in part and declared by Parliament by law to be an institution of national importance.
63. The institutions known at the commencement of this Constitution as the Benares Hindu University, the Aligarh Muslim University and the Delhi University; the University established in pursuance of article 3711; any other institution declared by Parliament by law to be an institution of national importance.
64. Institutions for scientific or technical education financial by the Government of India wholly or in part and declared by Parliament by law to be institutions of national importance.
65. Union agencies and institutions for—
- (a) professional, vocational or technical training, including the training of police officers; or
 - (b) the promotion of special studies or research; or
 - (c) scientific or technical assistance in the investigation or detection of crime.
66. Co-ordination and determination of standards in institutions for higher education or research and scientific and technical institutions.
67. Ancient and historical monuments and records, and archacological sites and remains, declared by or under law made by Parliament to be of national importance.

68. The Survey of India, the Geological, Botanical, Zoological and Anthropological Surveys of India; Meteorological organisations.

69. Census.

70. Union Public Service; All-India Services; Union Public Service Commission.

71. Union pensions, that is to say, pensions payable by the Government of India or out of the Consolidated Fund of India.

72. Elections to Parliament, to the Legislatures of States and to the offices of President and Vice-President; the Election Commission.

73. Salaries and allowances of members of Parliament, the Chairman and Deputy Chairman of the Council of States and the Speaker and Deputy Speaker of the House of the People.

74. Powers, privileges and immunities of each House of Parliament and of the members and the Committees of each House; enforcement of attendance of persons for giving evidence or producing documents before committees of Parliament or commissions appointed by Parliament.

75. Emoluments, allowances, privileges, and rights in respect of leave of absence, of the President and Governors; salaries and allowances of the Ministers for the Union; the salaries, allowances, and rights in respect of leave of absence and other conditions of service of the Comptroller and Auditor-General.

76. Audit of the accounts of the Union and of the States.

77. Constitution, organisation, jurisdiction and powers of the Supreme Court (including contempt of such Court), and the fees taken therein: persons entitled to practise before the Supreme Court.

78. Constitution and organisation (including vacations) of the High Courts except provisions as to officers and servants of High Courts; persons entitled to practise before the High Courts.

79. Extension of the jurisdiction of a High Court to, and exclusion of the jurisdiction of a High Court from, any Union territory.

80. Extension of the powers and jurisdiction of members of a police force belonging to any State to any area outside that State, but not so as to enable the police of one State to exercise powers and jurisdiction in any area outside that State without the consent of the Government of the State in which such area is situated; extension of the powers and jurisdiction of members of a police force belonging to any State to railway areas outside that State.

81. Inter-State migration; inter-State quarantine.

82. Taxes on income other than agricultural income.

83. Duties of customs including export duties.

84. Duties of excise on tobacco and other goods manufactured or produced in India except—

(a) alcoholic liquors for human consumption;

(b) opium, Indian hemp and other narcotic drugs and narcotics, but including medicinal and toilet preparations containing alcohol or any substance included in sub-paragraph (b) of this entry.

85. Corporation tax.

86. Taxes on the capital value of the assets, exclusive of agricultural land, of individuals and companies; taxes on the capital of companies.

87. Estate duty in respect of property other than agricultural land.

- 88. Duties in respect of succession to property other than agricultural land.
- 89. Terminal taxes on goods or passengers, carried by railway, sea or air; taxes on railway fares and freights.
- 90. Taxes other than stamp duties on transactions in stock exchanges and futures markets.
- 91. Rates of stamp duty in respect of bills of exchange, cheques, promissory notes, bills of lading, letters of credit, policies of insurance, transfer of shares, debentures, proxies and receipts.
- 92. Taxes on the sale or purchase of newspapers and on advertisements published therein.
- 92A. Taxes on the sale or purchase of goods other than newspapers, where such sale or purchase takes place in the course of inter-State trade or commerce.
- 92B. Taxes on the consignments of goods (whether the consignment is to the person making it or any other person), where such consignment takes place in the course of inter-State trade or commerce.
- 93. Offences against laws with respect to any of the matters in this List.
- 94. Inquiries, surveys and statistics for the purpose of any of the matters in this List.
- 95. Jurisdiction and powers of all courts, except the Supreme Court, with respect to any of the matters in this List; admiralty jurisdiction.
- 96. Fees in respect of any of the matters in this List, but not including fees taken in any court.
- 97. Any other matter not enumerated in List II or List III including any tax not mentioned in either of those Lists.

