

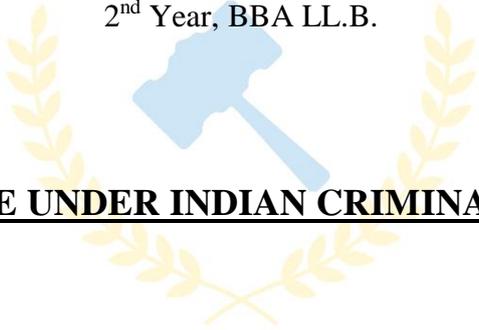
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Author:

Kanak Verma

Symbiosis Law School, Noida

2nd Year, BBA LL.B.



RIGHT TO SUICIDE UNDER INDIAN CRIMINAL LEGAL SYSTEM

Criminal Law and Indian Penal Code, 1860

The branch of public law that deals with criminal law is called criminal law. The state is a party in criminal proceedings because crime is a wrong committed against not only the individual but also the entire society. Criminal law is limited in scope, and it can only be used to prosecute specific overt acts or omissions that can be clearly demonstrated and that cause specific harm. Crime is defined as behaviour that the state has declared to be punishable through legislation. To put it another way, there is no such thing as a crime unless it is defined by legislation.

India's criminal law is codified in the Indian Penal Code of 1860. The First Law Commission, chaired by Thomas Babington Macaulay, drafted the Indian Penal Code in 1834 and delivered it to the Governor-General of India Council in 1835.

Suicide and the Importance of Life

Harriet Beecher Stowe¹ believed that not giving up in life is important. She said “*When you get into a tight place and everything goes against you, till it seems as though you could not*

¹ She was an abolitionist and author from the United States.

hang on a minute longer, never give up then, for that is just the place and time that the tide will turn.”

When we fail, we often fail to realize how valuable our lives are. We become consumed by our failures, something that eats away at us mentally, socially, spiritually, and intellectually. Failures in life, on the other hand, aren't meant to do that. They're intended to help us grow and learn valuable lessons that can only be acquired through failures.

Emile Durkheim, a sociologist, famously proposed that "suicides are a result of not only psychological or emotional factors, but also social factors."

The problem of suicide is one such social issue. Suicide is derived from the Modern Latin word 'suicidium' which deliberate killing of oneself. Suicide is defined as a person's death caused by his or her own actions. To put it another way, a person chooses to end their own life. When confronted with a loss or the fear of a loss, a person may choose to commit suicide. Academic failure, arrest or imprisonment, bullying, shaming, or humiliation, including cyberbully, financial difficulties, the ending of a close friendship or romantic involvement, job loss, or loss of social status are examples of these scenarios.

Reports on Suicide in India

According to a World Health Organization report released last year, India has the highest suicide rate in the South-East Asian area. The suicide rate in India is 16.5 per 1,00,000 persons. In addition, India has the world's third-highest female suicide rate (14.7).

The National Crime Record Bureau ²(NCRB) collects data on suicides through police reports. In 2019, a total of 1,39,123 suicides were reported in the country, up 3.4 percent from 2018, while the suicide rate climbed by 0.2% over the previous years.

Maharashtra had the highest number of suicides (18,916), followed by Tamil Nadu with 13,493 suicides, West Bengal with 12,665 suicides, Madhya Pradesh with 12,457 suicides, and Karnataka with 11,288 suicides, accounting for percent, 9.7 %, 9.1 %, 9.0 %, and 8.1 % suicides, respectively.

² NCRB was established in 1986 to serve as a storehouse of information on crime and offenders to aid detectives in connecting crimes to their perpetrators.

Suicide and Euthanasia

Between suicide and euthanasia, there is a conceptual distinction. A suicide occurs when a person kills himself voluntarily by stabbing, poisoning, or any other means. Without a doubt, suicide is a deliberate attempt to end one's life. It is an act or instance of someone intentionally killing themselves, usually due to depression or other reasons such as frustration in love, failure in exams, or difficulty finding a good job, etc. Euthanasia, on the other hand, is an action taken by another person to end the life of a third person. A third party is either actively or passively involved in euthanasia, meaning he aids or abets the killing of another person.

Section 309 of the Indian Penal Code, 1860

The law, which was enacted by the British in the nineteenth century, reflected popular opinion at the time, when killing or attempting to kill oneself was considered a crime against the state as well as against religion. Anyone who survives a suicide attempt can be charged under Section 309 of the Indian Penal Code, which deals with "attempt to commit suicide."

