

Mental Health as A Reason for Decriminalization of Suicide- An Empirical Study

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Abstract—Section 309 of the Indian Penal Code 1860 has held Attempting Suicide as A criminal Offence, which tends to punish the person who tries to or attempts Suicide. Making Suicide attempts illegal feeds a culture that holds people accountable for Suicidal thoughts and discourages them from seeking any kind of help from a professional. The fact that it discourages people from reporting similar incidents out of concern for social stigma and potential legal consequences is another concerning effect. Consequently, this hinders the precise gathering of information required to create strategies aimed at preventing suicide. The explicit decriminalization of attempted suicide by the BNS is a positive step in the direction of de-stigmatizing suicides and attempted suicides in this context. The idea of liberty as enshrined in the concept of democratic governance of human society, did raise, worldwide, the question of criminalization of an individual's wilful act, harming no other one accepting one's own self more so owing to the fact that suicide, invariably, has psychological origin rather than a criminal intent. India too, following other nations, did, in the year 2017, decriminalized the act of attempted suicide that has its origin in mental health issues. This is, of course a welcome step, well needed too. In the aftermath of 2017 legislation, law enforcing agencies now have additional responsibilities, one; to adapt themselves to the humanitarian approach towards the person attempting the extreme step of ending his own life, and two; to investigate and scrutinise that there is no flow, that no second person is, in any way involved in the incidence of attempted suicide, assisting or abetting, for his or their own good or benefit.

Index Terms—Suicide, Mental Health, Depression, Punishment, Decriminalization

I. INTRODUCTION

“It pisses me off when people tell me things like ‘it can’t be that bad,’ ‘It’s not the end of the world,’ and whatever the circumstances or mental stress one needs to think positively, Is it that simple? I don’t think a depressed mind, be it of an educated person or of an illiterate, is really in a position to critically analyse pros and cons of the of the idea, germinating in his mind to end his own life.

When the dopamine is in the gutter and anhedonia is the boss, when slowly but painfully one loses every feel that gives him the x-factor, when food is disgusting and pleasure almost non-existent, and when, someday, it ultimately looks like an end of the world, the idea of suicide becomes the easiest way out of worldly life. Some days it genuinely feels like the end of the world, and trust me, it’s horrifying. It has been equally horrifying for those around me.”¹ - K.J. Redelinguys, *Unfiltered: Grappling with Mental Illness*

II. HISTORY OF THE LAW ON SUICIDE

Starting with 'The American war of independence' in the second half of 18th century, the term liberty steadily gained currency throughout the world, leading to clamour for democratic self-rule. While the term liberty connotes more to absence of restrictions on the way an individual, as a human, wishes to live, democracy is kind of governance that a society, as an amalgam of individuals, with a set of rules and laws, devises for itself.

Law on attempt to suicide is one of the rules that different societies and nations live with. Historically, there was no law on the subject prior to 1670, when

¹ *Unfiltered: Grappling with Mental Illness*, K.J. Redelinguys,

the state of Wales criminalized an attempt to commit suicide, for the first time. India, being a British colony, retained the law on attempt to suicide in the Indian Penal Code under section 309, which came into operation in the year 1862, and is still in vogue. Under proposed Bhartiya Nyaya Samhita, which is scheduled to come into operation from 1st July, attempt to suicide has been omitted to be a criminal act under section 105, 106 and 224, which only includes abetment to suicide or an attempt to suicide due to instigation by husband or his family, or attempt to suicide with malicious intention to stop a public servant from performing his duty.

III. IMPORTANCE OF THE STUDY

The question is, should, with the idea of liberty, as manifested in the term 'my Body is my Body', gaining precedence within the idea of democracy, the act of an attempt to commit suicide, be decriminalized.

As mentioned above, in the Indian context, attempt to suicide became criminal act in the year 1862, for the first time. Contrarily, and despite legally punitive provision, some kind of suicides had social and religious sanction, which included 'sati pratha', going into eternal samadhi, in Hinduism, and santhara in Jainism, to list a few. In fact, santhara is still practiced and glorified in the country.

