

AS INTRODUCED IN LOK SABHA

**Bill No. 257 of 2019**

THE CONSTITUTION (AMENDMENT) BILL, 2019

By

SHRI KRUPAL TUMANE, M.P.

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**BILL**

*further to amend the Constitution of India.*

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

**1.** This Act may be called the Constitution (Amendment) Act, 2019.

Short title.

**2.** In article 72 of the Constitution, after clause (3), the following clause shall be added,  
5 namely:—

Amendment  
of article 72.

"(4) Nothing in this article shall apply to the punishment or sentence of any person convicted of—

(i) waging, or attempting to wage war, or abetting waging of war against the Government of India; or

10 (ii) conspiracy to wage war against the Government of India by means of criminal force or show of criminal force within or outside India; or

(iii) collecting arms with intention of waging war against the Government of India; or

15 (iv) concealing the existence of a design to wage war or facilitating the waging of such war against the Government of India.".

#### STATEMENT OF OBJECTS AND REASONS

Article 72 of the Constitution empowers the President of India to grant pardon, etc., and to suspend, remit or commute sentence in certain cases.

However, cases like attack on Parliament House in the year 2001 and later attack on Mumbai known as 26/11 attack in the year 2008 have been held as acts of waging war against India by the Supreme Court. Afzal Guru, the convict in the case of attack on Parliament made a clemency petition to the President. Ajmal Kasab, the accused of Mumbai attack, also made a clemency petition to the President.

The acts of violence perpetrated by the above accused amount to waging war against India and, therefore, should not be considered on par with other offences. The feeling of law-abiding citizens of India is that the sentence be executed immediately and such convicts should not be given the benefit of exceptional provision in the Constitution of India.

Therefore, the provision of President's discretion of pardoning or suspending the sentence pronounced by the Supreme Court of India should not be available to persons convicted of offence like waging of war against Government of India.

Hence this Bill.

NEW DELHI;

KRUPAL TUMANE

*October 26, 2019*

*ANNEXURE*

EXTRACT FROM THE CONSTITUTION OF INDIA

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PART V

THE UNION

CHAPTER 1.—THE EXECUTIVE

*The President and Vice-President*

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**72. (1)** The President shall have the power to grant pardons, reprieves, respites or remissions of punishment or to suspend, remit or commute the sentence of any person convicted of any offence—

Power of  
President to  
grant pardons,  
etc., and to  
suspend, remit  
or commute  
sentences in  
certain cases.

(a) in all cases where the punishment or sentence is by a Court Martial;

(b) in all cases where the punishment or sentence is for an offence against any law relating to a matter to which the executive power of the Union extends;

(c) in all cases where the sentence is a sentence of death.

(2) Nothing in sub-clause (a) of clause (1) shall affect the power conferred by law on any officer of the Armed Forces of the Union to suspend, remit or commute a sentence passed by a Court Martial.

(3) Nothing in sub-clause (c) of clause (1) shall affect the power to suspend, remit or commute a sentence of death exercisable by the Governor of a State under any law for the time being in force.

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(*Shri Krupal Tumane, M.P.*)