

Decriminalization of attempted suicide law: Journey of Fifteen Decades

Prakash B. Behere, T. S. Sathyanarayana Rao¹, Akshata N. Mulmule²

Department of Psychiatry, DMIMS, Deemed University and Jawaharlal Nehru Medical College, ²Department of Psychiatry, Jawaharlal Nehru Medical College, Wardha, Maharashtra, ¹Department of Psychiatry, JSS University, JSS Medical College and Hospital, Mysore, Karnataka, India

Life, as they say, is a gift from god and can be given only by him. Hence, taking away life and that too one's own, has always been forbidden. Suicide has, since times immemorial, been a topic of constant controversy and unending debate. Religion, monarchy, and colonialism all condemned and prohibited suicide. Suicide is defined as death caused by self-directed injurious behavior with any intent to die as a result of the behavior. Suicide attempt, on the other hand, is a nonfatal self-directed potentially injurious behavior with any intent to die as a result of the behavior. A suicide attempt may or may not result in injury.^[1] The people who committed or attempted suicide have always been the subjects of wrath of the religion bound societies in the past. Following this religious trail, lawmakers in the past, served punishments to both the bodies of the victims and the survivors of a suicide attempt. Sometimes even the surviving family members were punished for their act. But liberalization and education with the help of progress in understanding the underlying causes of suicide, has led to a change in this stance worldwide.

GRAVITY OF PROBLEM

There has been an alarming increase in suicide rates in recent years. There were 127,151 cases of suicide noted in the National Crime Records Bureau in 2009 which have increased to 134,799 in 2013. Suicide rate that is, the incidence of suicide per one lakh population, has increased from 10.9 in 2009 to 11.4 in 2010. Family problems and illness were the two major reasons for suicides, together accounting for 46% of all suicides. Drug abuse/addiction (3.3%), love affairs (3.2%), bankruptcy or sudden change in economic status (2.0%), poverty (1.9%), and dowry dispute (1.6%) were the other causes of suicides.^[2]

Address for correspondence: Dr. Prakash B. Behere, Department of Psychiatry, DMIMS, Deemed University and Jawaharlal Nehru Medical College, Wardha - 442 004, Maharashtra, India. E-mail: pbbehere@gmail.com

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RELIGION AND SUICIDE

Almost all the religions condemn and prohibit suicide with each having an elaborate description of the punishments incurred by the offenders in their respective hells. Hinduism believes in the individual turning into a ghost and wandering between the mortals and the heavenly till the time of their actual death as per fate, whereas Islam mentions the fate of the person who commits suicide, remains to repeat the same act by which he committed suicide till eternity in the fire of hell. Some religions, like the Jews, have discrimination against those who commit suicide in the form of separate burial away from the normal deaths and limited mourning rights to the kings.

THE INDIAN LAW ON SUICIDE AND ITS PAST

The Indian penal code drafted in 1860 on the recommendations of first law commission of India established in 1834 under the Charter Act of 1833 under the chairmanship of Thomas Babington Macaulay came into force in British-ruled India in 1862.^[3,4] It has substantially survived for over 150 years without major amendments in several jurisdictions. But there has been a need to rethink and amend several of its sections as per the prevailing societal beliefs from time to time. The recent amendment of the section 377 is one such example. As per the Indian penal code, 1860, chapter XVI of offences affecting the human body and of offences affecting life, section 309 deals with Attempt to commit suicide. It states that "whoever attempts to commit suicide and does any act toward the commission of such offence, shall be punished with simple imprisonment for a term which may extend to 1-year."^[5] This law has remained untouched and not amended for the

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past 155 years since it came into force, thus warranting a relook and repeal as per today's scientific understanding of the subject and societal attitude.

EVOLVING CONSENSUS OVER THE YEARS - WORLD VIEW

Destigmatization of the act of suicide started with the pioneering work of Durkheim. His theory that external pressures or societal stressors, can contribute to suicidal behavior, increased awareness about suicide and helped to begin destigmatization. Another major factor which influenced change in societal attitude about suicide was the dawn of psychology. Sigmund Freud proposed the concept of psychosis and suggested that mental disorders were, in fact, medical conditions. Thus, acceptance of the concept that mental or emotional distress could be due to natural and physical factors that is, biological in origin, facilitated changes in civil, criminal and religious laws related to suicide.