Other nations wherefrom we borrowed and still continuing with the code have decriminalized the act of attempt to commit suicide, since long. UK did so as far back as 1961. Many states of American Union too have done away with the code.

Recently the Indian Legislature has decided to Decriminalize the Attempt to suicide which was earlier Punishable with imprisonment or fine or both under Section 309 of IPC. This step has been taken to acknowledge the fact that in an incidence of attempted suicide, a person generally has legitimate health issue and mental problems that needs to be addressed, firstly by the accused's known in noticing change in his behaviour patterns, and secondly by the society as a whole, to counsel, treat, and suitably advise such a needy.

To Understand if addressing mental issues, can alone solve the problem of attempted Suicide, we have floated out a Questionnaire to take down the opinions of at least 100 People from the general Public.

IV. REASONS FOR ATTEMPTING SUICIDE

Suicide, or ending one's own life raises a number of questions in the mind of the people. The first and foremost being "WHY?" Before we go further with addressing the idea of Decriminalising Attempted Suicide, we need to understand the reasons that instigates an individual to attempting suicide.

- Death of some loved one
- Feeling of Isolation
- Social Embarrassment / Non-Acceptability by Society
- Fear Of failure
- Financial Reasons
- Chronic Illness
- Physical Abuse

4.1. DEATH OF SOME LOVED ONE

A man is a social animal, as is rightly said. He is happy being surrounded by others. The relationship with some near one, at times, can turn to emotional dependency. Death or loss of such a person can germinate the feeling of hopelessness, ultimately leading to the idea of ending his own life.

4.2. FEELING OF ISOLATION

In recent studies a lot of cases have come up where people have ended their lives or have attempted to end their lives due to the feeling of Isolation. FOMO as the lingo goes 'Fear of missing out'. It is very popular, these days, among the so-called Generation Z. The Z generation is so grossed in the world of likes and comments on the social media, that they cannot tolerate if they receive a smaller number of likes on their post. They start feeling isolated and thus depressed, walking the last step.

4.3. SOCIAL EMBARRASSMENT / NON-ACCEPTABILITY BY SOCIETY

Undoubtedly, we have become evolved, but we still fail to accept that the life is not only a bed of roses, for it does have thorns sprawled on the way. The fear of losing on social acceptability is one of the concerns that haunts human minds. Divorcee females, Rape victims, LGBTQ persons, do. Sometime. suffer from such a gross idea, feeling that such an happening, be it biological or social, is of their own making.

4.4. FEAR OF FAILURE

Recent data have seen a lot of suicides by the students, waiting to face some toughest Exams. These students, even after trying very hard with the preparations, have an inherent fear of failure, and, thus, disappointing their Parents.

4.5. FINANCIAL REASONS

Loss of Job, Loss of money in stock trades, becoming a victim to cheating or fraud, do sometimes, germinate the idea of Suicide.

4.6. CHRONIC ILLNESS

The Indian constitution, or the law, for that matter, gives person a right to Euthanasia. So, person's suffering from chronic illness, who are unable to adjust and adapt to the pain and sufferings, tend to succumb to the thought of Committing suicide.

4.7. PHYSICAL ABUSE

Physical Violence, Dowry Cases, Substance use and its implications, Child Sex abuse.

V. SCENARIO OF SUICIDE IN INDIA

India has recorded Over 170 thousand deaths due to suicides during the period 2001-2022. The majority of which were reported in the state of Tamil Nadu, followed by Rajasthan, showing an increasing trend over the previous year.²

The no of Suicides has increased from 10,335 in the year 2019 to 12,256 in 2020 and to 13,089 in the year 2021. According to the data shared by the union minister A. Narayanaswamy the total number of deaths among the students were approximately 35000 over last 5 years.³

² STATISTA, *Number of suicides in India from 1971 to 2022*, [02 Jan, 2024] <https://www.statista.com/statistics/665354/number-of-suicides-india/#:~:text=Over%20170%20thousand%20deaths%20due,increased%20from%20the%20previous%20year.> [May 10, 2024 at 13.03 pm]

