THE LEGAL STATUS OF ATTEMPT TO SUICIDE IN INDIA: A CRITICAL ANALYSIS OF SECTION 115 OF THE MENTAL HEALTHCARE ACT, 2017 AND THE EMERGING FRAMEWORK UNDER THE BHARATIYA NYAYA SANHITA, 2023 - A DOCTRINAL AND STATISTICAL STUDY

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ABSTRACT

The Indian legal order has long treated the preservation of human life as a paramount value, and its statutes have generally discouraged conduct that endangers it. While Article 21 secures life and personal liberty as a fundamental guarantee, the erstwhile Section 309 of the Indian Penal Code, 1860 treated a failed suicide attempt as a punishable wrong for more than a century and a half. A more therapeutic understanding entered Indian law only with Section 115 of the Mental Healthcare Act, 2017, which raises a rebuttable presumption that a person attempting suicide was labouring under severe stress and ought not, as a rule, to face trial or sentence. With the coming into force of the Bharatiya Nyaya Sanhita, 2023 on 1 July 2024, Section 309 IPC has been substantially displaced; Section 226 of the Sanhita now penalises attempt to suicide only where it is committed to compel or restrain a public servant in the discharge of official duty. This has created a legal vacuum in which the vast majority of attempters go both unpunished and untreated. Drawing on National Crime Records Bureau data from 2013 to 2024 and a review of landmark judicial decisions, this paper examines the coherence of the present framework, identifies the ambiguity surrounding the undefined concept of "severe stress," and argues that the State's statutory duty of care, treatment and rehabilitation under Section 115(2) has remained largely unrealised. The paper concludes with recommendations for legislative clarification, a specialised adjudicatory mechanism, and preventive policy.

Keywords: Attempt to suicide, Article 21 of the Constitution of India, Indian Penal Code, 1860, Mental Healthcare Act, 2017, Bharatiya Nyaya Sanhita, 2023, Severe Stress, Right to Life

I. Introduction

With one of the largest populations on earth, India occupies the twenty first position among 183 nations for the frequency of suicide, registering roughly 12.7 deaths per 100,000 people.[1] That statistic is sobering for a country that stakes its future on the aspirations of a young population. The constitutional promise of life and personal liberty in Article 21 has been given real content by an activist judiciary, which has extended its protective reach across a wide range of concerns ranging from the welfare of prisoners to questions of medical and social entitlement. Historically, Section 309 of the Penal Code operated as a criminal law adjunct to that constitutional promise, treating any overt step towards ending one's own life as an offence.

For much of that history the reason behind the act was treated as legally irrelevant. Over time, however, the "why factor" gained importance, culminating in the enactment of the Mental Healthcare Act, 2017, which came into force in 2018. Attempt to suicide is widely regarded as inhumane to punish, because a sane person seldom harms himself unless overwhelmed by circumstances beyond his control. To punish such a survivor compounds his suffering; it is cruel and irrational to penalise a person who is himself a victim of his circumstances. The humane response is care, treatment and rehabilitation rather than prosecution.

This paper is confined to the legal status of attempt to suicide in the context of Section 115 of the Mental Healthcare Act, 2017 and the newly operative Section 226 of the Bharatiya Nyaya Sanhita, 2023. It considers the psychological dimension and the causative factors of suicide, analyses the leading judgments, evaluates India's international human-rights obligations, and recommends measures for effective suicide prevention.

II. Suicide and Attempt to Suicide: Conceptual Framework

At its simplest, "suicide" signifies the act of ending one's own life. The word appears in English writing as early as 1635, in Sir Thomas Browne's Religio Medici (printed in 1642), and it traces back to the Latin suicidium, a compound of sui ("of oneself") and a form of caedere ("to slay").

The now-familiar notion of a person who intentionally destroys himself crystallised around

[1] National Crime Records Bureau, Accidental Deaths and Suicides in India, 2022 (Ministry of Home Affairs, Government of India, 2023).

