



## Is attempted suicide an offense?

B.R. Sharma

Department of Forensic Medicine & Toxicology, Govt. Medical College & Hospital, #1113, Sector-32 B, Chandigarh, 160030, India

### ARTICLE INFO

#### Article history:

Received 13 March 2007  
Received in revised form 19 December 2008  
Accepted 20 January 2009  
Available online 24 January 2009

#### Keywords:

Right to live  
Right to die  
End of life decisions  
Attempted suicide  
Suicide  
Physician-assisted suicides  
Euthanasia

### ABSTRACT

The English poet William Ernest Henley wrote: "I am the master of my fate, I am the captain of my soul." However, Hamlet's dilemma of "to be or not to be" faces many a soul in times of distress, agony and suffering, when the question asked is "to die or not to die". If the decision were to die and the same is implemented to its fructification resulting in death that is the end of the matter, the dead is relieved of the agony, pain and suffering and no evil consequences known to our law follow. But if the person concerned were unfortunate to survive, the attempt to commit suicide becomes punishable with imprisonment and fine under Section 309 of the Indian Penal Code (IPC). Petitions have assailed the validity of Section 309 IPC praying time and again to declare the section void. On the other hand, euthanasia and physician assisted suicide have become prominent public issues in many countries over the past few years. Several countries or regions of countries have debated legislation on euthanasia and/or physician assisted suicide. Although there is growing public acceptance of physician-assisted deaths all over the world, many professional organizations remain opposed to it. Most of the debates on the issue are usually framed as issues of morality while many basic empirical questions remain unanswered. This paper attempts to examine the causes and consequences of attempted and completed suicide.

© 2009 Elsevier Ltd. All rights reserved.

### Contents

1. Introduction . . . . .	139
2. Why is a law enacted and what object(s) it seeks to serve? . . . . .	140
3. Why is a particular act treated as crime? . . . . .	140
4. Why is suicide committed? . . . . .	141
5. Is suicide a non-religious act? . . . . .	141
6. Is suicide immoral? . . . . .	141
7. Does suicide produce adverse sociological effects? . . . . .	141
8. Is suicide against public policy? . . . . .	142
9. Who commits suicide? . . . . .	142
10. Attempted suicide and deliberate self-harm . . . . .	143
11. How suicide-prone persons should be dealt with? . . . . .	143
12. Debate on euthanasia and the provisions of International Human Rights Law . . . . .	144
13. Conclusion. . . . .	144
References. . . . .	144

### 1. Introduction

In a historic judgment seeking to 'humanize' the criminal law, Division Bench of the Supreme Court of India on April 26, 1994 held that a person has a 'right to die' while declaring Section 309 Indian

Penal Code (IPC) – a provision, which makes attempted suicide a penal offense, unconstitutional (*Rathinam v Union of India, 1994*). This decision, however, was short-lived and in 1996, Constitutional Bench of the Supreme Court reversed the decision (*Gian Kaur v State of Punjab, 1996*). On the other hand, In November, 1994, Oregon became the first state to legalize physician-assisted suicide when voters approved a ballot initiative, 'the Oregon Death with Dignity Act'. Implementation of the measure, however, was barred by an injunction

E-mail address: drbrsharma@yahoo.com.

when in August, 1995; a federal district judge ruled the measure unconstitutional (Lee, Nelson, Tilden, Ganzini, & Tolle, 1996). Although legally prohibited in most of the countries, the majority of the population accepts euthanasia, as medical practice. The dominant debates in the media no longer address the morality of euthanasia as such but, rather, focus on procedural arrangements to regulate the practice as carefully as possible. The guiding principles of medicine – autonomy, beneficence, non-maleficence and justice – are often argued to be less concerned with consequences (Sharma, 2003).

Furthermore, the debate over physician-assisted suicide concerns persons with debilitating and painful terminal illnesses. Opponents in the medical community, including Physicians for Compassionate Care, believe that physician-assisted suicide is contrary to the profession's purpose – to promote health. Religious opponents, including the Roman Catholic Church, Mormons, and Christian fundamentalists, feel that suicide of any kind devalues life. Not Dead Yet, an organization of disabled persons, believes that states should instead enact legislation to improve access to health and hospice care, and the over-all quality of life, for terminally ill patients. Many opponents are concerned that poor or uneducated patients will be pressured by family members or the healthcare insurance industry to choose death over life with its medically expensive consequences (Sharma, 2004a). Opponents of decriminalizing assisted suicide argue that decriminalization would lead to a “slippery slope” that would eventually result in doctors being allowed to assist persons who are not terminally ill to commit suicide. To the supporters of physician-assisted suicide, the issue is a matter of personal autonomy and control (Sharma, 2004b). The Hemlock Society, an organization that supports physician-assisted suicide, claims that terminally ill patients must be allowed to end their lives voluntarily rather than suffer through the painful and disabling effects of a terminal illness (Sharma & Harish, 2004).

