

**ATTEMPT TO COMMIT SUICIDE WITH SPECIAL REFERENCE TO EUTHANASIA AND THE PRACTICES OF SANTHARA AND THALAIKOOTHAL**

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**ABSTRACT**

*The term 'suicide' is not defined in the Indian Penal Code, 1860 (IPC). However, a quick reference of Clift v. Schwabe<sup>1</sup> gives an apt definition of this term, "to 'commit suicide' is for a person to voluntarily do an act (or to refrain from taking bodily sustenance), for the purpose of destroying his own life, being conscious of that probable consequence, and having, at the time, 'sufficient mind to will the destruction of life.'<sup>2</sup> Alexander Chase has said, "To attempt suicide is a criminal offense. Any man who, of his own will, tries to escape the treadmill to which the rest of us feel chained incites our envy, and therefore our fury. We do not suffer him to go unpunished."<sup>3</sup> In this context Sec. 309 of the IPC provides that: "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." Thus, we see that attempt to suicide is a punishable offence as a person only has right to live and not right to die as stated in Gian Kaur v. State of Punjab<sup>4</sup>.*

*In Aruna Shanbaug "right to die" case<sup>5</sup>, the Court observed that "a person who attempts to take his/ her own life needs help more than punishment", and asked Parliament to consider decriminalizing attempt to commit suicide. The issue of suicide is also intertwined with questions of free will, determinism, belief in the sacredness of life and the purpose of life on earth. Almost every religion disapproves of it and warns of some form of punishment in the afterlife. However, in India the Jain practice of Santhara (giving up of all nourishment in order to end life) has led to Jain leaders defending their right to fast and from that to argue for the right to decide to die with dignity. Another area where attempt to suicide was raised is in the case of Thalaikoothal which is custom of involuntary euthanasia or senicide—the killing of the elderly—by their own family members—which is still practiced in several southern areas of Tamil Nadu.*

*Keywords: Attempt, Suicide, Euthanasia, Right to die, Santhara, Thalaikoothal.*

**INTRODUCTION**

Section 309 of the IPC lays down the punishment for an offence of attempt to commit suicide. It reads as, "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."<sup>6</sup>

The punishment "or with fine or with both" was substituted for, "and shall also be liable to fine" by the Amendment Act of 1882.<sup>7</sup> Abetment to suicide is also an offence as stated under Sections 305<sup>8</sup> and 306<sup>9</sup>.

<sup>1</sup> (1846) 3 CB 437.

<sup>2</sup> *Ibid.*

<sup>3</sup> [https://greensboro.com/attitude-toward-suicide-is-changing/article\\_a16688de-71a2-5ab1-85a0-10e068b6db28.html](https://greensboro.com/attitude-toward-suicide-is-changing/article_a16688de-71a2-5ab1-85a0-10e068b6db28.html) (Last visited on July 10, 2023).

<sup>4</sup> 1996 AIR 946.

<sup>5</sup> *Aruna R. Shanbaug v. Union of India*, (2011) 4 SCC 454.

<sup>6</sup> Indian Penal Code, 1860 (Act No. 45 of 1860), s. 309.

<sup>7</sup> Indian Penal Code (Amendment) Act (VIII of 1882), Sec. 7.

<sup>8</sup> Indian Penal Code, 1860 (Act No. 45 of 1860), s. 305.

## *International Journal of Applied Engineering & Technology*

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According to Section 309, just the attempt to commit an act is criminal; the actual crime itself is not. This is so that the question of whether or not to punish the victim does not arise because, in the event of an actual offence, the victim will die and be released from the Court's control. The meaning of the word 'attempt' in this section is the same as that found in Section 511 of the IPC and is a translation of the word "manifest overt act" in English. According to Sir James Stephen, "an action that is conducted with the intent to commit a crime and as part of a series of steps that, if continued, will lead to the crime being committed is considered an attempt."<sup>10</sup>

### **INGREDIENTS**

The following constitute essential elements of the crime of suicide attempt:

1. Suicide attempt was allegedly attempted by the accused.
2. This attempt was made by taking a step towards committing suicide.