List II—State List

- 1. Public order (but not including the use of any naval, military or air force or any other armed force of the Union or of any other force subject to the control of the Union or of any contingent or unit thereof in aid of the civil power).
- 2. Police (including railway and village police) subject to the provisions of entry 2A of List 1.
- 3. Officers and servants of the High Court; procedure in rent and revenue courts; fees taken in all courts except the Supreme Court.
- 4. Prisons, reformatories, Borstal institutions and other institutions of a like nature, and persons detained therein; arrangements with other States for the use of prisons and other institutions.
- 5. Local government, that is to say, the constitution and powers of municipal corporations, improvement trusts, districts boards, mining settlement authorities and other local authorities for the purpose of local self-government or village administration.
- 6. Public health and sanitation; hospitals and dispensaries.
- 7. Pilgrimages, other than pilgrimages to places outside India.
- 8. Intoxicating liquors, that is to say, the production, manufacture, possession, transport, purchase and sale of intoxicating liquors.
- 9. Relief of the disabled and unemployable.
- 10. Burials and burial grounds; cremations and cremation grounds.

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12. Libraries, museums and other similar institutions controlled or financed by the State; ancient and historical monuments and records other than those declared by or under law made by Parliament to be of national importance.

13. Communications, that is to say, roads, bridges, ferries, and other means of communication not specified in List I; municipal tramways; ropeways; inland waterways and traffic thereon subject to the provisions of List I and List III with regard to such waterways; vehicles other than mechanically propelled vehicles.

14. Agriculture, including agricultural education and research, protection against pests and prevention of plant diseases.

15. Preservation, protection and improvement of stock and prevention of animal diseases; veterinary training and practice.

16. Pounds and the prevention of cattle trespass.

17. Water, that is to say, water supplies, irrigation and canals, drainage and embankments, water storage and water power subject to the provisions of entry 56 of List I.

18. Land, that is to say, rights in or over land, land tenures including the relation of landlord and tenant, and the collection of rents; transfer and alienation of agricultural land; land improvement and agricultural loans; colonization.

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21. Fisheries.

22. Courts of wards subject to the provisions of entry 34 of List I: encumbered and attached estates.

23. Regulation of mines and mineral development subject to the provisions of List I with respect to regulation and development under the control of the Union.

24. Industries subject to the provisions of entries 7 and 52 of List I.

25. Gas and gas-works.

26. Trade and commerce within the State subject to the provisions of entry 33 of List III.

27. Production supply and distribution of goods subject to the provisions of entry 33 of List III.

28. Markets and fairs.

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30. Money-lending and money-lenders; relief of agricultural indebtedness.

31. Inns and inn-keepers.

32. Incorporation, regulation and winding up of corporations, other than those specified in List I, and universities; unincorporated trading, literary, scientific, religious and other societies and associations; co-operative societies.

33. Theatres and dramatic performances; cinemas subject to the provisions of entry 60 of List I; sports, entertainments and amusements.

34. Betting and gambling.

35. Works, lands buildings vested in or in the possession of the State

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37. Elections to the Legislature of the State subject to the provisions of any law made by Parliament.

38. Salaries and allowances of members of the Legislature of the State, of the Speaker and Deputy Speaker of the Legislative Assembly and, if there is a Legislative Council, of the Chairman and Deputy Chairman thereof.

39. Powers, privileges and immunities of the Legislative Assembly and of the members and the committees thereof, and, if there is a Legislative Council, of that Council and of the members and the committees thereof; enforcement of attendance of persons for giving evidence or producing documents before committees of the Legislature of the State.

40. Salaries and allowances of Ministers for the State.

41. State public services; State Public Service Commission.

42. State pensions, that is to say, pensions payable by the State or out of the Consolidated Fund of the State.

43. Public debt of the State.

44. Treasure trove.

45. Land revenue, including the assessment and collection of revenue, the maintenance of land records, survey for revenue purposes and records of rights and alienation of revenues.