Under modern U.S. law, suicide is no longer a crime. Some states, however, classify attempted suicide as a criminal act, but prosecutions are rare, especially when the offender is terminally ill. Instead, some jurisdictions require a person who attempts suicide to undergo temporary hospitalization and psychological observation (Vijaykumar, 2007). In the past, there was considerable sentiment for making attempted suicide an offense: the thought persisted that it was contrary to societal interest to attempt to take human life, even one's own life. That policy has been generally rejected today. It is widely accepted that one who is bent on self-destruction is not likely to be deterred by the possibility of punishment if he fails. Thus, the rationale for punishing attempted suicide is eliminated. In India, attempted suicide is a punishable offense (Suicide Act, 1961). However, Section 309 of the Indian Penal Code states that “whoever attempts to commit suicide and does any act towards the commission of such an offense shall be punished with simple imprisonment for a term which may extend to one year or with a fine or with both (Sharma, Sharma, & Harish, 2006).

It is ironic that in the age of votaries of Euthanasia, attempted suicide should be criminally punishable. Instead of the society hanging its head in shame that there should be such social strains that a young person should be driven to suicide, it compounds its inadequacy by treating the person as a criminal. Instead of sending the young boy to psychiatric clinic, it sends him to mingle with criminals thus necessitating a reexamination of many questions.

## 2. Why is a law enacted and what object(s) it seeks to serve?

It is from the time of the Renaissance and the Reformation when men, as a result of these great revolutionary movements broke away from rule of custom and tradition, that legislation began its career as an instrument of social and political, and even religious, change. However, the laws made must respect the right to liberty and property; and laws must be made for the good of the people. The laws and legislation should conform with the spirit of the people, its

traditions, its philosophy of life, even the physical surroundings of the people, including the climate (Ruthnaswamy, 1974).

Macaulay believed in the efficacy of law in improving people and their character. He wrote: “When a good system of law and police is established, when justice is administered affordably and firmly, when idle technicalities and unreasonable rules of evidence no longer obstruct the search for truth, a great change for the better may be expected which shall produce a great effect on the national character (Ruthnaswamy, 1974).”

According to Ihering, law is a means to an end. He laid down the following general principles of legislation: “Laws should be known to be obeyed; should answer expectations; should be consistent with one another; should serve the principle of utility; should be methodical; must be certain to be obeyed, must not become a dead letter; are necessary to ward off the danger of the operations of egoism or self-interest, the ordinary motives of human action. Law and legislation must aim at justice, which suits all (Ruthnaswamy, 1974).”

In the historical perspective, one can easily appreciate the complexities and intricacies of legislation, which the present legislatures are to face. Besides the ordinary laws, which safeguard the rights and liberties of the individual, there are certain fundamental laws which ordinary legislation may not change. The fundamental principles on which the political life of the people is based are individuality, equality, and justice. After securing the life and liberty of the State and of the individual, laws and legislations take on the task of serving and promoting the good life of the State and the people. For good life, morality is necessary and to maintain morality legislation is a must. Legislation, therefore, is the framework, which is required to be made for good life.

## 3. Why is a particular act treated as crime?

Earliest reference to the word ‘crime’ dates back to 14th century when it conveyed something reprehensible or wicked. Any conduct which a sufficiently powerful section of any given community feels to be destructive of its own interest, as endangering its safety, stability, or comfort is usually regarded as heinous. And it is sought to be repressed with severity and the sovereign power is utilized to prevent the mischief or to punish anyone who is guilty of it. Crimes are often creations of government policies and the Government in power forbids a man to bring about results, which are against its policies. In a way, there is no distinction between crime and tort, inasmuch as a tort harms an individual whereas a crime is supposed to harm a society. However, a society is composed of individuals; harm to an individual is ultimately harm to society (Kenny quoted in Rathinam v Union of India, 1994; Kenny's *Outlines of Criminal Law*, 1994).

A crime presents three characteristics: (1) it is a harm, brought about by human conduct which the sovereign power in the State desires to prevent; (2) among the measures of prevention selected is the threat of punishment; and (3) legal proceedings of a special kind are employed to decide whether the person accused did in fact cause the harm, and is, according to law, to be held legally punishable for doing so. Protection of society is the basic reason of treating some acts as crime. Indeed it is one of the aims of punishment. Where there is no feeling of security, there is no true freedom (Maruti v. State of Maharashtra, 1986).

One very simple principle, to govern absolutely the dealings of society and the individual is the way of compulsion and control, whether the means used be physical force in the form of legal penalties or the moral coercion of public opinion. The sole end for which mankind is warranted individually or collectively, in interfering with the liberty of action of any of their member, is self-protection – the only purpose for which power can be rightfully exercised over any member of a civilized community, against his will, is to prevent harm to others. His own good, either physical or moral, is not a sufficient

warrant. To justify that, the conduct from which it is desired to deter him must be calculated to produce evil to someone else.

#### 4. Why is suicide committed?

Suicide, the intentional taking of one's life, has probably been a part of human behavior since pre-history. Many ancient texts including the Rig Veda, the Bible, and the Koran mention suicide. Because the act of self-destruction represents an attack on some of our presumptions that life is to be lived and death feared, responses to suicide have involved a variety of emotionally-charged attitudes ranging from approbation accorded to it by the ancient Greek stoics to, more typically, the fear and superstition that led 18th century Europeans to drive stakes through the hearts of those who had committed suicide (Suicide Reference library, 2007; International Islamic Organization, 2007; Quran, 2007; Kramer, 2003; Encyclopedia of Crime and Justice, 1983). The change in social thinking in this regard can be best illustrated by the view taken by the conservative English society, where to start with suicide itself was regarded as a felony requiring burial in a public highway, followed by forfeiture of all the properties of the deceased to the Crown. The Suicide Act (1961), presently does not regard attempt to suicide as any offense.