It was held in *Ramamoorthy v. State*<sup>11</sup> that the prosecution must demonstrate that the accused's actions were attempts and that the attempts were total suicide in order to prove the crimes under Section 309. The law values human lives as being precious not just to those who possess them but also to the State that safeguards them and for whose safeguard and advancement the State exists. Therefore, it is true that it claims to stop people from killing their own lives as well as the lives of others. Making a suicide attempt is a crime, showing that suicide is not the product of a disturbed mind but may also be a criminal done by a person in their tranquil faculties, according to the law. Many psychologists as well as medical professionals share this opinion. There is no question that people are frequently driven to take their own lives due to financial hardship, emotional distress, and loss of status and fortune; however, some people are propelled to self-effacement by religious impulses, as evidenced by suttees and people who kill themselves by starvation or torture in order to achieve nirvana or a supreme state of bliss through absorption in the Divine essence.

### **'Commit suicide'**

A person who intentionally ends his own life by performing an act or refusing to eat is said to have committed suicide if they were aware of the likely repercussions and had "sufficient mind to will the destruction of life" at the moment.<sup>12</sup> A purposeful destruction of one's life is the essence of suicide. According to Cressel, J., committing suicide constituted "a felonious killing" and did not apply in the instance of the accused.<sup>13</sup> IPC does not provide a definition of the word 'suicide'. Kerala High Court held in *Thomas Master C A v. Union of India*<sup>14</sup> that a suicide must be determined based on evidence of intention. In everyday speech, the word "suicide" is used to characterize all acts of self-destruction, provided they are deliberate and carried out by someone who is aware of the likely consequences of what they are about to do. Suicide should never be assumed. The key component is intention. Suicide, to put it simply, is the deliberate taking of one's own life. The reasons and circumstances that led someone to make such a choice are entirely unimportant in determining whether or not the death was caused by suicide.

### **'Does any act towards the commission of such offence'**

The endeavor must involve taking such a step. A distressed person who makes threats to injure oneself may have such intentions, but he cannot be charged with making an attempt. A suicide attempt implies a preparatory action,

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<sup>9</sup> Indian Penal Code, 1860 (Act No. 45 of 1860), s. 306.

<sup>10</sup> Dr Hari S. Gaur, *Penal Law of India*, (Law Publishers (India) Pvt. Ltd., Allahabad, 2006).

<sup>11</sup> 1992 Cri LJ 2074 (Mad.).

<sup>12</sup> *Clift v. Schwabe* (1846) 3 CB 437.

<sup>13</sup> *Ibid.*

<sup>14</sup> 2000 Cri LJ 3729 (Ker).

## *International Journal of Applied Engineering & Technology*

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such as drowning, poisoning, or self-inflicted gunshots. A person who attempts to drown themselves by jumping into a well and is saved is guilty of the offence and is subject to punishment under Section 309.<sup>15</sup> However, if somebody runs to a well with the intention of drowning himself but is saved before doing so, he could not be found guilty of making an attempt. This is because his behavior was merely a preparation for doing an act, and before doing so, he might have had second thoughts.<sup>16</sup> Suicide entails complete deprivation of life. Suicide is not the mutilation of one's body. Therefore, a person who emasculated himself could not be found guilty of this crime.<sup>17</sup>

### **CONSTITUTIONAL VALIDITY OF SEC. 309**

In *Maruti S. Dubal v. State of Maharashtra*<sup>18</sup>, Bombay High Court held that Sec. 309 is unconstitutional and stated that each individual has the right—both positive and negative—to survive. In light of many suicide methods like Johars, Satis, Samadhis, and Atmarpanas, among others, the Court noted that Fundamental Rights have both advantages and disadvantages. For instance, the freedom of speech and expression protects the right to silence. So it stands to reason that the right to life also includes the right to death or to put an end to one's life. Though, Andhra Pradesh High Court in *Chenna Jagadeeswar and Anr. v. State of Andhra Pradesh*<sup>19</sup> concluded this provision is *intra vires* and constitutional.

