Concluding Observation and Suggestions

Suicide is a reaction to the problems that apparently cannot be solved in any way. It is one of the crucial and the final responses which a human being makes to inner emotional distress. In India different forms of suicides are known VIZ, Johar, Sati, Samadhi, Prayapaveshan, Atmarpan etc. Hinduism with its insistence on remaining steadfast on the path of ones Karma does not justify suicide. In olden times legal position of suicide was not very clear. Some forms of suicide were admired and other were condemned. Neither the old nor the new testament condemns suicide explicitly but the Quran declares it a crime worse than homicide. The orthodox Jewish law also condemn suicide. In Japan some forms of suicide were legally approved and admired. Hindu and Jain religions also prove of some forms of suicide which pave the way for the better “Other World”, because according to Hindu philosophy death is only an incident in the long series of existence. But Kautilya’s Arthashastra prohibits and provides punishment for committing, aiding or encouraging suicide.

The completed act of suicide can not be punished but those, who attempt do not materialize, are punishable. One argument against this policy of Law may be that it might encourage those who attempt to make it successful. But the experience of jurists is quite otherwise and the policy had been found to be deterrent. The Indian law on suicide is contained in Section 309 of the Indian Penal Code which bears the heading "Attempt to Commit Suicide" and runs as, “Who ever 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.”

Attempt to commit suicide is an offence under Section 309 of the Indian Penal Code The said offence is bailable, non compoundable and triable by any Magistrate. Thus technically speaking, suicide as such is not an offence under
the Indian Penal Code. It is only an attempt to commit suicide that is punishable under Section 309 of the Indian Penal Code. In other words it is only when a person fails in his mission to commit suicide only there the Penal Law comes into picture. On the contrary, if such a person suicides there would be no offender who could be brought before the Court of law. What an irony? Perhaps this is the only offence where an alleged perpetrator after successfully committing an offence would escape from the clutches of law forever as he/she would not be alive any more.

The Constitutional validity of these provisions has all along been the matter of debates and to judicial scrutiny. Moreover the Constitutional validity of Section 309 of the Indian Penal Code has been vigourasly examined by the Supreme Court of India and various High Courts in Phulla Bai vs State, Chenna Jagadeiswar vs State of Andhra Pradesh, State of vs Sanjay kumar Bhatia, Maruti Shripati dubal vs State of Maharastra, P. Rathinam vs Union of India, Smt. Gian Kaur vs State of Punjab, and Aruna Ramchandra shanbaug cases.

As to the award of punishment the judicial view had been very balanced and in keeping pace with the opinion and sentiments of the society. The Constitutionality of Section 309 had been challenged on several occasions. In Maruti Sripati Dubal vs State it was argued that Section 309 of the Indian Penal Code violates Articles 14, 19 and 21 of The Constitution. A Division Bench of the Bombay Hight Court accepted the argument and held the Section as unconstitutional. The Court said that suicide had not been defined in Indian Penal Code Some suicides are condemned and some are eulogized but the Section 309 of the Indian Penal Code treats them all equal and is, there fore, arbitrary and violative of Article 14. It violates Article 19 of The Constitution of Indian as the freedoms enumerated in Article 19 can be enjoyed only when a person lives. It violates Article 21 because this Article recognizes right to life.
as a positive right which includes right not to live also. Fundamental right has their positive and negative aspects. For example, Freedom of Speech includes freedom not to speak, Freedom of Association and Movement includes freedom not to join any association or not to move. Logically it must therefore, follow that the right to live will include right not to live that is right to die or to terminate ones life. The matter again came up for consideration of the Apex Court in the case of P. Rathinam vs. Union of India. In this case two petitions challenging the Constitutionality of Section 309 of the Indian Penal Code. On the ground that it violates Articles 14, 19 and 21 of The Constitution. The petitioners also prayed to quash the proceedings against him under Section 309. A Division Bench of the Supreme Court accepted the plea of the petitioners and declared Section 309 of the Indian Penal Code as unConstitutional holding that under Article 21 right to life includes right to die. The bases for unConstitutionality of the Section have been over stitched through the examples of freedom of speech and freedom of association etc.