Various social forces, like the economy, religion, and socio-economic status, are responsible for suicides. There are various theories of suicide, (e.g., sociological, psychological, biochemical and environmental). The causes of suicides are many and varying in as much as some owe their origin to sentiments of exasperation, fury, frustration, and revolution; some are the result of feeling of burden, torture, and sadness, others are caused by loss of employment, reversal of fortune, misery due to illness, family trouble, and thwarted love. Sometimes killing is in opposition to society, and sometimes it is in opposition to particular persons. This happens when the person committing suicide nurses a feeling of unjust treatment, maltreatment, and cruelty (Sharma, Sharma, Harish, & Vij, 2003).

#### 5. Is suicide a non-religious act?

The Holy Bible denies decent burial to a person committing suicide. According to the Jewish view, "no one is truly and radically autonomous. "Autonomy can only be the property of a 'Force' who is capable of creation out of nothing (creatio ex nihilo). Only God has this capacity; it is a capacity that no creature should attempt to achieve, let alone assume that it already possesses" (Suicide Reference library, 2007). However, the Church did not always condemn suicide when, for example, following some severe assault, such as rape, the victim took a 'virtuous' or honorable way out. She could then claim sympathy and the forgiveness of her society and family, in both Roman and Christian times (International Islamic Organization, 2007). The Islam depicts a person who commits suicide as an unlawful wretch. And according to the religion, almighty God says in the Quran, "He is the one who gives life and causes death, and to him you shall all return" (Quran, 2007). However, in the same religion, there is a unique category of suicide called 'self-martyrdom' applicable in a narrow range of circumstances in combat (battlefield), and which is believed to guarantee the believer immediate entry into paradise (Kramer, 2003).

In the Encyclopedia of Religion (1987), mention has been made at as to how "life" has been understood by different religions and the primitive societies, Judaism, Christianity, Hinduism, and Buddhism. The question, "What is life?" produces an initial sense of bafflement and perplexity. It has been stated that a precise, distinct, and universally acceptable concept does not accompany the use of the word "life"; and that posing of the above query brings in its wake a sense that life is an "inexhaustible storehouse of mysteries, a realm of endlessly self-perpetuating novelties, in which the solution to any given problem gives rise to a plethora of other questions that beckon the always restless, never contented mind of Homo Sapiens to seek

further for additional answers or, at least, to search out more intellectually refined, morally elevating, and spiritually salutary ways of pursuing the quest". So, life does not end in this world and the quest continues, may be after the end of this life. Therefore, one who takes life may not really be taken to have put an end to his whole life. There is, thus, nothing against religion in what he does.

Hara-kiri [belly-cutting], the traditional Japanese form of honorable suicide, also known by its Chinese equivalent, seppuku was practiced by the Japanese feudal warrior class in order to avoid falling into enemy hands. Around 1500, it became a privileged alternative to execution, granted to daimyo and samurai guilty of disloyalty to the emperor. The condemned man received a jeweled dagger from the emperor. He selected as his second a faithful friend, received official witnesses, and plunged the dagger into the left side of his abdomen, drew it across to the right, and made a slight cut upward; his second then beheaded him with one stroke of a sword, and the dagger was returned to the emperor. Around 1700, it became permissible to go through a semblance of disembowelment prior to beheading. Voluntary hara-kiri was resorted to after a private misfortune, out of loyalty to a dead master, or to protest the conduct of a living superior. Obligatory hara-kiri was abolished in 1868, but its voluntary form has persisted. It was performed by 40 military men in 1895 as a protest against the return of conquered territory, the Liaotung peninsula, to China; by General Nogi on the death of Emperor Meiji in 1912; and by numerous soldiers as an alternative to surrender in World War II. Hara-kiri was much discussed in recent years in connection with the death of Mishima, the well-known novelist and rightist political leader, in 1970 (Seppuku).

#### 6. Is suicide immoral?

Law and morals often intersect, and there can be no doubt that historically at least law and morals were closely related and that in many areas the law continues to look upon its function as the enforcement of morals, the reinforcement of moral standards in society, and the punishment of moral depravity. The Constitution of the United States contains a number of provisions embodying moral judgments, one of which is prohibition against "cruel and unusual punishment".

According to Burton (1973), "It is right to be law-abiding but there may be times when it is not wrong to break the law. There are no easy rules or recipes to guide us in making our choices." The civil disobedience movement, organized by leaders like Mahatma Gandhi, shows that there can be clash of law and morality, which can be on the battlefield of man's conscience. It was perhaps this clash, which agitated the mind of Socrates when he was advised to escape from the jail and was assured that it would be a safe escape. He refused saying that having devoted his life to teach the importance of doing justice and respecting the laws, it would be rank hypocrisy for him to violate his principles when the laws had been turned against him. Being of this view, instead of breaking law, he took poison. However, at times an individual would be between two horns of dilemma when confronted with the question of obeying an unjust and pernicious law.

The theories of Divine Law and Natural Law were evolved to take care of this dilemma and French Declaration of Rights of Men and American Declaration of Independence are based on these laws. However, it is the sanctity of human life, which is said to be defaced when one commits suicide and the question of morality, therefore, arises (Rathinam v Union of India, 1994).

