

Decriminalisation of Suicide in India: An Overview

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Abstract

Now a days, we are frequently listening suicidal cases because of the fear of Covid-19 even an educated rather Corona warriors also reported for attempted to commit suicide. The trauma of being diagnosed with Covid-19 is also leading people to free from hospital quarantine centres and attempt to commit suicide. No doubt the life is the beautiful gift from almighty and can be taken only by him. Hence the act of committing suicide or in simple words, taking away life and that too one's own, is always been prohibited by law and religion both. Since ancient time the topic of suicide has been an issue of regular debate and never-ending discussion. Religion, monarchy and even colonialism all outlawed the act of suicide. The attempt to commit suicide has always seen as a manifestation of a mental illness, deserving cure and care, instead of punishment. The people with suicidal tendencies deserve counselling not punishment. In this paper the researcher attempts to explain the concept of suicide its causes, Laws related to suicide and at the end suggests some valuable suggestions.

Key words: Suicide, Decriminalisation, Stigma, Mental Health,

Introduction

Every person has right to live a dignified life, devoid of any form of discrimination, inequality and injustice, is given paramount importance in the Constitution of India, 1950. Life is considered as a gift of God and therefore, he alone can take it. However, in 21st Century the pace of life has increased manifold and so has the pressure of survival. Many people, under mental stress and agony caused by these miserable, unfortunate and painful circumstances, attempt to bring an end to their lives by committing suicide. Therefore, with an intention to decrease instances of suicide, the Indian Penal Code provides for inflicting sentence for those who failed in their attempt to do so. Suicide in itself is not an offence but attempt and abetment of attempt are offences punishable under the Penal Code. The term 'Suicide' is not defined anywhere in the Indian Penal Code but it can be defined as an act to kill oneself while provisions related to attempt to suicide are attracted when a person fails in the act of killing himself/ herself.

Meaning of Suicide

The dictionary meaning of 'suicide' is "the act of killing oneself intentionally". It implies knowingly ending one's self physical existence or self killing. Suicide is completely different from euthanasia or mercy killing. The first one is self-killing or self-destruction; it is an act of ending one's own life. It may be or may not be with the help or support of some other human being. The subsequent one, on the other hand means the involvement of other human agency to terminate the existence. Euthanasia

is murder if it is particularly exempted. It is worth mentioning that the whole human civilisation is the sufferer of this predicament. Suicide is a major reason to premature or unnatural death in the world.

Suicide is self-killing or the taking of one's own life.¹ The word "*sui*" i.e. "self" and "*cide*" i.e. "killing" therefore it simply implies, 'the act of self-killing'. It is neither a homicidal or accidental death.² There is no as such definition of the term "suicide" has been given in the Indian Penal Code. Suicide is the human action of self-inflicted, self-intentional termination.³ In suicide the person committing the alleged act must execute it by the person himself regardless of means used by him in accomplishing his object. Suicide is the final common pathway towards which converges a network of a process from such diverse situations, psychological, social, cultural, economic, biomedical etc. Suicide is a continuum with mere thoughts at one end threading midway through attempts and climaxing into the completed act the other end. Every suicide is a murder in a way, the aggression being directed inwards against one's own self or the internalised other.

Historical Development

In ancient India, suicide has been talked about in the great holy books like Ramayana and Mahabharata. In Ramayana when the people of Auyodhya made an accusation on Sita and Shri Rama had accepted all that and Lord Rama unleashed, "I shall abandon my own wife, take my life and should be glad to kill you all." In an another incident, Lord Rama's foremost devotee, Hanuman "when his initial search for Sita Maa proves futile, for a moment decides to commit suicide. He would rather give up his life than return without news of Sita." In Mahabharata too, the news of the death of 'Abhimanyu' made 'Arjuna' to bury himself in the fire and committed suicide, however, Lord Krishna stopped him by reminding about his own advice which he gave to an old man earlier who tried to commit suicide by jumping into the fire on the death of his son. Previously the 'sati partha' was also prevalent, where a wife used to sacrifice herself on the funeral-pyre of her husband instead of, living the life of a widow and 'Johar' practice in which Rajput women used to end their life to evade the mortification from the attacking army, were in trend till the middle of the 20th century.