The matter once again came up before the Supreme Court for consideration in Smt. Gian Kaur vs. State of Punjab. In view of the complexity in earlier decision in P.Rathinam case, the matter was considered by a Constitution Bench comprising of five judges. The Apex Court in Gian Kaur case considered the question as to whether right to life would include the right not to live i.e., the right to put an end to or to terminate one’s life. That was the basis on which the earlier decision in Rathinam’s case proceeded. Considering the importance of the issue involved senior Advocate Sri F.S. Nariman and Soli Sorabji were invited to appear as amicus curiae. Justice J.S. Verma (Later on Chief Justice of India) speaking for the Court that the desirability of retaining Section 309 is a different matter and non sequitur in context of its Constitutionality which has to be tested with deference to the Constitutional
provisions. Under emphasis on the global debate on the desirability of retaining such a provision and the reference to euthanasia tend to belong the real issue of determining Constitutional validity.

The Supreme Court also did not agree with drawing analogy of the freedoms guaranted under Article 19 with the right to die guaranted under Article 21 of The Constitution. Under Article 19 of The Constitution, the fundamental right is of positive nature; there the right to do an act includes right not to do the act also. But as under Article 21 of The Constitution, the right is of a negative nature (i.e., protection from intrusion or deprivation), the converse positive act can not be included in it. The difference in the nature of the right has to be born in mind. This interpretation of Article 21 favours a life with dignity. Any aspect of life, which makes it dignified may fall within the domain of Article 21 of The Constitution that but not those act which extinguishes it. The right to die is inherently inconsistent with the right to life; so both aspect cannot be read under Article 21 of The Constitution. The Court further held that this Section does not violate Article 14 of The Constitution because there is no provision for minimum mandatory sentence and the Court has got wide discretion in the matter of sentencing. The Court can thus see that the severity of punishment is mitigated in proper cases. The Constitution Bench thus finally held that Section 309 of the Indian Penal Code is Constitutional and it does not violate Articles 14, 19 and 21 of The Constitution.

Gian Kaur case however raises some moral questions of moral values. If Section 309 and 306 are Constitutionally valid and a person can be punished for attempting to commit suicide then the questions having moral and sociological overtones also will have to be answered. How can suicide prone persons be dealt with? What treatment should be provided for persons who attempt suicide? Do they deserve prosecution because they have failed? Suicide is a psychiatric problem and not a manifestation of criminal instinct
Section 309 of the Indian Penal Code is archaic enactment of the British. It has to be humanized. Instead of sending to the jail, the person needs some help. Suicide is really a call for help and there should not be any for punishment.

It is really unfortunate that attempt to commit suicide continues to find mention as an offence under our Penal Statutes not withstanding the fact that when a distressed or frustrated person decides to terminate his/her previous life prematurely, it is indeed irrational and unfair to visit him with punishment on his failure to do so. Such hopeless individuals rather require sympathy. Counselling and appropriate treatment must be given to them and not the prison in any case. The Law Commission of India in its 210th report submitted to the government on October 17, 2008 has differed with its earlier 150th report of 1997 subscribing the retention of attempt to suicide as an offence. In its 210th report, the Commission had recommended to the government to “initiate steps for repeal of the anachronistic Law contained in Section 309 of Indian Penal Code, which would relieve the distressed of his suffering.”