This section has not been repealed, it is still included in the IPC. The Mental Healthcare Act³ (MHCA) 2017, which took effect in July 2018, significantly reduced the scope for the use of Section 309 IPC — and made attempted suicide a rare exception. According to the Section 115 (1) of the MHCA act, it is assumed that person committing suicide is under severe stress and Section 309 of the IPC cannot be enacted.

But there is a problem. People have shown up at government offices and threatened to commit suicide if their demands are not met. It's in these situations that police suspect the person isn't planning to commit suicide but is instead using the threat to unfairly pressure or blackmail the system. And in such cases, this section must be utilized. If 309 is repealed, there will be no mechanism in place to prosecute those who intend to cause trouble.

Section 309 IPC can be rewritten in such a way that it can still be used in law enforcement situations while not being used against people who have genuine mental health issues.

³ Its purpose is to provide mental health services to people who are suffering from mental illnesses. It ensures that these people have the right to a dignified life by ensuring that they are not discriminated against or harassed.

Right to Life and Right to Die

A person is endowed with basic human rights from the moment he is born. The right to life is one of the most basic and fundamental rights, without which no other rights can be exercised.. According to Article 21 of the Indian Constitution, the right to life refers to the ability to live a life that is meaningful, complete, and dignified. It doesn't have a specific meaning. The purpose of Article 21's fundamental right is to prevent the state from restricting a person's personal liberty or depriving them of life unless they comply with legal procedures. The term "right to life" refers to a person's fundamental right to live, particularly the right not to be killed by another person .

The question is whether Article 21's right to life includes the right to die. In *Maruti Sripati Dubal v. State of Maharashtra*⁴ The High Court of Bombay considered this question for the first time. The Bombay High Court held that the right to life guaranteed under Article 21 includes the right to die, and that section 309 of the Indian Penal Code, which punishes a person for attempting suicide, is unconstitutional.

In *Chenna Jagadeeswar vs. State of AP*, the Andhra Pradesh High Court ruled that under Article 21 of the Constitution, the right to die is not a fundamental right.

In *P Rathinam v. Union of India*⁵, a Supreme Court Division Bench upheld the decision of the High Court of Bombay . The *Maruti Sripati Dubal* case held that under Article 21 of the Constitution, the right to life includes the right to die, and that section 309 of the Indian Penal Code, which deals with "attempt to commit suicide as a penal offence," is unconstitutional.

In *Gian Kaur v. State of Punjab*, the court addressed this issue once more. In this case, the Supreme Court's Constitutional Bench of five judges overruled the *P. In Ratinam's* case, the court ruled that the right to life guaranteed by Article 21 of the Constitution does not include the right to die or be killed, and that there is no reason to believe that section 309 of the IPC is unconstitutional. In Article 21, the true meaning of the word "life" is "life with human dignity." Any aspect of life that makes life more dignified may be included in it, but not the aspect that makes life less dignified. If there is a 'Right to Die,' it is inherently incompatible with the Right to Life, just as death is incompatible with Life. Hence in India, Right to life

⁴ 1987 (1) BomCR 499, (1986) 88 BOMLR 589

⁵ 1994 AIR 1844, 1994 SCC (3) 394

does not include Right to Die. Right to Die violates the Fundamental Rights that are enshrined in the Constitution of India.

In its 42nd Report in 1971, the Law Commission⁶ recommended that Section 309 IPC be repealed. The IPC (Amendment) Bill, 1978, was even passed by the Rajya Sabha, but Parliament was dissolved before it could be passed by the Lok Sabha, and the Bill lapsed. In its 210th Report in 2008, the Law Commission stated that an attempt at suicide necessitated medical and psychiatric care rather than punishment. The Supreme Court recommended to Parliament in March 2011 that it look into the possibility of removing the section.

Conclusion

Though the psychological elements underlying the act have been recognised and duly addressed through the Mental Healthcare Act, it needs to be discarded as an irrelevant provision and further steps for rehabilitation and reform must be taken. It must be appreciated that the need is not to curb this behaviour only at the manifest or symptomatic level but to its very origins. Criminalizing suicide has proven ineffective in reducing the number of people who commit suicide. A more prudent approach would be to make life so pleasant that death is no longer an option. This can of course not be achieved by meeting all of an individual's wants, but it is critical that the mental health of individuals be taken seriously. Interventions at an earlier stage among people who are at risk of suicide have been shown to be effective. The need of the hour is to prevent people from succumbing to these pressures, which an impending fear of punishment has most likely failed to achieve. The time is ripe to work on the causative factors, and to adopt a preventive rather than punitive approach. Suicide must essentially be understood as a culmination and actuation of these pressures.

⁶ The Law Commission of India is an executive body set up by an order of the Indian government. Its main purpose is to promote legal reform.