



Decriminalising Suicide:
**SAVING LIVES,
REDUCING STIGMA**



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BACKGROUND

This report was written at the request of those campaigning to help reduce deaths by suicide and to increase mental health and psychosocial support for those who need it. Through the Thomson Reuters Foundation’s TrustLaw programme, United for Global Mental Health (UnitedGMH) worked with an international law firm which led and conducted the research.

The International Association for Suicide Prevention (IASP) and UnitedGMH, working through the Global Mental Health Action Network (GMHAN), has established an international working group to bring together all those working across the world to decriminalise suicide: the IASP and UnitedGMH would like to thank the working group for their support of this report.



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FOREWORD

The criminalisation and punishment of individuals who engage in suicidal behaviour creates a huge obstacle to accessing appropriate and adequate mental healthcare; which is a fundamental human right. It also impacts upon public health surveillance effects by underrepresenting the true prevalence rates within countries where suicidal behaviour remains a criminal offence. The development and implementation of legislation to decriminalise suicidal behaviour plays a pivotal role in the suicide prevention efforts of governments across the world. Such work acknowledges the importance of mental health, and highlights the importance of prioritising suicide prevention. It also contributes to efforts to reduce the social stigma attached to suicidal behaviour thereby increasing help-seeking among the most vulnerable.

The decriminalisation of suicidal behaviour represents a fundamental part of IASP's global policy and advocacy work, as we strive for a world where people are not judged by their mental health and feel supported to come forward for help when they are struggling. To achieve a more inclusive and understanding society, it is vital that we remove those barriers that impede suicide prevention efforts. Decriminalising suicidal behaviour in those countries where it remains a criminal offence would enable those suffering in suicidal crisis to receive the care and help they need.

This report provides an overview of the evidence-base of the current legal status of suicidal behaviour across the globe. The case studies detailed in this report illustrate the value in sharing experiences so that we can collectively learn from each other. I hope that it will serve as an insightful resource to assist those advocating for the decriminalisation of suicidal behaviour in their respective countries.

United for Global Mental Health's commissioning of this report is both significant and timely as we strive to meet the United Nations Sustainable Development Goal: Good Health and Wellbeing's target to reduce suicides globally. These are targets that all countries have signed up to and the decriminalisation of suicidal behaviour is another vital step that governments can take to realise these ambitions and fulfil this goal.

Professor Rory O' Connor
President, IASP

EXECUTIVE SUMMARY

Around the world, 700,000 people die by suicide every year – in 2019, more than one in every 100 deaths globally was due to suicide.¹ Reductions in the number of deaths by suicide is the measure by which improvements in mental health are tracked according to the UN Sustainable Development Goals (SDGs) for 2015-2030. Moreover, decriminalising suicide was agreed as an effective measure to help end deaths by suicide by all health ministers when they approved the World Health Organization (WHO) Mental Health Action Plan for 2021-2030 (in May 2021).

Many countries have made progress in their efforts to reduce the rates of deaths by suicide. For example, in recent years legislation criminalising suicide has been successfully repealed or superseded by new legislation in the Cayman Islands, Cyprus, Lebanon, Singapore and India. In most countries suicide is not a criminal offence. But in 20 countries it is. In these countries those who have attempted suicide can be arrested, prosecuted and punished by fines and typically one to three years in prison. Assuming one of the main intentions is to deter people from taking their life – alongside other reasons such as religious tradition – the evidence shows criminalisation is counterproductive. Criminalising suicide does not deter people from taking their lives – there is well documented evidence of effective means to do so, from improved mental health and psychosocial support services, to restricting the means of suicide, such as pesticide control.^{2,3,4,5}

Instead, criminalising suicide deters people from seeking help in support of their mental health (whether from family or friends, their wider community or from health professionals). It is a significant factor in stigmatising mental health. It hampers efforts to prevent, diagnose and treat mental health conditions. In sum, criminalising suicide prevents people from seeking help, particularly in a moment of acute crisis, and receiving the emergency and lifesaving treatment they need to improve their mental health.

This report is designed as a tool for campaigners and advocates seeking to decriminalise suicide. Today there is an historic opportunity to press for such reform in light of commitments by countries around the world to achieving the 17 SDGs, along with the targets of the WHO Mental Health Action Plan, and for most countries, their obligations under the Convention on the Rights of Persons with Disabilities (CRPD). Moreover, other countries have already decriminalised suicide so there are examples of how to do so successfully. This report surveys the countries where suicide is a criminal offence and explains what the repercussions are for someone who attempts suicide, and their friends and family. It looks at what the law says in each country and whether there are efforts to reform it.

1 WHO (2021), Suicide worldwide in 2019. <https://www.who.int/publications/i/item/9789240026643>

2 WHO (2019), Preventing suicide: a resource for pesticide registrars and regulators. <https://www.who.int/publications/i/item/9789241516389>

3 WHO (2019), Suicide prevention: toolkit for engaging communities <https://www.who.int/publications/i/item/suicide-prevention-toolkit-for-engaging-communities>

4 WHO (2021), LIVE LIFE: An implementation guide for suicide prevention in countries. <https://www.who.int/publications/i/item/9789240026629>

5 WHO (2014), Preventing suicide: A global imperative <https://www.who.int/publications/i/item/9789241564779>

This report does not make a comment about the ethical and moral issues surrounding death by suicide, nor does it look at religious considerations – however, it is critical to understand these when pursuing change. It seeks only to look at civil and common law and its implications. How this information is used is by those campaigning for the decriminalisation of suicide in their respective countries is for them to determine. This report seeks to help ensure that everyone, everywhere, who needs support for their mental health before, during and after a suicidal crisis can access it, free of stigma and discrimination.

INTRODUCTION

Some 700,000 people die by suicide every year – in 2019 more than one in every 100 deaths worldwide was due to suicide.⁶ And for each person who dies, 20 more have attempted suicide.⁷ The impact on family, friends and communities can be devastating. Suicide can occur at any point in a person's lifespan, and is the second leading cause of death among 15 to 29-year-olds globally.⁸ A worldwide epidemic that affects all regions, over 79% of suicides occur in low and middle-income countries.⁹ However, due to the stigma surrounding suicide and the legal consequences discussed in this report, suicide and attempted suicide are often under-reported – only 87 countries have quality data concerning suicide.¹⁰ This is an important gap in knowledge and analysis: tackling suicide rates requires better data.

In addition to young people, some other groups in society are more vulnerable to death by suicide and attempted suicide than others. Those who experience discrimination – for example, the elderly, the LGBTQI+ community, refugees and migrants, indigenous peoples, and prisoners – are at high risk of suicide, attempted suicide, and suicidal ideation.¹¹

Suicide is complex, with mental ill health being a risk factor, and the link between the two very well established.^{12, 13} However, it should also be noted that suicide can also be a result of personal crises, impulses and social factors that are not due to mental ill health. It is important to regulate the means by which people can seek to take their own lives (e.g., pesticides, firearms, access to bridges or other high places) in order to help address such situations. An integrated approach encompassing public health, clinical, social and legal spheres is necessary for effective suicide prevention.

6 WHO (2021), Suicide worldwide in 2019.

7 WHO, Suicide [accessed 18 August 2021] <https://www.who.int/news-room/fact-sheets/detail/suicide>

8 UN News, World Mental Health Day sheds light on worrying rates of youth suicide <https://news.un.org/en/story/2019/10/1048931>

9 WHO, Suicide [accessed 18 August 2021]

10 WHO (2017), Mental Health Atlas 2017. <https://www.who.int/publications/i/item/9789241514019>

11 Vijayakumar L, Ray S, Fernandes TN, Pathare S. A descriptive mapping review of suicide in vulnerable populations in low and middle countries. *Asia Pac Psychiatry*. 2021 Apr 4:e12472. doi: 10.1111/appy.12472. Epub ahead of print. PMID: 33817993

12 [https://www.thelancet.com/pdfs/journals/lancet/PIIS0140-6736\(18\)31612-X.pdf](https://www.thelancet.com/pdfs/journals/lancet/PIIS0140-6736(18)31612-X.pdf)

13 Fond G, Nemani K, Etchecopar-Etchart D, et al. Association Between Mental Health Disorders and Mortality Among Patients With COVID-19 in 7 Countries: A Systematic Review and Meta-analysis. *JAMA Psychiatry*. Published online July 27, 2021. doi:10.1001/jamapsychiatry.2021.2274

SUICIDE CRIMINALISATION AND DECRIMINALISATION

Suicide remains illegal in 20 countries, with a further 20 countries making suicide punishable under Sharia law.¹⁴ The research for this report has solely focussed on civil and common law and not Sharia law.

Mishara and Weisstub present that those who argue for the criminalisation of suicide under civil and common law tend to make three arguments:¹⁵

1. Punishment acts as a deterrent – **whereas**, in fact, suicide rates tend to decline after decriminalisation.¹⁶
2. Criminal penalties for suicide attempts can express a society's feelings of moral condemnation of certain behaviours – **in fact**, practices of public shaming, both legally and in cultural traditions, prevent those either recovering from a suicide attempt or those bereaved by suicide from accessing treatment and support, and only serve to further entrench stigma.
3. It acts as an expression of the desire for retribution, so that justice is seen to be done and the person who commits a reprehensible or immoral act is punished – **however** this assumes that there is a victim other than the person attempting to or actually taking their own life, and that they were making a rational choice at the time, as opposed to acting under conditions of stress, pressure, and possible mental ill health.

Based on Mishara and Weisstub, the International Association for Suicide Prevention presents four core benefits of the decriminalisation of suicide:¹⁷

1. Decriminalisation of attempted suicide will reduce stigma and increase attempts to seek help.

By placing someone who attempts to take their own life outside the law, people thinking of taking their own life, or who have attempted suicide, are not seeking help and are therefore not getting the help they need. Instead, we need to reduce stigma by encouraging individuals and communities to talk openly about the issue of mental health and support those who need it most.

2. Decriminalisation improves measurement of the extent and characteristics of suicidal behaviour, which in turn enhances opportunities for effective suicide prevention and intervention.

In order to prevent suicide, we need to have accurate data to identify who is at risk and how best to help them.

14 Mishara BL, Weisstub DN. The legal status of suicide: A global review. *Int J Law Psychiatry*. 2016 Jan-Feb;44:54-74. doi: 10.1016/j.ijlp.2015.08.032. Epub 2015 Sep 13. PMID: 26375452. Since this review Sri Lanka has repealed suicide legislation

15 IASP, IASP policy position on the decriminalisation of attempted suicide

<https://www.iasp.info/wp-content/uploads/IASP-Decriminalisation-Background-Document-GA.pdf>

16 WHO (2014), Preventing suicide: A global imperative

17 IASP, IASP policy position on the decriminalisation of attempted suicide

3. As a result of decriminalisation, suicidal behaviour will be recognised and treated as a public health issue and vulnerable individuals at risk will be better able to obtain the help they need.

Those attempting suicide will already be traumatised - there is a societal obligation to treat suicide as a public health issue.

4. Decriminalisation avoids the adverse mental health consequences of legal proceedings and punishment by imprisonment.

Individuals need a supportive environment to address their mental health needs.

This report therefore examines the law in each country, informed by the research of an international law firm. The methodology employed by the international law firm and subsequent analysis by UnitedGMH is summarised in the Appendix to this report.

TRENDS AND COMPARISONS

For the overwhelming majority of countries researched as part of this report, the laws regarding suicide reside in the penal or criminal code rather than in a separate piece of legislation. It is also the case that many of these laws are exceptionally old, often originally introduced by colonial powers. Seven of the countries reviewed had suicide legislation dating back between 90 and 160 years. These laws were written when suicide or attempted suicide was considered a crime against the state, as well as against religion. Furthermore, these laws were written at a time when mental health was grossly misunderstood and human rights abuses regarding mental health were commonplace, and in many countries still are. For example, in countries formerly under British Rule these laws stem from British Common Law that was imposed on colonized territories prior to being implemented in the colonising state itself.¹⁸

In the past 160 years there have been a number of important international treaties and conventions that enshrine the human rights of persons with disabilities, including those with mental ill health. Despite the UK formally repealing the law criminalising suicide in 1961 after a vigorous campaign, a significant number of the post-colonial states where these laws were imposed have retained them.

It is necessary for laws that criminalise suicide to be repealed and replaced by legislation, which is fit for purpose, which reflects society's approach to mental health today, and is in line with current international human rights standards and modern and globally accepted mental health legislation and policy.

18 BBC (2011), When Suicide Was Illegal. <https://www.bbc.com/news/magazine-14374296>

One of the most striking consistencies across nearly all of the countries researched is that the punishment for attempting suicide is imprisonment. For example, in 2017, Chimwemwe Banda (not their real name) was sentenced to 10 months in prison without the option of paying a fine by Machinga First Grade Magistrate Court in Malawi.¹⁹ Rather than being provided with support and treatment in the local community by mental health professionals (in accordance with the recommendations of the WHO in such situations), Chimwemwe was moved to a Malawian prison. The conditions in Malawian prisons were described as "atrocious", by the Malawi Inspectorate of Prisons in 2016. The inspectorate also added that "being in a Malawi prison causes mental disorders".^{20, 21}

The decriminalisation of suicide should not automatically lead to, or be replaced with, a coercive measure such as involuntary admission and treatment. Coercive measures are experienced as traumatising by many and can have a severe negative impact on an individual's mental health and well-being. The Convention on the Rights of Persons (CRPD) with Disabilities states Parties' obligations include ensuring persons: **"Are not deprived of their liberty unlawfully or arbitrarily, and that any deprivation of liberty is in conformity with the law, and that the existence of a disability shall in no case justify a deprivation of liberty."** See more information on this below.