1728; earlier writers preferred formulations such as "self-murder" and "self-killing."[2]

Lexicographically, the Merriam-Webster Dictionary defines an attempt to suicide as trying to kill oneself, while suicide is the termination of an individual's life by his own act or omission; an attempt is thus the failure to accomplish the purpose of ending one's own life.[3] The Oxford Dictionary similarly defines suicide as the act of deliberately killing oneself.[4] The World Health Organisation, in a 1968 study, described a suicidal act as "the injury with varying degree of lethal intent," distinguishing acts with a fatal outcome (suicide) from those with a non-fatal outcome (attempted suicide).[5]

III. Religious Perspectives on Suicide

Different religious traditions in India have approached suicide through the lens of the mythologies that prevailed in ancient times, and, while their reasoning differs, no major faith sanctions the taking of one's own life.

A. Hinduism

As one of the world's oldest continuous traditions, Hinduism draws its worldview from the Vedas, the Puranas, the Dharmashastras, the Upanishads and the great epics. The practice attracted little notice in the Vedic period and receives scant attention in the Vedas themselves. Taking one's life is ordinarily condemned as a transgression against the self, one that disrupts the cycle of punarjanam or rebirth. There is, however, a countervailing strand: within the Varnashrama Dharma scheme of life-stages, the renunciatory phase of Sanyasashrama contemplates a voluntary shedding of worldly existence in the quest for liberation, or Moksha.

B. Islam

Islam strictly condemns suicide as a sin. The Quran emphasises the preservation of life it explicitly provides as "Surely to Allah we belong and to Him we will all return" and directs that believers must not kill themselves, warning that one who does so sinfully and unjustly will

[2] G. Corsetti, "The Origin and Meaning of Suicide," available at https://www.linkedin.com/pulse/origin-meaningsuicide-gordon-corsetti (last visited Jan. 2025).
[3] Merriam-Webster Online Dictionary, available at https://www.merriam-webster.com/dictionary/attempt%20suicide (last visited Jan. 2025).
[4] S. Kumar & R. Sahai, Oxford Dictionary (2nd ed. 2016).
[5] Smita Satapathy & Madhubrata Mohanty, "Constitutionality of Attempt to Commit Suicide: Unlocking the Controversy," 20(1) Medico-Legal Update 63 (Jan.–Mar. 2020).

face the Fire. The faithful are enjoined to place their trust in the mercy of Allah rather than to end their own lives.

C. Christianity

Christianity likewise regards suicide as a sin and does not favour it. The Sixth Commandment states, "You shall not murder,"[6] and, because human life is created by God and is sacred, its deliberate destruction is treated as an affront to the divine. Life is to be lived fully, and suicide is understood as an act of disrespect towards God.

IV. Causes of Suicide: Statistical Profile

The National Crime Records Bureau's 2022 volume maps both the leading triggers of suicide and its overall incidence. Domestic discord and ill-health emerge as the dominant factors, together explaining close to half of the recorded cases nationwide. The distribution of the leading causes is set out in Table 1 below.[7]

Table 1: Causes of Suicide in India, 2022 (Selected Categories)

No.	Cause	Males	Females	Total	HighestIncidence State
1	Bankruptcy or Indebtedness	6,417	617	7,034	Maharashtra
2	Marriage-Related Issues	4,237	3,926	8,164	Uttar Pradesh
3	Failure in Examination	1,137	958	2,095	Maharashtra
4	Family Problems	37,587	16,530	54,127	Maharashtra
5	Illness	21,949	9,527	31,484	Tamil Nadu
6	Drug Abuse / Alcohol Addiction	11,394	239	11,634	Maharashtra
7	Love Affairs	4,730	2,897	7,629	West Bengal

[6] Exodus 20:13, The New King James Version, available at https://biblia.com/bible/nkjv/exodus/20/13.
[7] National Crime Records Bureau, Accidental Deaths and Suicides in India, 2022 (Ministry of Home Affairs, 2023).

