



Legal Framework of Suicides in India¹: A Comprehensive Analysis

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Abstract

Suicide remains a complex socio-legal issue with profound implications for individuals, families, and society. This brief delves into the legal landscape surrounding suicides in India, providing a comprehensive analysis of relevant laws, legal precedents, and societal perspectives. In India, suicide has always been considered a social taboo, shrouded in stigma and misconceptions. However, recent years have seen a shift towards a deeper understanding, recognizing suicide as a multifaceted phenomenon, influenced by many social, economic and psychological factors. Legally, suicide was decriminalized in India with the repeal of Section 309 of the Indian Penal Code (IPC) in 2018, recognizing that suicidal people often need help, compassion and support rather than sanctions. This repeal marks an important step toward de-stigmatizing mental health issues and promoting a more empathetic approach to suicide prevention and intervention. Despite this legal reform, challenges remain in effectively addressing the root causes of suicide and providing adequate mental health support services. The Mental Health Act 2017 seeks to address this gap by mandating the establishment of mental health facilities and protecting the rights of people with mental illness, including those at risk suicidal. Additionally, the judiciary played a key role in shaping the legal discourse surrounding suicide through landmark judgments that emphasized the protection of individual autonomy and the state's obligation to ensure access to mental health services. However, gaps in implementation and enforcement remain, especially in rural and marginalized communities where access to mental health resources is limited. Additionally, societal attitudes toward suicide continue to pose challenges, perpetuating stigma and hindering open dialogue and effective prevention efforts.

Keywords: Suicide, India, Risk factors

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1.1 KEY ASPECTS OF THE LEGAL POSITION ON SUICIDE IN INDIA

In contemporary society, stress, anxiety and depression are widespread, often leading individuals to consider escaping unnecessary suffering, can endure. According to a recent study by the World Health Organization, nearly 800,000 people commit suicide each year worldwide, equivalent to about one person every 40 seconds.

Under section 115 of the Mental Health Act 2017, suicidal people are presumed to be suffering from mental health problems and stress, which grants them immunity from punishment.

Relevant sections of the Indian Penal Code (IPC) relating to suicide include:

- **Section 306, IPC:** Abetment to suicide Persons assisting suicide may also be punished with imprisonment of up to 'up to ten years as a prison sentence.²
- **Section 309 of IPC:** Attempt to commit suicide Persons who attempt suicide or take steps to commit such act shall be punished with simple imprisonment for a term which may range to one year or with fine or both.³

The Mental Healthcare Act, 2017⁴ (MHCA), has several practical implications concerning suicide and attempted suicide in India:

Decriminalization of Attempted Suicide: The MHCA effectively decriminalizes attempted suicide by removing Section 309 of the Indian Penal Code (IPC), which previously subjected individuals to punishment for attempting suicide. This legal change signifies a shift towards viewing suicide attempts as a mental health issue rather than a criminal act. As a result, individuals who attempt suicide are not liable for punishment under criminal law.

Access to Mental Healthcare Services: The MHCA emphasizes the right to access mental healthcare services for all individuals, including those at risk of suicide. It mandates the establishment of mental health facilities and services at various levels of healthcare delivery, ensuring that individuals in distress have access to timely and appropriate mental health support also the MHCA has visioned on protection of rights and dignity The MHCA safeguards the rights and dignity of individuals with mental illness, including those who have attempted suicide or are at risk of doing so. It prohibits discrimination on the grounds of mental illness and ensures that individuals receive treatment and care in a manner that upholds their autonomy and dignity it has increased focus on prevention and Intervention: The MHCA places a strong emphasis on suicide prevention and intervention efforts.

It requires mental health professionals to assess and manage individuals at risk of suicide, including providing crisis intervention and follow-up care. Additionally, it promotes community-based mental health services and awareness programs to reduce stigma and encourage help-seeking behavior. Overall, the MHCA has significant practical implications for suicide and attempted suicide in India by decriminalizing suicide attempts, promoting

² Section 306, Indian Penal Code, 1860

³ Section 309 of Indian Penal Code 1860

⁴ Mental Healthcare Act, 2017

access to mental healthcare services, protecting rights and dignity, focusing on prevention and intervention, and defining roles and responsibilities for stakeholders involved in mental health care.