In *P. Rathinam Patnaik v. Union of India and Anr.*<sup>20</sup>, constitutionality of Sec. 309 was challenged before a Division Bench of the Supreme Court. It was argued that section violates Article 21 in that it interferes with one's right to life, which includes the freedom to choose whether or not to live. Additionally, it was claimed that the clause violated Article 14's equality clause and was arbitrary, terrible, and barbarous. The Court determined that the clause was harsh, illogical, unconstitutional, and violated Article 21 of the Indian Constitution after taking into account a number of international and Indian judgements. It was ruled that Section 309 violates Article 21 of the Constitution and that the phrase "right to life" also includes the phrase "right to die." Affirming the law laid down by the High Court of Bombay in *Maruti Shripati Dubal*<sup>21</sup>, the Court stated: "(We) states that right to live of which Article 21 speaks of can be said to bring in its trail right not to live a forced life."<sup>22</sup> The Court, on the other hand, believed that the section did not violate Article 14 because it was neither arbitrarily applied nor discriminatorily treated.

In *Gian Kaur v. State of Punjab*,<sup>23</sup> however, the Supreme Court overruled *Rathinam Patnaik*<sup>24</sup>. Keeping in view the ambit of various fundamental rights, the Court stated that the "difference in the nature of rights has to be borne in mind". Whatever logic behind allowing someone to end their life by suicide, the court concluded by declaring that it is not easy to interpret Article 21 to include the "right to die" as one of the fundamental rights protected

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<sup>15</sup> *Emperor v. Mst. Mulia*, AIR 1919 All 376; *Himatbhai Maganbhai Mekson v. State of Gujarat*, 1998 SCC (CR) 250.

<sup>16</sup> *Ramakka v. Emperor*, ILR 8 Mad 5.

<sup>17</sup> Madho Singh, (1978) PR (Cri) No. 22.

<sup>18</sup> 1987 Cri LJ 743.

<sup>19</sup> 1988 Cri LJ 549.

<sup>20</sup> AIR 1994 SC 1844.

<sup>21</sup> 1987 Cri LJ 743.

<sup>22</sup> Ratanlal & Dhirajlal, *Law of Crimes* (Bharat Law House, New Delhi, 2006).

<sup>23</sup> 1996 AIR 946.

<sup>24</sup> AIR 1994 SC 1844.

## *International Journal of Applied Engineering & Technology*

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therein. In *Rathinam Patnaik*, the Division Bench's law was approved by the Court with regard to the applicability of Article 14.<sup>25</sup>

### **Procedure**

Suicide attempt is a cognizable, bailable, and non-compoundable offence. It can be tried by any magistrate, and a warrant is first issued.

### **Punishment**

Punishment for attempting suicide is less in comparison to the seriousness of the offence. There is no necessity to impose a minimum punishment, and an incarceration sentence is hardly required. Additionally, under Section 309, there is no minimum fine that must be imposed in order for a conviction to occur. The courts should take into account two crucial elements before imposing the sentence:

1. The accused's age and mental state.
2. His intent behind the endeavor. Was it due to lack of money and stress, the death of a close relative, mental anguish brought on by illness and agony, or was it a result of an angry outburst or family strife?

While there is an excuse for indulgence in the former situation, there is practically no such excuse in the latter.

### **EUTHANASIA**

It is referred to as "suicide" when a person ends his or her own life. The act of ending someone's life at their own or another person's request is referred to as "euthanasia" or, in a more straightforward sense, "mercy killing." Voluntary euthanasia is when the patient expressly wants to be put to death. Many governments have declared this type to be legal, or if not legal, have decriminalized it. Few nations classify it as homicide, but if the doctor complies with certain legal conditions, it is not deemed criminal homicide and they won't pursue them. Non-voluntary euthanasia is the practice of ending a person's life when they are incapable of providing their agreement due to being unconscious, incompetent under the law, or comatose. Even when a patient had previously expressed a desire to pass away but is currently unable to do so, non-voluntary euthanasia may still be used. Due to their lack of legal capacity, euthanasia of children is prohibited globally. In some unusual cases, it might be approved. There is still some misunderstanding that non-voluntary euthanasia is the same as involuntary euthanasia.

