

GIAN KAUR VS STATE OF PUNJAB AIR 1996 SC 946

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INTRODUCTION:

Article 21 of the Constitution of India provides that no person shall be deprived of his life and personal liberty except in accordance with a procedure established by law. The importance of this article has been reiterated by the judicial authorities of our country on many occasions and is widely regarded as one of the fundamental tenets of civilized society. Public policy prohibits the enactment of laws which deprive individuals of their life or liberty for arbitrary/irrational reasons, thereby contravening fundamental human rights. The necessity of Article 21 is fundamental to the principles of justice and rule of law and is such that it can be suspended even in cases of national emergencies. Bhagwati J., writing for the Court in **Francis Coralie Mullin v. The Administrator**,⁸²⁹ also spoke about the significance of Article 21 as a constitutional principle integral to democratic governance. The article scope includes all cases where someone loses their life or freedom (regardless of the reason). Hence, what does this article actually advocate? What does this right to live mean? How does this right to die relate? If there is a connection between the two rights, why do we impose criminal punishment for attempted suicide? The right to live and the right to die are separate rights but somehow related. One permits and one prohibits. An analysis of Gian Kaur v. State of Punjab (an important case in relation to this subject) will elucidate the lines between the two rights.

GRASP - EDUCATE - EVOLVE

⁸²⁹ AIR 1981 SC 746;

BACKGROUND OF THE CASE:

An attempted suicide (or failing to commit an attempt at suicide) is in these situations prohibited under Section 309 of the Indian Penal Code. While committing suicide is not a crime, attempting to engage in the act may lead to an accomplice being found guilty if they cannot prove that they were not present during the event. Although it appears contradictory, through application of the law many hundreds of potential fatalities have been prevented, and those who have attempted to violate the law were exonerated. The courts have repeatedly examined this issue with a view of balancing the interaction between this provision and the legal basis that the right to live under the Constitution is guaranteed by Article 21. Therefore it has been challenged both on moral grounds and on constitutional grounds.

The **Maruti Shripati Dubal v. State of Maharashtra**⁸³⁰ case was the first instance where the court struck down the provision, finding it unconstitutional and in violation of Article 21. The court held that the right to life contained both affirmative and negative elements and that the right to die was an extension of the individual's right to life. Justice P.B. Sawant found it irrational to punish the individual who attempts suicide and fails when the provision itself is aimed at those who want to die. An individual who attempts suicide requires mental treatment rather than incarceration, and those who wish to end their lives due to a physical illness, advanced age, disability, etc. require nursing care. This portion of the provision is inherently counter-productive and counter-productive if one wants to stop living (for any reason).

The Delhi High Court stated in **State vs. Sanjay Kumar Bhatia**⁸³¹ that it urged repeal of IPC Section 309 on grounds that it is "an anachronism unworthy of human society" and exonerated a young child who attempted

suicide by ingesting 'tik-20' (a class of chemicals commonly referred to as 'bed bug killers'). Instead of sending the child to a mental health facility, we placed him or her in a cell with other criminals.

FACT OF THE CASE:

Gian Kaur and her husband Harbans Singh were charged with assisting in their daughter-in-law Kulwant Singh's suicide in the Gian Kaur v. State of Punjab case. They were said to have committed this offense because they wanted their son to marry another woman who would have provided them with a dowry. The trial court found them guilty of violating Section 306 of the Indian Penal Code, which prohibits assisting someone in committing or attempting suicide. Both Gian Kaur and Harbans Singh were sentenced to seven years of imprisonment, together with a penalty of Rs. 2000. If the inmates did not pay the penalty, they would serve an additional nine months of hard labor. The inmates filed an appeal with the High Court, which ruled against the trial court's decision. Gian Kaur's sentence was reduced from 7 years of hard imprisonment in the High Court to 3 years; however, there was no change on her husband's sentence. The appellants later sought Special Leave from the Supreme Court to challenge the constitutionality of Section 306 of the IPC, arguing that it violated Article 21 of the Constitution as it provides for both a right⁸³² to live and a right to die as defined in P. Rathinam. Thus, helping or abetting someone in committing suicide was only helping them exercise their right to die.