#### 7. Does suicide produce adverse sociological effects?

One of the points raised against suicide is that the person who had so done might have been the sole bread-earner of the family, because of whose death the entire family might have been left in lurch or doldrums, bringing in its wake untold miseries to the members of his

family. It is, therefore, stated that suicide has adverse effects on the social setup. No doubt, the effects of suicide in such cases are quite hurtful; but then, it is a matter of extreme doubt whether by booking a person who had attempted to commit suicide to trial, suicides can be taken care of. Further, the aforesaid adverse sociological effects are caused by the death of the person concerned, and not by one who had tried to commit suicide. Indeed, those who fail in their attempts become available to be more or less as useful to the family as they were. Therefore, the person to be punished is one who had committed suicide; however, he is beyond the reach of law and cannot be punished.

### 8. Is suicide against public policy?

It is presumed that the public policy to be so jeopardized is one which requires preservation of human life. The concept of public policy is, however, illusive, varying, and uncertain. It has also been described as “untrustworthy guide”, “unruly horse” etc. A leading judgment describing the doctrine of public policy (*Egerton v. Brownlow* quoted in *Rathinam v Union of India, 1994*), stated “Public policy” is a vague and unsatisfactory term, and calculated to lead to uncertainty and error, when applied to the decision of legal rights; it is capable of being understood in different senses; it may, and does, in its ordinary sense, mean ‘political expedience’ or that which is best for the common good of the community; and in that sense there may be every variety of opinion, according to education habits, talents, and dispositions of each person, who is to decide whether an act is against public policy or not. To allow this to be a ground of judicial decision, would lead to the greatest uncertainty and confusion. It is the province of the statesman and not the lawyer, to discuss, and of the Legislature to determine what is best for the public good and to provide for it by proper enactments. The province of the judge is to expound the law only; written from the statutes; the unwritten or common law from the decisions of predecessors and of existing courts, from text writers of acknowledged authority, and upon the principles to be clearly deduced from them by sound reason and just inference; not to speculate upon what is the best, in his opinion, for the advantage of the community. Some of these decisions may have no doubt been founded upon the prevailing and just opinions of the public good; for example, the illegality of covenants in restraint of marriage or trade. They have become a part of the recognized law, and we are therefore bound by them, but we are not thereby authorized to establish as law, everything which we may think for the public good, and prohibit everything which we think otherwise.”

### 9. Who commits suicide?

Suicide knows no barriers of race, religion, caste, age, or sex. Many reports from different countries have reported such incidences (*Hawton, 1992; LaVecchia, Lucchini, & Levi, 1994; Phillips, Li, & Zhang, 2002*). Suicidal behavior can be conceptualized as a continuum ranging from suicidal ideation to suicide attempts and completed suicide. There is no unanimously accepted definition of suicide, although in most proposed definitions it is considered as a fatal act of self-harm undertaken with more or less conscious self-destructive intent, however vague and ambiguous. Since the deceased cannot testify as to his or her intent, the conclusion about this has to be drawn by inference. The evidence required for this inference depends on many factors, like, the mode of death, the autopsy findings, age, gender, social, and occupational status and the social stigma of suicide in the person's culture.

Suicide is a mode of death usually consequent to a complex and multifaceted behavior pattern. It is typically seen as the fatal outcome of a long-term process shaped by a number of interacting cultural, social, situational, psychological, and biological factors. It is usually preceded by years of suicidal behavior or feelings, plans, and

warnings, and in about half of all suicides a previous attempt is found in person's history, which offers, in theory, an opportunity for suicide intervention (*Isometsa & Lonnqvist, 1998*). Various risk or protective factors underlie suicidal behavior, and the changing balance of these helps to explain the fluctuations of suicide risk over the course of time. An appearance of suicidality means either an intensified effect of risk factors or a weakened effect of protective factors. For example, a separation from someone close may precipitate a suicidal imbalance in a vulnerable person due to the adverse life event as a stressor and the broken social network as a loss of social support. A precipitating factor may well be decisive in explaining the precise timing of suicide in the long course of person's suicide process. Often, however, it also allows a simple and rational explanation in the face of the complexity of suicide.

The cultural background of suicide is a deep structure inherited over the generations. Culture defines basic attitudes towards life and death and also towards suicide in society. It is said that the increase in the incidence of suicide can be attributed to an intensified egoistic and anomic trends and an almost disappearance of altruism in the modern societies. Religion was also a major integrating force between individuals and the community. In a modern secularized society, religion is still a meaningful and protective factor for many individuals in a suicidal crisis especially the ‘crisis services’ arrangements made by churches in many countries.

Sociology views suicide as a social, not an individual phenomenon. The suicide victim's moral predisposition to commit suicide, not his or her individual experiences, is felt to be the crucial factor. Moral predisposition means the degree to which the victim is involved in more or less integrated groups and in the values of these groups. Suicides are seen as a disturbance of a relationship between society and individuals. *Durkheim (1897)*, described four basic types of suicides:

- 1). *Anomic suicide* reflects a situation where an individual is no longer guided by the society due to its weakness, like the suicide of an unemployed and rejected alcoholic without any support from the society.
- 2). *Altruistic suicide* is illustrated by a society, which can exert a strong influence on an individual's decision to sacrifice his or her life, as did the captain of the Titanic, for example and perhaps the ‘human bombs’ or ‘suicide squads’ responsible for September 11, 2001 in the USA and July 7, 2005 in London, and many more terrorist activities.
- 3). *Egoistic suicide* is an individualistic decision of a person no longer dependent on other's control or opinion such as a person who has arranged an assisted suicide.
- 4). *Fatalistic suicide* seen as a result of strict rules in a society which have proved decisive for the destiny of an individual, for example the suicide of a person held as a slave.

