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DECRRIMINALSING SUICIDE

Authored By: Divyansh Singh

Introduction

When we talk about the mental healthcare system in India what comes Infront of our eyes is the social stigma that revolve around the mental health disorders. I will not deny the fact that there are improvements that are happening but when we talk about a country like India the process of improvement has been very slow. According to the report by the world health organization India there are around 56 million people who suffer from depression and there are around 48 million people who suffer from anxiety. I would also like to elaborate on one point that we usually come across a term, “what will other people say?” when we talk about our country statistics in terms of people who fear from seeking help for their disorders. According to the research conducted by Bengaluru based national institute of mental health and neuroscience in 2015-2016, 150 million people need mental healthcare but only 30 million people go out and seek for help.

“Suicide carries a social and moral meaning in all societies. At both the individual and population levels, the suicide rate has long been understood to correlate with cultural, social, political, and economic forces.”- Giddens (1964)¹

When we talk about the impact of suicide on society there may be different impacts depending on situations. Area with a bad social integration like unemployment and high divorce rates show a high level of suicide, where as a society comprising of social factors like awareness about mental health, high employment rates show a lower rate of suicide. Also, when we talk about the rates of suicide the family support has been a factor influencing the rates of the suicide. Suicide rates have been low in families where the family bond has been strong and build on the pillars of trust and understanding.

The scope of my paper will be covering validity of decimalizing suicide, also discussing the religious aspect of suicide, impact of suicide on society and lastly the analysis of the case Gian Kaur v. State of Punjab.²

¹ <https://www.ncbi.nlm.nih.gov/books/NBK220948/>

Validity Of Decrimminalsing Suicide

309. Attempt to commit suicide. —'Whoever attempts to commit suicide and does any act towards the commission of such offence, shall he punished with simple imprisonment for a term which may extend to one year 1[or with fine, or with both]'

Section 309 tests validity based on article 21 and article 14 which gives aspirations to the citizen of India to be able to do something by staying inside the boundaries. Attempting suicide is punishable under section 309 of the IPC. Article 21 of the constitution guarantees the life and protection of the individuals. Ipc holds that the state is responsible for the life of its citizens. It cannot risk the life of its citizens blindly.

A concept we come across in jurisprudence is law and morality. I want to state that when we study the concept of morality with law, we study that morality is the direction of law which helps to determine what is right and what is wrong, or we can say that laws are made on the moral values of the society. If we see this in this prospective that law is the punishment on the commitment of suicide and suicide is the not morally permissible because it is not a feature of a normal life.

The attempt of suicide should be intentional to be found guilty in this offence. If the suicide has been committed due to mistake or due to surroundings then the person is not liable under this offence. The question arises or how would the mens rea in such a case would be proven. The section reads and I quote,' 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.'

There is no proper parameter which will determine the severe stress among the victims. How would a mental level of a minor be determined? How would the mental stress of a person who showed no medical history of disorders relating to mental health would be shown and committed suicide would be determined? Also, what about a case which arises when a person who gives up his life due to non-stress environment but to experience a death like situation?

² <https://www.scobserver.in/journal/right-to-die-court-in-review/#:~:text=Gian%20Kaur%20v%20State%20of,Kulwant%20Kaur.>

All around us section 309 ipc has been questioned on its validity on grounds on article 21 of our Indian constitution.

Article 21 reads, “No person shall be deprived of his life or personal liberty except according to procedure established by law.”

Many a times this question has been brought before the court of law that whether article 21 includes right to die or not. It has been said that article 19(1) also includes the right not to speak and express. In the same way article 21 also includes right to die. Also, article 21 says that a person has a right to live his life with dignity. But what about situations where the dignity of a man is no longer left. A man paralyzed who cannot live a normal life, all he can do is lie on the bed for whole of his lifetime. Don't you think he should have a right to death?

In the case of *MARUTI SHRIPATI DUBAL V. STATE OF MAHARASTRA*³ the Bombay high court concluded that, ‘Article 14 and 21 of the constitution which guarantees ‘right to life and personal liberty’. The court said the ‘right to life’ includes ‘right to live’ as well as ‘right to end one’s life’ if one so desires. It was pointed out that Fundamental Rights have positive as well as negative aspects. For example: Freedom of Speech and Expression also includes freedom not to speak and to remain silent. If this is so, logically it must follow that right to live as recognized by article 21 of the constitution also includes a right not to live or not to be forced to live.’

The Main Believes Behind Suicide

Suicide attempters do not use face a mental stigma of their own but also impact the society around them in a negative way. The question of why arises in everyone’s mind. Suicide do not take place only because of social problems but also the reasons can we economic and cultural too.

