

AS INTRODUCED IN THE RAJYA SABHA
ON 4TH DECEMBER, 2009

Bill No. XXIX of 2009

THE CONSTITUTION (AMENDMENT) BILL, 2009

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BILL

further to amend the Constitution of India.

BE it enacted by Parliament in the Sixtieth Year of the Republic of India as follows:—

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| 1. (1) This Act may be called the Constitution (Amendment) Act, 2009. | Short title. |
| 2. In article 37 of the Constitution, after the words “The provisions contained in this part” the words and figures “other than Articles 44, 47 and 48” shall be inserted. | Amendment of article 37. |
| 3. After article 37 of the Constitution, the following article shall be inserted, namely:— | Insertion of new article 37A. |
| “37A. (1) Until laws are enacted for the implementation of the directive articles 44, 47 and 48 by the appropriate legislature, the Supreme Court or the High Courts, as the case may be contained in shall have the power to issue appropriate writs or orders for:— | SC and HC to issue writs or direction. |

(a) enforcing monogamy among all the citizens and against recognizing divorce other than those granted by the competent Court;

(b) prohibiting the manufacture or sale of intoxicating drinks and of drugs which are injurious to the health of the citizens; and

(c) prohibiting slaughter of cows, calves and other milch and draught cattle.

(2) The writs or orders issued by the Courts under clause (1) shall have the force of law enacted by the competent legislature.

Amendment
of the seventh
schedule.

3. In the seventh scheduled to the constitution in list-III concurrence list, after entry 47, the following entry shall be inserted, namely.

“48. enforcement of the directions contained in articles 44, 47 and 48.

STATEMENT OF OBJECTS AND REASONS

Directive principles of State Policy incorporated in Part-IV of the Constitution though were made unenforceable by any court, by article 37, as stated in that article itself that they are fundamental in the governance of the country and it shall be the duty of the State to apply these principles in making the law.

There are various directives in Part-IV which are general in nature for the enforcement of which several laws have been enacted. But there are three specific directives incorporated in articles 44, 47 and 48 which are of fundamental importance. The non-implementation of the three articles is the cause for many of the problems the Nation is facing.

Firstly, failure to remove gender discrimination in the matter of marriage and divorce which also happens to be the mandate of article 15 against discrimination *inter alia* on the ground of religion and sex and also directive of article 44 and article 16 of the Universal Declaration of Human Rights, is responsible for communal divide of people and inconsistent with equality, feeling of fraternity and the mandate against gender discrimination and secularism which constitute the elements of basic structure of the Constitution.

The failure to implement article 47 has resulted in a disaster in that substantial percentage of youths have become alcohol addicts and have fallen into immoral acts and habits which are incidental to addiction to alcohol which is the biggest problem the Nation is facing in all its activities.

Failure to implement article 48 has in addition to adversely affecting our cattle wealth and agriculture is also inconsistent with the feeling of fraternity among the citizens.

As it is essential to have a uniform law on these topics as applicable to the whole country List-III in the Schedule-VII is also proposed to be amended by including these items in a new entry 48.

Hence this Bill.

M. RAMA JOIS

ANNEXURE

EXTRACT FROM THE CONSTITUTION OF INDIA

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37. The provisions contained in this Part shall not be enforceable by any court, but the principles therein laid down are nevertheless fundamental in the governance of the country and it shall be the duty of the State to apply these principles in making laws.

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(Shri M. Rama Jois, M.P.)