

A STEP TOWARDS HUMAINISING PENAL LAW OF INDIA: DECRIMINALISING SUICIDE

Author - RAVANI UKTI NAYUDU, Student at DR. M.G.R. EDUCATIONAL AND RESEARCH INSTITUE, CHENNAI

Best Citation - Ravani Ukti Nayudu, A STEP TOWARDS HUMAINISING PENAL LAW OF INDIA: DECRIMINALISING SUICIDE, SUPREME COURT JUDGEMENT REPORTER, 1 (1) of 2023, Pg. 13-25, ISBN - 978-81-960677-8-6.

Abstract

In a recent decision in *Simi C.N. v. State of Kerala*, the Kerala High Court absolved the petitioner of attempt to suicide. The case came to light on the discussion and approval of defence provided by section 115 of the recently enacted Mental HealthCare Act 2017. The court examined the repute of the section, stating that; *The legality and correctness of the provision punishing attempt to commit suicide have always been subject matter of hot discussion in judicial circle from decades.* The court discussed the role of section 115 as a measure for decriminalising suicide. The court notably discussed about the perception on decriminalisation and stated that, *Decriminalisation of attempt to commit suicide is the general view of Courts and legal luminaries. Criminal prosecution followed by conviction and imposing substantive sentences and fine on those convicted of suicidal behaviours are believed to constitute an affront to human dignity. It is believed that a large section of the society considers that suicidal behaviour is typically a symptom of psychiatric illness or an act of psychological distress, suggesting that the person requires assistance in his personal and psychological life, not punishment with imprisonment or fine... What is important is to give sociological and psychological support to the victim rather than trying to punish him.*

The paper provides an interconnected perspective on the decriminalisation of suicide in India by studying the causes of suicide,

criminalization of suicide via section 309 IPC⁴¹, decriminalisation of suicide via section 115 MHCA⁴², questioning the constitutionality of section 309 through legislative proposals, recommendations of executive bodies, and judicial decisions, and lastly analysing the status of decriminalisation following the availability of provision through the amended legislation.

Keywords - suicide, suicide attempt, decriminalisation, section 309 IPC, section 115 MHCA

Introduction

Before diving into the subject, it is crucial to understand the definitions⁴³ of two key terms: suicide and suicide attempt.

- *Suicide* is defined as death caused by an intentional act of self-harm that is designed to be lethal.
- *Suicide attempt* is defined as a nonfatal, potentially injurious behaviour directed against the self with an intent to die as a result of the behaviour.

The idea of suicide has been stigmatised for centuries and has been viewed by society through the lenses of social and cultural groups. This perception has undergone dramatic changes over time and has shifted public opinion in a number of different ways. Common stereotypes associated with suicide are

⁴¹ Expansion - Indian Penal Code

⁴² Expansion – Mental HealthCare Act (amended legislation of Mental Health Act 1987)

⁴³ Derived from <https://www.msmanualsectioncom/en-in/professional/psychiatric-disorders/suicidal-behavior-and-self-injury/suicidal-behavior>

emotional weakness, attention seeking, selfishness, malingering, and immorality. Suicide attempts and deaths are perceived as impious, or as betraying family and others through cowardly or selfish acts. Survivors' guilt, in addition to stigma, frequently compounds and reinforces the stigma imagined or accurately perceived by grieving friends, family, and therapists.

However, the situation and emotions that a person experiences when engaging in suicidal behaviour are incomprehensible; one certainty of their actions being a desire to avoid unbearable psychological pain. To quote the renowned novelist Joseph Conrad; *Let them think what they liked, but I didn't mean to drown myself. I meant to swim till I sank -- but that's not the same thing.* The decision to commit suicide is not a one-step process from thinking to action, but is the culmination of feelings and circumstances that ultimately leads to the individual being forced to choose death.

The attempt to commit suicide has a greater impact than suicide itself. WHO⁴⁴ in this regard states that, *A prior suicide attempt is the single most important risk factor for suicide in the general population.* According to WHO, *every year 703,000 people take their own life and there are many more people who attempt suicide. Every suicide is a tragedy that affects families, communities and entire countries and has long-lasting effects on the people left behind.* Suicide has been criminalised throughout the world as a result of laws that have been created to punish the act and stop the fatal tragedy. India is one of the countries which criminalised suicide via section 309 of the Indian Penal Code 1860.