The Supreme Court in Aruna Ramchandra Shanbaug case observed that vigorously the time has come to decriminalise the attempt to commit suicide by erasing the punishment provided in Indian Penal Code and asked parliament to examine it. The Division Bench of Justices Markandey Katju and Gyan Shudha Mishra while dealing with the issues relating to euthanasia in Aruna Ramchandra Shanbaug case clearly held that. “We are of the opinion that although Section 309 of Indian Penal Code (attempt to commit suicide) has been held to Constitutionally valid in Gian Kaur’s case by Supreme Court, the time has come when it should be deleted by Parliament as it has become anachronistic” The Court further stated that “A person attempts to suicide in check depression and hence he needs help, rather than punishment we therefore recommend to Parliament to consider the feasibility of deleting Section 309 from the Indian Penal Code.”
In view of the judgment of the Supreme Court in Aruna Ramchandra Shambaugh case, a new Bill i.e. the Mental Health Care Bill, which seeks to decriminalise suicide and makes access to affordable mental health care a right for all, was introduced in Rajya Sabha on Aug, 21, 2013. For the first time in the history of criminal Law reform in the country, Mental Health Care Bill 2013 seeks to decriminalise acts of suicide by linking them to the state of mental health of the person attempting the act. The bill explicitly states that acts of suicide will not be criminalised and those attempting suicide would be treated as mentally ill unless proved otherwise and therefore exempted from the current provisions of the Section 309 of Indian Penal Code. Section 124 of the Mental Health Care Bill states, “Not with standing any thing contained in Section 309 of the Indian Penal Code any person who attempt suicide shall be presumed, unless proved otherwise, to be suffering from mental illness at the time of the bid and shall not be liable to punishment under the said Section.” The Bill thus clarifies that the act of suicide and the mental health of a person committing the act are inseparably linked and have to be seen together and not in isolation. The Bill lays down a proper provision for the treatment of persons attempting suicide. It seeks to provide for mental health care for persons with mental illnesses and to protect, promote and fulfil the rights of such persons during the delivery of mental health care and services. It is the first time the Government of India has come up with rights based approach in the mental health law. It is a landmark Bill which takes care of the rights of the mentally ill. It is forward looking and India needed such a law. It strongly protects the rights of mentally ill and puts a lot of onus for welfare of the ill person on the Government. The Bill fills the long standing gap in the mental health law in India after the country ratified the UN Convention on the rights of persons with disabilities requiring into harmonise its laws with those prevalent world wide. India has sign the
Convention on October 1, 2007 which came in to force on May 3, 2008. The New Bill guarantees several right to mentally ill alongwith right to privacy in mental health establishments and the right to dignity. It bars inhuman practices such as elector convulsive therapy without anaesthesia, sterilisation as a treatment for illness, chaining and tonsuring of heads of the mentally ill. The Bill also provides for stringent penalties for those who is found running unregistered mental health care establishments. The penalty may be Rs. 50,000 to Rs. 5,00,000 depending on the frequency of the offence. It seeks to regulate the public and private mental health sectors and establish a mental health system in integrated into all levels of general health care. The Bill provides for a State Mental Health Authority and Central Mental Health Authority along with a Mental Health Review Commission to regulate sector and register institutions.

A pertinent question which has all along be a matter of debate and discussion that, "Why do people kill themselves?" It can be well hypothesised in three words: to stop pain. Sometimes this pain is physical, as in chronic or terminal illness; more often it is emotional, caused by a myriad of problems. In any case, suicide is not a random or senseless act, but an effective, if extreme, solution.

The reason for committing suicide or attempting it can be categorised. The categories are however, arbitrary and overlap to some extent. These categories are:

1. Altruistic/Heroic suicide. This is where someone (more-or-less) voluntarily dies for the good of the group. Examples include the Greeks at Thermopolae; the Japanese Kamikaze pilots at the end of World War II; the Buddhist monks and others who, starting in 1963, burned themselves to death trying to stop the Viet-Nam war; elderly Inuit (Eskimos) killing themselves to
leave more food for their families; some Communists who confessed to invented (and often impossible) crimes during the Purge Trials of the late 1930s and early 1950s. Gandhi’s tactic of hunger strikes, called "satyagraha" or "soul force", would have fallen into this category, had the British authorities failed to respond to his demands.