No.	Cause	Males	Females	Total	Highest Incidence State
8	Poverty	1,249	203	1,452	Maharashtra
9	Unemployment	2,836	334	3,170	Maharashtra
10	Professional / Career Problem	1,805	278	2,083	Maharashtra
11	Causes Not Known	12,009	5,740	17,750	West Bengal
12	Other Causes	12,795	5,038	18,016	West Bengal

Source: NCRB, Accidental Deaths and Suicides in India, 2022.

A longitudinal view reinforces the concern. Government open data records show that the absolute number of suicides climbed from 134,799 in 2013 to 171,418 in 2023, with the sharpest increases occurring during and after the pandemic years.[8] The most recent NCRB report records 170,746 suicides in 2024 which is marginally lower than 2023 but 22.7 per cent higher than the prepandemic figure of 2019, indicating that the country's suicide burden has not returned to its earlier level.[9]

Table 2: Suicide Incidence and Rate in India, 2013-2024

Year	Total Number of Suicides	Mid-Year Population (in lakh)	Rate (per 100,000)
2013	134,799	12,287.9	11.0
2014	131,666	12,440.4	10.6
2015	133,623	12,591.1	10.6
2016	131,008	12,739.9	10.3

[8] Government of India, Open Government Data Platform (data.gov.in), "Total Number of Suicides and Rate of Suicides," licensed under the Government Open Data License, India.
[9] Vignesh Radhakrishnan et al., "Number of Suicides in '24 22.7% Higher than in 2019," analysis of NCRB, Accidental Deaths and Suicides in India, 2024.

2017	129,887	13,091.6	9.9
2018	134,516	13,233.8	10.2
2019	139,123	13,376.1	10.4
2020	153,052	13,533.9	11.3
2021	164,033	13,671.8	12.0
2022	170,924	13,797.5	12.4
2023	171,418	13,923.3	12.3
2024	170,746	—	12.2

Source: data.gov.in and NCRB, Accidental Deaths and Suicides in India (2013–2024).

The occupational and economic profile of victims points strongly to social and economic vulnerability. In 2024, daily-wage earners accounted for about 31 per cent of all suicide victims which is far exceeding any other category and is followed by housewives (13 per cent), selfemployed persons (10.5 per cent), the salaried (9.9 per cent), the unemployed (8.7 per cent), students (8.5 per cent), and persons in the farming sector (6.2 per cent). Nearly 63 per cent of victims had an annual income below one lakh rupees, and a further 31.6 per cent earned between one and five lakh rupees.[10] These figures echo the earliest NCRB profession-profile datasets, in which "housewives," students, the self-employed, and agricultural workers already constituted a substantial share of victims as far back as 2013 and 2014.[11]

V. Attempt to Suicide and the Law

A. The Indian Penal Code, 1860

Under the now-superseded Section 309, anyone who took a concrete step towards self-destruction and failed rendered himself liable to simple imprisonment of up to a year, a fine, or both. In substance, the survivor of an unsuccessful attempt could be prosecuted for that very survival. The High Courts long disagreed over whether the provision could withstand

[10] Radhakrishnan et al., supra note 12.
[11] Government of India, data.gov.in, "State-wise Profession Profile of Suicide Victims during 2013" and "…during 2014."

constitutional scrutiny, and although a two-judge bench of the Supreme Court at one stage struck it down, a larger Constitution Bench eventually restored it, concluding that the guarantee of life in Article 21 carries with it no correlative liberty to die.[12]

B. The Mental Healthcare Act, 2017

Section 115 of the 2017 Act signalled a fundamental reorientation. It directs that, the Penal Code notwithstanding, a person who attempts suicide is to be treated, absent proof to the contrary, as having acted under severe stress, and is on that footing to be spared prosecution and punishment. The second limb of the section fixes the appropriate Government with responsibility for extending care, treatment and rehabilitation to such an individual, with a view to forestalling any repetition. Passed to align domestic law with the United Nations Convention on the Rights of Persons with Disabilities and to supersede the 1987 legislation, the provision sharply narrows the practical reach of the former Section 309.