Euthanasia can be categorized into Active Euthanasia and Passive Euthanasia, in accordance with the process. Active euthanasia is the act of forcibly murdering a person who is in a vegetative state and whose condition cannot be improved. Lethal medications, etc., are employed in this type to kill the patient. While in passive euthanasia, the person's life support system is cut off so that the person would gradually pass away. Most often, euthanasia is related with those who have a terminal disease or a disability and don't want to live out their days in pain.

Euthanasia legalization is one of the most contentious topics in many nations, including India. In *Gian Kaur v. State of Punjab*<sup>26</sup>, although the Supreme Court ruled that the right to life did not include the right to die, it did not absolutely exclude passive euthanasia. In case of a person who has been terminally sick for an extended length of time and has little chance of recovering, either type of euthanasia is deemed to be acceptable. When the patients' unconsciousness is found, their lives are frequently artificially prolonged. Some claim that it is best for such a person to pass away so that he can formally end his sadness and suffering.<sup>27</sup>

### **ARUNA RAMCHANDRA SHANBAUG V. UNION OF INDIA & ORS<sup>28</sup>**

<sup>25</sup> *Ibid.*

<sup>26</sup> *Supra* note 24 at 6.

<sup>27</sup> Sushila Rao, "The Moral basis for Right to Die", 46 *Economic and Political Weekly*, 13-14 (2013).

<sup>28</sup> (2011) 4 SCC 454.

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## *International Journal of Applied Engineering & Technology*

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On the evening of November 27, 1973, a ward boy attacked Aruna Shanbaug, a nurse at KEM Hospital in Mumbai. After strangling Aruna with a dog chain, he sodomized her. Aruna was attacked, becoming dumb, crippled, and blind. She also fell into a coma, from which she has never awakened. She was being cared after by the KEM Hospital workers and had no family. She had been informed by the physicians that she had no hope of recovering. The woman no longer wished to live. She thus filed a petition in the Supreme Court through her friend Pinki Verma to order KEM Hospital from stop feeding her food. The woman's request for permission to end her life was granted by the Indian Supreme Court on December 16, 2009.

The woman's request to end her life was granted by the Supreme Court of India on December 16, 2009. However, the Court, in its landmark judgment, did permit passive euthanasia in India. The Court denied Virani's request that Aruna Shanbaug be put to death. "Assuming that the KEM hospital staff changes its mind at some point in the future," it was noted, "the KEM hospital would, in our opinion, have to apply to the Bombay High Court for approval of the decision to withdraw life support in such a situation."<sup>29</sup> Rules for passive euthanasia were established by the Court. These recommendations state that if the patient is cognizant, his or her own requests must be considered. The preferences of close family (spouse, parents, children, and others) must be considered, however, if the patient is in a coma. If no close relative is accessible or willing to help, the next buddy, in this case the KEM Hospital personnel, can step up. After then, the case must be heard by a bench of at least two judges in the relevant High Court. Three qualified doctors are to be on the bench to evaluate the patient. The bench should also find out what the state and the patient's close relatives think. This procedure shall be followed up until Parliament has passed legislation on the subject, the Supreme Court concluded. As a result, the Court opened the door for the legalization of passive euthanasia.