In most of the countries covered in this report, it is possible for children (people under the age of 18 as defined by the United Nations Convention on the Rights of the Child)²² to be prosecuted for attempted suicide. This is because a young child can be prosecuted for a criminal offence in some countries. For example, although there are special provisions for children under the age of 12 years, it is legally possible for children as young as 7 years of age in Nigeria to be arrested, tried, and prosecuted.²³ If the repeal of suicide legislation is to be done in increments, then ending the prosecution of children for attempted suicide should be prioritised.

It is possible to be punished after death by suicide. In four of the countries studied for this report – the Bahamas, Bangladesh, Guyana, and Kenya – the will of the deceased may be challenged, leading to invalidation if someone is judged to have died by suicide, with complications also possible in Malawi. The invalidation of a will could have serious implications for those who the deceased intended to benefit upon their death. Beyond the emotional stress of such a delay, it could be very costly for loved ones, and cause significant delays in accessing the assets allocated in the will.

Thankfully, given the impacts outlined above, such laws are rarely enforced or prosecuted. They are commonly at the minor end of the crimes governed by the legal system, and often defined as misdemeanours. This then raises the question: why have such laws at all? In the majority of countries covered in this report, attempted suicide is considered a misdemeanour and in five of the countries there have been minimal or no recent court cases for attempted suicide.

19 AllAfrica (2017), Malawi: Youngman Jailed for Attempting Suicide

<https://allafrica.com/stories/201707240291.html>

20 World Prison Brief, Malawi [accessed 10 August 2021] <https://www.prisonstudies.org/country/malawi>

21 Development and Cooperation (2016), The conditions in Malawi's prisons are atrocious. <https://www.dandc.eu/en/article/conditions-malawis-prisons-are-atrocious>

22 Unicef, How we protect children's rights with the UN Convention on the rights of the child [last accessed on 18 August 2021] <https://www.unicef.org.uk/what-we-do/un-convention-child-rights/>

23 Federal Ministry of Justice, Federal Republic of Nigeria <https://www.justice.gov.ng/index.php>

The mere presence of the illegality of suicide within the law speaks to three of the four arguments set out by the IASP in favour of decriminalisation of suicide: (i) suicide remains hidden and so the true scale is not known; (ii) suicide is not treated as a public health issue and people are not able to receive the support they need; and (iii) the stigma surrounding mental health continues. Where it is clear that the justice system is not seeking to punish those who have attempted suicide, it could be assumed the law remains in place as a deterrent. However, all evidence indicates that the threat of punishment does not act as a deterrent and therefore a movement to repeal the relevant laws should proceed immediately.

The research identified some level of campaign or movement to repeal or amend the law in nine of the countries reviewed. In some instances, these are civil society-led campaigns either publicly calling for change, engaging with official government processes, or both. For these campaigns to be successful, it is critical to gain support from legislature and government ministers. For example, in Guyana in 2019, the health minister publicly stated that the government would seek to repeal the suicide legislation.²⁴ While this is yet to occur, a senior member of the government and legislature signalling strong positive intent aids in opening an official conversation and building momentum. Government-led processes can also be very powerful.

The Kenyan Ministry of Health's Taskforce on Mental Health produced a report calling for the government to "amend or repeal [...] discriminatory and derogatory laws" and quoted findings from stakeholders stressing the need to "amend the law to decriminalise suicide".²⁵ Such a report can help a government build a strong case to take to its legislature.

²⁴ Department of Public Information, Department of Public Information, Government of Guyana, 'Suicide on the decrease'. <https://dpi.gov.gy/suicide-in-guyana-on-the-decrease/>

²⁵ Taskforce on Mental Health (2020), Mental Health and Wellbeing: Towards Happiness & National Prosperity. <https://mental.health.go.ke/download/mental-health-and-wellbeing-towards-happiness-national-prosperity-a-report-by-the-taskforce-on-mental-health-in-kenya/>

Table 1: Summary of research findings – national suicide legislation review

Country	Where is the legislation?	What is the maximum penalty? <small>(all fines converted to USD using the international exchange rate correct as of August 2021)</small>	Is the legislation implemented?	Is there a movement to repeal?
Bahamas	Penal Code	2 years' imprisonment	Insufficient data	No known movements or campaigns identified
Bangladesh	Penal Code	Up to 1 year imprisonment and/or unspecified fines	Insufficient data	No known movements or campaigns identified
Brunei	Penal Code	Up to 1 year imprisonment and a fine of up to USD 2,942	Insufficient data	No known movements or campaigns identified
Ghana	Criminal Code	Up to 3 years' imprisonment (hard labour) and/or unspecified fines	Insufficient data	Yes – some challenges by civil society in recent years
Guyana	Penal Code	Up to 2 years' imprisonment or fine of USD 385	Yes – minimally	Yes – senior politicians have called for a repeal
Kenya	Criminal Law (Offences) Act	Up to 2 years' imprisonment and/or unspecified fine	Yes – minimally	Yes – government task forces have called for a repeal
Malawi	Penal Code	Up to 2 years' imprisonment with the possibility of hard labour and/or a fine	Insufficient data	No known movements or campaigns identified
Malaysia	Penal Code	Up to 1 year imprisonment and/or unspecified fine	Limited data suggests little implementation	Yes – led by NGOs and other bodies. Government currently conducting a review
Myanmar	Penal Code	Up to 1 year imprisonment, unspecified fines	Insufficient data	No known movements or campaigns identified
Nigeria	Penal Code; Criminal Code; Criminal Law	Up to 1 year imprisonment or hospitalisation	Yes - minimally	Yes – civil society led

Pakistan	Penal Code	Up to 1 year imprisonment, unspecified fine	Insufficient data	Yes – a bill to decriminalise suicide was passed in the Senate in 2017 but it lapsed in the National Assembly. Some civil society organisations campaign on the issue
Papua New Guinea	Criminal Code	Up to 1 year imprisonment and/or a fine of up to USD 570	Insufficient data	No known movements or campaigns identified
Qatar	Penal Code	Up to 6 months' imprisonment; a fine of USD 824	No prosecutions have been made in the past five years	No known movements or campaigns identified
Saint Lucia	Criminal Code	Up to 2 years' imprisonment, or a fine of up to USD 2,000	No prosecutions found in research	Yes – some politicians have said the legislation should change
Somalia	Penal Code	Up to 5 years' imprisonment or a fine of up to USD 17	Insufficient data	There is limited challenge to the existing legislation
South Sudan	Penal Code	Up to 1 year imprisonment, fine with no maximum level	Limited data suggests the law is being frequently implemented	There have been limited attempts by civil society organisations to amend the relevant legislation
Sudan	Penal Code	Up to 1 year imprisonment, fine with no maximum level	Insufficient data	No known movements or campaigns identified
Tanzania	Penal Code	Up to 2 years' imprisonment and/or a fine	Limited data suggest little implementation	No known movements or campaigns identified
Tonga	Criminal Offences Act	Up to 3 years' imprisonment	Limited data suggests little implementation	No known movements or campaigns identified
Uganda	Penal Code	Up to 2 years' imprisonment	Insufficient data	No known movements or campaigns identified

WHEN LEGISLATION HAS BEEN REPEALED

In recent years suicide legislation has been successfully repealed or superseded by new legislation in the Cayman Islands, Cyprus, Lebanon, and India.

Overall, key factors that have helped decriminalise suicide are:

1. **A strong evidence base** for why suicide should be decriminalised – and more broadly – why updating mental health legislation is important at this time (based on a mixture of national needs, international precedents and human rights conventions, and personal stories of the impact of the law on individuals).
2. **Knowledge and understanding of the legal processes** involved and how best to effect reform in the specific context of the country.
3. **A multi-stakeholder effort** to raise public awareness and influence policy making, frequently brought about by a mixture of civil society, political and judicial leaders, and community leaders including religious leaders. This is helped by the use of media and communications to increase awareness and support for action.
4. **Political and judicial leaders** willing to champion decriminalisation of suicide in their respective areas of influence, based on evidence and supported by multi-stakeholder backing.
5. **Public information campaigns** that communicate the change in the law, help destigmatise mental health issues and ensure the change in law is upheld.

This report is focused on point 2: knowledge and understanding of the legal processes involved and how best to effect reform in the specific context of the country. However, in this section there are insights into the successful decriminalisation of suicide in two very different countries, the Cayman Islands and India, which illustrate points 1-5. There are many other examples which can be drawn upon, and at the end of this report there are resources to help campaigners in ending suicide decriminalisation.

Where information was available, the potential process for repealing legislation in each of the jurisdictions where suicide is criminalised is covered in the country summaries in the Appendix to this report. Generally speaking, repealing existing legislation is effected by passing a new piece of legislation in which it will be made clear that either the entire piece of original legislation that includes suicide criminalisation or – more likely given suicide or attempted suicide is included as a crime within a penal code – that the particular provision related to suicide criminalisation is repealed and of no further effect.²⁶ The repeal of the legislation may be preceded by a law reform commission raising the issue for political debate and approval by the legislature and the relevant houses of government, or where applicable a test case may set precedence.

²⁶ See for example, for India, Section 115 of India's Mental Healthcare Act 2017 prevails over section 309 of the Indian Penal Code (based on the rule of statutory interpretation which mandates that the later enactment will prevail unless express provision is made: (*Argyll (Duke) v Inland Revenue Commissioners* (1913) 109 LT 893 and *Kariapper v Wijrsinha* 1968 AC 716.). For the Cayman Islands, Penal Code (Amendment) (No. 2) Bill, 2020 which inserts into the Penal Code (2019 Revision) a new section 186A to remove the crime of suicide from the Penal Code

We have not been able to confirm the rules of interpretation for all jurisdictions covered in this report to determine whether the common law presumption against retroactive application of legislation would apply to decriminalisation of suicide in the absence of a clear and express statement in the amending act that the repeal is intended to have retroactive effect.²⁷ Retroactive application is a factor campaigners may want to consider when working with governments towards decriminalising suicide.

Evidence-Based, Multi-Stakeholder Approach

In December 2020 suicide was decriminalised in the Cayman Islands: the Attorney General presented an amendment to the Penal Code which was unanimously passed through Parliament.²⁸ This was the culmination of campaigning initiated by the Alex Panton Foundation which, along with other stakeholders including the Law Reform Commission, was able to present research and make the case that suicide is often a mental health issue and never a crime.^{29, 30} The research showed that only 5% of children and young people at risk of suicide were seeking help due to the stigma and discrimination caused in part by the criminalisation of suicide.³¹ This evidence-based, multi-stakeholder approach led to a government consultation which in turn led to the amendment of legislation. As with many of the countries reviewed in this report, suicide legislation was not being enforced in the Cayman Islands. When the evidence and benefits of decriminalisation were put before Parliament, civil society and the government worked in collaboration, and the relevant law was successfully repealed.

Decriminalised by a Different Act

In India another approach was taken. Attempted suicide is now, in effect, redundant but suicide as a criminal act is still on the statute books as Section 309 of the Indian Penal Code. Section 309 was introduced by the British Government in the 19th century and has been in place ever since. The campaign to repeal Section 309 is a long one, with several previous campaigns close to success. In 1978 an amendment Bill was passed, however before it could be brought into law, Parliament was dissolved and the Bill lapsed.³² In 1996 the test case of “Gian Kaur vs State of Punjab” was ultimately unsuccessful, leading to the Supreme Court upholding the constitutional validity of Section 309.³³ Again in 2008, the 18th Law Commission described Section 309 as “inhuman” and “anachronistic”. In its 210th report, the Law Commission recommended the repeal of Section 309, but it is yet to be implemented.^{34, 35}

27 Legislation.gov.uk, Section 17, Interpretation Act 1978, <https://www.legislation.gov.uk/ukpga/1978/30>

28 Cayman Compass (2021), Decriminalising suicide is just a first step.

<https://alexpantonfoundation.ky/decriminalizing-suicide-in-the-cayman-islands/>

29 Alex Panton Foundation (2020), Decriminalising Suicide in the Cayman Islands. <https://alexpantonfoundation.ky/decriminalizing-suicide-in-the-cayman-islands/>

30 Cayman News Service, LRC poses decriminalising suicide. <https://caymannewsservice.com/2019/08/lrc-poses-decriminalising-suicide/>

31 Alex Panton Foundation (2020), Decriminalising Suicide in the Cayman Islands.

32 The Indian Express (2020), Sec 309 IPC: Questions and issues around an archaic Section of the law. <https://indianexpress.com/article/explained/sec-309-ipc-questions-and-issues-around-an-archaic-section-of-the-law-6468338/>

33 The Indian Express (2020), Sec 309 IPC: Questions and issues around an archaic Section of the law.

34 Hindustan Time (2008), ‘Decriminalise attempt to suicide’. <https://www.hindustantimes.com/delhi/decriminalise-attempt-to-suicide/story-GswdOltOLeIQ1ivxdBAbNI.html>

35 The Law Commission, Humanization and Decriminalization of Attempt to Suicide. <https://indiankanoon.org/doc/73577534/>

This led to another path to decriminalising suicide in India. This came about through the efforts of a range of stakeholders in the development and campaign for the successful adoption of the Mental Healthcare Act (MHCA) 2017, which aims to reform mental health services and support in India. This Act has significantly reduced the scope for the use of Section 309, and therefore makes Section 309 “redundant”.³⁶

Section 115(1) of the MHCA 2017 states:

“Notwithstanding anything contained in section 309 of the Indian Penal Code any person who attempts to commit suicide shall be presumed, unless proved otherwise, to have severe stress and shall not be tried and punished under the said Code.”³⁷

Significantly, with this being mental healthcare legislation, it goes further than simply decriminalising suicide and legislates that the state must “provide care, treatment and rehabilitation to a person, having severe stress and who attempted to commit suicide”.³⁸ However, this approach to decriminalising suicide is not without complications. In the India example, there is serious issue with police often continuing to arrest or harass and charge those who have unsuccessfully attempted suicide under Section 309 due to a lack of awareness of the MHCA.³⁹ While the charges will be dropped, it often means that those arrested are unlikely to receive the immediate support and treatment mandated under the Act. Recently, the Supreme Court of India asked the federal Government to clarify the situation.

