



Decriminalisation of attempted suicide:

The implications of the Bharatiya Nyaya Sanhita Bill, 2023

Introduction

In India, Section 309 of the Indian Penal Code (IPC) has historically deemed attempted suicide as a criminal offense, exposing individuals undergoing a crisis to the risk of imprisonment or fines. The act of criminalising attempted suicide imposes penalties on individuals during their moments of vulnerability and distress. Despite the Mental Healthcare Act, 2017 (MHCA) effectively decriminalising attempted suicide, Section 309 of the IPC persists as a legal provision. However, a transformative shift is on the horizon with the Bharatiya Nyaya Sanhita 2023 (BNS) Bill removing attempted suicide as a criminal offense. This shift needs to be accompanied by policy and implementation measures to ensure an effective transition to decriminalisation.

Background

As per the National Crime Records Bureau (NCRB), 1,64,033 individuals died by suicide in 2021, a rate of 12 individuals per 100,000. The stigma associated with suicide impacts help-seeking behaviour due to the fear of repercussions if law enforcement is involved. Evidence about the impact of decriminalisation on suicide rates is mixed.

A recent study of 171 countries found that the criminalisation of attempted suicide was associated with slightly higher suicide rates¹. However, in Asia, both Sri Lanka and Singapore saw suicide rates reduce after decriminalisation^{2,3}. Suicides and suicide attempts are often underreported when attempted suicide is a criminal offense. This could mean that the higher rates recorded post-decriminalisation are attributable to more accurate reporting. Regardless, decriminalisation is likely to lead to lesser stigma and timely help-seeking. Given that a prior suicide attempt is a strong predictor for another attempt, providing mental health support rather than punishing those who attempt suicide is essential for suicide prevention⁴.

Current legal framework and its implications

While section 309 of the IPC deems suicide attempts a criminal offense, section 115 of the MHCA mandates that attempted suicide is to be considered the result of severe stress, and the individual is not to be prosecuted.

The steps currently followed when an individual who has attempted suicide presents to a hospital are:

1. Assessment and triaging in the emergency room
2. Stabilisation of the person
3. Registration of a medicolegal case with the police, and admission if required
4. Mandatory psychiatric referral of the person for assessment and treatment
5. Informing the person about section 115 of the MHCA
6. Inquiry by the police to understand whether someone abetted the suicide attempt
7. Discharge planning and follow-up care

With the proposed BNS eliminating attempted suicide as a criminal offense, new directives will have to be developed and issued to various stakeholders.



Recommendations

The table below summarises the concerns around decriminalisation of attempted suicide, and the recommendations to address them.

ISSUES	RECOMMENDATIONS
<p>Attempted suicides are registered as medicolegal cases and involve law enforcement. Repealing section 309 of the IPC should translate to attempted suicides no longer being registered as medicolegal cases. The implications of this on procedures followed when an individual attempts suicide needs to be clarified.</p>	<p>It is essential for the Ministry of Home Affairs to provide clear guidelines to the police and frontline workers about the decriminalisation of attempted suicide and its implications on medicolegal cases. Concrete operational guidelines should be developed that inform police and frontline workers about the steps to be followed when they encounter an individual who has attempted suicide.</p>
<p>Abetment of suicide and suicide attempts remains a criminal offense. The critical issue of how abetment of attempted suicide will be evaluated when medicolegal cases are not registered needs to be addressed.</p>	<p>Frontline workers could be equipped with the knowledge and skills to briefly inquire about any potential abetment in cases of attempted suicide. This approach could help prevent unnecessary involvement of the police in situations where their intervention may not be warranted and could potentially cause harm to the individual. It would be crucial for the Ministry of Home Affairs to provide comprehensive guidelines about the procedural handling of abetment of attempted suicides.</p>
<p>Suicide deaths are currently reported by the National Crime Records Bureau. Attempted suicides are not recorded in a central database, making it difficult to devise targeted interventions for specific vulnerable groups and geographies.</p>	<p>Community suicide surveillance systems can be set up to capture accurate and comprehensive recording of suicide and suicide attempts⁵. Such systems will help craft effective targeted prevention strategies and extend the right and timely support to those in crisis.</p>
<p>Decriminalisation as a legislative measure alone is not sufficient to impact suicide prevention. Suicide is highly stigmatised in communities and stakeholders have limited skills and training to provide support in cases of suicide attempts.</p>	<p>Post-decriminalisation awareness and training will include:</p> <ul style="list-style-type: none"> • Training for first responders including law enforcement and healthcare workers on suicide prevention and providing emergency psychological support. • Gatekeeper training for teachers, law enforcement, and other relevant community leaders. • Awareness among healthcare professionals on new procedural guidelines from the Ministry of Home Affairs on how to respond to individuals who have attempted suicide who present to a hospital.
<p>Postvention services specifically for suicide prevention for individuals who are at risk of suicide or have attempted suicide are not available or accessible to those in need.</p>	<p>Community mental health services should be developed that prioritise non-coercive and rights-based treatments to ensure that individuals receive the care they need at the right place and time.</p>



References

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