Newer social theories of suicide stress more on the joint effects of social factors. An excess of adverse life events and recent stressors typically characterize the life situation preceding suicide. And usually, the sum effect of events is overwhelming and more important than a single life-event. Job problems, family discord, somatic illness, financial trouble, unemployment, separation, and death and illness in the family are the most common life events preceding suicide (*Maris, 1997; Sharma et al., 2003*). Unemployment, failure on love or educational front, separation, financial burdens, etc., are more commonly associated with suicide among younger men. Among females, life events such as psychosocial stress are less strongly connected with suicide. Depression and adverse interpersonal life events are more frequent contributors to female than male suicides (*Heikkinen, Isometsa, Marttunen, Aro, & Lonnqvist, 1995; Lewis & Slogget, 1998*). In most cases, however, life-events are not accidental,

but are also dependent on the individual's own behavior. For example, among male alcoholics, life stress is connected with family discord and separations in all age groups. Other sources of stress in alcoholic male suicides are unemployment and financial troubles, whereas in depressive non-alcoholic male victims life stress is associated more with somatic illness.

Early psychological theories of suicide focused on the concept of the 'self', while later psychodynamic thinking on suicide focused more on the 'self in relation to others'. Suicide was seen as an aggressive attack against the 'bad mother', a failure to achieve adaptation in situations of confusion and loss of control, an expression of narcissistic rage and an inability to tolerate feelings of shame, an effort to re-establish control over a chaotic inner world, or as a need to regain feelings of self-esteem by merging with a lost loved object through death. However, most recent psychological theories of suicide accept a multiaxial causation of suicide resulting from an interaction of predisposing and precipitating factors (Farberow, 1997).

Suicide often aggregates in families. It has been suggested that the relatives of patients who commit suicide are themselves more likely to commit suicide than the relatives of patients who do not commit suicide. Vulnerability to suicidal behavior may be a familiarly transmitted trait, which is independent on the specific mental disorder. Results of adoption studies suggest that genetic factors rather than familial environmental factors are the determinants of familial concordance for suicidal behavior. Similarly, identical twins have a higher concordance for suicide, attempted suicide, and suicide ideation compared with non-identical twins (Roy, Nielsen, Rylander, Sarchiapone, & Segal, 1999).

It has also been reported that the patients who have seriously attempted suicide by violent means have low levels of the serotonin metabolite 5-hydroxyindole acetic acid in their cerebrospinal fluid – a dysfunction of the serotonergic system similar to that found in aggressive or violent subjects (Mann, Oquendo, Underwood, & Arango, 1999). Abnormalities of the prefrontal cortex that have been known to be involved in aggression, dis-inhibition and violence, also appear to be involved in suicide.

## 10. Attempted suicide and deliberate self-harm

These are the terms used to describe behaviors through which people inflict acute harm upon themselves, poison themselves, or try to do so, with non-fatal outcome. However, there seems a temporal association between non-fatal and fatal suicidal behavior; many people who kill themselves have attempted suicide before or have displayed deliberate self-harm. Thus, Kreitman, Philip, Greer, and Bagley (1969) introduced the concept of 'parasuicide' to describe behavior that, mostly without the intention to kill oneself, communicates a degree of suicidal intent. It may be stressed here that in attempted suicide/deliberate self-harm many motives may play a role simultaneously, even contradictory motives, such as the hope of being rescued and the wish to continue living. Intentions may vary from attention seeking or communication of despair, appeal for help, to a means for stress reduction. Common to these behaviors is that they are motivated by change; people want to bring about changes in their present situation through the actual or intended harm inflicted upon the body. Accordingly, attempted suicide/deliberate self-harm may be defined as "an act of non-fatal outcome in which an individual deliberately initiates a non-habitual behavior that, without intervention from others, will cause self-harm, and which is aimed at realizing changes which the subject desired via the actual or expected physical consequences" (Platt, Bille-Brahe, & Kerkhoff, 1992).

Non-fatal suicidal behavior can have different motivations, varying from an intention to die to a cry for help. These behaviors may be well prepared or carried out impulsively, and may have different physical consequences. The degree of lethality and seriousness of consequences thus depend upon intention, preparation, knowledge, and

expectations of the method chosen, and sometimes upon coincidental factors, such as intervention from others. It is often difficult to assess the true intent of non-fatal suicidal behavior as people sometimes deny or conceal their intention to die because of the fear of legal consequences or they may exaggerate in order to receive help (Sharma et al., 2007).