This demonstrates the need to not just change legislation but communicate these changes at every level of society, particularly among law enforcement officers. Explaining the rights of people under mental health legislation, policy and practice is just one example of the work carried out by the WHO QualityRights programme (which is working to change attitudes and practices of all stakeholders on a national scale in order to promote the rights of persons with mental health conditions), and a host of civil society organisations working around the world.

INTERNATIONAL PERSPECTIVE

As outlined previously, it is possible to successfully decriminalise suicide through action at national level when a range of stakeholders work together. However, there is also an international dimension to consider: upholding the internationally agreed right to the highest attainable standard of mental health, mental health legislation, policies, and practices. Despite being a legislative issue unique to each country, the international system, including multilateral organisations and human rights treaties, have a role to play in the decriminalisation of suicide. There are several political and international legal mechanisms, and multilateral organisations, that set a precedence for abolition of suicide criminalisation across the world.

36 The Hindu (2019), IPC law on suicide is ‘redundant’, say experts. <https://www.thehindu.com/sci-tech/health/ipc-law-on-suicide-is-redundant-say-experts/article30397121.ece>

37 The Gazette of India, The Mental Healthcare Act 2017. <https://egazette.nic.in/WriteReadData/2017/175248.pdf>

38 The Gazette of India, The Mental Healthcare Act 2017.

39 The Times of India (2020), A job left half done. <https://timesofindia.indiatimes.com/blogs/jibber-jabber/a-job-left-half-done/>

The WHO provides global leadership on this issue, supporting member states in the development and implementation of best practice guidance. Through the approval of the first **WHO Mental Health Action Plan 2013-2020**, WHO member states agreed that “mental health strategies, actions and interventions for treatment, prevention and promotion must be compliant with the Convention on the Rights of Persons with Disabilities and other international and regional human rights instruments”. In approving the plan they also agreed that “mental health strategies and interventions for treatment, prevention and promotion need to be based on scientific evidence and/or best practice, taking cultural considerations into account”.⁴⁰

In the Action Plan member states agreed: “Mental health law, whether an independent legislative document or integrated into other health and capacity-related laws, should codify the key principles, values and objectives of policy for mental health, for example by establishing legal and oversight mechanisms to promote human rights and the development of accessible health and social services in the community.” The plan also stated: “Policies, plans and laws for mental health should comply with obligations under the Convention on the Rights of Persons with Disabilities and other international and regional human rights conventions.”⁴¹

The agreement included the following global targets:

- **Global target 1.1: 80% of countries will have developed or updated their policies/plans for mental health in line with international and regional human rights instruments (by the year 2020)**
- **Global target 1.2: 50% of countries will have developed or updated their laws for mental health in line with international and regional human rights instruments (by the year 2020)**

This commitment to legal reform in line with human rights was reiterated in the **updated WHO Mental Health Action Plan 2020-2030**, indicating a strong commitment by countries to undertake these reforms. The updated and extended Action Plan provides an important breakthrough in advocacy efforts to decriminalise suicide. The Action Plan 2020-2030 also includes a specific recommendation to “decriminalise suicide, suicide attempts and other acts of self-harm” as a new “option for implementation” under Objective 1: To strengthen effective leadership and governance for mental health. This provides advocates with a basis for advocacy/reference help points endorsed by member states.⁴²

40 UN Department of Economic and Social Affairs, Convention on the Rights of Persons with Disabilities (CRPD) [accessed 18 August 2021] <https://www.un.org/development/desa/disabilities/convention-on-the-rights-of-persons-with-disabilities.html>

41 UN Department of Economic and Social Affairs, Convention on the Rights of Persons with Disabilities (CRPD) [accessed 18 August 2021]

42 WHO (2021), 74th World Health Assembly, Mental health preparedness for and response to the COVID-19 pandemic [https://apps.who.int/gb/ebwha/pdf_files/WHA74/A74\(14\)-en.pdf](https://apps.who.int/gb/ebwha/pdf_files/WHA74/A74(14)-en.pdf)

In addition, Objective 3, “to implement strategies for promotion and prevention in mental health”, has a series of new options for implementation which include to:

- **Develop, keep up to date, implement and evaluate national suicide prevention strategies that guide governments and stakeholders to implement effective preventive interventions, raise public awareness, increase help-seeking and reduce stigmatisation of suicidal thoughts and behaviours.**⁴³

The inclusion of the recommendation to decriminalise suicide enables the WHO and its partners to now provide technical advice on the subject and to encourage national legal reforms. It is an important step forward and as mentioned earlier the WHO is due to publish guidance on decriminalising suicide shortly. Moreover, there could be opportunities to encourage such reforms as part of the WHO Mental Health Special Initiative (whose focus countries include Bangladesh). This is also something the WHO could try to address in its humanitarian response and recovery work in countries that may at times receive such support (e.g., Sudan and South Sudan).

The WHO is currently developing guidance for countries on mental health-related legislation and mental health policies and plans that aligns with international human rights standards (to be published in 2022 and 2023 respectively). The guidance on legislation specifically addresses issues around the decriminalisation of suicide and will be helpful to all those seeking to decriminalise suicide.

The WHO will be tracking progress against the WHO Mental Health Action Plan 2020-2030 through the regular publication of the Mental Health Atlas. This report has traditionally not tracked all the options for implementation, but there is a case to be made for the WHO to track whether or not suicide has been decriminalised given the pivotal importance of the issue in reducing rates of suicide (a key SDG target). Another means to track progress is the Countdown Global Mental Health, which is an independent monitoring mechanism for mental health and includes suicide decriminalisation as one of the indicators in tracking carried out by countries around the world. This interactive database is being launched in late September 2021, along with the first of its annual reports tracking progress across more than 10,000 data metrics.

The Mental Health Action Plan positions upholding human rights as one of its cross-cutting principles. Upholding the Convention on the Rights of Persons with Disabilities (CRPD) is one of the most important elements of these principles. Passed in 2006, the CRPD is one of the nine core human rights treaties of the United Nations, and is the most significant treaty in relation to mental health.

43 WHO (2021), 74th World Health Assembly, Mental health preparedness for and response to the COVID-19 pandemic

The overall purpose, stated in Article 1 of the CRPD, is to “promote, protect and ensure the full and equal enjoyment of all human rights and fundamental freedoms by all persons with disabilities, and to promote respect for their inherent dignity”. Further, the CRPD commits signatories to ensure that persons with disabilities “enjoy the right to liberty and security of person”, “on an equal basis with others”, to “adopt all appropriate legislative, administrative and other measures for the implementation of the rights recognised in the present Convention”, and to repeal of laws that discriminate against people with disabilities.

A strong case can be made that criminalising suicide, which in many cases disproportionately impacts people with psychosocial disabilities and mental health conditions, goes against the fundamental rights and obligations established under the CRPD. The articles in the CRPD most relevant to the criminalisation of suicide are extracted in the table below for reference. Of the countries reviewed for this study, all but South Sudan and Myanmar have signed the CRPD and all but Myanmar (ascension only given), South Sudan and Tonga have ratified the CRPD.⁴⁴

CRPD articles most relevant to the criminalisation of suicide

Article 4, General obligations

1: States Parties undertake to ensure and promote the full realization of all human rights and fundamental freedoms for all persons with disabilities without discrimination of any kind on the basis of disability. To this end, States Parties undertake:

(a) To adopt all appropriate legislative, administrative and other measures for the implementation of the rights recognized in the present Convention;

(b) To take all appropriate measures, including legislation, to modify or abolish existing laws, regulations, customs and practices that constitute discrimination against persons with disabilities;

Article 14, Liberty and the security of the person

1. States Parties shall ensure that persons with disabilities, on an equal basis with others:

(a) Enjoy the right to liberty and security of person;

(b) Are not deprived of their liberty unlawfully or arbitrarily, and that any deprivation of liberty is in conformity with the law, and that the existence of a disability shall in no case justify a deprivation of liberty.

Mental health is also included in the SDGs, which all countries in this study are not legally bound by, but have agreed to progress towards. The SDGs most relevant to the criminalisation of suicide are extracted in the table below for reference.

In assessing progress towards or achievement of the SDGs, the indicator to measure progress on mental health is a reduction in suicide rates. As stated earlier, the criminalisation of suicide creates four main potential negative impacts on mental health: (i) suppressing data; (ii) not treating suicide as a public health issue; (iii) compounding stigma; and (iv) placing people with mental ill health in institutions that have an adverse effect on mental health. Rather than increase the rate of suicide, “suicide rates tend to decline in countries after decriminalisation”.⁴⁵ Therefore, if governments are to uphold their commitments to reduce the rate of suicide as progress towards achievement of the SDGs, then decriminalisation must be part of a holistic suicide prevention approach.

Sustainable Development Goals

SDG 3: Ensure healthy lives and promote well-being for all at all ages

Target 3.4: By 2030, reduce by one third premature mortality from non-communicable diseases through prevention and treatment and promote mental health and well-being

Indicator 3.4.2: Suicide mortality rate

Another means to accelerate action to decriminalise suicide is through discussion and mutual agreement between different groups of countries. One of particular importance to this issue is the Commonwealth. Of the 19 countries that still treat suicide as a criminal offence, 15 are Commonwealth countries: Bahamas, Bangladesh, Brunei Darussalam, Ghana, Guyana, Kenya, Malawi, Malaysia, Nigeria, Pakistan, Papua New Guinea, Saint Lucia, Tonga, Uganda, and Tanzania. This is in contrast to the UK, where suicide was decriminalised in 1961. It is in part a legacy of mental health laws that originated during the colonial period and/or a lack of more recent mental health reform. Both India and Sri Lanka have found ways to overcome this issue – examples that many other countries could follow. Through sharing how decriminalisation is achieved, and why it helps reduce rather than increase suicide rates, Commonwealth members could support one another to decriminalise suicide, reduce stigma and increase support and services for all who need them. The Commonwealth health ministers meet regularly (e.g., ahead of World Health Assembly meetings in May each year), and this issue could be a point of discussion and further action.

44 United Nations Treaty Collection, Convention on the Rights of Persons with Disabilities [accessed 18 August 2021] https://treaties.un.org/Pages/ViewDetails.aspx?src=TREATY&mtsg_no=IV-15&chapter=4&clang=en

45 WHO (2014), Preventing suicide: A global imperative

In October 2021, the French government will host the annual ministerial summit on mental health with the theme of mental health and human rights. This presents a good opportunity to raise the issue of the rights of persons with mental health conditions, including the right to access good quality mental health services, directly with national governments. The stigma and discrimination surrounding mental health, combined with the criminalisation of suicide, are key factors impeding people from seeking care and support. The French government will be seeking commitments towards upholding human rights relating to mental health; this would be a good moment for countries to announce that they will decriminalise suicide and increase mental health support in accordance with human rights.

CONCLUSION

The case for decriminalising suicide is clear. Criminalising suicide does not deter people from taking their lives: there is well documented evidence of far more effective means to do so – from community-based mental health and psychosocial support services, to restriction of the means of suicide, such as pesticide control.⁴⁶ What the evidence does show is that criminalising suicide deters people from seeking help in a moment of acute crisis and receiving the support they need to improve their mental health.

In many of the countries where suicide is still illegal, the laws are rarely enforced or not at all. It is also the case that for many countries the legislation criminalising suicide is very old, some even dating back to the time the countries were colonised. Despite lack of use of the law or the age of the laws, there are still significant negative impacts on a person's readiness to seek help and therefore improve their mental health due to the stigma and discrimination that suicide criminalisation creates.

Not only do lawmakers and governments have a moral obligation to support those whose mental ill health makes them vulnerable to suicide, governments also have legal obligations under international human rights treaties such as the CRPD, and commitments through international initiatives such as the United Nations' SDGs and agreeing to uphold the WHO's Action Plan 2021-2030.

Overall, key factors that have helped decriminalise suicide include:

- 1. A strong evidence base** for why suicide should be decriminalised, and more broadly why updating mental health legislation is important at this time (based on a mixture of national needs, international precedents and human rights conventions, and personal stories of the impact of the law on individuals).
- 2. Knowledge and understanding of the legal processes** involved and how best to effect reform in the specific context of the country.

- 3. A multi-stakeholder effort** to raise public awareness and influence policy making, frequently by a mixture of civil society, political and judicial leaders, and community leaders including religious leaders. This is helped by the use of media and communications to increase awareness and support for action.
- 4. Political and judicial leaders** willing to champion decriminalisation of suicide in their respective areas of influence, based on evidence and supported by multi-stakeholder support.
- 5. Public information campaigns** which communicate the change in the law, and therefore destigmatise mental health and ensure the change in law is upheld.

This report is focused on point 2: knowledge and understanding of the legal processes involved, and how best to effect reform in the specific context of the country. This report was written as a resource for all those who seek to decriminalise suicide. It provides the arguments for doing so and some examples of how it has been achieved elsewhere. Using the country summaries in the appendix, it is hoped campaigners can identify the best means to take action.