Suicide and homicide are quite different from euthanasia. Both aiding suicide and attempting to commit suicide are crimes under the IPC's Section 309 and Section 306, respectively. Suicide can occur for a variety of reasons, such as marital conflict, loss of love, test failure, unemployment, etc., but these causes are absent in euthanasia. When a person has a fatal illness or when their physical or mental incapacity has made life pointless or hopeless, euthanasia refers to putting them to death without pain. Additionally, it differs from homicide. When someone commits murder, they do it with the purpose to hurt or kill. However, even while there is a good faith purpose to kill someone, this is not the case with euthanasia. Doctors utilize euthanasia when a terminally sick patient is in an unrecoverable state, has little chance of recovery, is having a tough time with life, or, as in the case of Aruna Shanbaug, has been in a coma for 20 to 30 years.

### **PASSIVE EUTHANASIA**

Supreme Court in *Common Cause v. Union of India*<sup>30</sup>, gave a landmark judgment paving way for passive euthanasia, also known as Physician Assisted Suicide (PAS). As already stated in *Gian Kaur Case*<sup>31</sup>, the Court ruled that an adult human being with mental capacity has the right to refuse medical care, including the removal of life-supporting devices. The Court also upheld the right to die with dignity as a fundamental human right. A person with sufficient mental faculties is permitted to sign an advance medical directive, the court found. The five-judge constitutional bench issued the 538-page ruling. In 2005, *Common Cause*, an NGO, filed a petition in the Supreme Court demanding that "fundamental right to live with dignity" under Article 21 should also include the "right to die with dignity" and that appropriate procedures be adopted for executing "Living Wills," in which a person, when of sound mind and health, may express his desire to not require ventilator to be kept. This judgment has made it possible for individuals who are terminally ill to make an application for passive euthanasia through a "living will" in order to end their lives.

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<sup>29</sup> *Ibid*, para 126.

<sup>30</sup> AIR 2018 SC 1665.

<sup>31</sup> *Supra* note 24 at 6.

**RECENT CASES ON ATTEMPT TO SUICIDE****SANTHARA**

Jains still follow the 300-year-old tradition of santhara. Santhara is the term used to describe the practice of progressively reducing one's intake of food and liquids in order to terminate one's life and achieve "moksha". In order to obtain a calm and honorable dying, the Jain texts recommend the Santhara practice. It is said that wishing someone well on their deathbed contributes to their experience of self-actualization and spiritual emancipation. Santhara is a practice that calls for approval from family members, close friends, and Jain instructors, saints, or preachers.

According to Jain teachings, a person may only engage in the practice of Santhara under the following conditions:

- i. When one reaches old age or develops a severe illness that makes death seem imminent.
- ii. If carrying out a regular body function is problematic in any way.
- iii. If the individual has taken care of all of his obligations to his family.
- iv. The individual must voluntarily select Santhara and be in sound mental and emotional condition.
- v. If a person want to expunge any negative karma from their lifetime.
- vi. If the person is a devout follower of religion
- vii. The family has given their assent for the practice of Santhara, or permission has been obtained from family members and relations.
- viii. When there is a great desire to achieve moksha.

According to census statistics from 2011, on average 240 persons use Santhara as a means of dying each year.<sup>32</sup>

In *Nikil Soni v. Union of India*,<sup>33</sup> a PIL was presented to Hon'ble High Court of Rajasthan referring to santhara as an illegal practice and a technique of suicide attempt that is against the law of the land. Santhara allegedly violates Article 21, which recognizes the right to life but not the right to death, according to the petitioner. Santhara is a practice that carries the same legal repercussions as suicide attempts, which are prohibited by IPC Sections 306 and 309. Consequently, this request was submitted in an effort to ban this practice, which contributes to a variety of social problems. The society was shaken by this petition. The petition's major argument was that, while an older person often practices Santhara, it was extremely cruel and inhumane to deprive them of food and drink. It was said that individuals are disobeying human rights rules because of devotion to religion and its practices. It was further argued that the Santhara statute did not violate Article 25 of the Constitution since religious freedom is constrained by public morals, health, and order.

