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DECRIMINALISATION OF SUICIDE IN INDIA: A CONSTITUTIONAL AND MENTAL HEALTH PERSPECTIVE

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Abstract

The decriminalisation of suicide in India is a change from punishing people who try to kill themselves to treating them with kindness and helping them with their mental health. This change is mainly shown in the Mental Healthcare Act of 2017 which says that people who try to kill themselves are under a lot of stress and should not be punished.. Just because people who try to kill themselves are not punished anymore it does not mean they will get the help they need to stay safe and healthy.

This paper looks at whether making suicide not a crime in India helps people with mental health problems when the country does not have good mental health care and the laws are not enforced well. By looking at what the Constitution says, what the laws say, what judges have decided and what experts have written this paper says that making suicide not a crime is part of the solution.

It says that without mental health care people knowing about mental health and the government supporting it the goal of protecting peoples lives and dignity as said in Article 21 of the Constitution is not really achieved. The decriminalisation of suicide in India is a start but the decriminalisation of suicide in India needs to be followed by real actions to help people with mental health problems. The decriminalisation of suicide, in India should be taken seriously and more should be done to help people who are struggling with health issues.

Keywords: - Mental health, suicide, decriminalisation, rehabilitation

Introduction

Suicide is a major public health and social problem in India. It is often linked to mental illness, emotional distress, poverty, and social pressures. Section 309 of the Indian Penal Code, 1860 said that trying to kill yourself was a crime. Instead of figuring out why people want to kill themselves, this method focused on punishment. One person kills themselves every three minutes. The NCRB Report says that in 2002, 468 people killed themselves every day. One-third of them were daily-wage workers, farmers, or agricultural workers.

With the passing time, there has been a major shift in the thought process of the society as well as the judicial authority. Today, suicide attempts are not considered criminal acts but indicators of sensitivity and mental stress, which demand serious care and support. This led to the enactment of The Mental Healthcare Act, 2017, which effectively decriminalized attempting suicide by noting that the individual was under severe stress at that time and also placed a duty on the state to provide treatment and rehabilitation.

Despite the growing support for this change in the law, there are still serious worries about how well it will work in practice. India’s mental health services are not good enough, are not evenly spread out, and are not easy to get to. Law enforcement agencies often do not know about the new legal framework, and there is still a stigma around mental illness. So, this paper looks at the limits of decriminalization as a stand-alone reform and asks if it is possible to protect indigenous rights without a good mental health care system.

Objectives of the study

- To examine the legal framework relating to decriminalisation of suicide in India.
- To analyse the role of the Mental Healthcare Act, 2017 in addressing suicide as a mental health issue.
- To access the adequacy of mental healthcare infrastructure and implementation mechanisms in India.
- To evaluate whether decriminalisation alone is sufficient to protect the right to life and dignity under Article 21.

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Hypothesis

Decriminalisation of suicide alone is insufficient unless it is supported by effective mental healthcare infrastructure, awareness, and proper implementation mechanisms.

Literature review

In the existing texts, it has been witnessed that making suicide a crime under section 109 of the Indian Penal Code was a harsh decision, old fashioned and not helpful. This resulted in creating a more stressful situation for people who were already mentally unstable. The Indian law commission and many constitutional scholars argued over article 21 of the Indian constitution that the right to life shall also include the right to live with dignity and the right to health (including mental health).

Judicial decisions such as *Gian Kaur v. State of Punjab* and *Common Cause v. Union of India* show that the State has a responsibility to protect life by providing care and support rather than punishment. The Mental Healthcare Act, 2017, especially Section 115, is considered an important step towards decriminalising suicide attempts. However, many scholars brought out that its impact is limited because of poor implementation, lack of proper mental health facilities, and low awareness among authorities.

The Bharatiya Nyaya Sanhita, 2023, which removes attempted suicide from criminal law, is seen as a major legal reform. Still, experts explain that removing punishment alone cannot prevent suicide. Researches up to 2025 clarified that without proper mental health services, counselling, and rehabilitation, decriminalisation does not significantly reduce suicide rates which makes it clear that legal reform must be supported by strong mental healthcare systems and proper implementation to be truly effective.

Research Methodology

This study adopts a doctrinal research methodology. The research is based on the analysis of legal texts, judicial decisions, and scholarly writings related to suicide and mental health law in India. Primary sources include constitutional provisions, the Indian Penal Code, the Mental Healthcare Act, 2017, and relevant judgements of the Supreme Court and High Courts. Secondary sources include law commission reports, books, journal articles, and mental health studies. The research is analytical in nature and aims to test the stated hypothesis through critical examination of legal and policy frameworks.