Recommendations

- **Suicide and attempted suicide should be decriminalised in every country in the world.**
- **All Member States who have endorsed the WHO Global Mental Health Action Plan 2020-2030 should uphold their commitment to “decriminalise suicide, suicide attempts and other acts of self-harm” alongside all other relevant international commitments.**
- **Suicide decriminalisation should be a priority of all suicide prevention policies where suicide remain illegal.**
- **Full information should be made publicly available on the treatment of attempted suicide across the countries summarised in this Appendix.**
- **Civil society and other advocates and champions should be supported to encourage national government and legal systems to repeal all laws that criminalise suicide.**

Next Steps

Anyone who is interested in further work on suicide prevention is encouraged to join the suicide prevention working group of the [Global Mental Health Action Network](#) or contact the [International Association for Suicide Prevention](#).

Note

The methodology used for this report is included in the next section. The information provided here was gathered between January and June 2021 and is subject to change. The report's authors would warmly welcome any further updates on the situation in the countries listed that local partners can provide.

46 WHO (2019), Preventing suicide: a resource for pesticide registrars and regulators.

COUNTRY SUMMARIES

APPENDIX 1 – COUNTRY SUMMARIES

This appendix contains summaries for 20 jurisdictions where suicide is still illegal.

Methodology

Initial research was carried out by an international law firm engaged by UnitedGMH from January to June 2021. UnitedGMH agreed an initial scope with the law firm, which was to focus on the criminalisation of attempted suicide, specific to the person who has attempted to end their own life. It should be noted that this is distinct from abetment of suicide, which is a separate legal regime and is criminalised in a significantly larger number of jurisdictions. In abetment of suicide, persons connected to an individual's act of taking their own life may be charged with a crime.

Once the initial scope was determined, specific practical areas to investigate in connection with attempted suicide were agreed. These included:

- **Details of the legislation in relation to attempted suicide, such as the minimum age of criminalisation, and any distinction between consequences for juveniles and adults, diminished capacity, relevant penalties or imprisonment;**
- **Whether the same legislation covered “suicide” separately and any consequences;**
- **Case law in relation to attempted suicide;**
- **Details of how cases of prosecutions of attempted suicide, including which laws are typically relied upon and how frequently such cases are brought before the courts;**
- **Details of any appeals in relation to attempted suicide; and**
- **Challenges to suicide legislation, including test cases or campaigns, and the process of amending or repealing the legislation.**

All research into the above focus areas was conducted on a desktop basis, consulting publicly available information. The findings were subject to the inherent limitations of this style of research, and it should also be noted that researchers were not legally qualified in the jurisdictions covered. It should also be noted that there were particular difficulties in relation to obtaining case law information. In many instances, researchers were generally relying on newspaper reports rather than law reports. One of the key findings to emerge from this style of research, was that there is very little information publicly available on the treatment of attempted suicide across the countries summarised in this Appendix.

The information provided here is subject to change. The report authors would warmly welcome any further updates on the situation in the countries listed that local partners can provide.

THE BAHAMAS

Relevant legislation: Section 294 of the Penal Code

Date of law: 1924

Minimum age can be prosecuted: 13 years

Punishment: Up to two years' imprisonment

Implementation of legislation: Insufficient data

Legislative repeal movement: No known movements or campaigns identified



The Bahamas, officially known as the Commonwealth of The Bahamas, is a country in the West Indies with a population of approximately 380,000.

What is the legislation? The law relating to suicide was initially enacted in 1924. Under Penal Code⁴⁷ (Ch. 84) 1924 (as amended), section 294 provides for the offence of attempting suicide: "Whoever attempts to commit suicide is guilty of a misdemeanour." The punishment is up to two years' imprisonment and fines can also be imposed.⁴⁸

There is insufficient data surrounding the number of prosecutions and criminal convictions over the past five years.

Impact on children

Children under the age of 10 cannot be held criminally responsible for any act and a child under the age of 12 can only be held criminally responsible where he or she has "attained sufficient maturity of understanding to judge the nature and consequences of [his or her] conduct in the matter in respect of which [he or she] is accused. In a recent case, there is no evidence in practice of a child of 13 or a juvenile being prosecuted for attempted suicide.

Impact on families

The will of someone who has died by suicide may be questioned on the basis of testator capacity, which could impact on their family and friends. Under Section 4 of the Wills Act, 2002, a valid will can only be made by a person who is aged 18 years or over, and is of sound disposing mind. Therefore, if someone is deemed insane at the time of dying by suicide, then the will can be deemed invalid.

Data released in 2019 showed men are five times more likely to die by suicide than women in the Bahamas. In a case relating to the death of a young man by suicide, his mother claimed entitlement of her son's life insurance policy.⁴⁹ The insurance company argued the payment was excluded under "risks not insured", which included suicide, attempted suicide, or intentional self-injury. The court held in favour of the mother on the basis that the death of her son was accidental. It did not address the possibility he had died by suicide. Therefore, the case indicates exclusion clauses in life insurance policies on grounds of suicide may be valid under Bahamian law.

How to change the law

The Bahamas is a common law jurisdiction and case law forms a binding precedent. This means that decisions made by a superior court take priority, and must be followed by all the lower courts. In the Bahamas, the highest court is the Court of Appeal, followed by the Supreme Court and the Magistrates' Court (listed here in descending order of priority). A charge of attempted suicide is likely to be heard in the Magistrates' Court, and then may be appealed in a higher court.

To change the law, campaigners would need to either seek to change the Constitution (which takes precedence over the Penal Code), or they could seek to take a test case to the Court of Appeal to set a binding precedent for future cases. To change the Constitution would mean working with the Law Reform and Revision Commission (the Commission) which reviews the laws of The Bahamas. It prepares revised editions of the existing laws with a view to the repeal and elimination of all obsolete or archaic laws and laws which are temporary in nature. A Bill would be introduced into Parliament by a Minister of the Government that proposed the change in law, and it would need to be passed by the House of Assembly and Senate and must be assented to by the Governor-General before it becomes law.

Progress on decriminalisation

A suicide task force commissioned by the Minister of Health in 2013 suggested tackling the stigma surrounding mental health was critically important in preventing suicide: "The Bahamian culture is both Christian and community based. As a result, suicide is a rather taboo topic, so much so that it is almost unheard of. No solutions or preventative efforts can be sought out if the problem (i.e., issue at hand) has not been identified. The only way to identify the problem is to know what to look for. Consequently, the general population needs to be made aware of the various signs and symptoms of suicidal intent."⁵⁰

47 Commonwealth of The Bahamas, The Penal Code [accessed 6 December 2020] <http://www.ilo.org/dyn/natlex/docs/ELECTRONIC/78675/84253/F1347548284/BHS78675.pdf>

48 The Penal Code does not set out a specific penalty for non-compliance with s. 294. In the absence of a specific penalty being set out s. 116(2) of the Penal Code states the following: "Where an offence is declared by this Code or by any other statute, to be a misdemeanour, and the punishment for it is not specified, a person convicted thereof shall be liable to imprisonment for two years"

49 Commonwealth of the Bahamas in the Supreme Court, Civil Side 2001/CLE/GEN/669 <https://www.bahamasjudiciary.com/wp-content/uploads/2020/01/ANTOINETTE-HIGGS-V-COLINA-FINANCIAL-SERVICES.pdf>

50 Keva Bethell & David Allen, "Suicide in the Bahamas (2000-2013)" https://globaljournals.org/GJHSS_Vol-14/4-Suicide-in-the-Bahamas.pdf

BANGLADESH

Relevant legislation: Section 309 of the Penal Code 1860

Date of law: 1860

Minimum age can be prosecuted: 9 years with proof of sufficient maturity of understanding; if no such proof, 12 years

Punishment: Up to one year imprisonment and/or unspecified fines

Implementation of legislation: Insufficient data

Legislative repeal movement: No known campaigns or movements identified

Bangladesh, officially the People's Republic of Bangladesh, is a country in South Asia with a population of more than 165 million.⁵¹

What is the legislation?

The law covering suicide is over 150 years old. Under the Penal Code 1860 (the Penal Code),⁵² Section 309 states 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".⁵³ The term "simple imprisonment" is the alternative, lesser form of imprisonment to "rigorous imprisonment" (being hard labour).

The Penal Code sets one year's imprisonment as a maximum punishment for attempts to die by suicide, however many judges view this as the standard sentence and impose it in every case.⁵⁴ Fines can also be imposed, but these must not be excessive; someone may be imprisoned if they cannot pay the fine. In place of imprisonment, the court may make a probation order, requiring the offender to be under the supervision of a probation officer instead of sentencing them to prison. In practice, probation is not widely understood and seldom used.

It can be argued that someone had diminished responsibility if they had an "unsound mind", or they had diminished capacity due to involuntary intoxication. Thus, under these sections of the penal code, attempted suicide cannot be an offence.

There is insufficient data surrounding the number of prosecutions and criminal convictions over the past five years.

51 World Bank, Population, total - Bangladesh, [accessed 18 August 2021] <https://data.worldbank.org/indicator/SP.POP.TOTL?locations=BD>

52 The Government of the People's Republic of Bangladesh, The Constitution. <http://bdlaws.minlaw.gov.bd/act-367/section-24555.html>

53 Md. Ershadul Karim (2018), "UPDATE: The Legal System of the People's Republic of Bangladesh" Hauser Global Law School Program (New York University School of Law)

54 Justice Sector Facility, UNDP Bangladesh (2015), "Criminal Justice in Bangladesh: A best practice Handbook for members of the criminal justice system" [https://www.undp.org/content/dam/bangladesh/docs/Projects/jsf/Best%20Practice%20Handbook%20\(Final%20Draft\).pdf](https://www.undp.org/content/dam/bangladesh/docs/Projects/jsf/Best%20Practice%20Handbook%20(Final%20Draft).pdf)



Impact on children

An attempt at suicide cannot be a punishable offence for a child of less than 9 years old.⁵⁵ If a child is over the age of 9 but under the age of 12, it must be proved that the child had sufficient maturity of understanding of the consequences for this suicide attempt to be an offence. It is not clear how a child of 9 would be treated.⁵⁶

Impact on families

Dying by suicide can invalidate the giving of gifts to friends and relatives (which is regulated by the Succession Act of 1925). Death by suicide could prompt enquiries into the soundness of the mind of the testator, and thus the validity of the will.⁵⁷

How to change the law

Bangladesh is a common law jurisdiction and thus case law does form binding precedent. In Bangladesh, attempted suicide is a criminal offence under the Penal Code. Amendments to, or the repeal of, legislation must undergo the same process as a new piece of legislation.

Progress on decriminalisation

The Ministry of Health and Family Welfare sponsored the Bangladesh Mental Health Act 2018 (the Mental Health Act),⁵⁸ replacing the Indian Lunacy Act 1912. The new legislation sets out mental health care benefits and provides for involuntary treatment. However, concerns have been voiced about the adequacy of the Mental Health Act. The Mental Health Act punishes medical practitioners if found guilty of providing false certificates of mental illness, which some commentators believe could be viewed as discouraging practitioners from giving a mental health diagnosis. It does not address suicide decriminalisation at all.

55 The Government of the People's Republic of Bangladesh, The Penal Code 1860, <http://bdlaws.minlaw.gov.bd/act-11.html?hl=1>

56 Daily Observer (2015), Juvenile justice system in Bangladesh Daily Observer <https://www.observerbdt.com/2015/07/13/99553.php#:~:text=The%20Penal%20Code%3A%20According%20to,against%20his%2Fher%20criminal%20act.&text=It%20deals%20with%20both%20children.in%20conflict%20with%20the%20law>

57 Justice Sector Facility, UNDP Bangladesh (2015), "Criminal Justice in Bangladesh: A best practice Handbook for members of the criminal justice system" [https://www.undp.org/content/dam/bangladesh/docs/Projects/jsf/Best%20Practice%20Handbook%20\(Final%20Draft\).pdf](https://www.undp.org/content/dam/bangladesh/docs/Projects/jsf/Best%20Practice%20Handbook%20(Final%20Draft).pdf)

58 World Health Organisation (2020), Bangladesh: WHO Special Initiative for Mental Health – Situational Assessment https://www.who.int/docs/default-source/mental-health/special-initiative/who-special-initiative-country-report---bangladesh---2020.pdf?sfvrsn=c2122a0e_2

BRUNEI DARUSSALAM

Relevant legislation: Section 165 of the Syariah Penal Code (2013), Article 309 of Chapter 22 of the Penal Code (1951)

Date of law: 1951 and 2013

Minimum age can be prosecuted: Those below the age of mumaiyiz⁵⁹ cannot be prosecuted

Punishment: One year in prison and/or fine of up to BND 4,000

Implementation of legislation: Insufficient data

Legislative repeal movement: There is no anticipated change to suicide legislation, but a major consultation took place to expand mental health legislation



Brunei Darussalam, officially the Nation of Brunei, the Abode of Peace, is a country on the island of Borneo in Southeast Asia, with a population of 453,600.⁶⁰

What is the legislation?

Two parallel systems of law operate in Brunei: the common law system, based on English Acts and codified laws governed by the civil courts; and a second independent system of courts based on Sharia law.

Section 165⁶¹ of the Syariah Penal Code states: “Any person who attempts to commit or attempts to cause the commission of suicide is guilty of an offence and shall be liable on conviction to a fine not exceeding BND 4,000, imprisonment for a term not exceeding one year or both.” This is applicable to both Muslims and non-Muslims. Article 309⁶² of Chapter 22 of the Penal Code, which is 70 years old, states: “Whoever attempts to commit suicide and does any act towards the commission of such offence, shall be punished with imprisonment for a term not exceeding one year, fine or both.”