The Jains, however, asserted that the practice of Santhara is voluntary and that no one is required to engage in it, refuting the aforementioned grounds. If a person has completed all of his obligations and is eager to find redemption, or moksha, they are permitted to go from this world. It is the most pure type of death. Instead of giving up on life, they are choosing to move on with their trek. Compared to suicide, which is typically attempted when under the influence of strong emotions, it is a peaceful act.

The High Court declared Santhara's daily practice to be unlawful, punishable under Sections 306 and 309 of the IPC, and stated that it was equivalent to suicide. The panel further determined that Santhara was not a "basic religious practice" of the Jain religion, as required under article 25, which guarantees the right to "practice,

<sup>32</sup><https://www.jusprudentia.com/single-post/2016/04/08/santhara-a-critical-analysis>. (Last visited on July 12, 2023).

<sup>33</sup> AIR (2006) Raj 7414.

## *International Journal of Applied Engineering & Technology*

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propagate, and engage in religious activity." The High Court declared Santhara's practice to be equivalent to suicide and found it to be illegal and punishable under Sections 306 and 309 of the IPC. The Court also ruled that Santhara was not a "basic religious practice" of the Jain faith that must be protected under article 25, which guarantees the right to profess, practice, and propagate religion.<sup>34</sup>

Akhil Bharatvarshiya Digambar Jain Parishad filed a Special Leave Petition (SLP) with the Apex Court of India in opposition to the Rajasthan High Court's ruling. According to the petition, Santhara or Sallekhana differs conceptually from suicide in that it is not undertaken under the influence of passion, rage, dishonesty, etc. It was a deliberate process of spiritual cleansing wherein one sought to conduct his life—whatever was left of it—in a way that would lessen the inflow of karmas rather than seeking to avoid death. The Jain community is adamant that Santhara did not commit suicide. This is due to the fact that suicide is an act carried out under the influence of rage, sadness, pain, or haste, but Santhara is a holy practice carried out willingly and without the use of coercion or pressure. It is carried out to achieve salvation, or moksha. It is an entirely good deed done to lessen the flow of karma. It is argued before the Supreme Court that Santhara cannot be upheld as valid since Article 21 of the Constitution does not grant any person the right to die. However, it is crucial that everyone is aware of the distinction between the Santhara notion and the right to die concept. Santhara has a different goal than suicide. Santhara is a spiritual practice that calls for specific guidelines and rules to be followed. Only an aged person in poor health who has completed all of his or her obligations and has the approval of their family may choose to engage in this practice. Not everyone on our planet has access to Santhara anytime they want. Santhara is a duty that requires utmost resolve and devotion, whereas suicide is a practice carried out in a fit of hysteria or at a vulnerable emotional period. As a result, the Rajasthan High Court's decision was suspended by the Supreme Court's panel, which was chaired by Chief Justice H. L. Dattu.

Both euthanasia and santhara are distinct in a number of ways. Euthanasia is the painless killing of a suffering person and is often carried out by a doctor or medical professional. Another person is required for that. Additionally, euthanasia aids in relieving a person's agony and suffering brought on by his or her health and physique. While Santhara is used when a person has completed all of their obligations and wishes to submit to God by passing away in the hopes of achieving moksha. Euthanasia seeks to end a person's physical pain and suffering, whereas santhara is a religious and spiritual practice. Santhara is a progressive procedure that allows one to gently end their lives and submit to God as opposed to euthanasia, which is a short and swift method that might result in immediate death. Both practices' goals and methods of achieving death are very different from one another. There have been instances where patients choose Santhara when the physicians had given up on them.

### **THALAIKOOTHAL**

India is a multi-religious nation with many diverse cultures, languages, customs, and traditions. In this aspect, every religion has its own faith and set of beliefs. Additionally, Article 25 of the Indian Constitution guarantees citizens freedom to practice and declare their faith. But in recent times, it has been discovered that some Virudhunagar, Tamil Nadu residents engaged in a practice known as Thalaikoothal, which involves killing elderly parents<sup>35</sup>. Children kill their elderly parents in a ritual on a predetermined day. The word "leisurely oil bath" is thalaikoothal in Tamil. An old individual is given an intensive oil bath during this process just before sunrise. He or she receives many glasses of cold, delicate coconut water during the rest of the day. By doing this, the body's temperature drops quickly, resulting in a high fever and the elderly person's death within a few of days.