I. What Causes Suicide

Suicide is a very intricate and multifaceted phenomena, with numerous enabling and supporting factors. It may be determined by the interaction of several elements, including neurobiology, personal and family history,

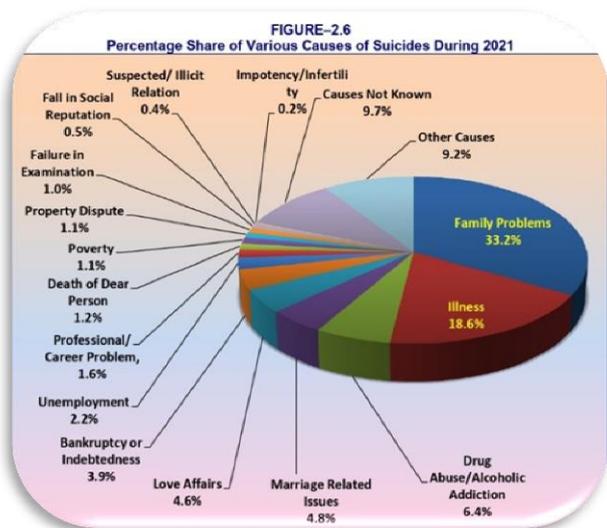
stressful events, and sociocultural environment. From a psychological point of view, the main reason that causes suicide is unbearable mental agony. The act of suicide may be interpreted as a behaviour driven by the need to escape from excruciating psychological suffering. It is also accompanied by other psychological elements, such as personality traits and emotional features. Even while the connection between mental problems and suicide is widely recognised, social, cultural, and economic variables also play a significant role in suicides. The table below lists certain significant risk factors⁴⁵;

<p><i>Problem-Solving Deficiency as Risk factor</i></p> <ul style="list-style-type: none"> • Criminal/legal problems • Job/financial problems or loss 	<p><i>Relationship Risk Factors</i></p> <ul style="list-style-type: none"> • Bullying • Family/loved one's history of suicide • High conflict or violent relationships • Social isolation
<p><i>Problem-Solving Deficiency as Risk Factor</i></p> <ul style="list-style-type: none"> • Criminal/legal problems • Job/financial problems or loss 	<p><i>Relationship Risk Factors</i></p> <ul style="list-style-type: none"> • Bullying • Family/loved one's history of suicide • High conflict or violent relationship • Social isolation

⁴⁴ Expansion – World Health Organisation

⁴⁵ Information derived from Centres for Disease Control and Prevention; refer <https://www.cdc.gov/suicide/factors/index.html>

The pie chart below from the report of ADSI-2021⁴⁶ provides a more accurate representation of the factors that contribute to suicide;



II. Criminalisation Of Suicide

The act⁴⁷ of criminalisation is to make a particular conduct or omission, a crime and to establish penal sanctions for it. The criminalisation of suicide is studied under the following headers;

- International Background
- Provision under Indian Law
- Effects of criminalising suicide

A. International Background

The act of criminalising suicide is not unique to India alone. It is a global phenomenon with each country having its own legislation. the below table⁴⁸ summarises the active legislation that criminalises the act of suicide in the following 20 countries;

Country	Year	Legislation	Punishment
Bahamas	1924	Section 294 of the Penal Code	2 years imprisonment
Bangladesh	1860	Section 309 of the Penal Code	One year imprisonment
Brunei Darussalam	1951 & 2013	Section 165 of the Syariah Penal Code (2013), Article 309 of Chapter 22 of the Penal Code (1951)	One year in prison and/or fine of up to BND 4,000
Ghana	1960	Section 57(2) of the Criminal Code of 1960,	3 years imprisonment, hard labour, possible fines
Guyana	1893	Section 96 of the Criminal Law (Offences) Act 1893	Imprisonment upto 12 months
Kenya	1930	Section 226 of the Penal	Upto 2 years imprisonment and/or

⁴⁶ Accidental Deaths & Suicides in India (ADSI) report published by NCRB; refer

https://ncrb.gov.in/sites/default/files/ADSI-2021/ads2021_Chapter-2-Suicidessectionpdf

⁴⁷ Meaning derived from Webster's New World Law Dictionary; refer

<https://www.hzu.edu.in/uploads/2020/10/Law-dictionary.pdf> (pg.114)