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Meaning of decriminalisation

Decriminalisation means removing an act that was once considered a criminal offense from the realm of legal punishment. In the case of suicide, which means trying to take one's own life is no longer seen as a crime but seen as a serious situation where an individual seeks for a proper rehabilitation and care. This change reflects a shift from viewing such acts as morally wrong or punishable by law, to treating them as signs of mental health issues that need care and assistance.

In India, this change can be witnessed through Section 115 of the Mental Healthcare Act, 2017. This section infers that a person who attempts suicide is in a state of severe stress who should not be subjected to any legal action or punishment. This exercise supports the idea that suicidal behaviour is not a criminal act, but rather a mental health issue that demands medical and social support. The introduction of the paper also points out this shift from punishment to care.

Decriminalisation does not imply that the act is socially acceptable or that it should be encouraged.

Rather, it means that the legal system no longer treats people who attempt suicide as criminals, but as individuals who need help and support. The goal is to reduce the fear of being prosecuted, encourage people to seek assistance, and help reintegrate them into society.

Difference Between Decriminalisation and Mental Health Approach

Decriminalisation and the internal health approach, though connected, are conceptually distinct. Decriminalisation simply removes felonious discipline for an act, whereas a internal health approach laboriously focuses on forestallment, treatment, and recuperation.

Under decriminalisation, the legal system choruses from executing individualities who essay self-murder. still, it doesn't automatically insure that similar individualities admit acceptable cerebral care or social support. In discrepancy, a internal health approach treats suicidal geste As a medical and social concern taking professional intervention, long- term comforting, and community- grounded support.

The Mental Healthcare Act, 2017 attempts to bridge this gap by not only decriminalising self-murder attempts but also calling the State to give care and recuperation. Nonetheless, in

practice, numerous cases are still handled through police procedures rather than healthcare mechanisms. This reflects that while legal reform has passed, institutional and social reforms remain deficient.

Thus, decriminalisation is only the first step, whereas a comprehensive internal health approach is necessary for effective self-murder forestallment.

Suicide as a Legal Issue Versus a Public Health Issue

Traditionally, self-murder was considered as a legal issue in India due to its criminalisation under Section 309 of the Indian Penal Code. Here the State's primary aim was execution and discipline, which frequently resulted in further trauma for survivors.

With the enactment of the Mental Healthcare Act, 2017, self-murder has gradually been recognised as a public health issue. From a legal perspective, the State's part is limited to administering laws but still, from a public health perspective, the State has a forward looking responsibility to help self-murder through mindfulness programmes, extremity helplines, comforting centres, and community outreach.

Countries that have espoused a public health- acquainted model have demonstrated better self-murder forestallment issues. In India, although the legal framework supports this transition, but practically this remains weak due to deficit of professionals, funding constraints, and lack of collaboration. Therefore, treating self-murder simply as a legal matter undermines its complex cerebral and social confines.

Legal Framework on Decriminalisation of Suicide in India

Section 309 of the Indian Penal Code, 1860

Section 309 criminalised attempt to commit suicide and mandated fine and imprisonment. This provision reflected outdated moral framework and ignored mental health actuality. This law couldn't understand that a person committing suicide is already a person with unstable mind suffering from mental stress.

Mental Healthcare Act, 2017

This act challenges the previous legislation. Section 115 of the Act stated that any person attempting suicide is under severe stress and shall not be punished. It further stated states

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responsibility to provide care, medication and rehabilitation.

This provision presents a clear shift from punishment to protection and aligns with constitutional values of dignity and compassion.

Bharatiya Nyaya Sanhita, 2023

The Bharatiya Nyaya Sanhita, 2023 formally removes attempted suicide from criminal law, reinforcing the legislative intent of decriminalisation. This reform provides strength to the legal foundation which is solely inclined towards proper governance of mental health issues.

This shows that the legislation now focusing mainly on helping people instead of punishing them.

Judicial Approach Towards Suicide and Mental Health

P. Rathinam v. Union of India (1994)

In this case, the Supreme Court held that Section 309 was unconstitutional and recognised the right to die as part of Article 21. However, this view was later overruled.

Gian Kaur v. State of Punjab (1996)

The Court reversed Rathinam and held that the right to life does not include the right to die. However, it acknowledged the need for compassionate treatment of persons attempting suicide.

Common Cause v. Union of India (2018)

This case recognised the right to die with dignity in the context of passive euthanasia and reaffirmed the importance of autonomy and dignity under Article 21.