(2) Philosophical suicide. Various philosophical schools, such as stoics and existentialists, have advocated suicide.

(3) Religious suicide. There is a long history of religious suicide, usually in the form of martyrdom. This was widespread in the early years of Christianity and was also commonly seen in the various "heresies" uprooted before and during the Reformation, Counter-Reformation, and Inquisition. More recent examples may include members of the Solar Temple in Switzerland, France, and Canada, the San Diego Hale-Boppers in March, 1997, the Branch Davidians in Waco, Texas, and some of the people at Jonestown, Guyana.

(4) Escape from an unbearable situation. This may be persecution, a terminal illness, or chronic misery. There is no lack of historical examples: Epidemics of suicide were frequent among Jews in medieval Europe; (sometimes they were given a choice between converting to Christianity and death). Later, both Indian and black slaves in the New World committed mass suicide to escape brutal treatment. One slave owner supposedly stopped such desertion among his slaves by threatening to kill himself and follow them into the next world, and impose worse repression there. There were large numbers of suicides during times of pestilence in medieval Europe. More recently, AIDS has generated a similar response among many of its victims. There was also a wave of suicides among priests and their wives around 1075, after Pope Gregory VII imposed celibacy on the clergy, who had previously been allowed
to marry. Marriage had been only slightly more popular than damnation with the Church ("It is better to marry than to burn.")., but had been accepted for its first thousand years.

All of these situations can be readily seen as more-or-less "unbearable". However, sometimes "unbearable" means failing an exam, or missing a free throw in the big game. As George Colt notes, "Most adolescent depression is caused by a reaction to an event, a poor grade, the loss of a relationship, rather than a biochemical imbalance... .Feeling blue after not getting into one's first-choice college is as appropriate as feeling happy after scoring a winning touchdown. But many adolescents who experience depression for the first time don't realize that it won't last forever."

(5) Excess alcohol and other drug use. The observed high correspondence between alcohol and suicide can be explained in several ways, including: (a) Alcoholism can cause loss of friends, family, and job, leading to social isolation. (This may be a chicken-and-egg question; it's equally plausible that family or job problems induce the excess alcohol use. In its later stages, the fact and consequences of alcoholism dominate the picture and are often blamed for everything.); (b) Alcohol and suicide may both be attempts to deal with depression and misery; (c) Alcohol will increase the effects of other sedative drugs, frequently used in suicide attempts; (d) Alcohol may increase impulsive actions.

The significance of the last two points is emphasized by findings that alcoholic suicide attempters who used highly lethal methods scored relatively low on suicidal-intent tests. The correlation between lethal intent and method was found only among non-alcoholics.
Thus, to claim that alcoholism "causes" suicide is simplistic; while the association of alcohol excess with suicide is clear, a causal relationship is not. Both alcoholism and suicide may be responses to the same pain. "A man may drown his sorrows in alcohol for years before he decides to drown himself."

(6) Romantic suicide. "My life is not worth living without him". This is most celebrated among the young, as in Romeo & Juliet, but is probably most frequent among people who have lived together for many years, when one of them dies.

Suicide pacts (dual suicide) constitute about 1% of suicides in western Europe. Most often, their participants are over 51 years old, except in Japan, where 75% of dual suicides are "lovers' pacts."

(7) "Anniversary" suicide is characterized by use of the same method or date as a dead loved one, usually a family member. "Imitative" suicide is similar to anniversary suicide in its focus on the dead, but uses a different date and method.