⁴⁸ data obtained from report, *Decriminalising Suicide: Saving Lives, Reducing Stigma*, published by UNGMH

		Code	fine	Guinea		Criminal Code Act	nt and/or a fine of up to PGK 2,000
Malawi	1999	Section 229 of the Penal Code	Up to 2 years in prison with the possibility of hard labour	Qatar	2004	Article 304 of the Penal Code	Fine of up to QAR 3,000
Malaysia	(not mentioned)	Section 309 of the Malaysia n Penal Code	Up to one year imprisonment and/or a fine	Saint Lucia	2004 (revised in 2005)	Chapter 3.01. Criminal Code	2 years imprisonment or fine of up to XCD 2,000
Myanmar	1912	Section 309 of the Penal Code	One year imprisonment, possible fine (unlimited)	Somalia	1962	Article 437 of the Penal Code	Up to 5 years imprisonment or a fine of up to SOS 10,000
Nigeria	1960 (Penal Code); 1916 (Criminal Code)	Section 327 of the Criminal Code, Section 231 of the Penal Code, and Section 235 of the Lagos Criminal Law	One year imprisonment, possible fine (unlimited)	South Sudan	2008	The Penal Code Act 2008	Up to one year imprisonment, and/or fines (no limit)
Pakistan	1860	Section 325 of the Pakistan Penal Code	One year imprisonment	Sudan	1930	Penal Code 1930	Up to one year imprisonment and/or fine
Papua New	1974	Section 311 of the	One year imprisonment	Tanzania	1981	Penal Code 1981	Up to 2 years imprisonment, and/or a fine
				Tonga	1926	Section 100 of the Criminal Offences Act 1926	Up to 3 years' imprisonment
				Uganda	1950	Penal Code	Up to 2 years'

		Act 1950	imprisonment
--	--	----------	--------------

B. Provision under Indian Law

Section 309 of the Indian Penal Code 1860 criminalises suicide through penalising the act of “attempt to commit suicide”

The provision states that, *whoever attempts to commit suicide and does any act towards the commission of such offence, shall he punished with simple imprisonment for a term which may extend to one year or with fine, or with both.*

The essentials to constitute the act an as offence are;

- i. The intention of dying – The act must result in the death of the person committing it.
- ii. The act must be executed – The person must carry out the action. Suicide preparation does not imply liability for an attempt.

C. Effects of criminalising suicide

In the report titled *Decriminalising Suicide: Saving Lives, Reducing Stigma*, published by UNGMH, the repercussions of criminalising suicide are described as follows;

Criminalising suicide deters people from seeking help in support of their mental health, whether from family or friends, their wider community or from health professionals. It is a significant factor in stigmatising mental health. It hampers efforts to prevent, diagnose and treat mental health conditions. In sum, criminalising suicide prevents people from seeking help, particularly in a moment of acute crisis, and receiving the emergency and lifesaving treatment they need to improve their mental health.

III. Decriminalisation of Suicide

The act of decriminalisation refers⁴⁹ to the legislature’s act of amending laws to permit a previously illegal act.

The decriminalisation of suicide is studied under the following headers;

- Legislative Proposals
- Recommendations of Executive Body
- Judicial Decisions

A. Legislative Proposals

The Legislature through its bills proposed for the repeal of section 309. The bills that addressed the issue are;

- IPC Amendment Bill of 1972
- Indian Penal Code (Amendment) Bill 2016 (Substitution of new Section for Section 309)
- Mental HealthCare Bill 2017

1. IPC Amendment Bill of 1972

The IPC Amendment Bill of 1972 was proposed to further amend the Indian Penal Code. The Bill was reported by the Joint Committee.

Clause 130 of the Bill provides for omission of section 309. It states that, *Section 309 of the Penal Code shall be omitted.*

The bill was cited in the above discussed cases⁵⁰ where the Courts stated the following;

After the 42nd Law Commission’s Report became available, the recommendation was accepted by the Government of India and the Indian Penal Code (Amendment) Bill, 1972 was introduced in the Rajya Sabha to repeal Section 309. The Bill was referred to a Joint Committee of both the Houses and after receipt of its report, the Bill was passed with some changes by the Rajya Sabha in November 1978. The Bill

⁴⁹ Meaning obtained from Webster’s New World Law Dictionary; refer <https://www.hzu.edu.in/uploads/2020/10/Law-dictionary.pdf> (pg.119)

⁵⁰ Maruti Shripati and P.Rathinam

so passed was pending in the Sixth Lok Sabha when it was dissolved in 1979, because of which the Bill lapsed.