Difficulties or conflicts that may bring the person to believe that his or her future is without hope can trigger the psychological crisis resulting in attempted suicide. The attempted suicide often is precipitated by disharmony with key figures, work related problems, financial difficulties, or physical illness. Long-standing relationship problems or feelings of loneliness are especially common. They show deficits in interpersonal problem solving and are aware of that. Their emotional status can best be described as a state of learned helplessness, a situation of a blocked escape, in which no solution exists for a perceived insurmountable adversity. Attempted suicide patients not only suffer from helplessness with regard to interpersonal conflicts, they also tend to be powerless in other domains of life. The attempted suicide population disproportionately consists of unemployed persons, from low socioeconomic classes, with low educational levels, divorced, disabled, addicted, and incarcerated. Not only recent life events, but also the life events that occurred in their past, as for example, traumatic childhood experiences, including physical and emotional neglect, broken homes, unstable parental conditions, violence, sexual and physical abuse, are significant towards attempted suicide.

Repetition is one of the core characteristics in the course and prognosis of suicidal behavior. Studies report that mortality by suicide is higher among suicide attempters who have made previous attempts (Hawton & Catalan, 1981; Hawton & Fagg, 1988). The reported risk of suicide after an attempted suicide for males is nearly twice the female risk, the risk being particularly high in the first year (Goldacre & Hawton, 1985; Nordstrom, Samuelsson, & Asberg, 1995; Suokas & Lonnqvist, 1991).

## 11. How suicide-prone persons should be dealt with?

Attempted and completed suicides are major problems in many contemporary societies. They seem to reflect the degree of helplessness of young people with low education, low income, unemployment, and difficulties in coping with life stress. Substantial differences between communities in the prevalence of attempted suicides suggest that some communities better meet the needs of their underprivileged youngsters than others. People completing suicide do not expect any improvement of their situation in the near or distant future. However, people attempting suicide without fatal outcome indicate that their future is hopeless, but they still seem to have a faint hope, that the future might improve. There is a need for better nationwide continuous registration of attempted suicide and related socioeconomic conditions. There is also a need for better mental health care management of suicide attempters, and for experimental studies on the prevention of repetition.

It is a question relating to the treatment to be given to the persons who attempt to commit suicide. Do they deserve prosecution because they had failed is the all-important question? The answer has to be a bold NO. Let us take the case of a woman who commits suicide because she had been raped. Would it not be adding insult to injury, and insult manifold, to require such a woman in case of her survival, to face the ignominy of undergoing an open trial during the course of which the sexual violence committed on her which earlier might have been known only to a few, would become widely known, making the life of the victim still more intolerable? Is it not cruel to prosecute such a person?

Attempted suicide is a psychiatric problem and not a manifestation of criminal instinct. It is really a 'call for help'. It has been documented that shortly after passing of the Suicide Act, 1961 in England, the

Ministry of Health issued recommendation advising all doctors and authorities that attempted suicide was to be regarded as a 'medical and social problem', as to which it was stated that the same was 'more in keeping with present-day knowledge and sentiment than the purely moralistic and punitive reaction expressed in the old law'. What is needed to take care of suicide-prone persons is counseling of a psychologist or psychiatrist and not stony dealing by a jailor following harsh treatment meted out by a prosecutor (*Rathinam v Union of India, 1994*).

## 12. Debate on euthanasia and the provisions of International Human Rights Law

The liberal debate on euthanasia and its legalization, in the Netherlands though initially criticized in many countries has gradually gained public acceptance. International Human rights Law Instruments do not address euthanasia directly. However, the perspective that international law is entirely a decision-making process, and not just the reference to the trend of past decisions which are termed as 'rules', makes it possible to address relevant articles of the International Covenant on Civil and Political Rights (ICCPR) (*United Nations International Convention on Civil and Political Rights, 1994*) and the European Convention for the protection of Human Rights and Fundamental Freedoms (ECHR) (*Council of Europe, 1994*), which can provide a consensual basis for an open debate on euthanasia.

Proponents of euthanasia, often use the argument of the 'principle of human self-determination', which contend that human self-determination is not derived from the state, and that the state, in principle, is not entitled to impose on its citizens ethical rules which interfere with their private lives. For an encroachment upon individual rights strong arguments must be available, leading to the inevitable conclusion that, without such rules, essential values of the society would be endangered.

According to the opponents of euthanasia, right of self-determination is a hybrid right. It is not mentioned in the ECHR but the ICCPR refers to it explicitly in Article 1, the General Comment on which states that, "the right of self-determination is of particular importance because its realization is an essential condition for the effective guarantee and observance of individual human rights and for the promotion and strengthening of human rights" (*United Nations General Comment, 1994*). This implies that an individual cannot bring a claim to protect his or her rights of self-determination but that a state should take individual self-determination into consideration while interpreting other rights in the Covenant.

It can be argued that these essential values of society will not be in danger when no alternatives exist. Denying the right to euthanasia in that case would force people to suffer against their will, which would be cruel and against their human dignity. On the other hand, it can be questioned whether it is not so much the right to self-determination as the duty to prevent suffering, which is crucial.

The right to life can be used as an argument in favor as well as against euthanasia. Those opposed to euthanasia argue that 'the right to die' would be in contradiction to the right to life. According to them, the right to life is a supreme right in which human dignity and self-determination (and also other rights) are grounded. They stress that International Law has not discussed this issue and that Articles 6 and 2 do not provide any possibilities to make euthanasia justifiable. Arguments in favor of euthanasia are that the right to life is a right to life worth living. This is a more subjective interpretation and presents a more liberal approach to self-determination and human dignity. In this sense, the request of the patient is of decisive importance. The right to life is a liberty right and also a positive right, as it provides patients with the opportunity to refrain from it. According to Nowak (1993), "the State's duty to ensure does not go so far as to require that life and health be protected against the express wish of those affected. An obligation to sanction suicide with Criminal

Law — cannot be derived from Article 6. As a result of the accessory character, this conclusion is also applicable to the offense of aiding a suicide".