(8) "Contagion" suicide. This is where one suicide seems to be the trigger for others, and includes "cluster" and "copycat" suicides, most often among adolescents. For example, on April 8, 1986, Yukiko Okada, 18, jumped to her death from the seventh floor of her recording studio. She had recently received an award as Japan's best new singer. Media attention was intense. 33 young people, one nine years old, killed themselves in the next 16 days, 21 by jumping from buildings. There are comparable examples from many parts of the world. The highly publicized suicide of a Hungarian beauty queen was followed by a epidemic of suicides by young women who used the same method. Similarly, there was a spate of ethylene glycol (automobile antifreeze) intentional
poisonings in Sweden following two accidental fatalities and "spectacular attention in the Swedish mass media."

In the U.S. there have been clusters of suicides, most often (or most often reported) among high school students, but not necessarily using identical methods. Even fictional accounts may be enough, as in a claimed spurt of "Russian roulette" deaths shortly after the release of the film The Deer Hunter, with its powerful and nihilistic Russian roulette scene.

On the other hand, other studies found no linkage between most newspaper reports and suicides. Nor do copy-cat suicides occur consistently. For example, the 1994 death of Nirvana lead singer Kurt Cobain was not followed by a cluster of suicides. In the seven weeks following his death there were 24 other suicides in the Seattle area, compared with 31 in the corresponding weeks of the previous year.

(9) An attempt to manipulate others. "If you don't do what I want, I'll kill myself," is the basic theme here. However, the word "manipulative" does not "...imply that a suicide attempt is not serious....fatal suicide attempts are often made by people who are hoping to influence or manipulate the feelings of other people even though they will not be around to witness the success or failure of their efforts." Nevertheless, while people sometimes die or are maimed from their attempts, the intention in this case is to generate guilt in the other person, and the practitioner generally intends a non-fatal result.

(10) Seek help or send a distress signal. This is similar to "manipulative" suicide except that there may be no specific thing being explicitly sought; it's the expression of too much pain and misery. This may occur at any age, but it is more frequent in the young. However, "Parents may minimize or deny the attempt. One study found that only 38 percent of treatment referrals
after an adolescent attempt were acted on. Another found only 41 percent of families came for further therapy following an initial session. 'It's often difficult to get parents to acknowledge the problem because they are the problem,' says Peter Saltzman, a child psychiatrist."

(11) "Magical thinking" and punishment. This is associated with a feeling of power and complete control. It's a "You'll be sorry when I'm dead" fantasy. An illustration is the old Japanese custom of killing oneself on the doorstep of someone who has caused insult or humiliation. This is similar to "manipulative suicide", but a fatal result is intended. It's sometimes called "aggressive suicide." In a power struggle, if you can't win you can at least get in the last word by killing yourself.

(12) Cultural approval. Japanese (like Roman) society has traditionally accepted or encouraged suicide where matters of honor were concerned. Thus, the president of a Japanese company whose food product had accidentally poisoned some people killed himself as an acknowledgment of responsibility for his company's mistake.

To conclude, we can say that the time has come to decriminalise an attempt to commit suicide. People take such measures when they feel totally helpless, depressed, bullied, harassed etc. It must be realized that a determined suicide can never be prevented by the fear of only one years imprisonment or fine or both as prescribed in Sec 309 of the Indian Penal Code. This provision has ever since been termed as- "Anachronistic Law" and needs to be immediately effaced from the statutes book of Criminal Law i.e. The Indian Penal Code. At the same time, it must be ensured also that those who tend to abuse or misuse the same in one way or the other must be strictly dealt with in accordance with Penal Law.
A few concrete points may be made as suggestions in this context:

1) There is an urgent need to develop a national plan for suicide prevention in society. The priority areas are reducing the availability of and access to pesticide, reducing alcohol availability and consumption, promoting responsible media reporting of suicide and related issues, promoting and supporting NGOs, improving the capacity of primary care workers and specialist mental health services and providing support to those bereaved by suicide and training gatekeepers like teachers, police officers and practitioners of alternative system of medicine and faith healers. Above all, decriminalising attempted suicide is an urgent need if any suicide prevention strategy is to succeed in the prevailing system in India.

