

Suicide and the Laws in India: An Analysis

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Abstract—Laws are made for the betterment of the society and the primary purpose is to secure welfare of all beings. Laws in India promote life and anything detrimental to it is disregarded. Article 21 of the Indian Constitution enshrines right to life as a fundamental right and Section 309 of Indian Penal Code punishes an act done in furtherance of attempt to suicide. The psychological aspect in cases of suicide came to be considered under Section 115 in the Mental Health Care Act. Bharatiya Nyaya Sanhita, 2023 was recently passed that repealed the IPC. It prescribes punishment for attempt to suicide only in cases of compulsion or restraint to public servant. The other cases of suicides go unpunished and untreated. With the advancement of technology, there has been a shift in the mode of commission of crimes / offences that demands stringent action. The obligation on State to provide rehabilitation under MHCA appears only in statute. This research is conducted to understand the legal status of attempt to suicide in context of Section 115 of MHCA. This research takes into consideration the psychological aspect and the causative factors of committing suicide, elaborates landmark judgments and further recommends effective measures for suicide prevention.

Index Terms—Attempt to Suicide, Indian Constitution, Indian Penal Code, Mental Healthcare Act, Right to Life, Severe Stress.

I. INTRODUCTION

India is the second most populous country with 1,424,796,202 people with growth rate of 0.86% India ranks 21st out of 183 countries of the world in the list of suicide cases with a total suicide rate of 12.7 per 100000 people. This is a very disheartening figure for a developing country like India where the vision is always in the favour of the youth. Article 21 of the Indian Constitution provides for life and personal liberty of person and the judiciary has played a pivotal role for safeguarding the lives of the individuals, be it the prisoners or any issues related to health, medicine, legal or social aspects that affect the lives of the

people. Section 309 of the Indian Penal Code furthers Article 21 by providing for punishment in cases of attempt to commit suicide and doing any act in furtherance of commission of the crime. The reason behind committing this crime is attached least importance. With the passage of time, the “why factor” in this crime has gained momentum and has led to the passage of the Mental Health Care Act, 2017 that came into force in the year 2018. Attempt to suicide as a crime is considered to be inhumane because it is quite obvious that a sane person will not harm himself until and unless there are situations beyond its control and who finds himself/ herself completely helpless. Furthermore, punishing such a survivor of suicide attempt adds more misery to his sufferings. It is cruel, gruesome and irrational to punish a person who himself is a victim of the circumstances. Instead, he should be treated with care, rehabilitation should be provided to such persons.

II. SUICIDE & ATTEMPT TO SUICIDE

The term suicide is often referred to as the act of killing one self and finds its traces in 1635 when it was first used in Sir Thomas Browne in his book *Religio Medici* that was published in 1642. The term suicide is derived from a Latin word *suicidium*. *Sui* literally means oneself and *cidium* is derived from *caedere* that means killing. It means the act of taking one’s own life. It was in 1728 that the meaning of suicide as “person who kills himself deliberately” came into existence. Prior to the usage of the term suicide, the terms such as self – murder and self – killing were commonly used.

Definitions

Merriam Webster: Attempt to suicide has been defined as trying to kill oneself whereas suicide is defined as termination of the life of an individual by his own acts or omission. Attempt to suicide is the failure in the accomplishment of the purpose of ending one’s own life.

Oxford Dictionary: Suicide is defined as an act of killing oneself deliberately.

III. RELIGIOUS PERSPECTIVE ON SUICIDE

Different religions of India have discussed suicide from different perspectives keeping in view the mythologies that prevailed in the ancient times.

Suicide in Hinduism

Hindu religion is one of the ancient religions of the world. The Vedas, Puranas, Dharm Shastras, Upanishads, Ramayana and Mahabharata give a systematic approach towards living a happy and peaceful life. Suicide was not prevalent in the Vedic ages and not much has been mentioned in the Vedas. Committing self – murder or suicide is regarded as committing a sin against oneself and that interferes with the concept of punarjanam i.e. reincarnation. However, there was another side towards the commission of suicide or permissible suicide. Varnashrama Dharma deals with the stages of life that mentions Sanyasashrama as the last stage that deals with renunciation from the worldly affairs. It justifies giving up one’s own life in order to attain liberation or Moksha.