³ THE TIMES OF INDIA, *Over 35,000 students committed suicide between 2019-21: MoS Ministry Of Social Justice* [December 6 2023],

5.1. SUICIDES: INSIGHTS FROM LONG-TERM SURVEILLANCE DATA - PREVALENCE OF SUICIDES IN INDIA: EVIDENCE FROM HMIS

India's suicide rate have drastically increased in the last one decade as per the HMIS data (see figure 1). As per the National Crime Record Bureau (NCRB) approximately one lakh people died every year due to suicide in India. In this section the number of suicide data was collected from HMIS and depicted in figure 1. The HMIS suicide data was only collected at the health facilities all across India so HMIS did not have the complete data of suicides. In last ten years the total number of suicides recorded in HMIS have significantly increased.

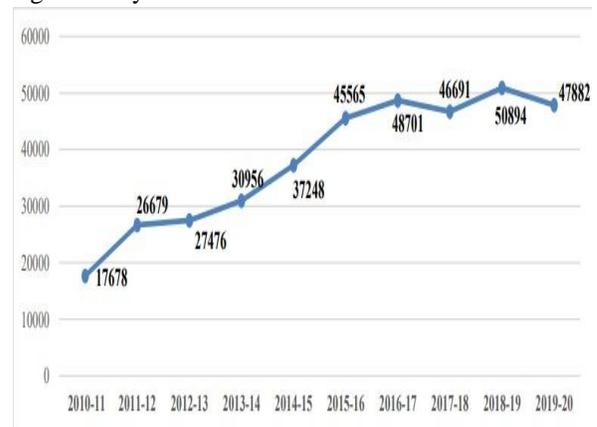


Figure 1: Number of suicides (6+ age group) in India in last one decade 2010-2019 (HMIS)

In 2010, total numbers of suicides were 17678 and in year 2019 it was recorded as 47882. More than 60 % of the suicides were committed in Tami Nadu, Maharashtra, Karnataka, Andhra Pradesh, Madhya Pradesh and West Bengal. In the last one decade the above-mentioned states are having the highest number of suicides among all other Indian states. In the year 2021 it has increased to more than 150000.⁴

http://timesofindia.indiatimes.com/articleshow/10576222.cms?utm_source=contentofinterest&utm_medium=text&utm_campaign=cppst [May 10, 2024, at 13.07 pm]

⁴ THE WIRE, *How India to punish those who commit Suicide*, Tanya Nicole, [April 18 2023] <https://thewire.in/health/how-india-continues-to->

VI. INDICATORS BEFORE THE ATTEMPT

- Anxiety
- Mood Swings,
- Withdrawing or isolating
- Feeling Agitated, Anger issues
- Mood Swings
- Talking of not able to bear pain anymore
- Remaining too silent
- Sleeping too much

The above reasons and symptoms lead to the fact that the Attempt of committing suicide is more of a Mental Issue that needs to be addressed to stop people from committing suicide. The individual tends to show his frustration or anger in some mode or other which, at most of the times, go unnoticed.

VII. THE MENTAL ISSUE ASPECT

The mental Health or Liaison Psychiatry team may:

- Assist in your Immediate Safety
- Conduct an initial assessment of your mental health needs (also known as a Psychiatric evaluation)
- Write prescriptions for drugs
- Determine whether you can go home or if you need to be admitted to the hospital
- Connect you with other resources for continued support, such as your local crisis team (CRHT).

7.1. SELF HELP PLANS AS GUIDED BY THE THERAPISTS AND THE PSYCHIATRISTS

- How to identify your own warning indicators that might reflect on any mental, emotional, or behavioural shifts that you observed prior to your last attempt.
- Your methods of coping up with the situation. In the past, you might have discovered that doing certain things helped you deal with challenging emotions. Consider how you can use these tools to assist yourself right now.

punish-those-who-attempt-suicide, [May 11, 2024, at 15.20 pm]

- The identities and phone numbers of people you can rely on. If you're in distress, you can ask for assistance from these people.
- The identities and phone numbers of experts who can assist you, like your neighbourhood crisis team.
- Information about listening services and helplines. You can get assistance from these services if you're in distress. Skilled specialists are able to pay attention to your feelings and provide you with company for as long as you need.
- Steps you can take to secure your surroundings. Taking away items that you could use to hurt yourself is one example. Information about a secure location where you can get help. This might be the house of a trusted friend, relative, or other person.
- Try to create the plan when you're starting to feel a little better, if you can. It is beneficial to be able to clearly identify what would be useful to you in difficult situations. Creating the plan with a friend or therapist, or anyone you trust, could be helpful.