The section is, however, far from watertight. Nowhere does the statute say what "stress" or "severe stress" actually means, and the duty of care in the second sub-section is expressed to run only to a person who both carries severe stress and has attempted suicide, so that the merely stressed, who have not acted, fall outside its protection. With no benchmark fixed for when ordinary stress becomes "severe," and stress being an inescapable feature of daily existence, the provision breeds precisely the uncertainty that frustrates its object.

C. The Bharatiya Nyaya Sanhita, 2023

Effective from 1 July 2024, Section 226 of the Bharatiya Nyaya Sanhita supplants Section 309. It attaches criminal liability that is simple imprisonment up to a year, a fine, both, or community service. The design of the section is tells that it reaches attempt to suicide only when directed at a public servant in that capacity. For every other attempt it offers neither penalty nor succour, and whether the Section 115 presumption of severe stress even applies in those residual cases is left unresolved.

Section 2(28) of the Sanhita enumerates eleven categories of public servants, which itself creates a fresh difficulty: where a person attempts suicide to compel or restrain someone who is not a public servant, no consequence follows. Consider an illustration: A threatens to commit

[12] Gian Kaur v. State of Punjab, 1996 AIR (SC) 946.

suicide to compel B to marry him; B refuses; A attempts suicide and survives. A faces no legal consequence and may, if needed, shelter under Section 115 of the Mental Healthcare Act. The narrow scope of Section 226 thus leaves a substantial category of conduct wholly unaddressed.

VI. Judicial Trends

The constitutional argument over Section 309 unfolded over many years. An early note of unease was sounded by the Delhi High Court in State v. Sanjay Kumar Bhatia, which branded the provision's survival an anachronism while stopping short of pronouncing on its validity.[13] The Bombay High Court went further in Maruti Sripati Dubal v. State of Maharashtra, striking the section down as offensive to Articles 14 and 21 on the view that the right to live carried within it a liberty to end one's life.[14] The Andhra Pradesh High Court declined to follow that reasoning in Chenna Jagadeeswar v. State of Andhra Pradesh, sustaining the provision's validity.[15]

At the apex level, the Court in P. Rathinam v. Union of India aligned itself with the Bombay position, reasoning that Article 21 does not condemn a person to endure an existence he finds unbearable and famously describing a suicide attempt as an appeal for assistance rather than an occasion for penalty.[16] That view did not survive long. In Gian Kaur v. State of Punjab, a Constitution Bench set Rathinam aside, reasoning that the right to life is an affirmative natural entitlement, whereas suicide is its unnatural negation, and cannot be folded into that right. The Bench was careful, however, a distinction must be drawn between euthanasia, which signifies a dignified end to a life nearing its natural conclusion, and the premature ending of a life that would otherwise continue.[17]

Once the Mental Healthcare Act came into operation, judicial handling of Section 115 proved inconsistent, and courts have too often passed over the very question of "severe stress." In T. Pushpanathan v. Inspector of Police, a headmaster aggrieved by unpaid wages, who was said to have threatened self-immolation, was charged under Sections 309 and 506(2); the Madras High Court set the first information report aside on the strength of the Act, even though his

[13] State v. Sanjay Kumar Bhatia, 1985 Cri LJ 931 (Del.).
[14] Maruti Sripati Dubal v. State of Maharashtra, 1987 Cri LJ 743 (Bom.).
[15] Chenna Jagadeeswar v. State of Andhra Pradesh, 1988 Cri LJ 549 (A.P.).
[16] P. Rathinam v. Union of India, 1994 AIR (SC) 1844.
[17] Gian Kaur v. State of Punjab, 1996 AIR (SC) 946.

mental state was in fact unimpaired and was never inquired into.[17] By contrast, in Simi C.N. v. State of Kerala, a village officer driven to attempt suicide by intense political coercion had the proceedings against her quashed under Section 115, the Kerala High Court on this occasion actually weighing her mental condition against the surrounding facts.[18]

In Sapna alias Sapna Choudhary v. State (NCT of Delhi), where the petitioner had swallowed poison following harassment, the court remarked that nothing can be established or refuted without a trial, drew attention to the missing opinion of a medical board, and underlined the want of guidelines to govern Section 115.[19] In Red Lynx Confederation v. Union of India, the Supreme Court called upon the Attorney General to defend the soundness of Section 115 in a matter concerning persons who had attempted suicide within zoo enclosures.[20]