Suicide in Islam

Islam is considered to be the second largest religion that is professed globally. Suicide is termed as a sin and is strictly condemned in Islam. The following verses of Quran clearly emphasize on preservation of life: “Surely to Allah we belong and to Him we will all return.” It is stated that the human beings belong to Allah and after their deaths they will all return back to

Him. “And do not kill each other or yourselves. Surely Allah is ever Merciful to you. And whoever does this sinfully and unjustly, we will burn them in the Fire. That is easy for Allah”. People are strictly prohibited from killing themselves or committing suicide. They are directed to impose their faith in Allah and that mercy will be bestowed on time upon such people. Further, it is stated that where a person kills oneself or others without any justification or by sin will be burnt in the fire.

Suicide in Christianity

Suicide is not favoured in Christianity and is considered as a sin. The Holy Bible is written testimony of God’s connectivity with humans. The Bible mentions about the various incidences of suicides that have been committed by way of self – sacrifices. The Sixth Commandment specifically states “*You shall not murder.*” The act of suicide is an act against the God. Life is created by God and should be lived fully. Human life is sacred and committing suicide is complete disrespect towards God.

IV. CAUSES OF SUICIDE

The National Crime Records Bureau (NCRB) Report,2022 pertaining to suicides highlights the causes and incidences of suicides. Family problems and illness are stated as the major causes of committing suicide. These two causal factors accounted to almost 50% of the total factors causing suicide across India. The causes and the related incidences of suicides are as given below:

Sr. No.	Causes	Males	Females	Trans Gender	Total	State with Highest Incidences of Suicide
1	Bankruptcy or Indebtedness	6417	617	-	7034	Maharashtra
2	Marriage Related Issues	4237	3926	1	8164	Uttar Pradesh
3	Failure in Examination	1137	958	-	2095	Maharashtra
4	Impotency/Infertility	165	205	-	374	Tamil Nadu
5	Family Problems	37587	16530	10	54127	Maharashtra
6	Illness	21949	9527	8	31484	Tamil Nadu
7	Death of Dear Ones	1372	702	1	2075	Tamil Nadu
8	Drug Abuse/Alcoholic Addiction	11394	239	1	11634	Maharashtra
9	Fall in Social Reputation	659	225	-	884	Uttarakhand
10	Ideological Causes/Hero Worshipping	115	59	-	174	Maharashtra
11	Love Affairs	4730	2897	2	7629	West Bengal

12	Poverty	1249	203	-	1452	Maharashtra
13	Unemployment	2836	334	-	3170	Maharashtra
14	Property Dispute	1465	363	1	1829	Karnataka
15	Suspected/ Illicit Relation (Other than extra marital affairs)	608	274	-	882	Maharashtra
16	Illegitimate Pregnancy	-	30	-	30	Jharkhand
17	Physical Abuse (Rape, etc.)	11	27	-	38	Madhya Pradesh
18	Professional / Career Problem	1805	278	-	2083	Maharashtra
19	Causes not Known	12009	5740	1	17750	West Bengal
20	Other Causes	12795	5038	3	18016	West Bengal

V. ATTEMPT TO SUICIDE & LAW

- The Indian Penal Code, 1860 (IPC)

Section 309 of the Indian Penal Code reads as under:
 “309. Attempt to commit suicide - Whoever attempts to commit suicide and does any act towards the commission of such offence, shall be punished with simple imprisonment for a term which may extend to one year or with fine or with both.”

According to this Section, a person cannot take away his own life and if he does so he shall be punished provided he fails in his attempt. The judgements of various High Courts differed regarding the constitutionality of this Section which was even affirmed by the Supreme Court. However, the constitutional bench of the Supreme Court finally upheld the constitutionality of this Section that right to life under Article 21 does not include right to die.

- The Mental Healthcare Act, 2017 (MHCA)

Section 115 of the Mental Health Care Act reads as under:

“115. Presumption of severe stress in case of attempt to commit suicide:

(1) 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.

(2) The Appropriate Government shall have a duty to provide care, treatment and rehabilitation to a person having severe stress and who attempted to commit suicide and who attempted to commit suicide to reduce the risk of recurrence of attempt to commit suicide.”