1.1.2 Reasons to attempt suicide.

There are multifaceted reasons why individuals may contemplate or attempt suicide. Often, it stems from a complex interplay of psychological, social, economic, and environmental factors. Mental health disorders such as depression, anxiety, bipolar disorder, and schizophrenia can significantly increase the risk of suicide attempts, as they distort perception, impair coping mechanisms, and amplify feelings of hopelessness and despair. Traumatic life events such as loss of a loved one, relationship breakdowns, financial hardships, or chronic illness can trigger overwhelming emotional distress, leading individuals to perceive suicide as the only means of escape from unbearable pain. Social isolation, loneliness, and lack of social support further exacerbate feelings of alienation and despair, making individuals more vulnerable to suicidal thoughts and behaviors. Substance abuse, including alcohol and drug dependency, can also play a significant role, as it impairs judgment, exacerbates emotional instability, and lowers inhibitions, increasing the likelihood of impulsive suicidal acts. Cultural and societal factors, including stigma surrounding mental illness, gender-based violence, discrimination, and access to means of suicide, can further influence suicide risk. Moreover, a history of childhood trauma, abuse, or neglect can leave lasting psychological scars, predisposing individuals to suicidal ideation later in life. Ultimately, everyone's experience is unique, and the reasons for attempting suicide are highly personal and often intertwined with a complex web of internal and external factors.

- **The Mental Healthcare Act, 2017**

As of latest update in January 2022, the Mental Healthcare Act, 2017 (MHCA), remains in effect in India. The MHCA represents a significant legislative milestone aimed at reforming mental healthcare services and safeguarding the rights of individuals with mental illness. In terms of suicide, the MHCA has decriminalized attempted suicide by repealing Section 309 of the Indian Penal Code (IPC). This legal change signifies a paradigm shift towards viewing suicide attempts as a mental health issue rather than a criminal offense. It emphasizes the need for compassionate and supportive responses to individuals in distress, promoting access to mental healthcare services rather than punitive measures. The MHCA also mandates the provision of mental health services at various levels of healthcare delivery, including prevention, treatment, and rehabilitation. It emphasizes the rights of individuals with mental illness, ensuring that they receive care in a manner that upholds their dignity, autonomy, and consent. Additionally, the MHCA promotes suicide prevention and intervention efforts by requiring mental health professionals to assess and manage individuals at risk of suicide. It encourages community-based mental health programs and awareness initiatives to reduce stigma and promote help-seeking behavior.

1.2 Legal landscape of attempted suicides: Indian scenario

In India, the legal status of attempted suicide underwent a significant change with the enactment of the Mental Healthcare Act, 2017 (MHCA), which decriminalized the act. Prior to this legislation, attempted suicide was

punishable under Section 309 of the Indian Penal Code (IPC). However, the MHCA repealed this provision, recognizing that individuals attempting suicide are often in need of medical and psychological support rather than punishment. This legal reform aligns with a more compassionate approach to mental health issues, emphasizing the rights and well-being of individuals in distress. One relevant case that illustrates this shift is the landmark judgment of *Gian Kaur v. State of Punjab* (1996), in which the Supreme Court of India upheld the right to life under Article 21 of the Constitution and ruled that Section 309 of the IPC violated this fundamental right. The court emphasized that the state has a duty to preserve life and provide support to individuals in crisis, rather than imposing punitive measures. This decision laid the groundwork for subsequent legal reforms, culminating in the repeal of Section 309 by the MHCA. As a result, individuals who attempt suicide are no longer subject to criminal prosecution but are instead entitled to receive appropriate medical and mental health care.

- **Legal status of suicide attempts: International scenario review**

As of the latest update in January 2022, the international review regarding the legal status of attempted suicide has been shifting towards decriminalization and a more compassionate approach to mental health issues. Many countries have recognized that individuals who attempt suicide are often in need of medical and psychological support rather than punishment. Consequently, there has been a trend towards repealing laws that criminalize suicide attempts and implementing policies that prioritize mental health care and support for those in distress.

Several countries have amended their laws to decriminalize attempted suicide or have removed specific legal provisions that penalize individuals for attempting suicide. For example, in the United Kingdom, attempted suicide was decriminalized under the Suicide Act 1961, which abolished the offense of suicide and the common law crime of aiding and abetting suicide. Similarly, countries such as Canada, New Zealand, and Australia have also decriminalized attempted suicide by repealing or amending relevant legal provisions.

Furthermore, international human rights bodies, such as the United Nations Human Rights Council, have called for the decriminalization of suicide attempts and have emphasized the importance of ensuring access to mental health care and support services for individuals in distress. These efforts align with broader global initiatives to promote mental health and well-being, such as the World Health Organization's Mental Health Action Plan and the Sustainable Development Goals, which include targets related to mental health promotion and suicide prevention.