The practice of euthanasia has arisen against a background of developing medical technologies. Arguably, medicine itself shares responsibility for legalized Dutch euthanasia practice. High-tech medicine can disproportionately provide cruel, inhuman, or degrading treatment and disproportionately lengthen a patient's suffering (Sharma, 2004c). Invasive medical treatment and its side-effects may well lead a patient to request euthanasia (Beachamp & Childress, 1989). As to the duty of States, Articles 7 and 3 imply that States have much responsibility to protect persons against cruel, inhuman and degrading treatment. It is argued that denying the right to euthanasia would amount to forcing people to suffer against their will, which would be cruel and against their human dignity. A major factor in the acceptance of euthanasia is that the moral values in the modern society have become somewhat detached from religious values, creating a seemingly permissive culture. Multiparty political system in many countries, further keeps the political parties away from taking any initiative on a sensitive issues like euthanasia and physician assisted suicide leave aside attempted suicide.

## 13. Conclusion

If a person has a right to live, the question is whether he has the right not to live. If all the fundamental rights are to be read together, what is true of one fundamental right is also true of another fundamental right. It is not, and cannot be, disputed that fundamental rights have their positive as well as negative aspects. For example, freedom of speech and expression includes freedom not to speak. Similarly, the freedom of association and movement includes freedom not to join any association or move anywhere. So logically it must follow that the right to live will include right not to live, i.e., right to die or to terminate one's life. The opponents of this view, however, argue that it is rather difficult to hold that the right to life impliedly guaranteed by the constitution includes the right to die. However, this argument remaining unending: it needs to be realized that attempted suicide is a 'cry for help' that needs proper scientific and social attention rather than imprisonment and/or fine.

## References

- Beachamp, T. L., & Childress, J. F. (1989). *Principles of biomedical ethics* (pp. 25–66), 3rd Ed. New York: Oxford University Press.
- Burton, M. (1973). *Leiser's, liberty, justice and morals* (pp. 19). and 353 as quoted in *Rathinam v Union of India* (1994) 1605 SC.
- Council of Europe. (1994). *European Convention for the Protection of Human Rights and Fundamental Freedoms. European Convention on Human Rights: Collected Texts*. Strasbourg: Council of Europe Press.
- Durkheim, E. (1897). *Le suicide, etude de sociologic*. Alcan, Paris. (English translation: *Suicide by Routledge and Kegan Paul, London 1952*).
- Egerton v. Brownlow as quoted in *Rathinam v Union of India* (1994) 1605 SC.
- Encyclopedia of Crime and Justice. (1983) Vol. 4, p. 520, as quoted in *Rathinam v Union of India* (1994) 1605 SC.
- Encyclopedia of Religion. (1987) Free Press Publications Vol 8, p 541 to 547.
- Farberow, N. L. (1997). The psychology of suicide: Past and present. In A. J. Botsis, C. R. Soldatos & C.N. Stefanis (Eds.), *Suicide: bio-psychosocial approaches* (pp. 147–163). Amsterdam: Elsevier.
- Gian Kaur v State of Punjab. (1996) 648 SCC.
- Goldacre, M., & Hawton, K. (1985). Repetition of self-poisoning and subsequent death in adolescents who take overdoses. *British Journal of Psychiatry*, 146, 395–398.
- Hawton, K. (1992). By their own young hand, suicide is increasing rapidly in young men. *British Medical Journal*, 305, 1000.
- Hawton, K., & Catalan, J. (1981). Psychiatric management of attempted suicide patients. *British Journal of Hospital Medicine*, 26, 365–368.
- Hawton, K., & Fagg, J. (1988). Suicide and other causes of death, following attempted suicide. *British Journal of Psychiatry*, 152, 359–366.
- Heikkinen, M. E., Isometsa, E. T., Marttunen, M. J., Aro, H. M., & Lonnqvist, J. K. (1995). Social factors in suicide. *British Journal of Psychiatry*, 167, 747–753.
- International Islamic Organization Suicide as seen in Islam (2007). Available at <http://inter-islam.org/prohibitions/suicide.html>
- Isometsa, E. T., & Lonnqvist, J. K. (1998). Suicide attempts proceeding completed suicide. *British Journal of Psychiatry*, 173, 531–536.