ISSUES:

1. Does Article 21 ("right to life") include a "right to die" in Article 21?
2. Is Section 306 of the IPC (Indian Penal Code) constitutionally valid?
3. Is Section 309 of the IPC a violation of Articles 14 and 21 of the Constitution?

⁸³⁰ 1987 Cri LJ 743 (Bom HC).

⁸³¹ 1986 (10) DRJ 31 (Delhi High Court).

⁸³² Supreme Court of India, available at: [Indian Kanoon Judgment](https://indiankanoon.com).

LEGAL PRINCIPLES:

Article 21 ⁸³³emphasizes protecting life and individual freedom in Part III of the Constitution, under Fundamental Rights. This article expresses that "no person shall be deprived of his life or personal liberty except in accordance with the procedure established by law." This definition of the article provides people with dignity by allowing them to live with dignity, in addition to having the right to live. The very mention of "except in accordance with the procedure established by law" requires that any restrictions upon one's life or personal freedom must adhere to an acceptable process, rather than an arbitrary or unfair process.

Over time, the judiciary has also interpreted Article 21 in a broad manner to include other rights, such as the right to health, privacy, as well as the right to a clean environment. The judiciary also ensures that the actions of the State are done through just & legitimate means and acts as a check on arbitrary or capriciously executed actions of the State. Article 21 does recognize that there can be limitations under specific circumstances as long as the limitations are fair and reasonable and thus are not absolute rights. The Supreme Court has held in landmark decisions that the right to die with dignity is part of the broader right to life, which includes the right to refuse medical treatment and/or to make a living will. Ultimately, Article 21 reflects the constitutional duty to maintain justice, equality and rule of law in respect of any matter relating to the life and personal liberty of persons.

Article 14: ⁸³⁴This article is at the foundation of the equality right and is integral to Indian law because it ensures that all people will be treated equally under the same laws. This means that people from all walks of life have the same rights when it comes to the legal system and what it provides them. As Article 14 protects against unlawful discrimination, it also protects against any act that the State does

that may result in discrimination against a person. No act of the State shall be arbitrary and whim-based and thus, no person shall experience any form of disadvantage due to the actions of the State. Equal protection guarantees that Like situations will be treated the same under the law and as such will not be unfairly discriminated against by similar laws and actions. The Indian Supreme Court has recognized the importance of Article 14 in providing both justice and equity in the implementation of legal enforcement by reinforcing the notion that Article 14 is a fundamental right and must continue to be respected and protected as such.

Section 306 of The Indian Penal Code, 1860 ⁸³⁵– encompasses abetting suicide by providing the penal consequences for aiding in the commission of that offense. This Act applies when you aid, incite or encourage a person to commit suicide; if you are determined to act upon your intention and in doing so the accused does successfully complete their intended act of suicide, you are liable to be prosecuted for committing the crime of abetting suicide. Abetting the commission of a crime means intentionally providing assistance or support to another individual to accomplish that criminal act. The primary objective under Section 306 is to impose liability upon those individuals who knowingly induced or encouraged another person to make the decision to take his or her life.

Section 309 of The Indian Penal Code, 1860 ⁸³⁶– deals with attempted suicide by providing the penal consequences for aiding in the commission of that offense.

JUDGEMENT:

The High Court upheld the decision of the Trial Court and did not grant an appeal. As suicide prohibited by law, assisting someone in the act of committing suicide is also categorized as a crime. Therefore, both GianKaur and her husband were fined Rs. 2000 and sentenced to

⁸³³ The Indian Constitution Article 21

⁸³⁴ The Indian Constitution Article 14

⁸³⁵ The Indian Penal Code, 1860

⁸³⁶ The Indian Penal Code, 1860

six years in prison. Five judges on a Constitutional Bench have ruled that the term "Right to Die"/ "Right to Be Killed" is not included within the general definition of Life, which is provided by Article 21 of the Indian Constitution. The Apex Court has held that 'Right to Life' means that every individual enjoys a dignified life until the moment of death, which includes access to die with dignity. This determination supports the concept that if someone is nearing death, they should be able to have the right to die with dignity.

