

Editorial : Suicide, Euthanasia and the Law

Volume: 14**Issue: 03****July 1996****Page: 165-166**

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Suicide is the act of deliberately taking one's own life; parasuicide is the unsuccessful attempt to do so. Suicide and parasuicide have recently come under judicial scrutiny, and the judgement on the subject has stirred up much controversy.

Under section 309 of the Indian Penal Code, attempted suicide was deemed to be a criminal offence punishable by imprisonment, fine or both. In 1994, the Supreme Court of India declared section 309 as unconstitutional. The judgement received much favourable attention as it was perceived to be sympathetic to the emotional distress of persons who attempt suicide.

This year, however, a five judge constitution bench of the Supreme Court ruled that the right to life, as guaranteed under Article 21 of the constitution, did not include the right to die; therefore, the attempt to commit suicide and the abetment thereof would continue to be offences under section 309 and 306 respectively of the Indian Penal Code.

The judgement was the outcome of considerable deliberation, and resulted from the disposal of several petitions which pleaded that, since attempting suicide was no longer a criminal act, the law should permit euthanasia as a resource to individuals who wish to die. By reversing the ruling on suicide, the Supreme Court weakened the position of euthanasia activists; however, the Court added that euthanasia is a matter of policy which falls in the domain of the legislature.

The 're-criminalization' of suicide in India will meet with much unhappiness in the mental health profession. Mental health professionals tend to assume that attempting suicide is an act of distress. This is because individuals who attempt suicide usually do so on account of ongoing depression and problems of living. Such individuals need assistance with their personal lives and with their emotional states. The personal assistance involves a mental health workup, drug therapy, individual / group / family therapy, and psychosocial support and rehabilitation.

The threat of legal punishment is unlikely to be seriously considered by a person who contemplates suicide; such persons usually have other (emotional) preoccupations. If at all, any consideration of legal issues is likely to induce the attemptor to take greater precautions to increase the lethality of his act.

As a philosophical consideration; viewing attempted suicide as an act of distress does not necessarily imply that the act is a non-criminal one. As a parallel, consider the case an individual who steals to relieve his hunger. The theft is an act of distress but nonetheless remains a crime; in the eyes of the law, the distress which prompted the act would of course comprise the mitigating circumstances. In the manner, attempting suicide is now by definition a criminal act with mental illness as the mitigating factor; the patient can be absolved of the crime by the application of the McNaughten rules.

The McNaughten rules have their equivalent in India [1]; these would apply to the individual who attempts suicide as a consequence of a dysfunctional state of mind. However, the application of these rules is necessarily determined only by the stresses related to judicial processes, in addition to those which originally provoked his act!

Few countries today have antisuicide laws. France, Germany, Italy and other countries decriminalized suicide decades to centuries ago. Attempting suicide is not a criminal offence in the U S A. In England, too, attempting suicide is not a crime; aiding, abetting or procuring suicide however is an offence, and this is a legal deterrent to those with vested interest who encourage suicide, or those who promote euthanasia [2].

Euthanasia itself has been very much in the international news, recently, the Northern Territory in Australia has legalized euthanasia for the terminally ill patient who wishes to die; a strict procedure of medical and psychiatric evaluation has to be followed before a fatal injection is administered [3]. At least one patient has already 'taken advantage' of the new legislation in Australia.

When analyzing the recent judgement on suicide, there is another side to the coin which mental health professionals would do well to consider; all persons who attempt suicide are not mentally ill, and the new laws on suicide assume importance in the management of such situations. These are:

- * as already mentioned, making suicide a crime underlines a respect for life and makes euthanasia a criminal act.
- * in dowry deaths, the criminalization of suicide will facilitate an investigation of the antecedents of the act, and will involve charges of at least abetment of suicide on the part of the individuals concerned. If suicide is not a crime, persons who harass women for dowry will get away scot free by claiming that death was due to suicide, a non-criminal act.
- * in like manner, harassment of any nature can drive a person to suicide. Such harassment includes sexual harassment, harassment of various natures at the place of work etc. If suicide is not a crime, there are no legal grounds to prosecute the individuals responsible for the harassment.
- * Occasional case of Sati continue to be reported in India. If suicide and attempted suicide are not criminal acts, those who encourage Sati will escape punishment.
- * in fast unto death demonstrations, legal processes are now available to prevent death of the demonstrators.
- * in religious sects which refuse some or all medical treatments on religious grounds, treatment with legal empowerment may be possible in life-threatening circumstances.

Since mental health professionals and the judiciary are both concerned with the welfare of society, a meeting ground for the two requires a healthy mutual understanding. Mental health professionals need to understand the stance of the law enforcing authorities as discussed above; and, the law enforcing authorities need to accept that medical certification that a person has previously established mental illness should comprise sufficient ground of non-prosecution for attempted suicide.

1. Akhtar S, Jagawat T, Plea of insanity as a defense in criminal cases : An update
Indian Journal of Psychiatry Page: 36: 25-29, 1994

2. Levey S, Suicide

In: Bluglass R, Bowden P, Walker N (Eds): Principles and Practice of Forensic Psychiatry. London: C
Page: pp 597-610, 1990

3., Editorial Managing a comfortable death
Lancet Page: 347: 1777, 1996