2. Indian Penal Code (Amendment) Bill⁵¹ 2016 (Substitution of new Section for Section 309)

The bill specifically sought to decriminalise the attempt to commit suicide. The Statement of Objects and Reasons of the Bill states that;

It is an indication of the tendency of many of our laws to stick to status quo that the anachronistic provision that criminalises the attempt to commit suicides continues to operate today. The mental state of a person who commits suicide deserves understanding and careful intervention, and the blunt instrument of criminal sanction is markedly ill-suited for this purpose. A large number of other jurisdictions have long since realised this fact, and do not criminalise attempts to commit suicide today. Despite recommendations of the Law Commission and the Supreme Court to adopt a similar approach in India too, the same has not been achieved so far. The bill provides for two exceptional circumstances;

- i. grants the authorities narrowly defined powers to intervene if they come across a suicide attempt that has the potential to cause breakdown of public order.
- ii. it clarifies that the decriminalisation of suicide attempts does not in any way dislodge the legal liability of those who abet suicide, whether their abetment ultimately results in a suicide or an attempt to commit suicide.

3. Mental HealthCare Bill 2017

The Mental HealthCare Bill was introduced by the Rajya Sabha in 2013, which repeals the Mental Health Act, 1987.

One of the key features of the Bill is the decriminalisation of suicide via clause 124, providing for *presumption of mental illness* in

case of attempt to commit suicide by person. The provision states that,

(1) Notwithstanding anything contained in section 309 of the Indian Penal Code, any person who attempts to commit suicide shall be presumed, unless proved otherwise, to be suffering from mental illness at the time of attempting suicide and shall not be liable to punishment under the said section.

(2) The appropriate Government shall have a duty to provide care, treatment and rehabilitation to a person, having mental illness and who attempted to commit suicide, to reduce the risk of recurrence of attempt to commit suicide.

Although the provision is a significant step towards taking the person's psychological state into account, there is a significant roadblock that was noticed and highlighted by the Committee⁵² in their report, which states:

- *the lack of criteria for what may constitute 'an attempt to commit suicide' is vague and ambiguous. The section therefore becomes open to arbitrariness and is in violation of article 14 of the Constitution.*
- *the stage at which such a presumption operates is unclear. It is necessary to avoid any scope of ambiguity in both enforcement as well as interpretation of the clause.*

The Ministry responded to the observation through amending the provision by substituting the phrase "mental illness" with "severe stress". The Committee then accepted the modification and recommended its incorporation into the bill.

The bill was assented by the President, approved, and became the Mental Healthcare Act of 2017. Clause 124 of the Bill was structured

⁵¹ Introduced by Shri Baijayant Panda, M.P.

⁵² Parliamentary Standing Committee on Health and Family Welfare

as section 115 in the Act, which is phrased as follows:

Section 115 - Presumption of severe stress in case of attempt to commit suicide.

(1) Notwithstanding anything contained in section 309 of the Indian Penal Code any person who attempts to commit suicide shall be presumed, unless proved otherwise, to have severe stress and shall not be tried and punished under the said Code.

(2) The appropriate Government shall have a duty to provide care, treatment and rehabilitation to a person, having severe stress and who attempted to commit suicide, to reduce the risk of recurrence of attempt to commit suicide.

B. Recommendations of Executive Body

The Law Commission of India, an executive institution of the government of India, strongly suggested in its recommendations that section 309 of the IPC be repealed. The following reports addressed the aforementioned:

➤ 42nd report

➤ 210th report

1. 42nd report

The 42nd report titled IPC was submitted in 1971 under the fifth law commission. The report gave the following comments on section 309;

On answering the question *should attempt to commit suicide be punishable*, the report cited a passage from the work of H. Romilly Fedden's Suicide, where he observed that,

it seems a monstrous procedure to inflict further suffering on even a single individual who has already found life so unbearable, his chances of happiness so slender that he has been willing to face pain and death in order to cease living. That those for whom life is altogether bitter should be subjected to further bitterness and degradation seems perverse legislation.