Section 309 of IPC made attempt to suicide punishable. According to this section, "any person who attempts to commit suicide and does any act towards the commission of such offence shall be punished". Section 309 was introduced by the British Govt. before independence in 1860. In 1961 the Govt. itself had decriminalized suicide in Britain. In India in 1981, the first step to decriminalize the suicide was taken, here the Delhi High Court expressed disapproval of the above said provision as "unworthy of human society" and its Bombay counterpart, in 1986, "held it to be ultra vires on the ground that it violates article 14 and 21 of Indian Constitution". Law commission in its 42nd Report, in 1971 had also given advice of revoking of the criminalization of attempt to suicide u/s 309.

Causes of Suicide

Followings are the various causes for attempting suicide:

¹ Walker, Oxford Companion to Law (1980) 1196.

² Gangula Mohan Reddy v. State of A. P., (2010) 1 SCC 750.

³ Encyclopedia Britannica (1973) 383.

- Human Psychology – There are various reasons due to which the person commits suicide e.g. anxiety, frustration, inferiority complex, hatred etc.
- Poverty: Poverty is also the reason of suicide. It becomes sometimes difficult for a bread earner of the family to meet the daily essential needs of the family members. The present situation aroused due to covid-19 is a best example here.
- Dowry System: The cases of suicide are often reported that the unmarried girls or their parents commit suicide because their economic conditions have not sufficient to arrange money for dowry.⁴
- Quarrelsome nature of Family Members: The family where the members often quarrel specifically husband and wife/mother and father. Family environment is another cause of suicide.
- Drug Addiction: In India alcoholism and other drugs addicts also the biggest risk factor for increasing suicidal rate.
- Sexual & Physical abuse: Sexual abuse is an important reason in the suicide cases in female victims.
- Failure in education: failure in education is a cause of suicide amongst children. Sometimes, a child does not want to study or does not want to study a particular branch and the parents are very strict on his behaviour without understanding his psychology.
- Physical illness: Physical illness is also a cause of suicide, particularly those attended by intolerable pain and crippling disabilities and some of the physical changes may disturb the person leading towards suicide.
- Personality: the personality problem is also a cause of suicide. The individuals who are extroverts and social-mixers rarely commit suicide but the individuals who are introverts internalise the things and become more suicide prone.
- Religion: sometimes, religious beliefs also motivate to commit suicide. In ancient India, we find the examples of Rishis (saints) committing suicides.

Laws relating to Suicide in India

The Supreme Court of India in its course violating the decision connecting ‘right to life’ with ‘right to die with dignity’, gave its judicial support for the first time to the much-canvassed suggestion that it was inhumane to commend an anxious person who jailed to end his/her life by suicide. The law of suicide in India is contained in section 309,305,306, and section304-B of Indian Penal Code and sati (Prevention) Act, 1987.

Section 304-B

Section 305 relates to “abetment of suicide of child or insane person.” It says, “if any minor (person under eighteen years of age), any insane, any delirious person, any idiot, or any person in a state of intoxication, commits suicide whoever abets the commission of such suicide shall be punished with death or imprisonment for life, or imprisonment for a term not exceeding ten years, and shall also be liable to fine.”

⁴ Gurbachan Singh v. Satpal Singh, (1990) 1 SCC 445; 1990 SCC (Cri) 151.

Section 306, i.e. “abetment of suicide”, it says, “if any person commits suicide whoever abets the commission of such suicide shall be punished with imprisonment of either description for a term which may extend to ten years and shall also be liable to fine.” The essential requirement of this section is that the person abetted to commit the suicide must kill himself. If he is killed by someone else, the person doing so will be responsible of culpable homicide not amounting murder. In case of **R. v. Mohit Pandey** the accused followed a lady, who had prepared herself for immolating on the pyre of her spouse for becoming a sati, they were held as abetting her to commit suicide because they shouted ‘Ram Ram’ and helped her in becoming sati, even one of them asked sati also to chant Ram Ram. In another case the accused tried to dissuade a lady for becoming sati. They informed the police but ultimately, they carried her body to the Ghat and built a funeral pyre on her request. Two of them gave her clarified butter and the fire was ignited but it was not clear by whom of the five accused the fire was lit in the pyre. All of them were declared guilty under section 306 of Indian Penal code.⁵ The acts done at a distant time with no close nearness or proximity to the time of suicide will obviously have to be ruled out, as acts facilitating the commission of suicide.⁶