Due to Brunei having a justice system allowing two different Penal Codes to be in force, legal principles are applied based on which code the authorities are pursuing convictions under. It is currently unclear how authorities will decide which system to prosecute under for commonly shared crimes. Parties are eligible to appeal court rulings, by submitting appeals within 14 days of the ruling,^{63, 64} in both Syariah Penal Code and Penal Code systems.

There is provision under both Penal Codes for diminished responsibility by way of insanity and intoxication. Under these sections, “persons of unsound mind” cannot be prosecuted. The defence for intoxication under both Penal Codes applies if it can be demonstrated that the person does not know the nature of the act, if it is right or wrong, or if the intoxicant was

59 The age at which a child can discern between right and wrong, and (the age at which) he or she knows of the differences between a man and a woman

60 Department of Economic Planning and Statistics, [accessed 16 July 2021] <http://www.deps.gov.bn/SitePages/Population.aspx>

61 Syariah Penal Code Order 2013 http://www.agc.gov.bn/AGC%20Images/LAWS/Gazette_PDF/2013/EN/s069.PDF

62 ILO, Laws of Brunei, Chapter 22, Penal Code 1951 <https://www.ilo.org/dyn/natlex/docs/ELECTRON-IC/78238/83493/F1602044948/BRN78238%202016%20Edition.pdf>

63 Government of Brunei Darussalam, Chapter 184, Syariah Courts Act, s. (18) http://www.agc.gov.bn/AGC%20Images/LAWS/ACT_PDF/cap184.pdf

64 Government of Brunei Darussalam, Chapter 184, Syariah Courts Act, s. (18)

administered without their knowledge or against their will. There is insufficient data surrounding the number of prosecutions and criminal convictions over the past five years.

Impact on children

There are some exceptions to the above laws. According to the Syariah Penal Code, “a child who has attained the age of being capable to differentiate a matter”⁶⁵ can commit an offence. It goes on to state that a person who has not yet “attained the age of puberty”, cannot be punished with specific laws; they can still be punished by others. The Penal Code states that an offence cannot be committed by someone under the age of 7, nor can it be committed by someone above the age of 7 years, and under the age of 12 who has not attained sufficient maturity of understanding to judge the nature and consequences of his conduct on that occasion.⁶⁶ The Government of Brunei has stated that children in conflict with the law are rarely brought before the courts,⁶⁷ and there is no evidence of a child being prosecuted under either the Syariah Penal Code, or the Penal Code.

Impact on families

There are no laws that address individuals who have died by suicide or their relatives.

How to change the law

Members of the Legislative Council can introduce any bill or propose any motion for debate or present any petition to the Legislative Council. However, the Sultan of Brunei enjoys absolute power by virtue of the State of Emergency which has existed since 1962, and is renewed biennially. As a result, the sultan has sole power to create new laws and amend existing laws.

Progress on decriminalisation

While there is no anticipated change to suicide legislation, leading up to the 2014 Mental Health Order, a major consultation took place to expand mental health legislation.⁶⁸ The Mental Health Order has played a role in destigmatising mental health, and providing structure to the provision of mental health support. The Attorney General has recently made calls for more awareness programs and cooperation between government agencies and non-governmental agencies to further destigmatise mental health, as well as more training programs on the Mental Health Order.⁶⁹ Meanwhile, the Ministry of Health launched a pilot mental health helpline project in 2019,⁷⁰ operated by health professionals. It received 1,300 calls within its first six months of operation.⁷¹

65 Sharia Courts Evidence Order 2001, s. 3(1)

66 Internal Commission of Jurists (2015), ‘The International Commission of Jurists’ Submission to the UN Committee on the Rights of the Child for the preparation of the List of Issues to be considered during the examination of the second and third periodic reports of Brunei Darussalam’, 10 April 2015, 7

67 Sharon Owen (2015), ‘Briefing on Brunei Darussalam for the Committee on the Rights of the Child, Pre-sessional Working Group’, June 2015, https://tbinternet.ohchr.org/Treaties/CRC/Shared%20Documents/BRN/INT_CRC_NGO_BRN_19716_E.docx

68 Ho, Hilda (2016), ‘Brunei Darussalam’s new Mental Health Order’ BJPsych International 38-40 https://www.researchgate.net/publication/320888208_Brunei_Darussalam's_new_Mental_Health_Order/fulltext/5a3a948baca272563a7f5818/Brunei-Darussalam-s-new-Mental-Health-Order.pdf

69 Dato Seri Paduka Haji Hairol Arni bin Haji Abdul Majid (2019), ‘Speech by Yang Berhormat, Dato Seri Paduka Haji Hairol Arni bin Haji Abdul Majid Attorney General at the opening of legal year’ 23 <http://judiciary.gov.bn/Publication%20Document%20Library/Legal%20Year%202020.pdf>.

70 Ho, Hilda (2020), ‘Suicide prevention in Brunei.’ BJPsych International 17.2 (2020): 40-42. <https://www.cambridge.org/core/services/aop-cambridge-core/content/view/42C8CD66984452A772DA59FCC88B734B/S2056474019000370a.pdf/div-class-title-suicide-prevention-in-brunei-div.pdf>

See also <https://thescoop.co/2018/08/05/moh-developing-national-helpline-for-suicide-prevention/>

71 Ain Bandial (2019), ‘Worrying climb in suicide rate requires urgent action, says health minister’ The Scoop <https://thescoop.co/2019/10/10/worrying-climb-in-suicide-rate-requires-urgent-action-says-health-minister/>



GHANA

Relevant legislation: Section 57(2) of the Criminal Code of 1960, Act 29

Date of Law: 1960

Minimum age can be prosecuted: Limited sentencing for children, maximum three months for those under 16, and six months for those aged 16-18

Punishment: Up to three years in prison, hard labour, possible fines

Implementation of legislation: Insufficient data

Legislative repeal movement: There is an effort to decriminalise suicide led by the Mental Health Authority

Ghana, officially the Republic of Ghana, is a country in West Africa with a population of 31 million.⁷²

What is the legislation?

The law that criminalises suicide is over 60 years old. In Ghana, Section 57(2) of the Criminal Code of 1960, Act 29 states that “whoever attempts to commit suicide shall be guilty of a misdemeanour”.⁷³

The maximum custodial sentence for such a misdemeanour is three years.⁷⁴ Any term of imprisonment for an offence under the Criminal Code, including attempted suicide, is with hard labour unless the court specifies otherwise.⁷⁵ Fines may also be ordered at the court’s discretion.⁷⁶

Proceedings can be postponed if the person is considered of “unsound mind” under the Criminal Procedure Code Act 30 of 1960. In this case, the individual may be released on bail, or confined “as a criminal lunatic in a lunatic asylum” or other suitable place.⁷⁷

Exceptions may also be made if the individual was prevented by “idiocy, imbecility, or any mental derangement or disease affecting the mind” from understanding their act or its consequences, or if they were under the influence of “an insane delusion”.⁷⁸ This could lead to a “special verdict”, resulting in the person being kept in custody “as a criminal lunatic” until the Minister of Justice or the president allows them to be discharged (with or without conditions).

72 World Bank, Population, total - Ghana, [accessed 18 August 2021] <https://data.worldbank.org/indicator/SP.POP.TOTL?locations=GH>

73 Criminal Procedure Code, s. 57(2) https://www.ilo.org/dyn/natlex/natlex4.detail?p_lang=en&p_isn=88530

74 Criminal Procedure Code 1960, s. 269(4)

75 Criminal Procedure Code 1960, s. 296(6)

76 Criminal Procedure Code 1960, s. 297(2)

77 Criminal Procedure Code 1960, s. 133 <http://ilo.org/dyn/natlex/docs/ELECTRONIC/88529/101254/F25539202/GHA88529.pdf>

78 Criminal Code 1960, s. 27

Due to a lack of available data, the number of prosecutions brought for attempted suicide in the past five years, and the number of criminal convictions, is unknown. Under part VII of the Criminal Procedure Code 1960, decisions of district courts may be appealed within one month of the decision,⁷⁹ however there is insufficient data relating to the number and success of these.

Impact on children

In most circumstances, juveniles (those aged under 18 in conflict with the law) are treated differently to adults.⁸⁰ The maximum sentence is three months for those under 16, and 6 months for those aged 16-18.⁸¹ For those under 18, attempted suicide may also lead to a formal or informal caution.⁸²

Impact on families

No legal consequences for family members could be identified.

How to change the law

Fundamental human rights and freedoms are written into Ghana’s Constitution of 1992, but none of these appear to prevent attempted suicide being criminalised. While the Constitution requires that the State maintains policy consistent with the development needs and objectives of Ghana, there is no indication that the government has considered whether the laws regarding suicide are consistent with this. The legal process for amending or repealing laws is also set out under the Constitution. Members of Parliament may introduce Bills,⁸³ which must be accompanied by an explanation of the failures of the existing law.⁸⁴ The Bills may then be voted on by Parliament, with at least half the members of Parliament present. They need a simple majority vote in favour of the Bill in order for it to pass.

Progress on decriminalisation

In recent years there have been some challenges to the legislation. In 2012 the Coalition for Suicide Prevention presented a petition to the Ghanaian Parliament asking for the repeal of the Criminal Code in respect of attempted suicide, and for suicide prevention efforts to be strengthened.⁸⁵ In 2015 the Law Reforms Commission submitted a comprehensive report on decriminalising attempted suicide to the Office of the Attorney General and Ministry of Justice (although this has not been brought into action).⁸⁶ More recently, the Mental Health Authority have been campaigning for suicide decriminalisation. In 2020 they began deliberations with the Attorney General’s Department to discuss the way forward to decriminalising attempted suicide.⁸⁷

79 Criminal Procedure Code 1960, s. 325

80 Juvenile Justice Act 2003, s. 1 [https://lawsghana.com/post-1992-legislation/table-of-content/Acts%20of%20Parliament/JUVENILE%20JUSTICE%20ACT,%202003%20\(ACT%20653\)/80](https://lawsghana.com/post-1992-legislation/table-of-content/Acts%20of%20Parliament/JUVENILE%20JUSTICE%20ACT,%202003%20(ACT%20653)/80)

81 Juvenile Justice Act 2003, s. 46

82 Juvenile Justice Act 2003, s. 12(1)

83 Constitution 1960, s. 106

84 Constitution 1960, s. 106(2)(a)

85 H Hjelmeland et al (2020), ‘The Law Criminalizing Attempted Suicide in Ghana’, Crisis: The Journal of Crisis Intervention and Suicide Prevention https://econtent.hogrefe.com/doi/10.1027/0227-5910/a000235?url_ver=Z39.88-2003&rfr_id=ori%3Arid%3Acrossref.org&rfr_dat=cr_pub++0pubmed&

86 Hon. G A Akuffo (2017), ‘Decriminalising Attempted Suicide from our Statute Books’ <http://www.mojagd.gov.gh/decriminalizing-attempted-suicide-our-statute-books>

87 Peace FM Online (2020), ‘World Mental Health Week Celebration Launched in Accra’ <https://www.peacefmonline.com/pages/local/health/202010/429474.php>

GUYANA

Relevant legislation: Section 96 of the Criminal Law (Offences) Act 1893

Date of law: 1893

Minimum age can be prosecuted: Minimum age of 17 years old for imprisonment

Punishment: Up to 12 months

Implementation of legislation: Limited data on number of prosecutions brought forward

Legislative repeal movement: Some effort to repeal legislation at government level

Guyana, officially the Co-operative Republic of Guyana, is a country in Northeast South America with a population of 787,000.⁸⁸

What is the legislation?

Guyana criminalises attempted suicide under Section 96 of the Criminal Law (Offences) Act 1893,⁸⁹ a law that is over 130 years old. It considers attempted suicide as a misdemeanour (a crime considered to be one of the less serious types of crime). The Criminal Law Act falls under the Constitution of Guyana which is the “supreme law” of the country: “*Everyone who attempts to commit suicide shall be guilty of a misdemeanour and liable to imprisonment for two years.*”⁹⁰

The above law and punishment are applicable for a trial by judge and jury in the High Court (indictment), whereas a summary conviction (i.e., the trial takes place before a judge only in the Magistrates’ Court) carries a maximum imprisonment of 12 months.⁹¹ It is a magistrate’s decision as to where the trial is held. Fines are also a sentencing option with penalties of up to 80,000 Guyanese dollars, or roughly USD 385, to be given instead of imprisonment.⁹² As with all convictions in Guyana it is possible to appeal the decision, the application for which must be made within 14 days of the convictions and can go all the way to the Caribbean Court of Justice.