46. Taxes on agricultural income.

47. Duties in respect of succession to agricultural land.

48. Estate duty in respect of agricultural land.

49. Taxes on lands and buildings.

50. Taxes on mineral rights subject to any limitations imposed by Parliament by law relating to mineral development.

51. Duties of excise on the following goods manufactured or produced in the State and countervailing duties at the same or lower rates on similar goods manufactured or produced elsewhere in India:—

(a) alcoholic liquors for human consumption;

(b) opium, Indian hemp and other narcotic drugs and narcotics, but not including medicinal and toilet preparations containing alcohol or any substance included in sub-paragraph (b) of this entry.

52. Taxes on the entry of goods into a local area for consumption, use or sale therein.

53. Taxes on the consumption or sale of electricity.

54. Taxes on the sale or purchase of goods other than newspapers, subject to the provisions of entry 92A of List I.

55. Taxes on advertisements other than advertisements published in the newspapers and advertisements broadcast by radio or television.

56. Taxes on goods and passengers carried by road or on inland waterways.

57. Taxes on vehicles, whether mechanically propelled or not, suitable for use on roads, including tramcars subject to the provisions of entry 35 of List III.

58. Taxes on animals and boats.

59. Tolls.

60. Taxes on professions, trades, callings and employments.

61. Capitation taxes.

62. Taxes on luxuries, including taxes on entertainments, amusements, betting and gambling.

63. Rates of stamp duty in respect of documents other than those specified in the provisions of List I with regard to rates of stamp duty.

64. Offences against laws with respect to any of the matters in this List.

65. Jurisdiction and powers of all courts, except the Supreme Court, with respect to any of the matters in this List.

66. Fees in respect of any of the matters in this List, but not including fees taken in any court.

List III—Concurrent List

1. Criminal law, including all matters included in the Indian Penal Code at the commencement of this Constitution but excluding offences against laws with respect to any of the matters specified in List I or List II and excluding the use of naval, military or air forces or any other armed forces of the Union in aid of the civil power.

2. Criminal procedure, including all matters included in the Code of Criminal Procedure at the commencement of this Constitution.

3. Preventive detention for reasons connected with the security of a State, the maintenance of public order, or the maintenance of supplies and services essential to the community; persons subjected to such detention.

4. Removal from one State to another State of prisoners, accused persons and persons subjected to preventive detention for reasons specified in entry 3 of this List.

5. Marriage and divorce; infants and minors; adoption; wills, intestacy and succession; joint family and partition; all matters in respect of which parties in judicial proceedings were immediately before the commencement of this Constitution subject to their personal laws.

6. Transfer of property other than agricultural land; registration of deeds and documents.

7. Contracts, including partnership, agency, contracts of carriage, and other special forms of contracts, but not including contracts relating to agricultural land.

8. Actionable wrongs.

9. Bankruptcy and insolvency.

10. Trust and Trustees.

11. Administrators-general and official trustees.

11A. Administration of Justice; constitution and organisation of all courts, except the Supreme Court and the High Courts.

12. Evidence and oaths; recognition of laws, public acts and records, and judicial proceedings.

13. Civil procedure, including all matters included in the Code of Civil Procedure at the commencement of this Constitution, limitation and arbitration.

14. Contempt of court, but not including contempt of the Supreme Court.

15. Vagrancy; nomadic and migratory tribes.

16. Lunacy and mental deficiency, including places for the reception or treatment of lunatics and mental deficient.

17. Prevention of cruelty to animals.

17A. Forests.

17B. Protection of wild animals and birds.