The Court in S. Kameswaran v. Inspector General of Police confined Section 115(1) to prosecutions under Section 309 and held it inapplicable to disciplinary action, thereby upholding the dismissal of a constable who had attempted suicide; what was to become of his care and rehabilitation under Section 115(2) was left unaddressed.[21] And in Maria Raju Alphonse v. State, proceedings were quashed simply on the basis that Section 115 decriminalises Section 309, with no examination of whether severe stress in fact existed and no direction as to the petitioner's treatment.[22]

VII. International and Regional Human-Rights Framework

India's commitments on the international plane strengthen the case for a treatment-centred approach. The Universal Declaration of Human Rights, 1948 affirms, in Article 25(1), an entitlement to a living standard adequate for health and well-being, medical care and essential social services among them. The International Covenant on Economic, Social and Cultural Rights, 1966, which India accepted in 1979, declaring that it would give effect to Article 12 consistently with Article 19 of the Constitution and recognises in that article the right of everyone to the best attainable state of physical and mental health.[23]

[17] T. Pushpanathan v. Inspector of Police (Madras High Court).
[18] Simi C.N. v. State of Kerala (Kerala High Court, 7 April 2022).
[19] Sapna alias Sapna Choudhary v. State (NCT of Delhi) (6 January 2022).
[20] Red Lynx Confederation v. Union of India (11 September 2020).
[21] S. Kameswaran v. Inspector General of Police (16 July 2020).
[22] Maria Raju Alphonse v. State represented by Inspector of Police (11 February 2019).
[23] International Covenant on Economic, Social and Cultural Rights, 1966, art. 12, 993 U.N.T.S. 3.

Complementary guarantees appear across the treaty framework. The International Convention on the Elimination of All Forms of Racial Discrimination, 1965 protects, in Article 5(e)(iv), equal access to public health and medical care; the Convention on the Elimination of All Forms of Discrimination against Women, 1979 obliges States, under Article 12, to secure women nondiscriminatory health-care access; and the Convention on the Rights of the Child, 1989 affirms, in Article 24, the child's claim to the highest attainable standard of health. Of most immediate relevance, the Convention on the Rights of Persons with Disabilities, 2006, ratified by India in 2007 requires through Article 25 that persons with disabilities receive health care equal in range and quality to that available to others, rehabilitation included.[24]

VIII. Critical Analysis

The NCRB data demonstrate that suicides arise from a diverse set of causes, of which the great majority fall within two broad heads that is social and economic. Of the twenty enumerated causes, eighteen may be classified under these two heads. Some measure of stress is doubtless present in every case, but to erect a statutory presumption of severe stress in all cases is untenable. The data indicate that suicides attributable to mental illness or insanity constitute roughly 46 per cent of those caused by "illness," or about 8.5 per cent of all suicides in 2022 which is significant but far from universal share.

The Act's own vocabulary bears this out. Its Section 2(s) treats mental illness as a serious disturbance of thought, mood, perception, orientation or memory that markedly disables a person's judgment, conduct or capacity to manage the ordinary demands of living. Read naturally, that condition is not interchangeable with severe stress: illness of the mind is a diagnosable, externally identifiable state, whereas stress is an internal reaction to circumstance. To presume severe stress uniformly, without any statutory yardstick, while simultaneously foreclosing a trial, is to leave justice half-done. Stress, properly understood, is not in itself what drives a person to suicide; the decisive factor is his incapacity to withstand it.

IX. Issues in the Legal Framework

1. Ambiguity of "stress" / "severe stress": The concept on which the benefit of Section 115 turns is nowhere defined in the Act. In the absence of guidelines, discretion vests wholly

[24] Convention on the Rights of Persons with Disabilities, 2006, art. 25, 2515 U.N.T.S. 3. The Mental Healthcare Act, 2017 was enacted, in part, to give domestic effect to this Convention.

in the judiciary, and it becomes difficult to distinguish suicides born of severe stress from those that are not inviting inconsistency and potentially a miscarriage of justice.