After the mental health concept gained momentum and in accordance with the United Nations Convention on

Rights of Persons with Disabilities, the Mental Health Care Act came to be passed in 2017 thereby repealing the Act of 1987.

This Section creates presumption of severe stress among those who attempt to commit suicide. However, the terms stress or severe stress is not defined anywhere in the Act. Also, sub section 2 uses the term “having severe stress and who attempted to commit suicide”. It means that this provision is available to only those who attempt suicide and others who though are stressed shall not receive the care, treatment and rehabilitation. This Section limits the scope of Section 309 of IPC. The crux of this Section lies in the presumption of severe stress that it creates in the favour of suicide attempters. Stress is existent in every sphere of life. The levels of stress that shall constitute severe stress is nowhere stated. This creates loopholes and ambiguity in the very purpose of enactment of this Section.

- The Bharatiya Nyaya Sanhita, 2023 (BNS)

Section 226 of the Bharatiya Nyaya Sanhita reads as under:

“226. Attempt to commit suicide to compel or restrain exercise of lawful power

Whoever attempts to commit suicide with the intent to compel or restraint any public servant from discharging his official duty shall be punished with simple imprisonment for a term which may extend to one year, or with fine, or with both, or with community service.”

The Bharatiya Nyaya Sanhita (BNS) came into force on 1st July 2024. The Sanhita replaces Section 309 of IPC with Section 226 of BNS. It prescribes punishment for attempt to suicide only in cases where it is for the purpose of compelling / restraining the

public servant in performance of his official duty. The Sanhita does not punish other suicide attempters. This provision does not lay down any remedy/ relief for those who commit suicide otherwise. Further, the presumption of severe stress under MHCA in cases of attempt under this section remains dubious. Section 2 (28) of BNS specifies eleven categories of persons as public servants. This creates new challenges wherein the person who attempts to commit suicide compels/ restrains someone who is not a public servant. For eg: A compels B to marry him or threatens to commit suicide. B rejects and A attempts to commit suicide. A survives. Here, A has no legal consequences to follow. In fact, he can take the cover of Section 115, MHCA, if required.

VI. JUDICIAL TRENDS

There has been lots of controversies over the constitutionality and unconstitutionality of Section 309, IPC. In *Smt. Gian Kaur v. The State of Punjab*, the Supreme Court clearly stated that right to life does not include right to die. In 2018, the Supreme Court allowed passive euthanasia in the cases of persistent vegetative state. After the MHCA was passed, Section 115 has come to the rescue of suicide attempters by creating the presumption of severe stress. There has been mixed interpretation of Section 115, MHCA by different Courts. The question of severe stress has been overlooked in most of the judgments. The provision of care and rehabilitation enunciated in Sec. 115(2) has not been made applicable. The following cases elucidates the variations in the judgments of the Courts in the absence of proper guidelines:

In *T. Pushpanathan v. Inspector of Police*, the petitioner was a headmaster and salary were not paid to him. He protested before the collector office along with his daughter. He was alleged to attempt to commit suicide by self-immolation and when police interfered, he threatened to pour kerosene on them. Cases were registered under sec. 309 and sec. 506(2) IPC. The Madras High Court held that under MHCA the person who suffered mental illness shall not be victimised by registering case under section 309 of IPC and therefore the FIR was quashed. The mental condition of the petitioner was sound and his acts were punishable had the Sec. 115 of the MHCA was not passed. The mental condition of the petitioner was not taken into consideration and just because Sec. 115 MHCA lays

down presumption of stress, it was applied instantaneously.

In *Simi C.N. v. State of Kerala*, the petitioner was a village officer of Puthur village. She was compelled to issue certificate related to Life Mission Scheme which she refused. The petitioner was abused, video graphed and wrongfully restrained and confined, unlawful assembly was formed and course of work in office was obstructed. Political pressure was created to get demand fulfilled. Due to tremendous pressure, she attempted to commit suicide by cutting veins of left hand. The Kerala High Court quashed the proceedings against the petitioner as registered under Sec. 309 and accorded protection under Sec. 115 MHCA. The Court in this case made a successive attempt in dealing with Sec. 309 IPC in light of Sec. 115 MHCA. The mental condition of the petitioner in light of the facts and circumstances was taken into consideration and the judgment was therefrom arrived.