Diminished responsibility is accepted in Guyana and that is applicable to the attempted suicide laws which allows a jury may deliver a “guilty but insane” verdict. The accused will then be “dealt with as a lunatic under the laws of Guyana”,⁹³ as those with poor mental health can still be termed “lunatics” in Guyana. The rate of legal cases for attempted suicide have been falling in Guyana. The latest data from the Office of the Director of Public Prosecutions only goes as far as 2015, but in the preceding four years attempted suicide cases of all types dropped from 14 in 2011, to six in 2012, nine in 2013, four in 2014, and four in 2015. The last recorded rate of suicide (2018) was 18.88 per 100,000,⁹⁴ a decrease from 44.2 per 100,000 deaths in 2012.⁹⁵

88 World Bank, Population, total - Guyana [accessed 18 August 2021] <https://data.worldbank.org/indicator/SP.POP.TOTL?locations=GY>

89 Criminal Law (Offences) Act (Cap 8.01), <https://mola.gov.gy/information/laws-of-guyana/903-chapter-00801-criminal-law-offences> The CLOA relates to indictments by jury trials

90 Section 96, Criminal Law (Offences) Act (Cap 8.01), <https://mola.gov.gy/information/laws-of-guyana/903-chapter-00801-criminal-law-offences>

91 Section 33, Summary Jurisdiction (Procedure) Act (Cap 10.02), <https://mola.gov.gy/sites/default/files/Cap.%201002%20Summary%20Jurisdiction%20%28Procedure%29%20Act.pdf>

92 Section 37, Summary Jurisdiction (Offences) Act (Cap 8.02), <https://mola.gov.gy/information/laws-of-guyana/899-chapter-00802-summary-jurisdiction-offences>

93 Section 179, Criminal Law (Procedure) Act (Cap 10.01), <https://mola.gov.gy/information/laws-of-guyana/469-chapter-1001-criminal-law-procedure>

94 Department of Public Information (2019), ‘Suicide in Guyana on the decrease’ <https://dpi.gov.gy/suicide-in-guyana-on-the-decrease/>

95 WHO (2014), Preventing suicide: A global imperative <https://www.who.int/publications/item/9789241564779>



Impact on children

This legislation is applicable to children. Under the Juvenile Offenders Act 1913, no person under the age of 17 can be imprisoned.⁹⁶ However, if a child is found guilty, they can be committed to a school for young offenders or a holding centre for juveniles for up to one year under section. Furthermore, the parent or guardian of a child who is found guilty of an offence can be fined.⁹⁷

Impact on families

Guyanese law does not cover suicide itself, i.e., it does not penalise someone who has died by suicide; however, a will may be invalidated, therefore affecting relatives and those close to the deceased. However, the legislation regarding wills does not specify any consequences to the validity of a will if the deceased committed suicide.⁹⁸

How to change the law

Any member of the National Assembly, that is an elected representative of the legislative body of Guyana, may bring a Bill, motion, or petition before the National Assembly to amend or repeal a law.⁹⁹ The change in law must be approved by a majority of members of the National Assembly present and voting on the Bill. At least one third of the members of the National Assembly must vote on a particular Bill for it to be approved,¹⁰⁰ and the President must then assent to the Bill for it to become law.¹⁰¹

Progress on Decriminalisation

The mental health legislation is very dated and there are calls to modernise it.¹⁰² There has been recent political movement on this legislation with the Director of Mental Health, Dr Util Richmond-Thomas, saying in 2019 that she would seek to repeal the criminalisation of attempted suicide.¹⁰³ Research indicates this has not yet happened and attempted suicide remains illegal. There has been progress with mental health policy, with the National Suicide Prevention Plan 2015-2020,¹⁰⁴ based on the WHO Mental Health Action Plan 2013-2020.¹⁰⁵

96 Section 13, Juvenile Offenders Act (Cap 10.03), <https://mola.gov.gy/information/laws-of-guyana/471-chapter-1003-juvenile-offenders>

97 Section 19, Juvenile Offenders Act (Cap 10.03), <https://mola.gov.gy/information/laws-of-guyana/471-chapter-1003-juvenile-offenders>

98 The Wills Act (Cap 12.02), <https://mola.gov.gy/information/laws-of-guyana/490-chapter-1202-wills/file>

99 Section 171, Part Two, Title Three, The Constitution of the Co-operative Republic of Guyana, <https://mola.gov.gy/information/laws-of-guyana/410-chapter-101-the-constitution-of-the-co-operative-republic-of-guyana>, (Cap1.01)

100 The Constitution of the Co-operative Republic of Guyana, Section 169, Part Two, Title Three, <https://mola.gov.gy/information/laws-of-guyana/410-chapter-101-the-constitution-of-the-co-operative-republic-of-guyana>, (Cap1.01)

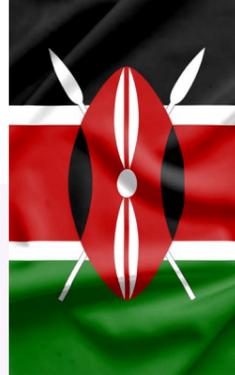
101 The Constitution of the Co-operative Republic of Guyana (Cap. 1.01), Section 170, Part Two, Title Three, <https://mola.gov.gy/information/laws-of-guyana/410-chapter-101-the-constitution-of-the-co-operative-republic-of-guyana>

102 Guyana Chronicle (2020), ‘Update the Mental Health Ordinance’ Guyana Chronicle, <https://guyanachronicle.com/2020/08/29/439377/>

103 Department of Public Information, ‘Suicide in Guyana on the decrease’ <https://dpi.gov.gy/suicide-in-guyana-on-the-decrease/>

104 Ministry of Public Health, ‘National Suicide Prevention Plan’ <https://www.mindbank.info/download/file/6321/8cf2fce32f72d3534e20c052bc95d0a061429407>

105 WHO (2013), ‘Mental Health Action Plan 2013-2020’ https://apps.who.int/iris/bitstream/handle/10665/89966/9789241506021_eng.pdf;jsessionid=824293E3E0EE88EB951330F076C02612?sequence=1



KENYA

Relevant legislation: Section 226 of the Penal Code

Date of law: 1930

Minimum age can be prosecuted: 8

Punishment: Up to two years' imprisonment, and/or a fine

Implementation of legislation: Eight prosecutions or appeals were heard in relation to attempted suicide between 2016 and 2020

Legislative repeal movement: There is effort to decriminalise suicide

Kenya, officially the Republic of Kenya, is a country in East Africa with a population of 53.8 million.¹⁰⁶

What is the legislation?

In Kenya, Section 226 of the Penal Code criminalises suicide and is an offence as “any person who attempts to kill himself is guilty of a misdemeanour”. It is punishable by up to two years in prison, and/or a fine. From the case information available through the online Kenyan Law Reports, it appears that eight prosecutions or appeals were heard in relation to attempted suicide between 2016 and 2020.

Although not a formal criminal sanction, individuals who are fingerprinted and listed in police databases for attempted suicide can subsequently struggle to obtain certain government documents such as the Certificate of Good Conduct. The police will only issue the Certificate of Good Conduct if an individual does not have a criminal record, but a person will have a criminal record in this instance if they have been fingerprinted and listed in a police database for attempted suicide.¹⁰⁷ The Certificate of Good Conduct is often required by employers, which may therefore make it more difficult for an individual to get jobs in certain institutions.

Individuals have a right to a fair hearing. This means individuals charged with a criminal offence have the right to be informed of the charge in a manner that they can understand, to be able to follow the proceedings, and to defend themselves, including by instructing legal counsel. Consequently, an individual can be found unable to stand trial if, as a result of mental illness, they are not able to access these rights. This was at issue in two recent cases on attempted suicide, *J S K v Republic* [2018]¹⁰⁸ and *Paul Isaac Okengo v Republic* [2017],¹⁰⁹ in which both defendants were found to have been too unwell to stand trial.

¹⁰⁶ World Bank, Population, total - Kenya, [accessed 18 August 2021] <https://data.worldbank.org/indicator/SP.POP.TOTL?locations=KE>

¹⁰⁷ The Kenya Police Service states that: “The finger prints of the Kenyan seeking a good conduct certificate are run through the system of criminal records. In cases where the prints have no record, the person will be issued with a certificate,” see: <http://www.kenyapolice.go.ke/pages/faqs.html#:~:text=A%20certificate%20of%20good%20conduct%20means%20that%20the%20particular%20Kenyan,of%20issuance%20of%20the%20certificate>.

¹⁰⁸ Kenya Law (2015), Criminal Appeal 36 of 2015 <http://kenyalaw.org/caselaw/cases/view/159781/>

¹⁰⁹ Kenya Law (2015), Criminal Appeal 58 of 2015 <http://kenyalaw.org/caselaw/cases/view/144775/>

Diminished responsibility is accepted in Kenya, due to insanity. A person will not be criminally responsible for an act or omission if, at the time of the act or omission, they were either (i) incapable of understanding what they were doing; or (ii) incapable of knowing right from wrong, as a result of any disease affecting their mind.

Intoxication, which includes drugs and narcotics, may only form a defence to a criminal charge if the person did not know that their act or omission was wrong, or did not know what they were doing, and the defendant was either (i) intoxicated without their consent by the malicious or negligent act of another person; or (ii) rendered, temporarily or otherwise, insane at the time of their act of omission. An English case relating to attempted suicide, which predates Kenyan independence and so remains a legal precedent in Kenya, held that a woman charged with attempted suicide was too drunk to form an intention to take her own life or do herself any grievous harm.¹¹⁰

Impact on children

The legislation distinguishes between the law applicable to children and juveniles, and the law applicable to adults. Section 14 of the Penal Code provides that a child below the age of 8 cannot be held criminally responsible for any act or commission. In practice this means that a child under the age of 8 cannot be prosecuted for attempted suicide. A person “under the age of 12 years is not criminally responsible for an act or omission, unless it is proved that at the time of doing the act or making the omission, he had capacity to know that he ought not to do the act or make the omission”. Based on research of the Kenyan Law Reports,¹¹¹ there appears to be no instances where a child under the age of 12 years old has been prosecuted for attempted suicide.

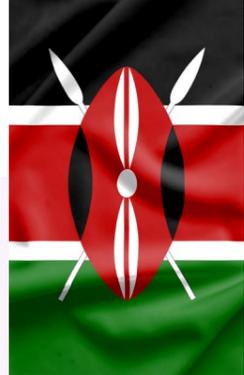
Impact on families

Any gift made in contemplation of death is invalid if the death is caused by suicide. This is defined as a gift made when the giver is imminently expecting death, either as a result of illness or immediate danger.¹¹²

¹¹⁰ *R v Moore* (1852) 3 C & K 319

¹¹¹ Available online at <http://kenyalaw.org/caselaw/>

¹¹² Law of Succession Act <http://extwprlegs1.fao.org/docs/pdf/ken106441.pdf>



How to change the law

Amendments to existing legislation, or the repeal and re-enactment of the provisions of legislation, must undergo the same legislative process as a new piece of legislation.¹¹³ A Bill will need to be introduced into Parliament by Members of Parliament.¹¹⁴ The Bill must be published in the Kenya Gazette fourteen days before its introduction. Bills that do not relate to governments of the individual counties in Kenya, such as amendments to the Penal Code, are considered solely by the National Assembly (the lower house of the Kenyan Parliament).¹¹⁵

Once introduced, a Bill has its first reading, and be referred to a relevant departmental committee for consideration, which may consult with the public or with experts.¹¹⁶ This is followed by a second reading, where the Bill's objectives are outlined, the departmental committee provides its report, and the principles of the Bill are debated. The Bill is then referred to the Committee of the National Assembly for a full debate on a clause-by-clause basis; at this stage, amendments can be introduced provided they do not negate the Bill's original purpose.¹¹⁷

The Committee of the National Assembly will then report to the Assembly on its consideration of the Bill. If the report is favourable, the Bill will undergo a third reading and a final vote; no further amendments can be proposed at this stage.¹¹⁸ If the Bill passes (which requires a simple majority in the National Assembly), it must receive Presidential assent within 14 days.

The President will either assent or refer the Bill back to Parliament for reconsideration; Parliament may then amend the Bill in light of the President's reservations or pass the Bill a second time without amendment with a two-thirds majority.¹¹⁹ The President must then assent to the Bill, following which it will be published in the Gazette. A Bill becomes law on the fourteenth day after publication, unless the Act stipulates a different date for its entry into force.¹²⁰

113 Kenya Law Reform Commission (2015), 'A Guide to the Legislative Process in Kenya', <https://klrc.go.ke/images/images/downloads/klrc-a-guide-to-the-legislative-process-in-kenya.pdf>

114 Note that a member of the public may also petition Parliament to introduce a Bill under art. 119 of the Constitution of Kenya (see Parliament of Kenya, 'How Law is Made' http://www.parliament.go.ke/sites/default/files/2018-04/2_How_Law_is_Made.pdf)

115 Tom Ojienda, Brian Ojienda, Gregory Otieno, 'Researching Kenyan Law' https://www.nyulawglobal.org/globalex/Kenya1.html#_The_Structure_and

116 Parliament of Kenya, 'How Law is Made' http://www.parliament.go.ke/sites/default/files/2018-04/2_How_Law_is_Made.pdf

117 Kenya Law Reform Commission, 'A Guide to the Legislative Process in Kenya', <https://klrc.go.ke/images/images/downloads/klrc-a-guide-to-the-legislative-process-in-kenya.pdf>

118 Kenya Law Reform Commission, 'A Guide to the Legislative Process in Kenya', <https://klrc.go.ke/images/images/downloads/klrc-a-guide-to-the-legislative-process-in-kenya.pdf>

119 Tom Ojienda, Brian Ojienda, Gregory Otieno, 'Researching Kenyan Law' https://www.nyulawglobal.org/globalex/Kenya1.html#_The_Structure_and

120 Kenya Law Reform Commission, 'A Guide to the Legislative Process in Kenya', <https://klrc.go.ke/images/images/downloads/klrc-a-guide-to-the-legislative-process-in-kenya.pdf>

Progress on decriminalisation

Kenya has a Mental Health Policy for 2015-2030, developed by the Ministry of Health with support from the WHO.¹²¹ However, although one of the stated policy objectives is that "Mental Health Legislation shall be revised to conform to the constitutional requirements and implement other health-related laws",¹²² this policy does not contain any express proposals to decriminalise attempted suicide. The Kenyan government, in cooperation with a number of local NGOs, ran a public consultation on the Mental Health (Amendment) Bill 2018,¹²³ which was debated between May and June 2019. In 2020, the Kenyan Ministry of Health's Taskforce on Mental Health produced a report calling for the government to "amend or repeal [...] discriminatory and derogatory laws" and quoted findings from stakeholders emphasising the need to "amend the law to decriminalise suicide".¹²⁴ It has also urged the Kenyan Government to declare mental health to be a national emergency.¹²⁵

On World Suicide Prevention Day 2020, the Kenya National Commission on Human Rights¹²⁶ called upon the legislature to decriminalise attempted suicide through the repeal of section 226 of the Penal Code, and reiterated its previous calls for the fast-tracking of the Mental Health (Amendment) Bill.