The report was of the view that the provision is harsh and unjustifiable and therefore recommended its repeal.

2. 210th report

The 210th report titled Humanization and Decriminalization of Attempt to Suicide was submitted in 2008 under the eighteenth law commission.

The comments of commission below explain briefly why decriminalisation is required and the barrier that section 309 creates as a penal provision.

... But when a troubled individual tries to end his life, it would be cruel and irrational to visit him with punishment on his failure to die. It is his deep unhappiness which causes him to try to end his life. Attempt to suicide is more a manifestation of a diseased condition of mind deserving of treatment and care rather than punishment. It would not be just and fair to inflict additional legal punishment on a person who has already suffered agony and ignominy in his failure to commit suicide.

Section 309 of the Indian Penal Code provides double punishment for a person who has already got fed up with his own life and desires to end it. Section 309 is also a stumbling block in prevention of suicides and improving the access of medical care to those who have attempted suicide. It is unreasonable to inflict punishment upon a person who on account of family discord, destitution, loss of a dear relation or other cause of a like nature overcomes the instinct of self-preservation and decides to take his own life. In such a case, the unfortunate person deserves sympathy, counselling and appropriate treatment, and certainly not the prison.

The report recommended the repeal of section 309 IPC stating that,

While assisting or encouraging another person to (attempt to) commit suicide must not go unpunished, the offence of attempt to commit suicide under section 309 needs to be omitted



from the Indian Penal Code... the provision is inhuman, irrespective of whether it is constitutional or unconstitutional. The repeal of the anachronistic law contained in section 309 of the Indian Penal Code would save many lives and relieve the distressed of his suffering.

C. Judicial Decisions

The judicial decisions enabled the requirement of decriminalisation by questioning the constitutionality of section 309. The question was first addressed as a part of its judgment by the Division Bench in the case of *State vs Sanjay Kumar Bhatia*,⁵³ wherein the High Court stated that;

It is ironic that Section 309 Indian Penal Code still continues to be on our Penal Code. The result is that a young boy driven to such frustration so as to seek one's own life would have escaped human punishment if he had succeeded but is to be bounded by the police, because attempt has failed. Instead of the society hanging its head in shame that there should be such social strains that a young man (the hope of tomorrow) should be driven to suicide compounds, its inadequacy by treating the boy as a criminal. Instead of sending the young boy to psychiatric clinic, it gleefully sends him to mingle with criminals, as if trying its best to see that in future he does fall foul of the punitive sections of the Penal Code. This concept seeks to meet the challenge of social strains of modern urban and competitive economy by ruthless suppression of mere symptoms this attempt can only result in failure. The table below summarises⁵⁴ the judgements that discussed the constitutionality of section 309;

⁵³ 1986 (10) DRJ 31

⁵⁴ excerpts taken from judgements

Case Title	Ratio Decidendi	Held
Maruti Shripati Dubal v. State of Maharashtra ⁵⁵	<ul style="list-style-type: none"> • <i>There is further no situation or no experience to which suicide is the only possible reaction. Different persons react differently to different situations and experiences, depending upon their personality traits. That is why a suicidal act cannot be explained by the situation alone and all persons in the same situation and facing the same experience cannot be painted by the same brush.</i> • <i>Section 309 however makes no distinction between them and treats them alike.</i> 	Section 309 is ultra vires the Constitution being violative of Arts. 14 and 21 thereof and must be struck down.
Chenna Jagadeeswar and Anr. v. State Of Andhra Pradesh ⁵⁶	<ul style="list-style-type: none"> • <i>To confer a right to destroy one-self and to take it away from the purview of the Courts to enquire into the act would be one step down in the scene of human distress and motivation. It may lead to several incongruities and it is not desirable to permit them.</i> • <i>If section 309 I.P.C. held to be ultra vires, no action can be taken against the people resorting to these practices, on the ground that they have a right to dispose of themselves.</i> • <i>By no means mandates that a Court should punish attempt suicide, it only lays down the upper limits of such punishment.</i> 	hold that section 309 I.P.C. is valid and does not offend Arts. 19 and 21 of the Constitution.
P.Rathinam v. Union Of India ⁵⁷	<ul style="list-style-type: none"> • <i>Section 309 is a cruel and irrational provision, and it may result in punishing a person again (doubly) who has suffered agony and would be undergoing ignominy because of his failure to commit suicide.</i> • <i>An act of suicide cannot be said to be against religion, morality or public policy, and an act of attempted suicide has no</i> 	Section 309 violates Article 21, and so, it is void.