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All the above said measures are important because the research shows those who attempt suicide are at the highest risk of another attempt in the six months following their initial attempt.

VIII. CONTRADICTION OF THE LEGAL STAND ON SUICIDE

Suicide or Attempt to Suicide is a criminal Offence as per Section 309 of The Indian Penal Code 1860, and attracts imprisonment of up to 1 year or fine or both. The Mental Healthcare Act, 2017 that was passed by the Indian Parliament came into commencement in the year 2018. This Act is meant to provide “for mental healthcare and services for persons with mental illness and to protect, promote and fulfil the rights of such persons during delivery of mental healthcare and services.”

This law decriminalises suicide in India.

⁵ MIND, *Coping after a suicide attempt*, <https://www.mind.org.uk/information-support/types-of-mental-health-problems/coping-after-a-suicide-attempt/> [May 11, 2024, at 16.45 pm]

The law states, “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 Code⁶ The two acts, IPC of 1862 and the act of 2017, currently in force on the Indian Land, contradicts themselves on the issue of suicide.

8.1. THE IMPLICATIONS OF CRIMINALISING OF CRIME

Sudha (Name Changed), who is a home maker, came back home after being hospitalized after an attempted suicide, the night before. Early morning, she was woken up by a police constable at her doorstep who wanted her along with her other family members to accompany him to the police station. She was questioned and the same scenario went on for the months together, The FIR had not been registered against her but she was being harassed by the police for a hefty sum of money for not filing an FIR

In another similar case, the accused was taken in custody immediately after being discharged from the hospital, an FIR filed against him, and the case continued for years.

The accused, if survives the attempt, feels more harassed and frustrated by the unconcerned behaviour of the police officials, who not only targets the accused but the whole family becomes the target for harassment and humiliation. Society, too, often looks low, thus, stigmatize the person.

These are just two of the innumerable examples that forces the victim and all other family members to keep the issue under wraps. The fear of harassment and criminal prosecution keeps them away from seeking timely help, of any sort. Such a scenario, sometimes, becomes fatal for want of timely medical assistance.

8.2. BNS AS A WELCOME CHANGE

The Relief comes in the form of Bhartiya Nyaya Samhita. It, now, only covers attempted suicide in case

⁶ BYJU’S EXAM PREP, *Right to Life- Indian Polity Notes*, <https://byjus.com/free-ias-prep/right-to-life-article-> [May 11, 2024, at 13.24 pm]

⁷IMHO INDIAN MENTALHEALTH OBSERVATORY, Keshav Desiraju, *Decriminalising attempted suicide in India: the new penal code* <https://cmhlp.org/imho/blog/decriminalising-attempted-suicide-in-india-the-new-penal->

it is to threaten the public servants to stop him from discharging his duties.

Section 224, of The Bhartiya Nyaya Samhita which is going to replace Indian Penal Code from 1st July 2024, reads “Whoever attempts to commit suicide with the intent to compel or restrain 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”

Section 84 Clause (a), as well as section 105 and 106 discuss the penalties for aiding and abetting suicide.