121 Ministry of Health (2015), 'Kenya Mental Health Policy 2015-2030: Towards Attaining the Highest Standard of Mental Health' <https://mental.health.go.ke/download/kenya-mental-health-policy-2015-2030/>

122 Ministry of Health, 'Kenya Mental Health Policy 2015-2030' <https://publications.universalhealth2030.org/uploads/Kenya-Mental-Health-Policy.pdf>

123 Kenya Gazette (2018), 'Mental Health (Amendment) Bill 2018', <http://www.parliament.go.ke/sites/default/files/2018-12/Mental%20Health%20%28Amendment%29%20Bill%2C%202018.pdf>

124 Taskforce on Mental Health (2020), Mental Health and Wellbeing: Towards Happiness & National Prosperity <https://mental.health.go.ke/download/mental-health-and-wellbeing-towards-happiness-national-prosperity-a-report-by-the-taskforce-on-mental-health-in-kenya/>

125 Ministry of Health (2020), 'Mental Health Taskforce urges government to declare mental health a National Emergency' <https://www.health.go.ke/mental-health-taskforce-urges-government-to-declare-mental-health-a-national-emergency-nairobi-tuesday-july-7-2020/>

126 Dominic Kabiru (2020), 'The World Suicide Prevention Day: Working Together To Prevent Suicide' Kenya National Commission on Human Rights <https://www.knchr.org/Articles/ArtMID/2432/ArticleID/1106/The-World-Suicide-Prevention-Day-%E2%80%9CWorking-Together-To-Prevent-Suicide>



MALAWI

Relevant legislation: Section 229 of the Penal Code

Date of law: 1999

Minimum age can be prosecuted: 10

Punishment: Up to two years in prison with the possibility of hard labour

Implementation of legislation: Insufficient data

Legislative repeal movement: No known movements or campaigns identified

Malawi, officially the Republic of Malawi, is a country in East Africa with a population of 19.13 million.¹²⁷

What is the legislation?

Attempted suicide falls under Section 229 of the Penal Code and provides for the offence of attempting suicide: “Any person who attempts to kill himself shall be guilty of a misdemeanour.”¹²⁸

There is a maximum of two years in custody with the possibility of hard labour.¹²⁹ If the sentence is for less than three months and the offender is employed, they can apply to the court to serve time around their employment to avoid hardship. Under Section 34 of the Penal Code, fines may be imposed alongside imprisonment or as a standalone punishment. The amount of the fine that can be given is unlimited but cannot be excessive.

Due to a lack of available data, the number of prosecutions brought for attempted suicide in the past five years, and the number of criminal convictions, is unknown.

Impact on children

It is possible for children as young 10 years old to be prosecuted for attempted suicide. Under section 14(2) of the Penal Code, a person “under the age of 14 years is not criminally responsible for an act or omission unless it is proved that at the time of doing the act or making the omission, he had capacity to know that he ought not to do the act or make the omission”. Based on the law reports, we are not aware of any examples of a child between the ages of 10 and 14 being prosecuted.

Impact on families

There are no laws which relate to those who have died by suicide, nor their families, and there appears to be no evidence that death by suicide should invalidate a trust or will. There are no provisions in the Penal Code or the Deceased Estates (Wills, Inheritance and Protection)

¹²⁷ World Bank, Population, total - Malawi, [accessed 18 August 2021] <https://data.worldbank.org/indicator/SP.POP.TOTL?locations=MW>

¹²⁸ Malawi Legal Information Institute (2014), Penal Code https://malawilii.org/mw/consolidated_legislation/701

¹²⁹ Section 34 and Section 27(1). Attempted suicide, under Section 229 of the Penal Code, is categorised as a misdemeanour and no specific punishment is provided: “Any person who attempts to kill himself shall be guilty of a misdemeanour”

Act2011¹³⁰ invalidating a person’s will if they die by suicide. That said, death by suicide may open up questions around the testator’s capacity if the will was made in the period leading up to their death as, under Section 5(1) of DEWIPA, a valid will can only be made by a person of “sound mind”.¹³¹

How to change the law

Amendments to existing legislation, or the repeal and re-enactment of the provisions of legislation, must undergo the same legislative process as a new piece of legislation.¹³²

Section 48(1) of the Constitution vests all legislative powers of the Republic of Malawi in Parliament. Section 58 provides that Parliament may delegate to the Executive or the Judiciary the power to make subsidiary legislation, provided that such legislation does not substantially and significantly affect the fundamental rights and freedoms recognised by the Constitution.¹³³ Under Section 132 of the Constitution, there shall be “a Law Commission which shall have the power to review and make recommendations relating to the repeal and amendment of laws and which shall have such powers and functions as are conferred on it by this Constitution and any Act of Parliament”.

Section 66 of the Constitution states: “The National Assembly shall be a directly elected Chamber which shall have power, subject to this Constitution, to (a) receive, amend, accept or reject Government Bills and Private Bills; (b) initiate Private Member’s Bills on the motion of any member and amend, accept, or reject all Private Member’s Bills.”

Section 49 of the Constitution states: “An Act of Parliament shall be a Bill which has (a) been laid before the National Assembly; (b) been passed in the National Assembly by a simple majority or such other majority as is otherwise required by this Constitution in respect of any particular Bill; and (c) been assented to by the President in accordance with this Chapter.”

Progress on decriminalisation

With regards to repealing or amending the relevant legislation, no test cases, campaigns, or government consultations were identified through this research.

¹³⁰ Malawi Legal Information Institute (2011), Deceased Estates (Wills, Inheritance and Protection) Act, 2011 <https://malawilii.org/mw/legislation/act/2011/14>

¹³¹ Section 5(1) of DEWIPA: “Subject to this Act, a person who is of sound mind and is not a minor may dispose of all or any of his or her property after his or her death by will”

¹³² Redson Edward Kapindu (2019), UPDATE: Malawi Legal System and Research Resources GlobalLex, <https://www.nyulawglobal.org/globalex/Malawi1.html>

¹³³ Redson Edward Kapindu (2019), UPDATE: Malawi Legal System and Research Resources GlobalLex, <https://www.nyulawglobal.org/globalex/Malawi1.html>



MALAYSIA

Relevant legislation: Section 309 of the Malaysian Penal Code

Minimum age can be prosecuted: 10 years old

Punishment: Up to one year imprisonment and/or a fine

Implementation of legislation: Insufficient data

Legislative repeal movement: A number of groups have called for the decriminalisation of suicide in Malaysia

Malaysia is a country in Southeast Asia with a population of 32,730,000.¹³⁴

What is the legislation?

Section 309 of the Malaysian Penal Code states that: "Whoever attempts to commit suicide and does any act towards the commission of such offence, shall be punished."¹³⁵ The law does, however, exclude liability for preparing for suicide (e.g., writing a suicide note).¹³⁶

Punishment for attempted suicide is a custodial sentence of up to one year and/or a fine. Limited reporting on this suggests that custodial sentences generally range from between three and six months,¹³⁷ with fines being in the region of MYR 2,000-3,000.¹³⁸

There are provisions in the Penal Code for diminished responsibility by way of insanity and intoxication. According to the Penal Code, anyone who is incapable of knowing what they are doing or unable to distinguish right from wrong due to "unsoundness of mind" may be excluded from liability in proceedings. Regarding intoxication, this alone does not constitute a valid defence against criminal charges. Intoxication that leads to insanity may constitute a defence, dependant on the extent to which intoxication was involved in the formation of the intent to attempt suicide.

Due to a lack of available data, the number of prosecutions brought for attempted suicide in the past five years, and the number of criminal convictions, is unknown.

134 Department of Statistics, Malaysia, 'Demographic Statistics First Quarter 2020, Malaysia' [accessed 16 July 2021] https://www.dosm.gov.my/v1/index.php?r=column/cthemByCat&cat=430&bul_id=aFYzVj3anNy-QytHZGxzcUzXTG9Ydz09&menu_id=L0pheU43NWjwRWVjSZkiWdzQ4TihUUT09

135 Malaysia: Penal Code (Act 57) http://www.agc.gov.my/agcportal/uploads/files/Publications/LOM/EN/Penal%20Code%20ACT%20574%20-%20TP%20LULUS%2021_2_2018.pdf

136 Karim, F.N. (2008), The Malaysian Bar: Police consider using the Law on Suicide. Retrieved from http://www.malaysianbar.org.my/news_features/police_consider_using_the_law_on_suicide.html.

137 See Bernama (2017), 'Woman fined RM2,000 for attempted suicide', NST Online <https://www.nst.com.my/news/crime-courts/2017/04/230331/womanfined-rm2000-attempted-suicide>; Tariq Q (2017), 'Rohingya youth pleads guilty to attempted suicide', The Star Online <https://www.thestar.com.my/news/nation/2017/09/13/rohingya-manpleads-guilty-to-attempted-suicideburning-himself/>; Malay Mail (2020), 'Court fines man who survived suicide bid RM3,000', <https://www.malaymail.com/news/malaysia/2020/08/04/court-fines-man-who-survived-suicide-bid-rm3000/1891010>

138 See Bernama (2017), 'Woman fined RM2,000 for attempted suicide', NST Online; Tariq Q (2017), 'Rohingya youth pleads guilty to attempted suicide', The Star Online; Malay Mail (2020), 'Court fines man who survived suicide bid RM3,000,

Impact on children

The law does distinguish juveniles, and although the Child Act 2001 defines children as those under 18 years of age,¹³⁹ children under the age of 10 are not criminally responsible under the penal code. There is also a presumption that children between 10 and 12 years of age cannot commit crimes. If charged, it is the responsibility of the child to demonstrate that they have not yet reached a sufficient level of understanding in relation to their behaviour.¹⁴⁰ It seems that children above the age of 12 are subject to full criminal responsibility as an adult.¹⁴¹

Impact on families

There are no laws which relate to those who have died by suicide, nor their families, and there appears to be no evidence that death by suicide should invalidate a trust or will. There is also insufficient data surrounding the number of prosecutions and criminal convictions over the past five years. Convicted persons have a right to appeal their sentences through the High Court, Court of Appeal and Federal Court. There is no available information on what element of the judgement can be appealed – for example, sentencing – and on what grounds.

How to change the law

Bills are typically introduced by a government ministry and read by either the minister or the deputy minister of the ministry concerned. They can also be introduced by members of the House of Representatives (Dewan Rakyat) or the Senate (Dewan Negara).

Bills receive a first reading (Parliament Malaysia) and then a second reading, involving a substantive debate. The Bill then goes through a committee stage before being returned to the House of Representatives for a third and final reading and vote.

Bills that pass the House of Representatives are referred to the Senate. Non-approval by the Senate can only delay a Bill from being passed. The legislative process is completed when the King (His Majesty Yang di-Pertuan Agong) signs the Bill into law (Royal Assent). Laws take effect once they are published in the Government Gazette.¹⁴²

139 Section 2, Child Act 2001 (Act 611), <https://antislaverylaw.ac.uk/wp-content/uploads/2019/08/Malaysia-Child-Act-1.pdf>

140 See Section 105 of the Evidence Act 1950 in conjunction with section 83 of the Penal Code

141 Akmal Mohamad et al. (2017), 'Criminal Responsibility of Children under Malaysian Law; Time for a Re-Evaluation' [https://www.idosi.org/wasi/wasj35\(9\)17/20.pdf](https://www.idosi.org/wasi/wasj35(9)17/20.pdf)

142 Parliament of Malaysia, 'Standing Orders of the Dewan Rakyat', Available at: <https://www.parlimen.gov.my/peraturan-mesyuarat.html?uweb=dr&lang=en>

Progress on decriminalisation

A number of groups have called for the decriminalisation of suicide in Malaysia. Bodies and organisations including the Malaysian Mental Health Association (MMHA), the Human Rights Society (HAKAM) and the Malaysian Mental Health Promotion Advisory Council continue to call on the government to repeal these laws.¹⁴³ Minds First has recently launched a petition to Members of the Malaysian House of Representatives and the Attorney General's Chambers (AGC), calling for Section 309 to be repealed.¹⁴⁴