The Court emphasized that the "right to die" as a result of another dying unnaturally cannot be interpreted as the "right to die" with dignity at one's natural death. In cases of a natural death nearing through God's creation, Article 21 does not provide for limiting the period of a person's life by interpretation. The argument of the appellants that Section 309 of the Indian Penal Code is unconstitutional, due to the violation of Article 21 of the Constitution, was not accepted by the Court. The Court also dismissed the argument of the petitioner that Section 309 of the Indian Penal Code is unconstitutional because of a violation of Article 14. The question of whether Section 306 of the IPC is constitutional was also addressed by the Court. For compelling reasons in the interests of society, the Court has stated that assisted suicide and attempted assisted suicide should be treated as two separate offences. The object of such a provision is to avoid the inherent danger caused by the absence of this type of provision. While there may be some countries where attempting to commit suicide is not a criminal offence, abetting a person in committing suicide is always a separate offence. Thus, Section 306 of the IPC creates a new and separate offence that stands alone from Section 309 of the IPC. Therefore, the judgement in *P. Rathinam v. Union of India* was reversed and the constitutional validity of Sections 306 and 309 IPC was reinstated, thereby enabling the prosecution of individuals who assist others in committing or attempting suicide. The Court has stated, "... the arguments

put forth to support the plea for not punishing a person who attempts suicide do not also support the plea for not punishing another person who aids or abets the commission or attempted commission of a suicide."⁸³⁷

RATIO DECIDENTI:

The suicide or assisting someone's attempt to commit suicide does not violate Articles 14 or 21 of Constitution. In its ruling, *P. Rathinam v. Union of India*, the Court overruled its previous ruling on this matter and consequently upheld the validity of Sections 306 and 309 IPC. The Court ruled on whether Section 309 IPC and Article 306 violates Articles 14 and 21 of the Constitution.

RATIONALE OF THE JUDGEMENT:

The petitioners claim that the concept of "life" in some recent rulings that broadens the interpretation of Article 21 means not just a person's physical existence, but a person's right to exist as a human within the framework of being a human, which implies that a person would have both the right to live and the right to die, as well as the ability to commit suicide through their own actions. The Court reaffirms that the definition of life includes the right to live with dignity and, therefore, those who have passed away have done so in accordance to that definition of dignity. Thus, an individual who lives a dignified life would not choose to die in an undignified manner. The Court chose to protect the right of all individuals to remain alive by ruling that the right to die is unconstitutional.

AFTERMATH:

A long standing precedent in the legal sphere of India was established with Indian courts ruling against the right to die in the case of *Gian Kaur v. State of Punjab*, as well as in another important case regarding the right to die entitled ***Aruna Shanbaug v. Union of India***.⁸³⁸ In this case of a severely sexually assaulted victim, after 37 years in a permanent vegetative state

⁸³⁷ Supreme Court of India, available at: [Indian Kanoon Judgment](https://www.supremecourt.gov.in/).

⁸³⁸ (2011) 4 SCC 454.

from that injury, consent to perform passive euthanasia under certain conditions was allowed with permission from the hospital and/or family and from the court. Passive euthanasia was granted in this case because the victim was unable to give consent. The ruling also stated that active euthanasia could not be used to terminate a life, while doing nothing to prolong life amounted to passive euthanasia or an act by death by omission.

In a unanimous decision by a five-judge bench of judges, the Supreme Court ruled in March 2018, in the matter of **Common Cause v Union of India**⁸³⁹, that the right to die with dignity is a fundamental right. This ruling appears to have implicitly overturned *Gian Kaur*. Nevertheless, no provision of the Indian Penal Code was overturned by this ruling.