Section 309—“According to this section, whosoever attempts to commit suicide and does any act towards the commission of such offence, shall be punished with simple imprisonment for a term which may extend to one year, or fine, or with both.” A woman who jumps into the well to terminate the life, is guilty⁷ u/s 309 of Indian Penal Code, but if she is caught before jumping into the well, she is not guilty under this section because it is only preparation.⁸

Judicial Trends on section 309 IPC

The Delhi High Court in the case of **State v. Sanjay Kumar Bhatia**⁹ in favour of de-criminalisation of section 309, set aside the conviction of a adolescent boy who tried to commit suicide by taking a poisonous drug, and had remarked that instead of sending such boys into prison, they should be sent to a psychiatric clinic for remedy. It is widely believed that punishing a person for his failed attempt to end his life is barbaric, inhuman and against the principles of personal autonomy. The persistence of section 309 of IPC is a relic worthless of society resembling ours. No wonder so long as society refuses to face this reality its coercive machinery will bring into play the provision like section 309 IPC; which no justification right to continue remain on the statute book. In another case of **Maruti Shripati Dubal v. State of Maharashtra**,¹⁰ the petitioner contended that, “section 309 is violative of Articles 19 and 21 and it treats all cases of attempt to suicide equally and prescribed the punishment randomly by the same measure. Hence, it is violation of Article 14. Further, he contended that even assuming a try to commit suicide is an offence; the punishment is barbaric, cruel, irrational and self-defeating. The Bombay High Court held that section 309 is contrary to the ideals of equality before law and right to life enshrined under Articles 14 and 21 of the Constitution of India respectively while referring to the presence of right to remain silent under the ambit of right to freedom of Speech and Expression. The court ruled that Right to Life under Article 21 also contain the Right not

⁵ Emperor v. Ram Dayal ILR 36 ALL. 26

⁶ Khayaliram and others v. State of M.P. 2007 cr. LJ 4740(MP) 4741

⁷ Emperor v. Mst AIR 1919 All 376

⁸ Romakka v. Emperor, ILR 8 Mad. 5.

⁹ 1985 Cri LJ, 931

¹⁰ 1987 CriLJ 743 (Bom.)

to live. Thus, in no case, the punishment serves the purpose and in some cases it is bound to prove self-defeating the counter-productive. On this account also the provision of the section were held unreasonable.”

In the landmark judgment *P. Rathinam v. Union of India*,¹¹ the Supreme Court observed that, “section 309 of the Indian Penal Code deserves to be effaced from the statute book to humanise our penal laws. It is a cruel and irrational provision, and it may result in punishing a person again who has suffered agony and would be undergoing ignominy because of his failure to commit suicide.

In *Gian Kaur v. State of Punjab*,¹² the Hon’ble Supreme Court over-ruled the judgment given by the High Court of Delhi and Mumbai in the above stated cases. The court upheld constitutional validity of Section 309 of the IPC. According to the view taken by the court, “Right to Life could not be stretched to the extent of including Right to die under the ambit of article 21.” Hence, attempted suicide was got protection of this constitutional bench. In *Chenna jagdeeswar v. State of Andhra Pradesh*¹³, The Hon’ble High Court of Andhra Pradesh also upheld the constitutional validity of Section 309 of Indian Penal. A.P. High Court has ruled that, “right to life does not include right not to live or right to die, and, therefore, section 309 is not violative of articles 19 and 21 of the Constitution. It was also pointed out that the courts have sufficient power to see that unwarranted harsh treatment or prejudice is not meted out to those who need care and attention. This, therefore, does not violate article 14.”