When a 60-year-old man called Selvaraj of Ramasamipuram Village, Virudhunagar, passed away unexpectedly on June 18, 2010, the practice of Thalaikoothal was brought to light. After an accident, he spent a lot of time confined to bed. After Selvaraj passed away unexpectedly, his nephew Asokan filed an F.I.R., and as a result, a lady named Zeenath was detained for giving Selvaraj a toxic injection. However, because the body had been

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<sup>34</sup> *Nikil Soni v. Union of India*, AIR (2006) Raj 7414.

<sup>35</sup> <https://thellogicalindian.com/exclusive/thalaikoothaladeathritualtokillelders>. (Last visited on July 14, 2023).

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## *International Journal of Applied Engineering & Technology*

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burned and there was no way to re-examine the cadaver, Virudhunagar's then-commissioner of police, Prabhakar, acknowledges that it was exceedingly difficult to locate any proof. Zeenath was so given a bail release. When a study on mercy killing in Virudhunagar was conducted, it was after the murder of Selvaraj that a number of unexplained fatalities were recorded in the city. The continuation of Thalaikoothal practice was the end outcome. Similar to other crimes, Thalaikoothal is mostly caused by poverty.

Although thalaikoothal is forbidden in India, it has long been accepted as a legitimate type of mercy killing. The government is powerless to stifle any social behavior in a society that is sharply segregated along religious, caste, and traditional lines. Therefore, no one complains, and physicians frequently identify natural causes as the cause of death; no one is detained for this crime. There isn't a fuss since society views it as usual. It is possible for entire towns to join in support of people who do this surgery.<sup>36</sup>

### **IROM SHARMILA FAST**

Irom Sharmila went on a hunger strike in November 2000 to protest the Assam Rifles' shooting deaths of 10 civilians who were waiting at a bus stop in Malom, close to the airport in Imphal. She was calling for the repeal of the Armed Forces Special Powers Act of 1958, which grants the armed forces unrestricted authority and, in essence, the freedom to murder. Sharmila was detained for around 365 days after being accused with attempted suicide under Section 309 of the IPC, released for two or so days, and then hauled back into jail. It's a legal procedure that is cycled through with incredible quickness and complete numbness. According to the Manipur Central Jail's official statistics as of May 28, 2014, Sharmila has been imprisoned for 4,776 days total from her initial arrest.<sup>37</sup>

According to the Chief Judicial Magistrate of Imphal West, the case against the accused Irom Sharmila did not meet the requirements for a suicide attempt under Section 309 IPC. A new FIR was prepared, Section 309 was once more employed, and Sharmila was detained again around 48 hours after the court ruling. According to a government doctor who checked Sharmila during the two days she was free, she was severely dehydrated, which may have raised worries about her health and led to her detention.<sup>38</sup> Sharmila has always maintained her view that her fast was a nonviolent political protest and not a violent, personal act. As a result, she has refused to admit guilt to the allegation of "attempt to suicide" for years. Sharmila said that she wasn't making a suicide attempt. She demanded that the Armed Forces Special Powers Act, 1958 be repealed.

Sharmila had steadfastly maintained her view that her fast was a nonviolent political protest rather than a violent, personal act, and that it would thus continue, despite years of refusal to admit guilt to the allegation of "attempt to suicide". Sharmila said that she wasn't trying to commit suicide. The Armed Forces Special Powers Act was the subject of her request.

