



# Attempted Suicide in India: A Legal and Ethical Analysis

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## ABSTARCT

This comprehensive analysis explores the historical and contemporary perspectives on suicide in India. It delves into the ancient Indian texts that portrayed suicide as a means to avoid shame, as well as the religious and cultural ethos that shaped these views. The study also examines the legal interpretations of attempted suicide and the evolving judicial approaches in India. It discusses the debate surrounding decriminalization and the constitutional challenges faced by relevant laws. Additionally, the paper explores the human rights perspective on suicide, the role of mental health, and policy recommendations for addressing this complex issue. By providing a comprehensive overview, this research aims to contribute to a better understanding of suicide in India and inform efforts towards prevention and support.

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## 1) INTRODUCTION:

### Historical perspective

In the Indian context calls for an appreciation of the literary, religious, and cultural ethos of the subcontinent because tradition has rarely permeated the lives of people for as long as it has in India. In valors which were the ancient Indian texts suicide was portrayed as means to avoid shame and hence was glorified. Suicide was also mentioned in the great Indian epics like Ramayana and Mahabharata .When Lord Shri Rama died, many people of his kingdom Ayodhya subjected themselves to suicide. The sage Dadhichi sacrificed his life so that the Gods may use his bones in the war against the demons. The Bhagavad Gita condemns suicide for selfish reasons and posits that such a death cannot have “shraddha”, the all-important last rites. Brahmanical perspective was that the people who would subject themselves to suicide should fast for a stipulated period of time. The holy scriptures, Upanishads critised the idea of suicide and held that the person who takes his life shall enter a area that is opaque where no light could pass through. Vedic scriptures permitted suicide for religious purposes and was considered one of the most sacred form of sacrificing one’s life. Attaining moksha( liberty) through starvation (sallekhanna) was considered a form of suicide . Sati, a form of suicide where the wife would throw herself in the funeral pyre of her husband was practised by Rajput women to avoid getting in the hands of Muslim evasion which was practiced in few areas.

### Current perspective

*Section 309 stated:(IPC)*

Whoever 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 with fine, or with both.

### **Sec 224 (BNS)**

Whoever attempts to commit suicide with the intent to compel or restrain any public servant from discharging his official duty shall be punished with simple imprisonment for a term which may extend to one year, or with fine, or with both, or with community service.

Example :

- Previously, using suicide as leverage to influence a police investigation (Section 226) was illegal. Now, with Section 309’s removal, attempting suicide will no longer be a criminal offence.
- This move seems to be a consequence of the government’s policy efforts to curb harmful protest methods, including self-immolation and hunger strikes. During 2014, in answering to a question posed by Rajya Sabha, the fact that 22 states and 9 union territories had the idea of scrapping out section 309 was exposed. Five states dissented from the proposal to repeal Section 309, advocating for its constitutional validity. Their rationale ranged from deterring individuals from resorting to hunger strikes to concerns about preventing potential suicides and bombings.. The significance of this provision is the community service which is less severe in comparison to the other punishment which is either imprisonment or fine.

## 2. LEGAL INTERPRETATION OF ATTEMPT TO SUICIDE

Most of the legal impact against suicide originated after the declaration by the St. Augustine of suicide being a sin (354-430 CE). Back in the days history focused in shaping the legal implications that favoured the idea of suicide. The perspective towards suicide and attempt to suicide changed after the French revolution and other socio- cultural changes in Europe. During 19th and 20th century, most of the developed countries have repealed criminalization of attempted suicide, but some countries including India, continue to treat suicidal attempt as a criminal offense. International laws on attempted suicide vary widely, reflecting differing cultural, religious, and legal perspectives on the act. Here is a summary of how various countries handle the issue:

### i) Decriminalization:

Many countries have decriminalized attempted suicide, focusing instead on mental health support and rehabilitation. These countries generally see suicide as a mental health issue rather than a crime.

- United Kingdom: Suicide was decriminalized in 1961 through the Suicide Act. However, aiding or abetting suicide remains a criminal offense.
- Canada: Suicide was decriminalized in 1972. Like the UK, assisting someone in suicide remains illegal.
- United States: Suicide itself is not a crime in any state, though some states have laws against assisting suicide.
- Australia: Attempted suicide is not a crime, but euthanasia and assisted suicide laws vary by state.
- Germany: There are no laws criminalizing suicide or attempted suicide. However, assistance in suicide is regulated.
- South Africa: Attempted suicide is no longer considered a crime, reflecting modern understanding of mental health.