Internationally, Germany, in 1751, was the first country to decriminalize attempted suicide.^[6] After the French revolution, all countries of Europe and North America subsequently decriminalized suicide. In 1983, the Roman Catholic Church reversed the canon law that prohibited proper funeral rites and burial in church cemeteries for those who had committed suicide. All of these developments have been instrumental in shifting attitudes about suicide in modern society.^[7] Some countries like Scotland never considered suicide a crime and had no law for the same.

India recently announced the decriminalization of suicide, but its neighboring countries Pakistan, Bangladesh, Malaysia, and Singapore among others still continue to consider suicide a crime.

HOW THE SCENE CHANGED IN INDIA

The first signs of a change in perception towards attempt to suicide in India appeared in 1981, when the Delhi High Court first condemned section 309 of the Indian penal code as "unworthy of society." The Supreme Court in 1994 even went on to call it "irrational and cruel and hence void." It held that the right to life and liberty, under article 21 of the constitution, must also be interpreted to include the right to die. But this was overruled a couple of years later by a five-judge constitutional bench of the apex court subsequently, who then reinstated the law in the 1996 (Gian Kaur vs. state of Punjab case).^[8,9]

The law commission had earlier recommended repeal of section 309 in its 42nd report submitted in 1971.^[9] The IPC (amendment) bill, 1978 was passed by the Rajya Sabha, but before it could be passed by the Lok Sabha, the lower

House was dissolved, and the bill lapsed. The commission then submitted its 156th report in 1997 after the Gian Kaur judgment, recommending retention of section 309.

However, the commission, in its 210th report, recommended that attempt to suicide warranted medical and psychiatric care and not punishment. In view of the opinions expressed by the WHO, International Association for Suicide Prevention, the Indian Psychiatric Society and the representations received by the commission from various persons, the commission resolved to recommend the government of India to initiate steps for repeal of the anachronistic law contained in section 309, IPC.

As law and order is a state subject, the central government requested the views of states/UTs on the recommendations of the law commission. Eighteen states and 4 UT administrations supported that Section 309 of the IPC may be deleted. Thus keeping in view the responses from the states/UTs, after on and off stand regarding this section by various law bodies like courts and law commissions for nearly three decades, it has been announced on December 10, 2014, to delete section 309 of IPC from the statute book.^[10]

IMPLICATIONS OF DECRIMINALIZATION

This move might go a long way in reducing the stigma attached with suicides. People will not any longer feel the need to hide their suicidal thoughts and would be encouraged to talk about it with others and subsequently to seek professional help.

However, few points need to be considered on the flipside too, like some states' arguments that decriminalizing attempt to suicide would handicap law enforcement agencies in dealing with persons who resort to fast unto death or self-immolation to press the government or authorities to accept their unreasonable or illegitimate demands. Such people, they argued, can no longer be booked for attempt to suicide or be force-fed. Some people have demanded a need for a clear distinction drawn between persons driven to suicide due to medical illnesses and suicide bombers who fail to blow themselves up or terrorists who consume cyanide pills to wipe out evidence and want the former to be covered by a separate legislation.^[11]

FUTURE DIRECTIONS FROM A PSYCHIATRIST'S POINT OF VIEW

Decriminalizing suicide is not enough. There is a need for a comprehensive health program to reduce its incidence. Furthermore, the stigma attached with suicides will only recede if the government and the social sector take a proactive role in spreading anti-suicide awareness.

Let us hope the government does not stop here and moves ahead to put in major efforts to enhance the overall mental health scenario in the country and help reduce the burden of suicide and mental health.

Finally, law can never be the entire answer. Hence, framing laws and getting them perfect should not take up all our time. There is a need to build the political will to implement these laws. Suicide attempt is thus a multidimensional problem having legal, social and psychological implications. Hence, teamwork is required to assess and tackle this problem. Detail workups should be done by multidisciplinary teams which should include social workers, for victims in the community who do not confront, government officials, for victim's support and providing them with available welfare schemes of the government, nongovernment organizations, to help in the rehabilitation of victims, medical professionals, to conduct regular medical checkups and treatment for acute conditions and psychologist/psychiatrist, for counseling the victims and provide necessary pharmacotherapy.

Thus, the onus of reducing this giant we are facing lies with us all and we should try whole heartedly to give our best to the cause.

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