2. Over-emphasis on the presumption of stress: The presumption that severe stress underlies every attempt is unsound. Some attempts arise from sudden anguish, such as planned suicide bombings are deliberate, calculated acts that plainly fall outside the rationale of Section 115 and merit punishment rather than protection.

3. Psychology versus law: Surveys suggest that a large majority of Indians report significant stress, and mental-health infrastructure remains gravely inadequate, with only about three psychiatrists per million population. A statutory presumption of severe stress cannot substitute for the treatment mechanisms that the country conspicuously lacks.

4. Bar to prosecution and internal contradiction: Section 115 uses the phrase "unless proved otherwise" yet simultaneously bars trial. These two limbs are mutually contradictory: without a trial, the existence of stress can be neither proved nor disproved. In practice, courts quash Section 309 cases under the cover of Section 115 without examining the merits, resulting in ineffective delivery of justice.

5. Conflation of attempters with the mentally ill: The Act was designed to secure the rights of the mentally ill as defined in Section 2(s). Presuming stress in every attempt places attempters on the same footing as the mentally ill, blurring two distinct categories and defeating the statute's purpose.

6. Emerging gaps under Section 226 BNS: Section 226 penalises attempt to suicide only where a public servant is compelled or restrained, and the maximum penalty of one year (or fine or community service) is meagre in cases involving mass destruction. It leaves untouched attempts directed at private persons and prescribes no course of action for unsuccessful attempters generally.

7. Absence of an action plan: Neither the former Section 309 IPC nor the Mental Healthcare Act supplies an effective plan for those who survive an attempt. Research indicates that survivors are far more likely to attempt again. The rate of attempted suicide being many times that of completed suicide, with a significant proportion of survivors repeating the attempt and a smaller fraction eventually succeeding.

X. Recommendations and Suggestions

1. Governmental plans and policies for prevention: The State should frame and effectively implement dedicated suicide-prevention laws and policies. Section 226 BNS deserves reconsideration so as to cover acts of compulsion and restraint directed not only at public servants but also at private persons. The State should identify and treat those at risk rather than wait for attempts to occur.

2. Amendment of Section 115, MHCA: The provision requires suitable amendment. It should distinguish suicides by the mentally ill from those by otherwise healthy persons: the presumption of stress serves the former, while the latter call for robust prevention policies. The undefined concept of stress must be clarified, and the duty of care, treatment and rehabilitation under Section 115(2) must be strictly enforced and harmonised with the Bharatiya Nyaya Sanhita.

3. A specialised tribunal or judicial mechanism: Because stress is a psychological question, adjudication is best entrusted to a forum in which decision-makers are assisted by mental-health experts capable of assessing the level of stress in a given case and recommending treatment to prevent recurrence.

4. Stress-management and awareness programmes: Given the involvement of stress across the profiles of students, farmers, the unemployed, daily-wage earners and homemakers, timely stress-management and awareness programmes should be organised across sectors, with particular attention to rural areas, the unorganised sector, and vulnerable groups.

XI. Conclusion

The law exists to advance the welfare of those it governs, and the steady climb in suicide figures cannot be allowed to pass unremarked. Sound legislation and policy, carried into effect by working programmes at every institutional level, hold out the surest prospect of prevention over the long term. Where an attempt is genuinely coercive or dangerous to others, the law must treat it as such; where it reflects real and severe distress, the answer is treatment, not trial. Applying Section 115 as a reflex, indifferent to the particular facts, hollows out the very purpose it was meant to serve and each case deserves to be judged on its own merits. A nation's people are its greatest resource, and the State's first duty is to guard their lives and improve

their quality. Survivors should be given effective treatment so that history does not repeat itself, an approachable helpline network should exist at every tier, and anyone who abuses the law's protective provisions should answer for it. Handled in this spirit, the framework can genuinely aid the courts and other authorities in doing justice.

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