18. Adulteration of foodstuffs and other goods.

19. Drugs and poisons, subject to the provisions of entry 59 of List I with respect to opium.

20. Economic and social planning.
- 20A. Population control and family planning.
21. Commercial and industrial monopolies, combines and trusts.
22. Trade unions; industrial and labour disputes.
23. Social security and social insurance; employment and unemployment.
24. Welfare of labour including conditions of work, provident funds, employers' liability, workmen's compensation, invalidity and old age pensions and maternity benefits.
25. Education, including technical education, medical education and universities, subject to the provisions of entries 63, 64, 65 and 66 of List I; vocational and technical training of labour.
26. Legal, medical and other professions.
27. Relief and rehabilitation of persons displaced from their original place of residence by reasons of the setting up of the Dominions of India and Pakistan.
28. Charities and charitable institutions, charitable and religious endowments and religious institutions.
29. Prevention of the extension from one State to another of infectious or contagious diseases of pests affecting men, animals or plants.
30. Vital statistics including registration of births and deaths.
31. Ports other than those declared by or under law made by Parliament or existing law to be major ports.
32. Shipping and navigation on inland waterways as regards mechanically propelled vessels, and the rule of the road on such waterways, and the carriage of passengers and goods on inland waterways subject to the provisions of List I with respect to national water- ways.
33. Trade and commerce in, and the production, supply and distribution of,
 - (a) the products of any industry where the control of such industry by the Union is declared by Parliament by law to be expedient in the public interest, and imported goods of the same kind as such products;
 - (b) foodstuffs, including edible oilseeds and oils;
 - (c) cattle fodder, including oilcakes and other concentrates;
 - (d) raw cotton, whether ginned or unginned, and cotton seed; and
 - (e) raw jute.
- 33A. Weights and measures except establishment of standards.
34. Price control.
35. Mechanically propelled vehicles including the principles on which taxes on such vehicles are to be levied.
36. Factories.
37. Boilers.
38. Electricity.
39. Newspapers, books and printing presses.
40. Archaeological sites and remains other than those declared by or under law made by Parliament to be of national importance.

41. Custody, management and disposal of property (including agricultural land) declared by law to be evacuee property.

42. Acquisition and requisitioning of property.

43. Recovery in a State of claims in respect of taxes and other public demands, including arrears of land-revenue and sums recoverable as such arrears, arising outside that State.

44. Stamp duties other than duties or fees collected by means of judicial stamps, but not including rates of stamp duty.

45. Inquiries and statistics for the purposes of any of the matters specified in List II or List III.

46. Jurisdiction and powers of all courts, except the Supreme Court, with respect to any of the matters in this List.

47. Fees in respect of any of the matters in this List, but not including fees taken in any court.

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246. (1) Notwithstanding anything in clauses (2) and (3), Parliament has exclusive power to make laws with respect to any of the matters enumerated in List I in the Seventh Schedule (in this Constitution referred to as the "Union List").

Subject-matter of laws made by Parliament and by the Legislatures of States.

(2) Notwithstanding anything in clause (3), Parliament, and, subject to clause (1), the Legislature of any State also, have power to make laws with respect to any of the matters enumerated in List III in the Seventh Schedule (in this Constitution referred to as the "Concurrent List").

(3) Subject to clauses (1) and (2), the Legislature of any State has exclusive power to make laws for such State or any part thereof with respect to any of the matters enumerated in List II in the Seventh Schedule (in this Constitution referred to as the "State List").

(4) Parliament has power to make laws with respect to any matter for any part of the territory of India not included [in a State] notwithstanding that such matter is a matter enumerated in the State List.

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248. (1) Parliament has exclusive power to make any law with respect to any matter not enumerated in the Concurrent List or State List.

Residuary powers of legislation.

(2) Such power shall include the power of making any law imposing a tax not mentioned in either of those Lists.

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254. (1) If any provision of a law made by the Legislature of a State is repugnant to any provision of a law made by Parliament which Parliament is competent to enact, or to any provision of an existing law with respect to one of the matters enumerated in the Concurrent List, then, subject to the provisions of clause (2), the law made by Parliament, whether passed before or after the law made by the Legislature of such State, or, as the case may be, the existing law, shall prevail and the law made by the Legislature of the State shall, to the extent of the repugnancy, be void.

Inconsistency between laws made by Parliament and laws made by the Legislatures of States.

(2) Where a law made by the Legislature of a State with respect to one of the matters enumerated in the Concurrent List contains any provision repugnant to the provisions of an

earlier law made by Parliament or an existing law with respect to that matter, then, the law so made by the Legislature of such State shall, if it has been reserved for the consideration of the President and has received his assent, prevail in that State:

Provided that nothing in this clause shall prevent Parliament from enacting at any time any law with respect to the same matter including a law adding to, amending, varying or repealing the law so made by the Legislature of the State.

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RAJYA SABHA

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further to amend the Constitution of India.

(Shri Vivek Gupta, M.P.)