In *Sapna Alias Sapna Choudhary v. State of NCT of Delhi*, the petitioner consumed a bottle of unknown poison and left a suicide note. She was taken to the hospital and appropriate treatment was given to her. The petitioner admitted the consumption of rat poison because she was harassed for a song sung by her on 17th February 2016 at a program that related to certain castes. The Counsel for petitioner claimed protection under section 115 MHCA and submitted that section 115 provides presumption of stress unless proved otherwise. It was held that 'it is a trite that no fact can be proved or disapproved without a trial'. The court observed that opinion from medical board was not obtained and emphasized on the need for framing guidelines to be laid down for section 115 MHCA.

In *Red Lynx Confederation v. Union of India*, the petition was filed to ensure prevention of attempt to commit suicide that was committed by persons who threw themselves in animal enclosures in the zoo as attempt to commit suicide is an offence laid down under Sec. 309 IPC. The Supreme Court held that even though Sec. 309 IPC provides punishment for attempt to suicide, Sec. 115 MHCA lays down presumption of stress in case of attempt to commit suicide. The Court therefore issued notice to the Attorney General for India to justify the validity of Sec. 115 MHCA.

In *S. Kameswaran v. The Inspector General of Police*, the appellant was appointed as police constable in the year 2011 and his duty was to act as a security guard of one of the Honourable judges of Madurai bench of

Madras High Court. On 9th June, 2016 he made an attempt to commit suicide by using the service rifle and was removed from the service. He appealed to the Deputy Inspector General of Police, but since the appellant had attempted to commit suicide twice in 2015, rejected the appeal. A writ petition was filed by the appellant in Madras High Court. It was submitted that the appellant attempted to commit suicide due to tremendous stress and mental agony and that he is just 24 years old and prayed for modification of order. The court held that section 115(1) of MHCA do not apply to departmental proceedings, it applies only to prosecution of petitioner under section 309 IPC. The decision of the disciplinary authority as well as the appellate authority was upheld. The writ appeal was dismissed. This case lacks clarity as to the course of action taken regarding the three attempts of suicide made by the petitioner with respect to his care, treatment and rehabilitation as specified under Sec. 115(2). It creates doubt regarding applicability of 309 IPC since 115(1) of MHCA was not applied.

In *Maria Raju Alphonse v. State represented by Inspector of Police & Others*, the petitioner was a head constable working in Alangulam police station. When he heard that his association with accused in a criminal case had come to the knowledge of the Inspector, he attempted to commit suicide. The Court held that since section 115 of Mental Healthcare Act decriminalizes section 309 of IPC, no case can be made under section 309 and therefore the proceedings in the case were quashed. The main essential of section 115(1) i.e. severe stress was not looked upon or questioned. Also, though protection was granted under section 115 of MHCA but no order was made as to care, treatment of the petitioner as specified under section 115(2).

VII. INTERNATIONAL CONVENTIONS AND OTHER INTERNATIONAL & REGIONAL INSTRUMENTS

Universal Declaration of Human Rights, UDHR (1948)

UDHR aims at protection of human rights of all people of all nations. It recognises certain rights as extremely important and guarantees its protection universally. The UDHR recognises the aspect of health under Article 25 (1). It states that “Everyone has the right to a standard of living adequate for the health and well-being of himself and of his family, including food,

clothing, housing and medical care and necessary social services, and the right to security in the event of unemployment, sickness, disability, widowhood, old age or other lack of livelihood in circumstances beyond his control.”

International Covenant on Economic, Social and Cultural Rights, ICESCR (1966)

ICESCR was adopted by the United Nations on 16th December 1966 and was enforced on 3rd January 1976. India ratified it in 1979 with a declaration in reference to Article 12 of ICESCR stating that India shall apply this Article in conformity with Article 19 of Indian Constitution.