Rethinking on the methods here-to-fore used to record and document suicide cases has now become imperative. It is critical to accurately and thoroughly record suicide cases, in order to better understand the problem, develop focused preventative initiatives, and provide crisis support to individuals who need it. It will be crucial to first train medical personnel in the proper identification and documentation of suicides and suicide attempts in order to achieve desired results. It will also be crucial to create a centralized database specifically for the purpose of documenting these cases. Researchers working on suicide prevention, legislators, and mental health advocates will find this database to be a useful resource. In India, initiatives are also being made to improve community surveillance in order to address the issue of underreporting of suicides and suicide attempts.⁷

8.3. LEGAL EXPERT’S OPINION ON DECRIMINALIZING SUICIDE

The 2008 Law Commission Report speaks on the subject of Decriminalization of Suicide Attempts. In its 210th Report, the Law Commission of India declared Section 309 of the IPC to be inhumane. It says that suicide attempt is a sign of “diseased condition of the mind,” that needs attention and care, not to be punished. It is unfair and unjust to subject someone who is already in pain to more punishment. It concludes that treating the attempted suicide as a

code/#:~:text=While%20section%20115%20effectively%20decriminalised,being%20booked%20under%20section%20309. [May 11, 2024, at 23.36 Pm]

criminal act has really no effect on reducing the number, or, in any way, helping in the expansion of access to healthcare for the needy.

- There have been arguments made against the decriminalization of suicide attempts.
- First of all, decriminalizing suicide would violate Article 21, which guarantees the right to life but not the right to die, meaning that the state is not required to defend those who resort to such an unholy act. However, it has been seen that majority of courts and presiding judges believe that it is a very private matter and that the government shouldn't interfere, making the pain all the more severe, for those who are already suffering from mental trauma.
- Second, although other laws govern the menace, Section 309 was used as an aid in the conviction of drug traffickers and other suicide bombers.
- The Hunger Strike comes in third. Hunger strikes and death-defying fasts are voluntary but coercive forms of protest against the government.⁸

IX. THE NEXT STEP: GETTING READY FOR DECRIMINALIZATION

Currently, the National Crime Records Bureau (NCRB) provides yearly reports on suicide statistics from the Ministry of Home Affairs. Even though it is commonly known that underreporting does underestimate the true problem's scope, figures, nevertheless, provide important information about the prevalence, distribution, and causes of suicide in our nation. Definitely there is an urgent and pressing need to reconsider how suicide cases get reported and documented after the BNS is implemented, and attempting suicide is no longer a crime. It is critical to accurately, and thoroughly record suicide deaths in order to better understand the problem, to develop focused preventative initiatives, and to provide crisis support to individuals who need it. It will be crucial to first train medical personnel in the proper

⁸ JLRJS, JOURNAL FOR LEGAL RESEARCH AND JUDICIAL SCIENCES, Decriminalisation Of Suicide, <https://jlrjs.com/decriminalization-of-suicide/> [May 15, 2024, at 19.24 pm]

⁹ JLRJS, JOURNAL FOR LEGAL RESEARCH AND JUDICIAL SCIENCES, *Decriminalising Suicide in*

identification and documentation of suicides and suicide attempts in order to achieve this. It will also be crucial to create a centralized database specifically for the purpose of documenting these cases. Researchers working on suicide prevention, legislators, and mental health advocates will find this database to be a useful resource. In India, initiatives are also being made to improve community surveillance in order to address the issue of underreporting suicides and suicide attempts.

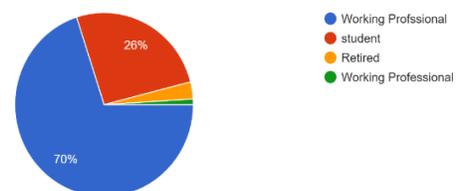
There is more to decriminalizing attempted suicide than just changing the law. The World Health Organization (WHO) has published a policy brief on effective suicide decriminalization to aid in this endeavour. This brief provides a more comprehensive roadmap in addition to advocating for the repeal of laws that criminalize attempted suicide. It recommends putting in place a post-decriminalization awareness and training program for different suicide prevention stakeholders.⁹

X. NATURE AND SOURCES OF DATA

The current study has employed both primary and secondary data in order to achieve its objectives. A survey with a closed-ended questionnaire was used to gather the primary data.

These sources are used to gather secondary data:

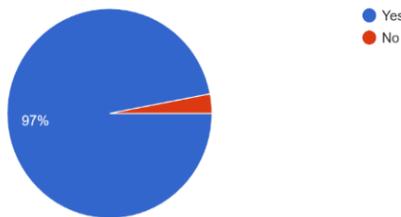
1. What is your Occupation
100 responses



We have tried to cover various age Groups to get their Opinions.