### ii) Countries where Attempted Suicide is still criminalized:

Some countries maintain laws that criminalize attempted suicide, often imposing fines, short prison sentences, or mandatory counselling.

- India: Section 309 of the Indian Penal Code criminalized attempted suicide, but this law has been challenged. In 2017, the Mental Healthcare Act effectively decriminalized it by stating that people attempting suicide are presumed to be under severe stress and should not be punished.
- Singapore: Attempted suicide was decriminalized in 2020 under the Criminal Law Reform Act.
- Malaysia: Attempted suicide is still a criminal offense under the Penal Code, punishable by up to a year in prison or a fine.
- Pakistan: Section 325 of the Pakistan Penal Code criminalizes attempted suicide, punishable by imprisonment or fine.
- Kenya: Under Kenyan law, attempted suicide is punishable by up to two years in prison.
- Nigeria: Attempted suicide remains a criminal offense, punishable by up to a year in prison.

### iii) Countries with Religious Influences:

In some Islamic countries, suicide and attempted suicide are forbidden under Islamic law (Sharia), which influences legal systems.

- Saudi Arabia: Suicide is considered haram (forbidden) under Islamic law, and attempted suicide may result in punishment or mandatory mental health treatment.
- Iran: While not explicitly criminalized, suicide is discouraged by Islamic law, and authorities may intervene, including imposing rehabilitation or detentions.
- Maldives: Attempts at suicide may lead to punishment or mandated rehabilitation due to Islamic influence in the legal system.

### 3. CRIMINALIZATION OF ATTEMPT TO SUICIDE: PUNISHING THE TORTURED

Criminalizing attempted suicide is a dangerous and outdated practice that punishes people who struggle with mental health issues. Despite these negative feelings, more than 20 countries still consider suicide and attempted suicide a punishable crime, including prison terms, fines and financial penalties for families. The rationale for these rules is based on two incomplete assumptions. First, that law prevents people from committing suicide. But people with mental illness don't really care about the consequences of this law. Studies on the preventive effect are inconclusive, with mixed findings on the rate of suicide. Second, the claim that suicide is justified is false. In fact, suicide shifts the focus from criminal justice to health care, recognizing that suicide is a mental health problem rather than a crime. Worldwide, 703,000 people die by suicide each year, which is 20 times more than the number of people who attempt to end their own lives. The situation is even worse, especially among teenage girls in the United States, who reported a 57 percent increase in depression and suicidal thoughts. Between 2011 and 2021. The origins of suicide go back to English common law, which defines suicide as "murder" with dire consequences. This method of punishment spread throughout the colonies including India. Fortunately, attitudes have evolved. Many jurisdictions, including England, have banned suicide testing and the diagnosis of mental health problems. Download: Encourages help-seeking behaviour , Reduces adverse mental health, Increases access to health services, Strengthens community support By quitting in criminal law, we can care to provide Increase compassion, reduce the suicide rate and support those who work to reduce crime, not only support, but the necessary changes to address suicide as a public health problem..

### 4. JUDICIAL APPROACH AND LANDMARK JUDGEMENT

The judicial approach to suicide attempt in India has evolved significantly through landmark decisions.

i.) P.Rathinam v. Union of India (1994) The Supreme Court ruled that Section 309 of the Indian Penal Code (IPC), which punishes attempted suicide, is unconstitutional. The court equated the right to freedom of expression with the right to life, saying that the right to life includes the right not to live. This decision marked a major turning point in reducing suicide.

ii.) Chenna Jagadiswar and Anr. v. State of Andhra Pradesh (1987)

However, the Andhra Pradesh High Court upheld the validity of section 309 IPC. This case involved a couple accused of murdering their children and attempting to murder their spouse. According to section 309, the court found the man guilty and sentenced him to six months in prison.

iii.) Gian Kaur v. State of Punjab (1996) The Supreme Court reversed P. Rathinam's decision and held that the right to life under Article 21 of the Constitution of India does not include the right to death The court held that Sections 306 and 309 of the IPC do not violate Articles 21 and 14 of the Constitution.

iv.) Maruti Sripati Dubal V State of Maharashtra (1987) The Bombay High Court declared Section 309 of the IPC unconstitutional, stating that it is unreasonable to punish people who attempt suicide with intent. psychological help and psychological treatment. The court struck down section 309 and suspended the proceedings. Relevance and Current Status Gian Kaur decision now stands and upholds the constitutionality of Section 309 IPC but the Mental Health Care Act, 2017 abolishes suicide testing and provides mental health care and treatment instead of punishment..

