

Decriminalizing Suicide

June 24, 2021

COVID-19 outbreak has only brought the epidemic of suicides in India to the forefront. The reality is that India's lack of a national response strategy as it relates to mental health and suicide has left a grave and complex problem unaddressed for years. Although one typically associates suicide with mental health, the truth is that the rate of suicides reflects broader economic, socio-cultural and political realities as well.

In news: A case to decriminalise suicide

Placing it in syllabus: Society

Dimensions

- Statistics : India and the World
- Provisions on Suicide in India
- Arguments in favor of Criminalization
- Arguments against Criminalization
- Mental Health Care Act 2017 and Suicide
- Drawbacks of the Act and Suggestions

Content:

Statistics : India and the World:

- India has the highest suicide rate in the Southeast Asian region, according to the World Health Organization.
- Depression, chronic ill health, guilt, trauma, substance abuse, failure in exams, and loss of loved ones are some of the reasons which influence a person's decision to take his or her life.
- A total of 1,34,516 cases of suicide were reported in 2018 in India, according to the National Crime Records Bureau.

- While the rate of suicide was 9.9 in 2017, it increased to 10.2 in 2018.

World Statistics:

- Over one million people die by suicide worldwide each year.
- The global suicide rate is 16 per 100,000 population.
- On average, one person dies by suicide every 40 seconds somewhere in the world.
- Around 1.8% of worldwide deaths are suicides.
- Global suicide rates have increased 60% in the past 45 years.

Provisions on Suicide in India:

- Section 309 of the Indian Penal Code dictates the penal provision for attempting suicide.
- If a person is suffering from any mental trauma or illness, he or she should be given reformatory treatment rather than a deterrent punishment which is “simple imprisonment for a term which may extend to one year [or with fine, or with both]”.
- India has retained much of the colonial legal legacy in its penal jurisprudence.
- But the fact is that the British Parliament decriminalised attempts to suicide in 1961 through the Suicide Act.
- In India, a Bill to repeal Section 309 was first introduced in the Rajya Sabha in 1972 but it failed to pass in the Lok Sabha because the House was dissolved.

Arguments in favor of Criminalization:

Suicide as unnatural extinction of life:

- Those who favour the penal provision generally quote the judgment in **Gian Kaur V. State of Punjab (1996)** where the court held that the “right to life is a natural

right embodied in Article 21” of the Constitution but “suicide is an unnatural termination or extinction of life and, therefore, incompatible and inconsistent with the concept of right to life”.

- In **Aruna Ramchandra Shanbaug v. Union of India (2011)**, the Supreme Court endorsed the earlier judgment.
- As far as India is considered, right to life does not include the right to die but provides for “right to die with dignity” which is facilitated by **Passive Euthanasia** only in certain circumstances permitted with the leave of the Supreme Court.

Acts as Deterrent for others :

- If an act is harmful, then the aim of criminalising it is to announce to society that these acts are not to be done and to ensure that fewer of them are done – for our common good.

Decriminalisation Handicaps Authorities:

- The argument advanced by few state governments was that section 309 was instrumental in convicting drug traffickers and suicide bombers who survived.
- Another argument raised against decriminalisation of attempt to suicide was that it would handicap the authorities in dealing with persons going on hunger strike or fasting until death.
- This kind of protest is mostly showcased by activists to press the government to accept their demands, which may not necessarily be legitimate.
- Whether the person actually wanted to suicide or not is irrelevant because the logic that the ultimate point of hunger strike being death proves that section 309 is of utmost use.

Arguments against Criminalization

Section 309 is Unconstitutional:

- those who argue that the act of attempting suicide should not be criminalised quote **Maruti Shripati Dubal v. State of Maharashtra** (1986). In this judgment, the **Bombay High Court declared Section 309 unconstitutional.**
- It said: “For example, the freedom of speech and expression includes freedom not to speak and to remain silent. The freedom of association and movement likewise includes the freedom not to join any association or to move anywhere... If this is so, logically it must follow that right to live... will also include a right not to live or not to be forced to live.”
- The court also said: “If the purpose of the prescribed punishment is to prevent the prospective suicides by deterrence, it is difficult to understand how the same can be achieved by punishing those who have made the attempts... Those who make the suicide attempt on account of the mental disorders require psychiatric treatment and not confinement in prison cells.”
- This idea was recorded in **Chenna Jagadeeswar v. State of Andhra Pradesh and P. Rathinam v. Union of India (1994)** where the court held that Section 309 of the Indian Penal Code is a violation of Articles 14 and 21 and is void and unconstitutional.

Increases the Risks of Suicide:

- there is an instant, direct impact on people when you punish them for attempting suicide.
- It puts them even more at risk, adding to an often deeply internalised narrative that those who attempt suicide are worthless inconveniences, and sending that message to other suicidal people at the same time.
- Adding the strain of a court case, fines and criminal record to the lives of people who are already experiencing horrendous distress is also horrifying and inhumane

Suicide is principally a mental health issue:

- The sheer weight of medical evidence suggests that suicide is an illness and that the vast majority of those who commit or attempt to commit it have a diagnosable mental disorder.
- More often than not, these disorders have not been recognised or adequately treated, which highlights the importance of sensitising the public about the symptoms of depression and other mental disorders.
- Criminalising suicide is a form of censure rather than a way of helping people deal with their underlying mental health problems and the various immediate triggers that lead them to attempt to take their lives such as illness, failure, bereavement or economic ruin.

criminalisation has the opposite effect of deterring people

- As the World Health Organization has pointed out, criminalisation has the opposite effect of deterring people from attempting suicide.
- This is because it discourages them from reaching out for medical help and treatment.

Mental Health Care Act 2017 and Suicide:

- In 2017, Parliament passed the Mental Healthcare Act.
- It provides for mental healthcare and services for persons with mental illness and to protect, promote and fulfil the rights of such persons during delivery of mental healthcare and services and for matters connected therewith or incidental thereto
- Section 115 (1) of the Act provides, “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.”

- Thus, the act seeks to decriminalise suicide.

Drawbacks of the Act and Suggestions

- This law applies only to those suffering from mental illness.
- There is presumption of severe stress in case of an attempt to die by suicide.
- If severe stress is not proved, then the provisions of the Mental Healthcare Act do not apply.

Suggestions:

- We have to shift from penalising attempts to suicide to making such cases medico-legal ones and provide psychological or mental treatment and support to the persons affected.
- As the issue demands a reformative stance, we need a permanent solution like repealing Section 309 of the Indian Penal Code or striking it down.

Mould your thought: What are the provisions related to suicide in India? Critically evaluate the demand for decriminalising suicide in India.

Approach to the answer:

- Introduction
- Discuss Art 21, IPC Sec 309, and Mental Healthcare Act
- Give the arguments for criminalising suicide
- Give arguments against criminalising suicide
- Discuss the solutions, if any, to improve the situation
- Conclusion