Overall, the current international review underscores a growing recognition of the need to adopt a more humane and rights-based approach to addressing suicide and mental health issues. By decriminalizing attempted suicide and prioritizing mental health care and support, countries around the world are taking steps to ensure that individuals in distress receive the help and assistance they need to overcome their challenges and lead fulfilling lives.

- **Law commissions report⁵**

The law commission prior had suggested annulment of area 309, IPC in its 42nd report submitted in 1971. The IPC (revision) bill was passed in 1978 by Rajya Sabha, but before it could be passed by Lok Sabha, lower house was broken down and the bill slipped by. The commission then, at that point, presented its 156th report in 1997 after the Gian Kaur judgment about the maintenance of segment 309. Anyway, the law commission in its 210th report prescribed that endeavor to self-destruction justified clinical and mental consideration and not discipline. Considering the assessments communicated by the WHO, Worldwide Relationship for self-destruction Avoidance, the Indian Mental Society and the portrayals got by the commission from different individual, the commission set out to prescribe the public authority of India to start ventures for cancelation of the chronologically misguided regulation contained in segment 309, IPC.

1.2.1 Durkheim's theory of suicide

Émile Durkheim, a pioneering sociologist, presented a groundbreaking theory of suicide in his seminal work, "Le Suicide," published in 1897. Central to Durkheim's theory is the idea that suicide is not solely an individual act but is profoundly influenced by social forces and collective phenomena. Durkheim categorized suicide into four types: egoistic, altruistic, anomic, and fatalistic, each reflecting distinct social conditions and levels of social integration. Egoistic suicide occurs when individuals feel disconnected from society, lacking meaningful social ties and integration. This sense of isolation and alienation leads to a feeling of purposelessness and despair, increasing the likelihood of suicide. Conversely, altruistic suicide occurs when individuals are excessively integrated into society, sacrificing their lives for the collective good or a higher cause. Durkheim observed examples of altruistic suicide in military settings or among members of religious sects who willingly sacrifice their lives for their beliefs. Anomic suicide, on the other hand, occurs during periods of social upheaval or rapid change, where norms and values become destabilized, leading to feelings of confusion and moral disorientation. Economic crises or sudden social disruptions can trigger anomic suicide as individuals struggle to adapt to new social conditions. Finally, fatalistic suicide occurs in situations of excessive regulation and control, where individuals experience oppressive conditions and a sense of hopelessness. Durkheim argued that excessive regulation, such as in authoritarian societies or oppressive institutions, can lead to a feeling of suffocation and a desire to escape through suicide. Durkheim's theory of suicide is underpinned by the concept of social integration, which refers to the extent to which individuals are connected to society through social bonds, norms, and values. According to Durkheim, individuals with strong social integration are less likely to commit suicide, as they feel a sense of belonging and purpose within their social groups. Conversely, individuals with weak social integration are more vulnerable to suicide, as they lack the social support and cohesion necessary to withstand life's challenges. Durkheim's theory highlights the importance of social factors in understanding and preventing suicide,

⁵ Report No. 210, Law Commission of India

emphasizing the role of social institutions, such as family, religion, and community, in fostering social integration and cohesion. Durkheim's theory of suicide has been widely influential in the field of sociology and continues to inform contemporary research on suicide and mental health. His emphasis on the social determinants of suicide has prompted scholars to examine the role of social factors, such as social support, social networks, and socioeconomic status, in shaping individual vulnerability to suicide. Moreover, Durkheim's theory has practical implications for suicide prevention efforts, highlighting the importance of strengthening social ties, promoting social cohesion, and addressing social inequalities to reduce suicide rates. By understanding the social roots of suicide, Durkheim's theory provides valuable insights into the complex interplay between individual psychology and social forces, enriching our understanding of this enduring societal issue.

1.2.2 Prosecution of attempted suicides in India

The prosecution of attempted suicides in India has undergone significant legal evolution, marked by landmark cases that have shaped the country's approach to mental health and suicide prevention. Historically, Section 309 of the Indian Penal Code (IPC) criminalized attempted suicide, subjecting individuals to punishment for their actions. However, this punitive approach faced scrutiny in the legal realm. In the case of *P. Rathinam v. Union of India* (1994), the Supreme Court of India questioned the constitutional validity of Section 309, emphasizing the need to view suicide attempts through a compassionate lens rather than punitive measures. This paved the way for subsequent legal reforms, notably the Mental Healthcare Act, 2017 (MHCA), which decriminalized attempted suicide. The MHCA recognizes that individuals attempting suicide are often in need of medical and psychological support rather than punishment. Moreover, the landmark case of *Gian Kaur v. State of Punjab* (1996) reaffirmed the right to life under Article 21 of the Constitution and ruled that Section 309 of the IPC violated this fundamental right. The court emphasized the state's duty to preserve life and provide support to individuals in crisis. These legal precedents underscore a shift towards a more humane and rights-based approach to addressing suicide in India, highlighting the importance of mental health care and support for those in distress.

