

AS INTRODUCED IN THE RAJYA SABHA
ON 22ND JULY, 2022

Bill No. XXV of 2022

THE CONSTITUTION (AMENDMENT) BILL, 2022

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BILL

further to amend the Constitution of India.

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

1. (1) This Act may be called the Constitution (Amendment) Act, 2022;

Short title and
commencement.

(2) It shall come into force on such date as the Central Government may, by notification in the Official Gazette, appoint.

5 **2.** After clause (2) of article 246 of the Constitution, the following proviso shall by inserted, namely:—

Amendment of
article 246.

"Provided that the power of the Parliament to make laws with respect to any of the matters enumerated in the Concurrent List shall be subject to ratification by the

Legislatures of not less than one-half of the States by resolutions to that effect passed by those Legislatures before the Bill seeking such provisions is presented to the President for assent."

Amendment of
article 254.

3. In clause (1) of article 254 of the Constitution, after the words, figure and brackets "subject to the provisions of clause (2)", the words, figures and brackets "and proviso to clause (2) of article 246" shall be inserted. 5

STATEMENT OF OBJECTS AND REASONS

The Constitution of India commences with the sentence “*India, that is Bharat, shall be a Union of States*”. While resolving the above terms, the founding fathers would have borne in mind the need to enshrine, enrich and encourage the rich diversity of the Nation. There won’t be an iota of doubt that the Union Government has a bounden duty to enrich federalism, diversity and pluralism in the Country. Union Government and its instrumentalities are expected to perform in a befitting manner to uphold and nurture the democratic and federal values that the framers of our Constitution had infused into it. Insofar as the legislative powers are concerned, the basic structure of the Constitution is not unitary but quasi-federal in character.

The distribution of legislative powers of Parliament and State Legislatures are mainly delineated in Articles 245 to 253 under Part XI of the Constitution read with the Seventh Schedule thereto. Similarly, Article 254 elucidates the position in case of inconsistency between laws made by Parliament and laws made by the Legislatures of States.

But there are reasonable perturbations now-a-days in respect of legislations put forth by the Union Government with respect to the matters enumerated in List III in the Seventh Schedule (Concurrent List). Such actions will obliterate the values of co-operative federalism and social fabric of the States. Introduction of National Eligibility cum Entrance Test (NEET) applying to all States taking away their sovereignty to regulate medical education in the States, apparently conducting Common University Entrance Test (CUET) for admission to Central Universities without giving any weightage for Class XII marks awarded by the State Boards, insertion of Part IXB in the Constitution *vide* the Constitution (Ninety Seventh Amendment) Act, 2011 *vis-a-vis* the Co-operative Societies (which was subsequently struck down by the Supreme Court as far as it relates with the co-operative societies working within a State, by declaring that Part IXB of the Constitution is operative only insofar as it concerns multi-State cooperative societies both within the various States and in the Union territories of India), etc. are some examples of this inclination by the Union Government.

Any legislation by the Parliament with respect to the matters enumerated in the Concurrent List ought to have been made only after due consultations and deliberations with States, by taking the State Governments into confidence. It is pertinent to note that the frontline activities of the State Governments put them in the vanguard for the people and to judge the requirements better. Hence consultations and concurrence with the State Governments will ensure a new legislation by the Parliament with respect to the matters enumerated in the Concurrent List more reasonable, justifiable, democratic and inclusive.

In view of the above, there is a need to amend article 254(1) and to insert a new Proviso to article 246(2) of the Constitution of India to ensure inclusive legislation by the Parliament with respect to the matters enumerated in List III in the Seventh Schedule.

Hence this Bill.

JOHN BRITTAS

ANNEXURE

EXTRACTS FROM THE CONSTITUTION OF INDIA

	*	*	*	*	*
Subject-matter of laws made by Parliament and by the Legislatures of States.	246.	*	*	*	*
	(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").				
	*	*	*	*	*
Inconsistency between laws made by Parliament and laws made by the Legislatures of States.	254.	(1) If any provision of the 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.			

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(Shri John Brittas, M.P.)