The World Medical Association distinguished between the mentally or psychologically sick person who chooses a voluntary fast and the hunger striker who chooses this form of protest for a political goal when it released guidelines for doctors engaging in hunger strikes in 1975 and 1991. This allowed them to categorize the former's deed as a suicide. The doctor Hernan Reyes said in a paper titled "Medical and Ethical Aspects of Hunger Strikes in Custody and the Issue of Torture" that the obvious situation of a politically motivated hunger striker is different. Striker wants to "live better" by achieving something for himself, his team, or his nation rather than

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<sup>36</sup><https://www.bibles4mideast.com/home-1/2016/07/02/thalaikoothal-a-crude-ritual-practice-of-killing-elderly-in-india>. (Last visited on July 13, 2023).

<sup>37</sup><https://scroll.in/article/804983/why-irom-sharmilas-fast-holds-no-meaning-for-those-shes-trying-to-move>. (Last visited on July 14, 2023).

<sup>38</sup> *Ibid.*



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*International Journal of Applied Engineering & Technology*

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"die." He is prepared to give his life if necessary for his cause, but suicide is definitely not the goal.<sup>39</sup> In Sharmila's situation, the line separating political protest and suicide might be hazy at times. Over the course of the previous 16 years, force-feeding that was justified as a life-saving measure has essentially dulled her freedom, her battle, and in some respects turned her into a creature in a zoo. It just matters that it keeps her alive.

No hunger strike will result in a violation of Section 309. When someone goes on a hunger strike, a point may be reached when death is certain unless quick action is done to stop it by giving the victim food. It may be considered a suicide attempt if, at such a crucial point, the individual continues to reject food. A brief time of simple food rejection does not constitute a deliberate attempt to end one's life. After the stage of intention, it would only be the stage of preparation.

In *Ram Sunder Dubey v. State*<sup>40</sup>, the Court had to decide if an offence under Section 309 of the IPC had been established in the case where the accused went on a hunger strike to get his requests met by his employers. In response to the inquiry, the Court noted that the specific challenge of hunger suicide is that it is a protracted procedure that can be stopped or abandoned at any point (perhaps save the very last). It is difficult to know for sure if the accused truly meant to fast to the very end unless there is some overt revelation by him of his purpose. Even if such an intention exists initially, one must always account for the potential that the accused might change his mind and end his fast before it becomes risky. A person can be charged with attempted suicide if they openly state that they would fast until they die and then continue to withhold all food and drink to the point at which there is an immediate risk of death. The evidence can hardly be deemed to support the accusation when it falls short of this standard.

### CONCLUSION

Everywhere, the right to life is protected by the constitution. But when it comes to custom, culture, or tradition, it is clear from the explanation above that none of these things are acceptable when it comes to killing someone or inflicting an unnatural death. Even though the government has passed laws to safeguard Indian citizens, they are insufficient to guarantee their lives and physical well-being. Most members of poorer societies aren't even aware of their rights or the government policies put in place for their benefit. In this aspect, NGOs may be quite helpful in educating people about their rights.

There must be a distinction made between mercy killings and suicide deaths. God gave us life, and only He has the power to take it away. The society cannot condone a premature death. But mercy killing need to be allowed to ensure that the suffering of someone who is afflicted with a fatal illness or extreme pain is put to an end.

The Mental Healthcare Act, 2017 made suicide attempt no longer a crime. India is starting to comprehend human behavior through this stage. Additionally, attention is being paid to mental health issues and psychiatric diseases. People who have attempted suicide are already distressed and should receive support and counselling rather than being imprisoned. According to the Act, a person who tries suicide is regarded to be mentally ill at the time and is not subject to punishment under the IPC. An individual trying to commit suicide due to extreme stress must get care, therapy, and rehabilitation from the government in order to lower the likelihood of another attempt.<sup>41</sup>

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<sup>39</sup><https://www.icrc.org/eng/resources/documents/article/other/health-article-010198.html>. (Last visited on July 12, 2023).

<sup>40</sup> AIR 1962 All 262.

<sup>41</sup><http://indiatoday.intoday.in/story/mental-healthcare-bill-passed-in-parliament-all-you-need-to-know/1/914433.html>. (Last visited on July 14, 2023).

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