Through these decisions, the judiciary has gradually moved towards a humane interpretation of suicide-related laws, emphasising care and dignity over punishment.

Infrastructure and Implementation Challenges

Although the goal of the law was to decriminalize suicide and improve the Mental Healthcare Act of 2017, there are still significant administrative, sociological, and structural obstacles to its implementation. These difficulties lessen the influence of law reform at the grassroots level and undermine initiatives to prevent suicide.

1. Inadequate Availability of Mental Health Experts

   Specialized mental health professionals, such as psychiatrists, clinical psychologists, psychiatric social workers, and mental health nurses, are scarce in India. There are

substantially fewer mental health experts per person than is advised. Rural and semi-urban areas lack adequate services because the majority of professionals are concentrated in urban areas. Because of this, people who try to kill themselves in isolated areas frequently do not get proper mental health care. Primary healthcare providers frequently lack the training necessary to identify or manage suicide behaviour, which results in inaccurate assessments and delayed responses. The Mental Healthcare Act's requirement for urgent treatment and follow-up care is directly undermined by this scarcity.

2. Inadequate Mental Health Infrastructure

   India still lacks enough mental health facilities, both in terms of number and quality. There are frequently no specialized mental wards, counselling rooms, or rehabilitation facilities in government hospitals. The number of community-based mental health clinics is small, and their facilities are inadequate. In a number of districts, mental health treatments are either non-existent or exclusively offered in tertiary hospitals that are distant from the local population. Long wait times and the expense of transportation deter patients from getting care. Continuity of care is weakened and decriminalization cannot be operationalized effectively without accessible infrastructure.

3. Unequal Rural–Urban Distribution of Services

   A significant obstacle to implementation is the unequal allocation of mental health services. In contrast to rural areas, which are often ignored, urban areas have comparatively better hospitals, private clinics, and counselling centers. People living in rural areas frequently rely on unskilled professionals, traditional healers, or unofficial support networks. Insufficient internet connectivity further limits the availability of telemental health services. In addition to violating the Constitution’s equal protection clause, this discrepancy leads to unequal access to mental healthcare.

4. Lack of Training and Sensitisation of Authorities

   When it comes to managing attempted suicide cases, police officers, medical professionals, judges, and administrative staff are essential. Many people are still ignorant of the Mental Healthcare Act’s requirements, especially Section 115. Suicide survivors are nevertheless frequently the targets of police questioning, FIR filing, and detention processes. Legal requirements are frequently given precedence over

psychological care by hospital professionals. The goal of decriminalization is defeated when vulnerable people are handled in a robotic and callous manner due to a lack of organized training programs.

5. Poor Inter-Departmental Coordination

   Multiple departments, including municipal administration, social welfare, health, police, and education, must coordinate for effective implementation. But institutional communication is still lacking. Patients are frequently treated for physical injuries in hospitals without being referred for counselling. Cases that need psychological attention may not be reported to healthcare authorities by police agencies. Frequently, social welfare organizations don't participate in rehabilitation. Holistic healing is impeded by this fragmented approach, which leads to discontinuity of care.

6. Limited Budgetary Allocation and Resource Constraints

   The budget for public health still allots a comparatively small portion to mental health. Recruitment, infrastructure development, training initiatives, and awareness efforts are all impacted by a lack of financing. Many states don't have the money to set up rehabilitation facilities or mental health centers at the district level. Older equipment, a lack of employees, and inadequate maintenance are common problems with existing facilities. Legislative reforms cannot be implemented successfully without consistent financial investment.

7. Absence of Monitoring and Accountability Mechanisms

   The Mental Healthcare Act requires the State to handle rehabilitation and treatment. There isn't a reliable, impartial system in place to keep an eye on compliance, though. In many areas, State Mental Health Authorities and Mental Health Review Boards are either inactive or understaffed. Seldom are complaints about service denials swiftly resolved. When there is no accountability, administrative negligence can continue unchecked.

8. Social Stigma and Cultural Barriers

   One of the most significant obstacles to implementation is still the social stigma associated with mental illness and suicide. Suicidal attempters are frequently accused as being weak, immoral, or careless. In order to prevent societal disgrace, families may

conceal incidents. It is sometimes said that victims bring shame to the family. Adolescents and women are especially susceptible to discrimination. Such beliefs undercut rehabilitation efforts and deter people from getting expert assistance.

9. Low Public Awareness of Legal Rights

   The Mental Healthcare Act's legal provisions are still unknown to a sizable section of the populace. Many people are unaware that they are eligible for free mental health services or that suicide attempts are no longer considered crimes. People are unable to receive institutional support and claim their rights because of this ignorance. Additionally, it permits authorities who are not aware with their legal responsibilities to abuse their power.