⁵⁵ 1987 (1) BomCR 499

⁵⁶CrI A. No. 165 of 1987

⁵⁷ 1994 AIR 1844

	<p><i>baneful effect on society.</i></p> <ul style="list-style-type: none"> • <i>Further, suicide or attempt to commit it causes no harm to others, because of which State's interference with the personal liberty of the persons concerned is not called for.</i> 	
Smt. Gian Kaur v. The State of Punjab ⁵⁸	<ul style="list-style-type: none"> • <i>whatever differences there may be as to what constitutes suicide, there is no doubt that suicide is intentional taking of one's life.</i> • <i>Section 309 has only provided the maximum sentence which is up to one year. It provides for imposition of fine only as a punishment.</i> 	<ul style="list-style-type: none"> • <i>Section 309 is constitutionally valid and cannot be accepted that it is violative of Articles 14 or 21 of the Constitution and treated as unconstitutional for any reason.</i> • <i>approved conclusion of Chenna Jagadeeswar</i> • <i>the decisions of Maruti Shripati and P. Rathinam as incorrect</i>

⁵⁸ 1996 AIR 946

From the above listed, it can be concluded that the constitutionality of section 309 of IPC is valid. The provision of Section 309 has, however, been the subject of judicial rulings that have once more called for its repeal. In its landmark judgement of Aruna Shanbaug⁵⁹ case, the Supreme Court commented; *We are of the opinion that although Section 309 Indian Penal Code (attempt to commit suicide) has been held to be constitutionally valid in Gian Kaur's case, the time has come when it should be deleted by Parliament as it has become anachronistic. A person attempts suicide in a depression, and hence he needs help, rather than punishment. We therefore recommend to Parliament to consider the feasibility of deleting Section 309 from the Indian Penal Code.*

Conclusion

The preceding discussion suggests that suicide is still a criminal offence, with an exception. However, there is a lingering question: should suicide, which is entirely an act planned by the individual and executed on himself, be considered a criminal offence?

The observations provided below are from the judicial comments made by the Hon'ble courts in the cases of Maruti Shripati and P.Rathinam⁶⁰;

- Separating the view of Suicide: An Unnatural Event and a Desire to Die;
- *Whatever the circumstances which induce a person to end or terminate his or her life, the act of termination of life is the act of that individual. It is no less his than his act of living. The confusion between the circumstances which impel or urge a person to end his life and the termination of life often leads one to the mistaken conclusion that the desire to end one's life itself is not natural.*

⁵⁹ Aruna Ramchandra Shanbaug vs Union of India, WRIT PETITION (CRIMINAL) NO. 115 OF 2009

⁶⁰ Refer to supra cases; excerpts taken from judgements for clarity in observations

- *Suicide or an attempt to commit suicide is not a feature of a normal life. It is an incident of abnormality or of an extraordinary situation or of an uncommon trait of personality. Abnormality and un-commonality are not unnatural merely because they are exceptional.*
- *To take a concrete instance, it may be that were it not for torture or cruel treatment in a given case that the person might not have ended his or her life. But the urge which the individual felt to end life on account of the treatment was only natural.*
- From the above mentioned, we can observe the following aspects;
 - The act of suicide is the act of individual, which is no less than the act of living.
 - Although suicide and attempted suicide are not common occurrences, they should not be viewed as unnatural simply because they are out of the ordinary, have an unusual personality trait, and these being exceptional.
 - An individual only decides to accept this ultimatum in order to escape the extremes he must endure in his life. He is, regrettably, forced to make this decision because of this urge.
 - Is there a criminal component to the causes for suicide that makes it a crime?
- *Mental diseases and imbalances, unbearable physical ailments, affliction by socially dreaded diseases, decrepit physical condition disabling the person from taking normal care of his body and performing the normal chores, the loss of all senses or of desire for the pleasures of any of the senses, extremely cruel or unbearable conditions of life making it painful to live, a sense of shame or disgrace or a need to defend one's honour or a sheer loss of*

interest in life or disenchantment with it, or a sense of fulfilment of the purpose for which one was born with nothing more left to do or to be achieved and a genuine urge to quit the world at the proper moment are among the various circumstances in which suicide is committed or attempted.