## 5. HUMAN RIGHTS PERSPECTIVE ON ATTEMPT TO SUICIDE

In 1809, the Netherlands adopted the principle that all punishment for crime ends with death, a principle that was applied to suicide and attempted suicide. Australia does not deem suicide and attempted suicide illegal, but, according to Goldney, “Views vary from one extreme to the other, with some people regarding suicide as the ultimate right of the individual and others considering it to be totally forbidden, particularly from the religious point of view.”<sup>58</sup> South African law does not consider suicide a criminal act, though it does consider it an act against public policy. Schlebusch reports that, “In general, it is believed that factors beyond the individual’s control cause suicidal behaviour, that is, it is seen to arise out of a treatable mental disorder. The patient’s decision to commit suicide is not seen as rational or autonomous, and society is seen to have a moral obligation to intervene and save the patient, and is permitted and even mandated to prevent suicide.” This disparity in the law of various jurisdictions itself has negative consequences. For instance, this has paved the way for a new phenomenon- “suicide tourism” or “euthanasia”. At the beginning, it should be noted that no law in the world accepts the “right to die”. In fact, a cursory study of international human rights protocols shows that the degree of such a right is unique. All human rights instruments recognize the “right to life” and require member states to guarantee this fundamental right. However, as mentioned earlier, euthanasia is legal in Belgium, Colombia, the Netherlands and Luxembourg. Also, assisted suicide is legal in Canada, Japan, Germany and Switzerland. And in some states of America. On the other hand, most of the members of the UN follow the principles related to the protection of the “right to life” given in human rights documents..

## 6. DEBATES ON DECRIMINALIZATION

The debate surrounding decriminalization revolves around two primary perspectives: those supporting and opposing the elimination of criminal penalties for certain offenses.

Decriminalization is viewed as a vital step towards advancing human rights and social equity. By removing criminal penalties, governments can address pressing social issues, such as mass incarceration and racial disparities. This approach acknowledges individual freedoms and autonomy, allowing people to make choices without fear of prosecution. Decriminalization also enhances public health and safety through harm reduction initiatives, conserves taxpayer funds, and generates revenue through taxation. Moreover, it diminishes corruption and crime.

Successful decriminalization examples demonstrate the potential benefits of this approach. Portugal’s drug decriminalization led to lower crime rates and improved public health. Colorado’s cannabis legalization generated substantial revenue and economic development. Sweden’s decriminalization of sex work contributed to a decline in human trafficking incidents. These examples illustrate the positive outcomes that can result from decriminalization.

However, opponents argue that decriminalization poses significant threats to public safety and security. They contend that it may increase crime rates and social instability, compromise law enforcement effectiveness, and normalize detrimental behaviors. Additionally, decriminalization may overlook long-term health ramifications and treatment needs, potentially contravening international treaty obligations..

Supporters of decriminalization counter these concerns by emphasizing the importance of regulation and enforcement in alleviating associated risks. They note that decriminalization is distinct from legalization and that evidence-based strategies, such as harm reduction, have proven effective. Moreover, comprehensive support services and treatment options are essential to addressing underlying issues.

In conclusion, decriminalization sparks intense debate. While opponents raise concerns about public safety and morality, supporters emphasize human rights, social equity, and public health benefits. Effective implementation and regulation are crucial to mitigating risks and maximizing benefits. By considering both perspectives, policymakers can make informed decisions that balance individual freedoms with collective well-being, ultimately promoting a more just and equitable society.