Article 12 lays down provisions for mental health that reads as under:

1. The States Parties to the present Covenant recognize the right of everyone to the enjoyment of the highest attainable standard of physical and mental health.
2. The steps to be taken by the States Parties to the present Covenant to achieve the full realization of this right shall include those necessary for:
 - (a) The provision for the reduction of the stillbirth-rate and of infant mortality and for the healthy development of the child;
 - (b) The improvement of all aspects of environmental and industrial hygiene;
 - (c) The prevention, treatment and control of epidemic, endemic, occupational and other diseases;
 - (d) The creation of conditions which would assure to all medical service and medical attention in the event of sickness.

International Convention on the Elimination of All Forms of Racial Discrimination, ICERD (1965)

ICERD was adopted on 21st December 1965 and enforced on 4th January 1969. India ratified in 1968. It aims at prohibition of all sort of racial discrimination in all forms and manifestations. Article 5 of the Convention reads as under:

In compliance with the fundamental obligations laid down in article 2 of this Convention, States Parties undertake to prohibit and to eliminate racial discrimination in all its forms and to guarantee the right of everyone, without distinction as to race, colour, or national or ethnic origin, to equality before the law, notably in the enjoyment of the following rights:

- [...] (e) Economic, social and cultural rights, in particular:

[...] (iv) The right to public health, medical care, social security and social services; [...]

Convention on the Elimination of All Forms of Discrimination against Women, CEDAW (1979)

CEDAW was adopted by the United Nations General Assembly on 18th December 1979 and was enforced on 3rd September 1981. India ratified CEDAW in 1993. Part III of the Convention mentions health aspect under Art. 12 that reads as follows:

1. States Parties shall take all appropriate measures to eliminate discrimination against women in the field of health care in order to ensure, on a basis of equality of men and women, access to health care services, including those related to family planning.

2. Notwithstanding the provisions of paragraph, 1 of this article, States Parties shall ensure to women appropriate services in connection with pregnancy, confinement and the post-natal period, granting free services where necessary, as well as adequate nutrition during pregnancy and lactation.

5. *Convention on the Rights of the Child, CRC (1989)*
CRC was adopted on 20th November 1989 and enforced on 2nd September 1990. India ratified it in 1992. This Convention aims at protection of the rights of the children. Part I, Article 24 of the Convention deals with promotion and development of health of the children. Article 24 reads as under:

1. States Parties recognize the right of the child to the enjoyment of the highest attainable standard of health and to facilities for the treatment of illness and rehabilitation of health. States Parties shall strive to ensure that no child is deprived of his or her right of access to such health care services.

2. States Parties shall pursue full implementation of this right and, in particular, shall take appropriate measures:

- (a) To diminish infant and child mortality;
- (b) To ensure the provision of necessary medical assistance and health care to all children with emphasis on the development of primary health care;
- (c) To combat disease and malnutrition, including within the framework of primary health care, though, inter alia, the application of readily available technology and through the provision of adequate nutritious foods and clean drinking-water, taking into consideration the dangers and risks of environmental pollution;
- (d) To ensure appropriate pre-natal and post-natal health care for mothers;

(e) To ensure that all segments of society, in particular parents and children, are informed, have access to education and are supported in the use of basic knowledge of child health and nutrition, the advantages of breastfeeding, hygiene and environmental sanitation and the prevention of accidents;

(f) To develop preventive health care, guidance for parents and family planning education and services.

3. States Parties shall take all effective and appropriate measures with a view to abolishing traditional practices prejudicial to the health of children.

Convention on the Rights of Persons with Disabilities, CRPD (2006)

CRPD was adopted by the United Nations General Assembly on 12th December 2006 and entered into force on 3rd May 2008. India is a signatory to CRPD and ratified the Convention in 2007. It grants rights to the persons with disabilities. Art. 25 specifically deal with health.