Researchers often say that family is the most important unit of our life. According to Hoyer and Lund (1993) noted that both having children and the number of children decreased the risk

³ <https://indiankanoon.org/doc/490515/>

of suicide among martial women. ⁴Also, some researchers in Scotland proved that family issues and divorce of parents showed an increase in suicidal rates while on the other hand researchers like Borowski has proved less suicidal rates when the family bond is strong and when there is a good connection between spouse and parents.

Koenig et al. (1998) noted that using spiritual/religious practices to treat depression and anxiety has been found effective. Propst et al. (1992) found religious therapy resulted in significantly faster recovery from depression when compared with standard secular cognitive-behavioral therapy. Similarly, Azar et al. (1994) randomized 62 Muslim patients with generalized anxiety disorder to either traditional treatment (supportive therapy and anxiolytic drugs) or traditional treatment plus religious psychotherapy. Religious psychotherapy involved the use of prayer and reading verses of the Holy Koran specific to the person's situation. Patients receiving religious psychotherapy showed significantly more rapid improvement in anxiety symptoms than those receiving traditional therapy. Such studies suggest that being exposed to spiritual protective factors may also provide some protection from some types of mental illness associated with suicide.

So, to sum this point yes! culture strongly influences how individuals view suicide. Cultural values and social structures largely determine the type and degree of both stressors and support, availability of means and access to treatment, and social prescriptions or proscriptions concerning suicidal behavior.

Across cultures, family cohesion and support acts as a buffer against suicidality; parenthood protects against suicide, particularly for women. Divorced and never-married status generally increases suicide risk, especially among men. Social support and various types of religious involvement and beliefs are protective against suicide.

Unemployment and low socioeconomic status generally increase suicide risk. Societal-wide economic and social changes also influence the incidence of suicide. Social change can create economic hardship, increase family discord, result in migration or separation of families and friends, increase use of alcohol, etc.

4

https://www.researchgate.net/publication/247516042_Does_having_offspring_reduce_the_risk_of_suicide_in_women

Analysis Of Case Smt. Gian Kaur V. State Of Punjab

FACTS- The appellant Smt. Gian Kaur and her husband Harban Singh was accused of abetment of suicide of there daughter in law – Kulwant Kaur. The trial court convicted the husband and wife under section 306 of the Indian penal code and announced a punishment for 6 years and were also imposed a fine of 2000/-. An appeal was then made in the high court where the punishment of 6 years was reduced to rigorous punishment for three years. Then an appeal was made in the supreme court for the conviction sentence under section 306 of the Indian penal code.

ISSUE RAISED- Where section 306 is constituonally valid or not?

Where section 309 violates article 14 and article 21 of the constitution?

JUGEMENT- The constituonal bench of five judges held that right to life in article 21 of the constitution. The court said that article 21 does not only include living and existing on the planet but also includes living a life with dignity. It was argued that death is a natural process and there should not be any laws preventing it. However, taking one's life is unnatural phenomenon thus the court held it constitutionally valid.

CRITICAL ANALYSIS- In the case of P Rathiram v. Union of India ⁵it was held that article 21 also includes the right to die in the same way the freedom of speech and expression include not to speak and remain silent. In the law commission report also, it was pointed out that the language of section 309 has a sweeping language where it does not give proper definition of suicide as well as does not mention any parameters on suicide or define suicide clearly.

Also, the provisions of section 309 are arbitrary in nature as suicide may have different causes and ending but the provisions have no categories for the same.

⁵ <https://indiankanoon.org/doc/542988/>

Conclusion

I feel that decriminalizing suicide was a good step that was taken cause section 309 was punishing the sufferer twice. Section 309 was not improving the situation of mental healthcare but was worsening it in different ways. A person who is fed up with his life and his desire of life has ended needs sympathy and attention and not punishment for years in jail. A man who lives his life with dignity cannot end his life because of an irrational reason. The people who attempt suicide have stress and unhealthy environment around them which leads to suicide.

My recommendations for the act would be that there should be a parameter upon which the suicide causes, and stress level should be determined. Each person cannot have the same stress level and reason to end life. Categories should be made to determine the above.

There should also be provisions made to improve the mental healthcare of the country. Educating children from a younger age about mental health can raise the awareness in the country.

To quote Phil Donahue, "Suicide is a permanent solution to a temporary problem". Every person desire to live a life which is full of happiness When a person is exposed to some tragedy, he or she fails to analyze the situation and not able to tackle with it they commit suicide. WHO is working throughout the world for the treatment and wellbeing's of the indivial as far as suicide is concerned and India also now is viewing suicide from a sympathetic approach to improve the mental health care situation in the country.