## 7) CONSTITUTIONALITY OF SECTION:309 OF IPC

### LAW COMMISSION REPORT

The legality and validity of laws criminalizing attempted suicide have been hotly debated for decades. It may be recalled that the Law Commission of India in its 42<sup>nd</sup> report of 1970- 1971 had recommended that the offense of attempt to commit suicide be removed from the IPC In 1978-1979 the Government of India actually embraced this suggestion. Poi

- Right to life – The Supreme Court ruled that Section 309 violates Article 21 of the Constitution of India which protects the right to life. The Court reasoned that the right to life included the right not to live.
- Cruel and unreasonable: The Supreme Court has held that Section 309 is cruel and unreasonable because it punishes someone who is already suffering. The court also held that suicide is a mental illness, not a crime.

The Supreme Court recommended in 2011 that Parliament consider repealing Section 309. In 2014, the Minister of State for Home Affairs said that a proposal to repeal Section 309 had been submitted to Law and the Department of Justice

## 8. LEGAL CONSIDERATIONS ON MENTAL HEALTH

The Mental Healthcare Act, 2017:

- This Act came into force in 2018 and tries to decriminalize suicide.
- This Act made it clear that Section 309 of IPC could be used to punish attempted suicide only as an exception.
- This Act states that a person who attempts to commit suicide will be presumed to be “suffering from severe stress” and shall not be subjected to any investigation or prosecution.

### Sec 115 (mental health care act , 2017)

Presumption of severe stress in case of attempt to commit suicide.

(1) Notwithstanding anything contained in section 309 of the Indian Penal Code (45 of 1860) 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.

After the introduction of section 115 in the MHCA, the steps followed when a person presented to a hospital after a suicide attempt involved:

- \* Assessment and triaging in the emergency room
  
- \* Stabilisation of the person
  
- \* Registration of a medicolegal case with the police, and admission if required
  
- \* Mandatory psychiatric referral of the person for assessment and treatment
  
- \* Informing the person about section 115 of the MHCA
  
- \* Inquiry by the police to understand whether someone abetted the suicide attempt
  
- \* Discharge planning and follow-up care

## 9. LAWS ON ATTEMPT TO SUICIDE IN INDIA

### Sec 309: (IPC)

Any individual who attempts to take their own life or engages in any behavior with the intention of committing suicide shall face a maximum penalty of one year's simple imprisonment.

### Sec 224:(bns)

This new Act removes the Section of attempt to commit suicide from the statute books, it doesn't entirely decriminalize the offence of attempting to die by suicide.

An attempt to commit suicide is still a punishable offense, particularly if it is aimed at preventing a public servant from doing their job. This means that if someone tries to end their life in a way that disrupts the work of a public official, the law considers this a serious issue and can impose penalties.

### Right to die

Article 21 of the Indian Constitution states that "no person shall be deprived of his life or personal liberty except according to a procedure established by law." Thus, Article 21 secures two rights:

- 1)Right to life
- 2)Right to personal liberty.

Article 14 is divided into two parts:

i) **Equality before the law**

This part states that everyone should be treated equally in the eyes of the law.

ii) **Equal protection of the laws**

This part states that the same law will be applied to all people equally across society.

## **10. POLICY RECOMMENDATIONS**

Decriminalizing attempted suicide globally is a crucial step towards reducing stigma, encouraging help-seeking behavior, and prioritizing mental health over punishment. Criminalization has several detrimental effects, including: Criminalization discourages individuals from seeking medical attention, perpetuates stigma and social isolation, overburdens justice systems with unnecessary cases, and fails to address underlying mental health issues. In contrast, decriminalization encourages individuals to seek medical help without fear of prosecution, reduces stigma, and promotes social support. Increasing funding for mental health services and support groups is vital to provide accessible, quality care. This includes expanding community-based mental health services, enhancing crisis intervention and emergency response, supporting peer-led support groups and advocacy organizations, and developing culturally sensitive and inclusive programs. More funding improves access to critical mental health services, increases treatment outcomes and recovery rates, and reduces health care costs associated with untreated mental illness. The implementation of evidence-based treatment methods can improve care and recovery. These protocols include cognitive behavioral therapy (CBT), talking behavior therapy (DBT), medication management, and family therapy. Evidence-based treatment improves treatment outcomes and recovery rates, increases patient participation and satisfaction, and reduces healthcare costs associated with ineffective treatments. Public awareness programs reduce stigma, promote awareness and encourage help-seeking. Effective campaigns share stories and personal experiences, promote mental health resources and services, debunk common myths and misconceptions, and promote recovery and hope. Public awareness reduces stigma and social isolation, encourages help-seeking behavior and builds supportive communities. Integrating mental health education into school curricula equips students with important skills and knowledge. This includes mental health awareness, stress management and coping strategies, emotional regulation and resilience, and support and peer support. Mental health education increases awareness and understanding of mental health, promotes healthy relationships and social skills, and supports early intervention and prevention. These policy recommendations address the complex issues surrounding suicide prevention, focus on mental health and promote wellness and well-being. By implementing these methods, we can create a supportive and inclusive environment for people struggling with mental health problems. Effective global strategies must: International cooperation and knowledge sharing , Cultural understanding and adaptation , Evaluation and continuous improvement ,Community involvement and participation. Political participation and resource allocation We can reduce the suicide rate, promote mental health and foster a culture of understanding and support..