Article 25 reads as under:

States Parties recognize that persons with disabilities have the right to the enjoyment of the highest attainable standard of health without discrimination on the basis of disability. States Parties shall take all appropriate measures to ensure access for persons with disabilities to health services that are gender-sensitive, including health-related rehabilitation. In particular, States Parties shall:

- (a) Provide persons with disabilities with the same range, quality and standard of free or affordable health care and programmes as provided to other persons, including in the area of sexual and reproductive health and population-based public health programmes;
- (b) Provide those health services needed by persons with disabilities specifically because of their disabilities, including early identification and intervention as appropriate, and services designed to minimize and prevent further disabilities, including among children and older persons;
- (c) Provide these health services as close as possible to people's own communities, including in rural areas;
- (d) Require health professionals to provide care of the same quality to persons with disabilities as to others, including on the basis of free and informed consent by, inter alia, raising awareness of the human rights, dignity, autonomy and needs of persons with disabilities through training and the promulgation of ethical standards for public and private health care;

(e) Prohibit discrimination against persons with disabilities in the provision of health insurance, and life insurance where such insurance is permitted by national law, which shall be provided in a fair and reasonable manner;

(f) Prevent discriminatory denial of health care or health services or food and fluids on the basis of disability.

VIII. CRITICAL ANALYSIS

The causes of suicides stated by the NCRB is indicative of the fact that there are various factors of committing suicide. Some amount of stress is present in all cases of suicides, but creating the presumption of severe stress in all suicide cases is unacceptable. On the basis of the report, it can be stated that there are majorly two causal factors of committing suicide i.e. social and economic and out of 20, 18 causes fell within the ambit of these two factors. Mental illness can fall within the scope of social cause. The data in NCRB report indicates that the suicides committed due to mental illness / insanity accounted to nearly 46% of the suicides that were committed due to illness. It accounts to nearly 8.5 % of the total number of suicides committed in 2022.

The concept of mental illness has been defined under Section 2 (s) of the Mental Health Care Act. "Mental Illness" means a substantial disorder of thinking, mood, perception, orientation or memory that grossly impairs judgment, behaviour, capacity to recognise reality or ability to meet the ordinary demands of life, mental conditions associated with the abuse of alcohol and drugs, but does not include mental retardation which is a condition of arrested or incomplete development of mind of a person, specially characterised by subnormality of intelligence." A plain reading of the definition indicates that mental illness and severe stress do not mean one and the same thing. Mental illness is an extrinsic aspect and stress is an intrinsic aspect. When the presumption of severe stress is created in absence of any definitions or parameters in all cases of suicides, it can be said that there is no justice done as the trial is barred in such cases.

Thus, it can be stated that stress is no criteria or *per se* cause of committing suicide. it is the inability of the person to cope up with stress that results in suicide.

IX. ISSUES IN THE LEGAL FRAMEWORK

1. Ambiguity relating to Stress/ Severe Stress: The term stress is the essence of granting the benefit to those who attempt to commit suicide. However, the concept of stress / severe stress is nowhere defined in the Mental Health Care Act or any other laws. The discretion is completely vested in the judiciary that may lead to miscarriage of justice. In the absence of guidelines, it is extremely difficult to differentiate between the cases where the suicides are committed out of stress and otherwise.

2. Over Emphasis on Presumption of Stress: The presumption that severe stress exists in cases of all suicide attempts is wrong and not acceptable. There are cases of suicides that are due to sudden decisions taken in a state of anguish or helplessness. Terrorist's activities that include suicide bombers are properly planned and executed acts that cannot fall within the ambit of Section 115 and deserves effective punishment.

3. Psychology v/s Law: According to Cigna 300 Well – Being Study, 82% Indians are bogged down by stress (The Economic Times/ Wealth). According to National Institute of Mental Health and Neurosciences that indicates 13.7% i.e. 150 million Indians need urgent intervention. Figures indicate that there are 3 psychiatrists per million population. That means there is absence of mechanisms to deal with stress and stress related issues. There is inadequacy in the existing infrastructure and workforce.

4. Section 115, MHCA - Bar to prosecution: Section 115, MHCA states that 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. On one hand it uses the term 'unless proved otherwise', and on the other hand it bars trial. These two contradictory aspects within the same provision creates confusion regarding the maintainability of the case. The person who attempts to commit suicide shall be deemed to be under severe stress and such person shall not be tried or punished under the IPC. Judicial trends show that the courts quash the cases registered under Section 309, IPC granting protection under Section 115, MHCA leaving no scope for proving / disproving the case. Until and unless the case is argued, there is no question of existence of stress being proved or disproved. This results in ineffective delivery of

justice. There are many judicial pronouncements after 2018 wherein the question of stress is not looked upon and the cases are quashed under the garb of Section 115 without going into the merits of the case.