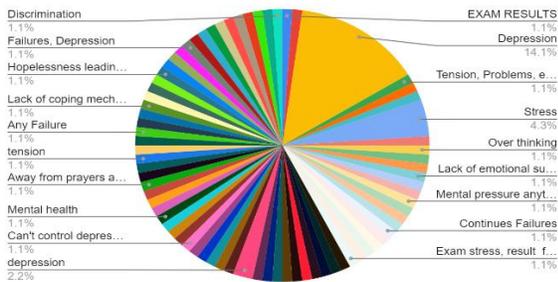
India – The New Penal Code, <https://cmhlp.org/imho/blog/decriminalising-attempted-suicide-in-india-the-new-penal-code/> [May 15, 2024, at 19.30 pm]

2. Do you know what is Suicide or Attempted Suicide
100 responses



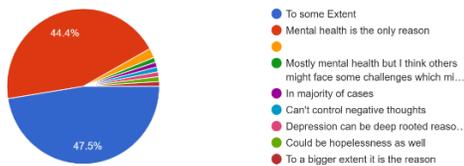
97 out of 100 People know about suicide or attempted Suicide

Count of 3. What can be the reasons for Suicide



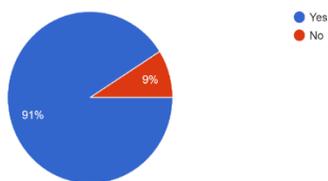
Although the wordings have been different, put most of the people pointed out the reason for Suicide to be Depression, stress or Mental Health.

4. How far do u think depression or Mental illness is the basic reason for suicide
99 responses



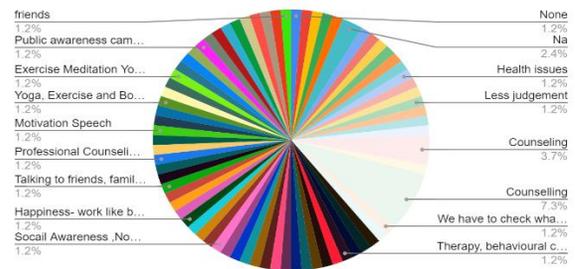
To some extent or more but Mental Health has been considered the major Reason behind the cause.

5. Do u think by addressing mental issues will minimise the rate of attempt to Suicide
100 responses



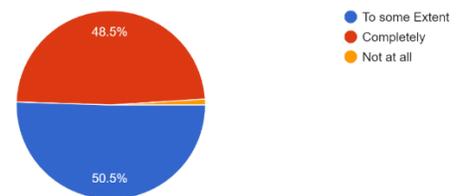
Bringing Forth the mental Health of the person and trying to understand the reason behind his action can reduce the Rate of Suicide.

Count of 6. What are the other ways to address issue of mental Health



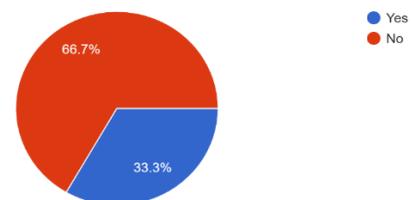
Calming ones' mind that may be through Counselling, Talking to Friends and Family, or going through Therapy, has been considered the way out of the mental situation causing stress and depression

7. How far can a family help in bringing out a person from Depression
99 responses



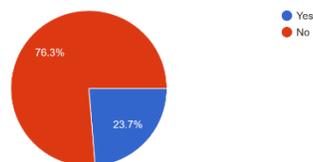
Family plays the most important role by noticing the signs of Depression and by either talking one out of it or convincing the person to take Counselling.