10. Weak Rehabilitation and Follow-Up Mechanisms

    Rehabilitation after an attempt is necessary to avoid recurrence. Follow-up mechanisms are still inadequate, though. After addressing physical injuries, the majority of hospitals release patients without setting up ongoing counseling. The tracking of high-risk persons is not very extensive. Programs for community reintegration are uncommon. The likelihood of recurrent attempts and long-term psychological harm increases in the absence of formal therapy.

11. Technological and Digital Barriers

    Digital access is still unequal, notwithstanding the recent expansion of telemental health services and helplines. Smartphones, internet access, and digital literacy are lacking in many rural and economically disadvantaged areas. Further limiting access to online counseling services are language limitations. Consequently, the most vulnerable are not reached by technology solutions.

12. Resistance to Change in Institutional Culture

    In India, hierarchical structures and strict procedures are common features of administrative systems. Compassionate measures may be resisted by officials used to punitive methods. Proactive participation is discouraged by a lack of incentives for creativity and a fear of accountability. The conversion of legal standards into social practice is slowed down by this institutional inertia.

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Overall Impact of Implementation Challenges

The practical impact of decriminalization is severely limited by the combined effects of administrative delay, societal stigma, inadequate infrastructure, inadequate funding, lack of coordination, and professional shortages. Although suicide survivors are legally shielded from punishment, many nonetheless experience inadequate care, insensitivity, and neglect. These difficulties show that decriminalization cannot effectively prevent suicide or safeguard mental health without substantial institutional assistance. They provide direct support for the idea that strong infrastructure, awareness, and execution strategies are necessary for legislative reform.

Findings of the Research

Here are some of the major findings of this research:-

- The Mental Healthcare Act, 2017, and the Bharatiya Nyaya Sanhita, 2023, show a very positive shift in terms of suicidal attempts, i.e., from punishing those individuals to decriminalizing it and providing survivors the necessary treatment and environment. However, this reform remains just a legislation but is not effective at the ground level.
- Secondly, this country has a severe shortage of mental health professionals, including psychiatrists, psychologists, and well-trained counsellors. Also, the Mental Healthcare infrastructure is found to be particularly weak in rural and semi-urban areas, with a scarcity of district-level services, rehabilitation, and follow-up mechanisms.
- Thirdly, a gap can be seen between the legal framework and its implementation in practice. Though suicidal attempts have been decriminalized, police authorities continue procedural involvement, and hospitals often ignore psychological counselling after physical treatments.
- Fourthly, continuous lack of awareness and public stigma are the major causes in reducing the effect of decriminalisation.
- Fifthly, it has been found that constitutional principles are recognised in law but not actually fulfilled.
- Sixthly, in my research, it has been seen that suicide is actually a mental health and socio-economic issue rather than a criminal act; however, India’s public health system has not yet adapted this conceptual shift.

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Suggestions from a Lawyer's Perspective

- They should uphold strict compliance with the provisions of Section 115 of MHA and Article 21 to safeguard them from any wrongful criminal prosecution by the state in order to save their right to life and dignity.
- The State and its representatives can only be made answerable through the courts as well as public action to generate Mental Health infrastructure, functional authorities and financial resources for Mental Health services.
- The knowledge of mental health and legal protection should be propagated which may help in decreasing the stigma, making people access the issue freely without any fear or shame.
- Legal advice and community support should be strengthened to help vulnerable people access mental health services, legal recourse and compensation.
- The police, judiciary and society at large need to be sensitised through training programmes on how to respond with compassion and in a rights-based manner towards those who experience mental health crises.

Conclusion

The research also points out that the decriminalisation of suicide under the Mental Healthcare Act, 2017 and Bharatiya Nyaya Sanhita, 2023 is a progressive and humane shift in Indian law which structurally re-prescribes towards determining social consciousness at-large about the issue. The decriminalization brings the policy on suicide closer to constitutional principle of dignity enshrined under Article 21 but there are several gaps as it relates to mental health care infrastructure, presence of trained personnel and public awareness, institutional mechanisms and monitoring system. However, a gap remains between the spirit of law and its practice hampering effective suicide prevention and rehabilitation.

Position of the Hypothesis

The hypothesis — that *decriminalisation of suicide alone is insufficient unless supported by effective mental healthcare infrastructure, awareness, and proper implementation mechanisms* — stands **validated and proved.**

The study conclusively demonstrates that legal reform, in isolation, cannot achieve meaningful protection of mental health without systemic, administrative, and societal support structures.

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