CASE COMMENT:

I feel that the Court was justified in holding *Gian Kaur* and her husband guilty of aiding and abetting a suicide and sentencing them for this crime since the act of aiding and abetting someone else's suicide is a serious crime that is both morally and ethically reprehensible. The law should hold accountable those who commit acts of cruelty and harassment associated with dowries, and therefore the Court's decision sends a loud message regarding protecting people who are susceptible to being exploited, harassed, and coerced within their families.

However, I am not convinced that the Court's reasoning in maintaining the constitutionality of Section 309 of the Indian Penal Code, which makes attempted suicide a criminal act, is completely valid. I do not think it is precise to consider the act of attempting to commit suicide as a criminal act, since almost all persons who attempt to commit suicide do so after experiencing significant psychological suffering and emotional turmoil. Consequently, I believe that individuals who attempt to commit suicide are generally suffering from serious psychological distress, hopelessness, or social

pressure and therefore need medical treatment and support, rather than punishment.

From my point of view, suicide attempts should be treated more like a mental health issue than a criminal offense. The courts should provide individuals who have made suicide attempts with counseling, treatment services, and other rehabilitation programs rather than punish them for their actions. By addressing the underlying factors causing suicidal behavior, it is hoped that similar episodes can be prevented from happening again. Furthermore, it is also important that society identifies and assists individuals who may experience suicidal tendencies. People who are struggling emotionally often display certain signs such as withdrawing socially, isolating themselves, or exhibiting sudden changes in behavior. I believe people in society should not ignore these signs. Rather, society should listen to what these individuals are saying and how they feel and provide them with emotional support while encouraging them to seek professional help.

In addition to this, I also believe that the government plays an important role in suicide prevention by establishing effective policies and incorporating mental health treatment into our overall system of health care. By providing access to mental health care, counselling facilities, and qualified social workers, the Government can help individuals to cope with their emotional pain; thus reducing the rate of attempted suicide. Furthermore, I believe that the media can greatly impact how people view mental health issues and how to prevent suicides. Responsible reporting in the media will not only encourage individuals to seek help, but will also eliminate the stigma associated with mental health issues and increase public knowledge of suicide risk factors. Through awareness initiatives and public service announcements, Government and the media can work to create a more supportive environment for individuals experiencing emotional difficulties.

⁸³⁹ AIR 2018 SC 1665

Nonetheless, I consider the recognition of the Right to Die with Dignity, which was clarified further by the ruling in Common Cause v. Union of India to be one of the most important foundational principles of society. I believe individuals in a chronic vegetative state or terminally ill are entitled to dignity through the ability to elect whether or not to continue to receive life support. Therefore, passive euthanasia would respect the autonomy and dignity of these individuals. Thus, criminalizing suicide attempts does not fit with a humane and welfare-oriented legal system; however, punishing those who assist or otherwise facilitate the suicide of another is critical to ensure individuals are not victimised or wronged through an unlawful act. To enable individuals suffering from severe distress to receive the appropriate services and support that they need, the legal system should focus more on mental health care, prevention and rehabilitation, rather than punishment.

CONCLUSION:

The Gian Kaur vs State of Punjab case shows that debates about the right to die/euthanasia are still unresolved. The Kaur case also created many important conversations about mental health services and support systems for people who thought about suicide. Instead of punishment, Compassionate treatments and medical care were appropriate for people who thought about suicide, and this idea helps shape current policy and belief regarding mental health. The decision serves as a reminder of the need to continue to balance compassion and laws within the courts; thus ensuring that life preserves dignity and is supported by appropriate levels of care. The decision informs us that laws that govern life/death will continue to adapt based on our expanded understanding of human dignity, mental health, and individual liberties. This ruling provides an opportunity for future legislative action and potential societal shifts on these topics to address these complex issues more thoroughly.

REFERENCES:

1. Constitution of India, 1950 – Bare Act
2. Indian Kanoon case study on Gian Kaur V. State of Punjab
3. Bare act – Indian Penal Code, 1860I