## 11. CONCLUSION

The issue of attempted suicide is a complex and sensitive topic that requires a multifaceted approach, combining compassion and evidence-based solutions. At its core, attempted suicide is a cry for help, a desperate call to action from individuals struggling with overwhelming emotional pain and distress. However, instead of receiving the support and care they need, many are met with stigma, shame, and even criminal prosecution.

The criminalization of attempted suicide only serves to exacerbate the problem, reinforcing harmful stereotypes and perpetuating negative attitudes toward mental health. By treating attempted suicide as a crime, we inadvertently create barriers to seeking help, discouraging individuals from disclosing their struggles or seeking medical attention. This can have devastating consequences, worsening mental health outcomes and increasing the risk of future attempts.

Decriminalizing attempted suicide is a crucial step toward addressing this issue. By removing the threat of prosecution, we can encourage individuals to seek help without fear of reprisal. This, combined with enhanced access to mental health services, can help lower suicide rates and foster recovery. Research has consistently shown that evidence-based interventions, such as cognitive-behavioural therapy and dialectical behaviour therapy, can significantly reduce suicidal ideation and behaviour.

Moreover, decriminalization can help shift the conversation around mental health, promoting empathy and understanding over stigma and shame. By recognizing attempted suicide as a symptom of underlying distress rather than a criminal act, we can work toward creating a more supportive and inclusive environment. This includes increasing access to community-based mental health services, crisis intervention programs, and social support networks.

Ultimately, addressing attempted suicide requires a comprehensive and compassionate approach, one that prioritizes care and support over punishment and stigma. By decriminalizing attempted suicide and enhancing mental health services, we can help individuals find the hope and healing they need to overcome their struggles and rebuild their lives.

## 12. Summary of Findings

Criminalizing attempted suicide has been shown to have a negative impact on people struggling with mental health issues. In particular, it prevents them from seeking the help and support they need to overcome their challenges. This is because the threat of prosecution and punishment can create barriers to disclosure, preventing people from discussing their struggles or seeking treatment. Studies from countries like Switzerland and New Zealand have shown that eliminating suicide tests can have positive results. Following decriminalization, these states have seen significant increases in reporting and processing rates. This suggests that reducing crime may encourage people to seek help and improve mental health outcomes. Studies show that access to mental health services and support networks are important factors in reducing suicide rates. Effective interventions, such as cognitive behavioural therapy and verbal behavioural therapy, can significantly reduce suicidal thoughts and behaviours. In addition, social services and social support networks provide a critical safety net, helping people connect with others and seek support during difficult times. Depression and social isolation are important factors that reinforce suicidal behaviour. When people feel ashamed or embarrassed about their mental health problems, they are less likely to seek help. Social isolation exacerbates this problem, leaving people isolated and without support. By addressing stigma and promoting social connections, we can work to create a more supportive environment that encourages people to seek help without fear of judgment or rejection. Overall, these findings highlight the need for a compassionate, evidence-based approach to conducting suicide trials. Reduction, along with increased access to mental health services and support networks, can help reduce suicide rates and aid

recovery. By focusing on care and support instead of punishment and stigma, we can create a safer and more supportive environment for people struggling with mental health problems.

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