Three distinct categories of attempted suicide exemplify the diverse circumstances and the varying roles played by law enforcement or the state. Firstly, instances of high-profile fasting unto death for social or political causes, such as Anna Hazare's hunger strike in 2011 demanding a stronger Lokpal legislation or Irom Chanu Sharmila's decade-long protest against the Armed Forces Special Powers Act in Manipur. These cases involve public figures risking their lives to protest state policies, often leading to police intervention when health risks become evident. Secondly, the age-old Jain religious practice of 'santhara' or 'Salekhana'⁶, aimed at achieving spiritual purification and salvation. Although protected under constitutional religious freedom provisions, it is also punishable under Section 309 IPC, yet the state typically refrains from interfering in such religious practices. Thirdly, common scenarios of suicide attempts arising from adverse life events or stressors, such as Mumbai police filing charges against a woman who attempted suicide after witnessing a violent death or Mr. Jain, facing financial distress and

⁶ AIR 1996 SC 946

family burdens, attempting suicide. While law enforcement may intervene selectively, recent court judgments have advocated for a humane approach towards suicide attempters. In a landmark verdict in March 2011, the Supreme Court recommended decriminalizing attempted suicide, prompting government action towards amending the law, culminating in the inclusion of provisions for decriminalization in the Mental Healthcare Bill, 2013. This progressive legal stance reflects a shift towards prioritizing mental health care over punitive measures in addressing suicide attempts.⁷

1.3.1 Conclusion

The legal framework surrounding suicides in India has evolved significantly over time, reflecting changing societal attitudes and advancements in understanding mental health issues. From the historical criminalization of suicide attempts to the progressive reforms brought about by legislation such as the Mental Healthcare Act, 2017, India has taken significant steps towards destigmatizing mental illness and prioritizing compassionate care for individuals in distress. The repeal of Section 309 of the Indian Penal Code and the recognition of suicide as a public health issue signify a shift towards a more humane and rights-based approach to suicide prevention and intervention. Furthermore, landmark judicial decisions, such as those emphasizing the right to life and dignity under the Constitution, have played a crucial role in shaping the legal discourse surrounding suicide. However, challenges persist in ensuring adequate access to mental health services, addressing social determinants of suicide, and combatting stigma associated with mental illness. Moving forward, it is imperative for policymakers, healthcare professionals, and civil society to collaborate in fostering a supportive environment for individuals struggling with mental health issues, promoting early intervention and treatment, and advocating for policies that prioritize mental well-being. By embracing a holistic approach that combines legal reforms, public education, and community-based interventions, India can continue to make strides towards reducing the incidence of suicide and safeguarding the fundamental rights and dignity of all its citizens. Also government and society shall ensure, Strengthening Mental Healthcare Infrastructure: Allocate sufficient resources towards building and expanding mental healthcare facilities, particularly in underserved areas, to ensure accessibility for all individuals in need of support. Promoting Awareness and Education: Launch nationwide campaigns to raise awareness about mental health issues, reduce stigma surrounding suicide, and educate the public on recognizing warning signs and seeking help for themselves or others in crisis. Implementing Suicide Prevention Strategies: Develop and implement evidence-based suicide prevention strategies tailored to address the diverse needs of different populations, including high-risk groups such as adolescents, LGBTQ+ individuals, and marginalized communities, Enhancing Crisis Intervention Services: Establish helplines, crisis centers, and online support platforms staffed with trained professionals to provide immediate assistance and support to individuals experiencing suicidal thoughts or mental health crises, Integrating Mental Health into Legal Frameworks: Ensure that legal frameworks pertaining to suicide prioritize mental health care and support over punitive measures, aligning with international best practices and human rights standards, Collaborating with Stakeholders: Foster collaboration between government agencies,

⁷ K. Deepalakshmi, All you need to know about the Mental Healthcare Bill, 2016, The Hindu Article

healthcare providers, mental health professionals, educators, civil society organizations, and community leaders to develop coordinated approaches to suicide prevention and intervention also Research and Evaluation: Invest in research and evaluation efforts to assess the effectiveness of suicide prevention initiatives, identify emerging trends, and inform evidence-based policymaking and resource allocation.

By prioritizing these recommendations, India can create a more supportive and inclusive environment for individuals struggling with mental health issues, reduce the incidence of suicide, and promote overall well-being and resilience in society.

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