- The acts committed by one person that harm another constitute the components of a crime.
- In the case of suicide, the causes are perceived as elevated due to the underlying factor of constant pressure build-up within the individual, which is projected as self-infliction, meaning the person commits the act on themselves.
- Thus, the components producing suicide do not constitute a crime, but rather contribute to the individual's self-destruction, ultimately resulting in their death.
- Does the act of suicide require legal action?
- *We now come to the question relating to the treatment to be given to the persons who attempt to commit suicide. Do they deserve prosecution because they had failed? The answer has to be a bold NO. Suicide, as has already been noted, is a psychiatric problem and not a manifestation of criminal instinct.*
- The act of suicide is a mental health problem to be addressed and not a crime to be prosecuted.

It is reasonable to conclude that suicide is not a crime and cannot be made the subject of legal action. Can the act of suicide however, be legislated? Yes. Despite being a private act, suicide becomes a collective act when society commits it. As a result, another question arises: What does the individual with suicidal tendencies truly require? The case of

P.Rathinam states; *So what is needed to take care of suicide-prone persons are soft words and wise counselling (of a psychiatrist) and not stony dealing by a jailor following harsh treatment meted out by a heartless prosecutor.*

Penal laws are typically stricter in nature; they list the offences, the penalties, and the processes for arrest, prosecution, and imprisonment in an effort to stop further occurrences. However, they primarily do not cover provisions that protect inherent rights and rehabilitative measures. With the emergence of Human Rights law, penal legislations are to recognise, respect, and safeguard human rights, regardless of the accused being abnormal, criminal, outlaw, delinquent and so on. This component promotes a more humanitarian approach to legislation drafting.

The act of decriminalising suicide, as was previously discussed, serves as an example of a humanitarian approach. Suicide, which was previously criminalised under Section 309 IPC, is now decriminalised under Section 115 of the modified Mental HealthCare Act 2017. However, the decriminalisation is only partially implemented, as Section 115 is an exemption to Section 309. Though the new legislation makes an exception to a provision that criminalises suicide, more measures must be done to transform the provision from one that criminalises to one that rehabilitates.

References

- Bhumika Indulia, *Person tries to commit suicide after being subjected to severe mental stress, which is a punishable offence: Is there any provision which can save her from penal provision? Ker HC decides*, SCC ONLINE BLOG, (May 4, 2022), <https://www.scconline.com/blog/post/2022/05/04/person-tries-to-commit-suicide-after-being-subjected-to-severe-mental-stress-kerala-high-court/>
- PRS Legislative Research, *The Mental Health Care Bill, 2013*,

WWW.PRSINDIA.ORG,

<https://prsindia.org/billtrack/the-mental-health-care-bill-2013> (last visited)

- Rohan Raj, *Section 309 of IPC*, Legal Services India, <https://www.legalserviceindia.com/legal/article-3185-section-309-of-ipc.html> (last visited)
- Shri Baijayant Panda, M.P. (introduced the Bill), *The Indian Penal Code (Amendment) Bill 2016*, <http://164.100.47.4/billstexts/lbills/lbills/introduced/1086.pdf> (last visited)
- Report of the Joint Committee, *The Indian Penal Code (Amendment) Bill 1972*, <https://dspace.gipe.ac.in/xmlui/handle/10973/52338> (last visited)
- PRS Legislative Research, *Seventy-Fourth Report on The Mental HealthCare Bill 2013*, WWW.PRSINDIA.ORG, https://prsindia.org/files/bills_acts/bills_parliament/2013/standing%20Committee%20Report_4.pdf (last visited)
- World Health Organisation, *Suicide*, WWW.WHO.INT, (Jun 17 2021), <https://www.who.int/news-room/fact-sheets/detail/suicide>
- Law Commission of India, *Forty-Second Report Indian Penal Code*, <https://cdnbbsr.s3waas.gov.in/s3ca0daec69b5adc880fb464895726dbdf/uploads/2022/08/2022082456.pdf> (last visited)
- Law Commission of India, *Humanization and Decriminalization of Attempt to Suicide Report No. 210*, <https://cdnbbsr.s3waas.gov.in/s3ca0daec69b5adc880fb464895726dbdf/uploads/2022/08/2022081095.pdf> (last visited)