2) 10th September - World Suicide Prevention Day: The World Suicide Preventing Day was formally announced on 10th September, 2003. Each year the International Association for Suicide Prevention (IASP) in collaboration with WHO uses this day to call attention to suicide as a leading cause of premature and preventable death. The theme for the year 2007 is "Suicide Prevention - Across the Life Span". It calls attention to the fact that suicide occurs at all age and that suicide prevention and intervention strategies may be adapted to meet the needs of different age groups. It is hoped that the theme will focus on vulnerable, ignored and stigmatized groups and also draw together researchers clinicians, societies, politicians, policy makers, volunteers and survivors in a concerted action.

   Suicide is a multifaceted problem and hence suicide prevention programmes should also be multidimensional. Collaboration, coordination, cooperation am commitment are needed to develop and implement a national plan, which is effective, appropriate and relevant to the needs of the community. In India, suicide prevention is more of a social and public health objective than a traditional exercise in the mental health sector. The time is ripe for mental
hear professionals to adopt proactive and leadership roles in suicide prevention and save the lives of distressed people inclined to commit suicide. In addition to this national level dialogue and discussion on the issues of suicide should organised and carried on by the Government, academic fellows and NGO as well. Social awekening programmes should also be initiated in this regard.

6) Suicide prevention is an umbrella term for the collective efforts of mental health practitioners and related professionals to reduce the incidence of suicide through proactive preventive measures. Various suicide prevention strategies have been used:

- Promoting mental resilience through optimism and connectedness.
- Education about suicide, including risk factors, warning signs and the availability of help.
- Increasing the proficiency of health and welfare services at responding to people in need. This includes better training for health professionals and employing crisis counseling originations.
- Reducing domestic violence and substance abuse are long-term strategies to reduce many mental health problems.
- Reducing access to convenient means of suicide (e.g. toxic substances, handguns).
- Reducing the quantity of dosages supplied in packages of non-prescription medicines e.g. aspirin.
- Interventions targeted at high-risk groups.

7) Suicide occurs in all ages. Life is a gift given by God and He alone can take it. Its premature termination cannot be approved by any society. But when a troubled individual tries to end his life, it would be cruel and irrational to visit him with punishment on his failure to die. It is his deep unhappiness which causes him to try to end his life. Attempt to suicide is more a manifestation of a diseased condition of mind deserving of treatment and care rather than
punishment. It would not be just and fair to inflict additional legal punishment on a person who has already suffered agony and ignominy in his failure to commit suicide.

8) The criminal law must not act with misplaced overzeal and it is only where it can prove to be apt and effective machinery to cure the intended evil that it should come into the picture.

9) Section 309 of the Indian Penal Code provides double punishment for a person who has already got fed up with his own life and desires to end it. Section 309 is also a stumbling block in prevention of suicides and improving the access of medical care to those who have attempted suicide. It is unreasonable to inflict punishment upon a person who on account of family discord, destitution, loss of a dear relation or other cause of a like nature overcomes the instinct of self-preservation and decides to take his own life. In such a case, the unfortunate person deserves sympathy, counselling and appropriate treatment, and certainly not the prison. Section 309 needs to be effaced from the statute book because the provision is inhuman, irrespective of whether it is Constitutional or unConstitutional. The repeal of the anachronistic law contained in Section 309 of the Indian Penal Code would save many lives and relieve the distressed of his suffering.

Summing up, we can say that human life is the most valuable gift of nature. It should be extinguished through natural process i.e. by natural death. No artificial measure/means should be adopted to end this natural gift. The Judicial process tends towards decriminalising the attempt of suicide. The judicial process, however, cannot solve a complicated social problem just by one or two decisions. It is by its very nature a time taken process. In view of the aggravating problem of suicide all the three components i.e. Judiciary, Legislature and the Executive alongwith society must go with hand in hand. Only then, the problem of suicide can be mitigated.