- Kenny's Outlines of Criminal Law, 19th Ed p. 1 to 5 as quoted in Rathinam v Union of India (1994) 1605 SC.
- Kramer, M. (2003). *Hijacking Islam: A religion in danger of deteriorating into a manifesto for terror*. Available at <http://www.religious-tolerance.org/reacter14.htm>
- Kreitman, N., Philip, A. E., Greer, S., & Bagley, C. R. (1969). Parasuicide. *British Journal of Psychiatry*, 115, 746–747.
- LaVecchia, C., Lucchini, F., & Levi, F. (1994). Worldwide trends in suicide mortality, 1955–1989. *Acta Psychiatrica Scandinavica*, 90, 53–64.
- Lee, M. A., Nelson, H. D., Tilden, V. P., Ganzini, L., & Tolle, S. W. (1996). Legalizing assisted suicide — Views of physicians in Oregon. *New England Journal of Medicine*, 334(5), 310–315.
- Lewis, G., & Sloggett, A. (1998). Suicide, deprivation and unemployment: Record linkage study. *British Journal of Psychiatry*, 173, 583–586.
- Mann, J. J., Oquendo, M., Underwood, M. D., & Arango, V. (1999). The neurobiology of suicide risk: A review for the clinician. *Journal of Clinical Psychiatry*, 60, 7–11.
- Maris, R. W. (1997). Social and familial risk factors in suicidal behavior. *Psychiatric Clinics of North America*, 20, 519–550.
- Maruti Shripati Dubal v. State of Maharashtra (1986) cited in Andh LJ 263: 1987 APJ (Cri) 110 (AP).
- Nordstrom, P., Samuelsson, M., & Asberg, M. (1995). Survival analysis of suicide risk after attempted suicide. *Acta Psychiatrica Scandinavica*, 91, 336–340.
- Nowak, M. (1993). UN Covenant on Civil and Political Rights. *ICCPR Commentary, Kehl am Rhein, NP Engel* (pp. 124).
- Phillips, M. R., Li, X., & Zhang, Y. (2002). Suicide rates in China, 1995–99. *Lancet*, 359, 835–840.
- Platt, S., Bille-Brahe, U., & Kerkhoff, A. (1992). Parasuicide in Europe: The WHO/EURO Multicentre study on parasuicide. *Acta Psychiatrica Scandinavica*, 85, 97–104.
- Quran (2007): chapter 10 Yunus; Verse 56. Available at <http://www.islam-australia.net.au/consider%20Islam%20Dec%2005>
- Rathinam P v Union of India (1994) 1605 SC INSC 254; [1994] 3 SCC 394; AIR 1994 SC 1844 available at <http://www.austlii.edu.au/~andrew/CommonLII/INSC/1994/254.html>
- Roy, A., Nielsen, D., Rylander, G., Sarchiapone, M., & Segal, N. (1999). Genetics of suicide in depression. *Journal of Clinical Psychiatry*, 60, 12–17.
- Ruthnaswamy, M. (1974). Principles of legislation in history and contemporary principles of legislation. *Legislation: Principles and Practice*, 1st Ed Ch 5 and 6.
- Seppuku available at: <http://en.wikipedia.org/wiki/Seppuku>
- Sharma, B. R. (2003). To legalize physician assisted suicide or not — A dilemma. *Journal of Clinical Forensic Medicine*, 10(3), 185–190.
- Sharma, B. R. (2004). The end of life decisions: Should physicians aid their patients in dying? *Journal of Clinical Forensic Medicine*, 11(3), 133–140.
- Sharma, B. R. (2004). Withholding and withdrawing of life-support — A medicolgal dilemma. *American Journal of Forensic Medicine and Pathology*, 25(2), 150–155.
- Sharma, B. R. (2004). Ethical and practical principles underlying the end of life decision. *American Journal of Forensic Medicine and Pathology*, 25(3), 216–219.
- Sharma, B. R., Gupta, M., Sharma, A. K., Sharma, S., Gupta, N., Relhan, N., et al. (2007). Suicides in Northern India: Comparison of trends and review of literature. *Journal of Forensic & Legal Medicine*, 14(6), 318–326.
- Sharma, B. R., & Harish, D. (2004). Euthanasia — A medical dilemma. *Medicolegal Update*, 4(1), 19–22.
- Sharma, B. R., Sharma, A. K., & Harish, D. (2006). Abolition & restoration of Section 309 IPC — An overview. *Anil Aggrawal's Internet Journal Forensic Medicine & Toxicology*, 7(1) Available at [http://www.gerads.com/anil/ij/vol\\_007\\_no\\_001/papers/paper003.html](http://www.gerads.com/anil/ij/vol_007_no_001/papers/paper003.html)
- Sharma, B. R., Sharma, V., Harish, D., & Vij, K. (2003). Suicides in Northern India — Causes, methods used and prevention thereof. *Medicine, Science and the Law*, 43(3), 221–229.
- Suicide Act (1961) Available at: [http://en.wikipedia.org/wiki/Suicide\\_Act\\_1961](http://en.wikipedia.org/wiki/Suicide_Act_1961)
- Suicide Reference library (2007). Is there a Jewish right to commit suicide? Available at <http://www.suicidereferencelibrary.com/lest4?id^693.php>
- Suokas, J., & Lonnqvist, J. (1991). Outcome of attempted suicide and psychiatric consultation: Risk factors and suicide mortality during a five year follow-up. *Acta Psychiatrica Scandinavica*, 84, 545–549.
- United Nations General Comment on Article 1. In: *International Human Rights Instruments* (1994) UNdoc. HRI/GEN/1/Rev. 1 nr. 12 p 12–14.
- United Nations International Convention on Civil and Political Rights. (1994). *A Compilation of International Instruments, Vol. 1*. New York: United Nations.
- Vijaykumar, L. (2007). Suicide and its prevention: The urgent need in India. *Indian Journal of Psychiatry*, 49(2), 81–84.