Legislative Intent: proposed amendments to IPC and the Mental Health Act

Proposed amendments in the Indian Penal Code

The Indian Penal Code (Amendment) Bill,1972 was brought in and passed in the upper house of Parliament i.e. the Rajya Sabha in the year 1978. Keeping in mind the recommendations made the 42nd Law Commission, this bill intended to ‘decriminalize’ attempt to suicide. However, this bill could not be passed by the Lower House i.e. the Lok Sabha because it was dissolved in the following year (1979).

The Mental Healthcare Act, 2017

The Mental Healthcare Bill, 2016 received the consent of the President of India on 27th March 2017. This act repealed the Mental Healthcare Act 1987 and de-criminalized Section 309 of the IPC, 1860. “Mentally ill” person as defined in the parent act of 1987 meant “a person who is in need of treatment by reason of any mental disorder other than mental retardation”. This definition was vague and hence the new act defined the concept of mental disease. It means “a substantial disorder of thinking, mood, perception, orientation or memory that grossly impairs judgment, behaviour, capacity to recognize reality or ability to meet the ordinary demands of life, mental conditions associated with the abuse of alcohol and drugs”; but it has not take account of ‘mental retardation’. It is a situation of detention or deficient growth of intellect of a human being, specifically categorized by sub regularity of intelligence. According to section 115 of this Act, “Notwithstanding anything contained in Section 309 of the IPC, any person who attempts to commit suicide shall be presumed

¹¹ AIR 1994 SC 1844.

¹² AIR 1996 SC 946.

¹³ 1988 Cr LJ549(AP)

to have severe stress and shall not be tried and punished under this Code; and the government is duty bound to provide care, treatment and rehabilitation to such a person in order to reduce the risk of recurrence of attempt to commit suicide.”

This act provide the need of sensitive care which should be given to the those persons who are mentally stressed and who are unaware about the their mental health. This act emphasise special care to such victim who have tried to commit suicide due to mental stress and illness. This act also has provisions by which the requirements of psychologically ill and unfit personnel can be catered. The decriminalisation of the attempt to suicide is one of the chief underline of the present act together with the idea of banning the painful treatment procedure to the mentally ill patients.

Conclusion

In these pandemic days online psychological counselling should be started and more study work is required by mode of expansion of using combination of biological a clinical factors. Efficient schemes for avoidance of suicide and discovery of its symptoms of suicidal behaviour at early stage are essential to tackle this problem. Steps should be followed which can help in anticipation and screening of the mental patient, public health policies such as to diminish contact of public to deadly means, promoting accountable media coverage on suicide, more focus on education schemes intended to improve mental health of the public, enhanced detection of suicide and make easy access of care facilities to individuals who are at threat of suicide. Furthermore, preclusion strategies can be followed to fit the requirements of definite groups and can be executed at community level or in definite atmosphere such as educational institutions or in the work place. There should be main focus on the maintaining the confidentiality of personal details of the victim and his family. Even after so much development our society had not accepted the mental health issues like a normal disease and that is the main reason why many victims dies in absence of proper medical care. Sense of confidentiality may help them to come forward and talk openly to psychiatrist and other medical staff. We should try to reduce social isolation and start promoting psychological motivational sessions, meditation and yoga camps.

Let us look forward to the administration do not keep its aura limited and moves further on to improve the general mental health scenario in the India and assist decrease the trouble of mental health which results in commission of suicide. At last, we should understand that, law can never be the complete answer; there is a requirement to develop the political and social determination to put into practice these laws. Attempt to suicide is thus a problem having legal, societal and mental inferences. Therefore, cooperation from all the fields like administration, legislation, society, NGO and family is essential to calculate and deal with this problem. Multidisciplinary teams such as social workers, can play an important role for victims who do not confront, government officials, for victim's support and providing them with available welfare schemes of the government, NGOs, to lend a hand in the psychoanalysis of victims, medical professionals, to carry out standard medical check-ups and treatment for keen situations and psychiatric consultant, for Suicide. The important thing which we should keep in focus is to get better the psychological health coverage and make available a structure to convey necessary mental health services to everyone who tried suicide. The journey of mental health and suicide is relevant to each other. But while dealing with this problem, we should keep one thing in mind that, the more we will talk about this problem, the more help we can offer to someone who needs it