5. Assumption of suicide attempters as mentally ill: The principles of interpretation of laws provides that in order to understand the *sententia legis*, i.e. the intention of the legislature, the statute must be read as a whole and in reference to context in which it is made. The Mental Health Care Act was passed to provide mental health care facilities to mentally ill persons and to secure their rights. The term 'mental illnesses has been defined under Section 2 (s) of the Act. Laying down presumption of stress in cases of suicide attempts brings them on same footing as that of mentally ill persons. These two categories of persons are different and merging them as mentally ill persons defeats the purpose of law.

6. Emerging Issues under Section 226, BNS: The Bharatiya Nyaya Sanhita replaced the Indian Penal Code. Section 309 of IPC was replaced by Section 226 of BNS. However, the new section prescribes punishment as simple imprisonment for a term which may extend to one year, or with fine, or with both, or with community service. This section can be availed only in cases of compulsion or restraint against a public authority. In cases of mass destruction by terrorists this punishment is very meagre. This section does not cover the cases where the suicide attempts are done to compel or restraint a private person. It fails to provide the action to be taken in cases of unsuccessful suicide attempts.

7. Absence of Action Plan in Suicide Attempts Cases: Both the laws, the IPC and the MHCA have failed in providing an effective action plan for those who fail in their suicide attempts. Researches show that those who attempt to commit suicide once and are unsuccessful are more likely to attempt suicides and be successful. The rate of attempted suicide is 20 times higher than completed suicide and 1/3rd of those who fail in attempt tend to repeat and 11% are likely to succeed.

X. RECOMMENDATIONS & SUGGESTIONS

1. Governmental Plans & Policies for Suicide Prevention: The government should frame laws, plans and policies for prevention of suicide and ensure its effective implementation. Section 309 of IPC now Section 226 of BNS needs reconsideration to bring

within its domain all acts of compulsion and restraint not only against public servant but also against a normal person. The State should not wait for the suicides to be attempted, instead those who need proper treatment should be traced and treated effectively.

2. Amendments under Section 115, MHCA: There is a need for suitable amendments in Section 115. Firstly, there should be demarcation of suicides by mentally ill persons and suicide by normal persons. In the former case presumption of stress laid down under the MHCA serves the purpose whereas in the latter case effective suicide prevention plans/ policies need to be set up and implemented. Section 115 of MHCA needs reconsideration in light of BNS. The ambiguity in the concept of stress needs clarity that can lead to imparting effective justice. Section 115 (2) needs to be strictly implemented that calls for care, treatment and rehabilitation of cases of suicide attempts.

3. Specialised Tribunal/ Judicial Set up: Effective justice can be delivered when the judges are acquainted with the intricacies involved in the cases of suicide attempt. Stress is a psychological aspect and its experts are in better position to determine what level of stress existed in the case of suicide attempts and the better treatment to avoid future recurrence of suicide.

4. Stress Management & Awareness Programmes: Stress is one of the contributing factors towards committing / attempting to commit suicide. The suicide data by National Crime Record Bureau 2022 highlights suicides committed by students, farmers, unemployed and others that undisputedly involves some level of stress. Effective and timely stress management programmes need to be organised in every sector. The governmental initiatives should be undertaken in cases of rural areas, unorganized sectors, illiterates and housewives.

XI. CONCLUSION

Laws are made for securing the welfare of the people. The increase in suicide rates due to varied reasons call for immediate attention. Effective laws and policies backed up by functional plans and programmes at every level of organisation / institution will go on a long run to prevent the cases of suicide. Suicide attempts that are punitive needs to be dealt with accordingly. Undue benefit accorded without going into the facts and circumstances of each case defeats

the purpose of law. Therefore, each case of suicide needs to be decided on its merits. People are assets of a nation and the State ought to focus on life protection of its people and ensure its quality improvement. The suicide victims should be effectively treated and initiatives should be undertaken for their further treatment so that there is no recurrence of suicide attempts. An effective helpline system should be created at all levels wherein those who seek assistance and guidance can easily approach without hesitation and get solutions to their problems. Simultaneously, those who misuse the laws should be punished accordingly. This approach shall assist the judicial, non – judicial and other authorities in the effective administration of justice.

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