8. Do u know Govt of India has passed The Mental Healthcare Act, 2017
99 responses



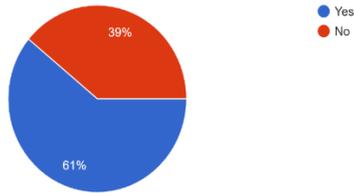
Most Of the People does not even Know about the new legislative laws coming into force

9. Whether passing a so called Mental Health act bring down the rate or number of suicide
97 responses



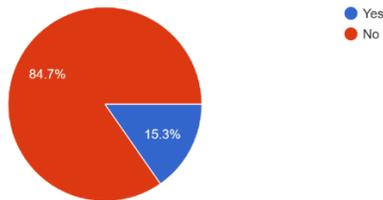
People Believe that just passing a law can not bring doen the rate of suicides, as people are ignorent of the law being pased.

10. Do you know attempt to suicide invites imprisonment of 1 year or fine or both
100 responses



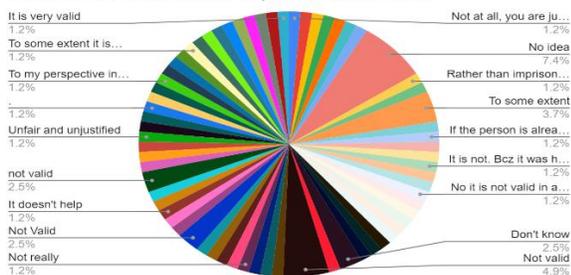
39 % of People Does not even Know that Attempted Suicide is a criminal Offence, which is Punishable

11. Does fear of imprisonment help in reducing the no of suicide attempts
98 responses



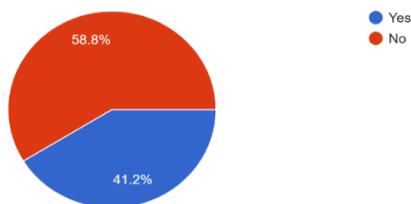
Being Punishable or not Punishable, this Criteria does not matter to People thinking of Committing Suicide. Oit just happens to be a mental state.

Count of 12. How far this Imprisonment is Valid



As we gathered from the previous Question that Punishment does not matter, so the people being surveyed has expressed that the Fear of Punishment is not valid

14. Do u know of any person who tried to attempt suicide
97 responses



Out of 100 Persons surveyed, 41 knew of someone who had either committed Suicide or had attempted to.

XI. SUGGESTIONS

The human rights concept begins with the right of an individual to lead a life of dignity. Stresses and anxieties often make a person feel out of the pink of being alive. Interactions, at such a time, between different distorted sensory perceptions, do, sometimes, take an upper hand, leading the person to think of committing suicide.

Usually, there are enough warning signals for the near and dear of the person, nurturing such a thought, to read his mind. It is the time for them to counsel him or her, against the contemplation, take help of all others whose influence would work, and seek psychiatrist's professional intervention to placate agitated mind. To my mind, this and only this is the best of initiatives to lessen human malediction that we call 'suicide'. Families, neighbourhood, and society at large that includes governing bodies, need to come together, to work for the cause.

As far as physician assisted suicides, in the case of terminal illness, are concerned, there is an urgent need to formulate specific rules and regulations on the subject.

XII. CONCLUSION

Prevalence of suicide, perhaps, is as old as the history of mankind. Not only humans, birds too are said to commit suicides in groups.

Condiment of suicide as a crime has undergone a sea change, over the last four decades, from being an offence worthy of monarch's decree, in 1680, to humiliatingly parade the dead body, for the public, at large, to disdain the dead, for the act: to an era of commiseration, ultimately leading to decriminalization of the act of an attempt to commit suicide.

The change is, of course, agreeable one, given the psychedelic mind of the person who impulsively gets forced to take the extreme step.

But the word 'suicide' cannot and must not be completely erased from law books, for cases of assisted suicide and abetment to suicide are surely need to be investigated for culpability of some other one, if there is any.

ACKNOWLEDGEMENT

I would like to extend our heartfelt gratitude to Ms. SHOYONITA ACHARYA, *Assistant Professor at Thakur Ramnarayan College of Law Mumbai* who have contributed to the completion of this project. I would also like to express my deepest appreciation to my father, Sh. RAM LAL GARG, for his invaluable guidance, support, and expertise throughout the entire duration of this project. Their constructive feedback and insightful suggestions have significantly contributed to the refinement of my work and its overall success.

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