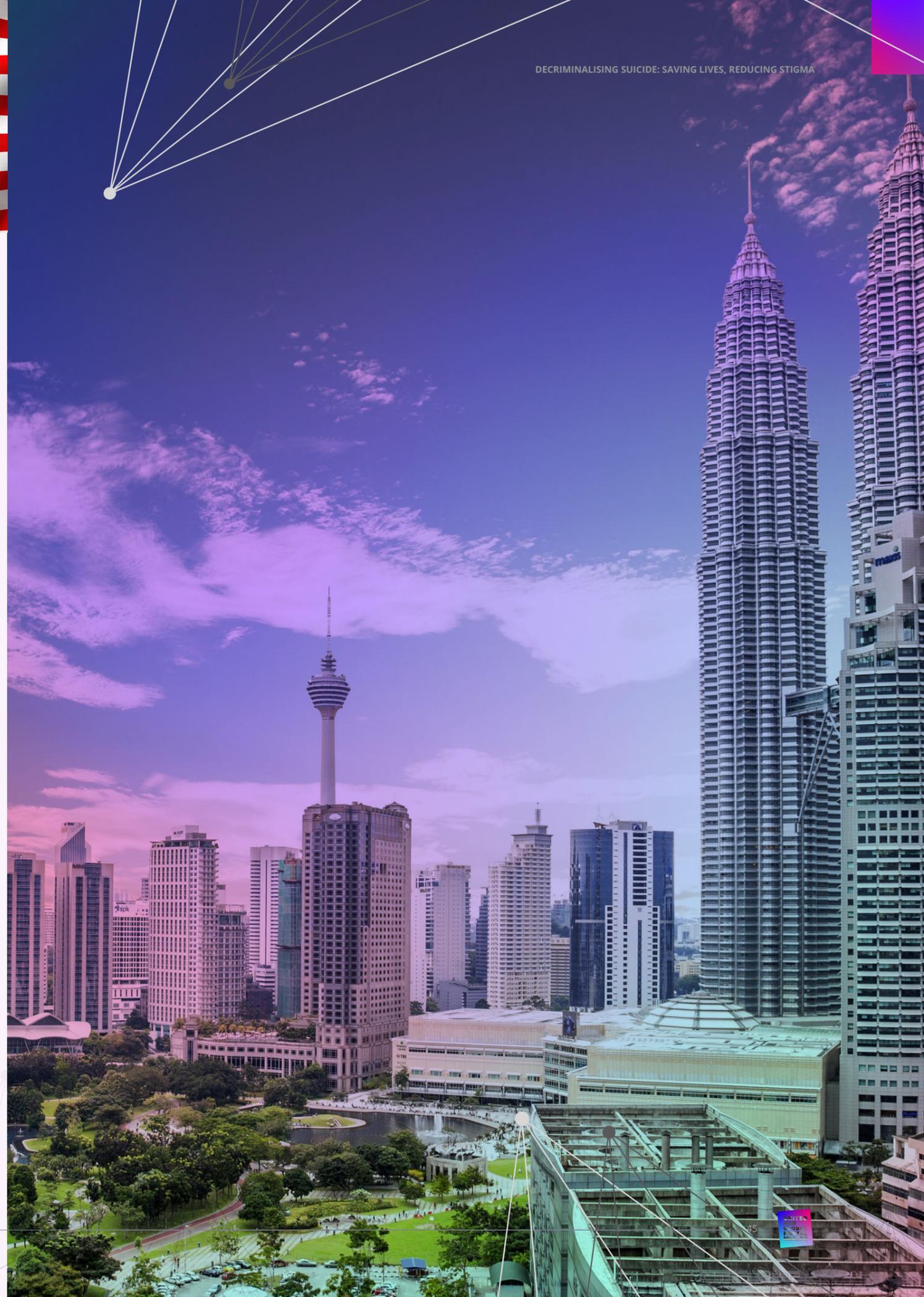
According to Malaysia's legal system, the Constitution of Malaysia is the "supreme law" of the country. The Penal Code is subordinate to it and is void in any situation where its provisions contradict the Constitution¹⁴⁵. The Malaysian Government is set to review the decriminalisation of attempted suicide. The AGC began this review in 2019, and the Prime Minister's Department announced that the policy paper would take into account different views, including approaches in different jurisdictions of the Commonwealth.¹⁴⁶ It is unclear when the outcomes of this review are expected.

143 The Guardian (2020), 'Reform urged in Malaysia after disabled man is jailed for attempted suicide', <https://www.theguardian.com/global-development/2020/feb/17/reform-urged-in-malaysia-after-disabled-man-is-jailed-for-attempted-suicide>

144 Mind First, "Decriminalise suicide in Malaysia now", Minds First, accessed via Change.org. Available at: <https://www.change.org/p/mps-and-ag-tan-sri-idrus-harun-decriminalise-suicide-in-malaysia-now>

145 Constitueproject.org, 'Malaysia's Constitution of 1957 with Amendments through 2007' https://www.constitueproject.org/constitution/Malaysia_2007.pdf?lang=en

146 The Star, 'Suicide attempts to be decriminalised' <https://www.thestar.com.my/news/nation/2019/12/31/suicide-attempts-to-be-decriminalised>



MYANMAR

Relevant legislation: Section 309 of the Penal Code

Date of law: 1912

Minimum age can be prosecuted: 7 years old

Punishment: One year imprisonment, possible fine (unlimited)

Implementation of legislation: Insufficient data

Legislative repeal of movement: Limited evidence of movement for decriminalisation



Myanmar is a country in Southeast Asia with a population of 54 million.¹⁴⁷

What is the legislation?

The legislation criminalising suicide is the Penal Code. In Myanmar, Section 309 of the Penal Code makes it an offence to: “[attempt] to commit suicide, and [do] any act towards the commission of such offence”.¹⁴⁸ The Criminal Procedure Code sets out the procedure according to which such offences are “investigated, inquired into, tried and otherwise dealt with”.¹⁴⁹

The maximum custodial sentence for such an offence is one year of “simple imprisonment” (as opposed to “rigorous imprisonment”, defined as imprisonment “with hard labour”).¹⁵⁰

The individual may also be fined. There is no maximum limit on fines, but they may not be “excessive”.¹⁵¹

The number of prosecutions brought for attempted suicide over the past five years, and the number of criminal convictions, is unknown. Successful prosecutions may be appealed, according to article 19 of the 2008 Constitution. However, the Criminal Procedure Code places some restrictions on this,¹⁵² and there is insufficient data to determine how long after the trial first appeals are typically heard.

Individuals are also considered to be of “unsound mind” if they do not understand the nature of what they are doing or that what they are doing is “wrong or contrary to the law” at the time of the act.¹⁵³ The Criminal Procedure Code sets out the procedure in these cases. For those found to have committed the offence but who have been acquitted due to an “unsound mind”, the magistrate or court may order for them to be detained in safe custody or as they see fit. Another exception is made for individuals who were intoxicated at the time of the act, provided that the intoxicating substance was given to them without their knowledge or against their will.¹⁵⁴

147 World Bank, Population, total - Myanmar, [accessed 30 July 2021] <https://data.worldbank.org/indicator/SP.POP.TOTL?locations=MM>

148 Penal Code https://www.burmalibrary.org/docs6/MYANMAR_PENAL_CODE-corr.1.pdf

149 Code of Criminal Procedure <http://www.asianlii.org/mm/legis/code/cocp1898209.pdf>

150 Penal Code, s. 53

151 Penal Code, s. 63

152 Criminal Procedure Code, s. 412

153 Penal Code, s. 84

154 Penal Code, s. 85

Due to a lack of available data, the number of prosecutions brought for attempted suicide in the past five years, and the number of criminal convictions, is unknown.

Impact on children

The legislation makes some exceptions to how the offence is dealt with. Attempted suicide is not considered to be an offence for children under 7,¹⁵⁵ or for children between the ages of 7 and 12 who are deemed not mature enough to understand the consequences of their actions.¹⁵⁶

Impact on families

There is insufficient data available around the potential impact of this legislation on families.

How to change the law

Existing laws can be repealed or amended by the Pyidaungsu Hluttaw (National Parliament).¹⁵⁷

This is made up of two Hluttaws: The Pyithu Hluttaw (representatives elected at township level and representatives of the Defence Services¹⁵⁸) and the Amyotha Hluttaw (representatives elected at regional and state level and representatives of the Defences Services¹⁵⁹). Union level executive bodies can submit Bills on matters they administer included in the Union Legislative List to the Pyidaungsu Hluttaw. Submitted Bills may be initiated and discussed at either of the two Hluttaws,¹⁶⁰ (except those under the exclusive legislative power of the Pyidaungsu Hluttaw¹⁶¹).

If a Bill is approved by both Hluttaws, it is sent to the president. This is returned with his signature or comment within 14 days. If it is not returned during the 14-day period, it becomes a law.¹⁶² The Pyidaungsu Hluttaw may accept the president’s comment and resolve to amend the Bill or approve it as it is without accepting his comment.¹⁶³

155 Penal Code, s. 82 and The State Law and Order Restoration Council Law No. 9/93 (the Child Law), s.28(a) <https://www.burmalibrary.org/en/the-child-law-slorc-law-no-993-english>

156 Penal Code, s. 83 and Child Law, s. 28(b)

157 Constituteproject.org, Myanmar’s Constitution of 2008, art. 446 https://www.constituteproject.org/constitution/Myanmar_2008.pdf?lang=en

158 Defence Services” is stated to be the main armed force for the defence of the Union of Myanmar (2008 Constitution, art. 337)

159 2008 Constitution, art. 74. The maximum numbers of representatives of the Defence Services who may be elected to the Pyithu Hluttaw and Amyotha Hluttaw are set out in art. 109 and art. 141, respectively.

160 2008 Constitution, art. 101

161 Bills relating to national plans, annual budgets and taxation may only be submitted by the Union Government and fall under the exclusive legislative power of the Pyidaungsu Hluttaw

162 2008 Constitution, art. 105

163 2008 Constitution, art. 106

Progress on decriminalisation

In December 2016 the Myanmar Ministry of Health and Sports launched a five-year National Health Plan (2017-2021) to ensure access to essential health services for the entire population, including basic essential mental health care services.¹⁶⁴ This includes “depression, including suicide prevention and perinatal depression”.

A December 2016 report by the Association of Southeast Asian Nations (ASEAN) on mental health systems in ASEAN countries¹⁶⁵ also references the objectives of the Myanmar National Health Policy. This includes “[to] promulgate new rules and regulations in accord with the prevailing health and health-related conditions as and when necessary”. It also references the aim of developing “a Mental Health Law appropriate to current situations of Myanmar and international human rights issues” to replace the Lunacy Act of 1912, which remains in force. A new mental health Bill has been under discussion by union level ministries and agencies since 2013, but has yet to be put before the National Parliament.



164 Myanmar Ministry of Health and Sport (2016), ‘Myanmar National Health Plan: 2017–2021’ <https://www.aidsdatahub.org/sites/default/files/resource/myanmar-national-health-plan-2017-2021.pdf>

165 ASEAN (2016), ‘ASEAN Mental Health Systems’ <https://asean.org/storage/2017/02/55.-December-2016-ASEAN-Mental-Health-System.pdf>

NIGERIA

Relevant legislation: Section 327 of the Criminal Code, Section 231 of the Penal Code, and Section 235 of the Lagos Criminal Law

Date of law: 1960 (Penal Code), 1916 (Criminal Code)

Minimum age can be prosecuted: 7 to 10 years old

Punishment: One year imprisonment, possible fine (unlimited)

Implementation of legislation: Insufficient data on number of attempted prosecutions. Frequent media reports on people being charged for attempted suicide

Legislative repeal movement: A campaign to repeal exists, although no test cases brought to court yet

Nigeria is a country in West Africa with a population of more than 206 million.¹⁶⁶

The most populous country in Africa, Nigeria has a mixed legal system with four distinct sources of law: English law, common law, customary law, and Sharia law. Case law forms binding precedents as a source of Nigerian law.¹⁶⁷ Common law operates in the southern states, and at the federal level, Sharia law is applicable to Muslim residents in the 12 northern states¹⁶⁸ as well as non-Muslim residents from any of the other states who agree to be bound by them. This research does not focus on Sharia law.

What is the legislation?

The legislation criminalising suicide is 60 years old. Attempted suicide is an offence under Section 327 of the Criminal Code, Section 231 of the Penal Code, and Section 235 of the Lagos Criminal Law.¹⁶⁹ Only attempted suicide is an offence in Nigeria, with no laws specifically addressing individuals who have died by suicide. A person charged with the offence of attempted suicide in Nigeria is first tried in the Magistrates' Court. A case may be appealed in the higher courts, but the appeal must commence from a decision of a magistrate within 30 days after the judgment was given.¹⁷⁰

There is insufficient official data available for the number of prosecutions of attempted suicide in the past five years. However, there are frequent reports in the local media of survivors of attempted suicide being arrested and tried for attempting suicide, although not all cases lead to conviction.

¹⁶⁶ World Bank, Population, total - Nigeria, [accessed 18 August 2021] <https://data.worldbank.org/indicator/SP.POP.TOTL?locations=NG>

¹⁶⁷ Practical Law (2021), Legal systems in Nigeria: overview' [https://uk.practicallaw.thomsonreuters.com/w-018-0292?transitionType=Default&contextData=\(sc.Default\)&firstPage=true](https://uk.practicallaw.thomsonreuters.com/w-018-0292?transitionType=Default&contextData=(sc.Default)&firstPage=true)

¹⁶⁸ Namely, Bauchi, Borno, Gombe, Jigawa, Kaduna, Kano, Katsina, Kebbi, Niger, Sokoto, Zamfara, and Yobe
¹⁶⁹ Ministry of Justice, Lagos Criminal Law http://lagosministryofjustice.org/wp-content/themes/moj/documents/CRIMINAL_CONDUCT.pdf

¹⁷⁰ Magistrates' Court Law of the Lagos State <https://isochukwu.files.wordpress.com/2017/04/magistrates-court-law-of-lagos-state.pdf>

In 2018, Senator Melaye, a Nigerian politician, was charged before a Magistrates' Court in Abuja with attempted suicide.¹⁷¹ In late 2018, Mr Ugokwe, 25 years of age, was arrested, jailed, and charged with attempted suicide. The magistrate at Sabo Magistrates' Court dismissed the case in April 2017, after being satisfied that Mr Ugokwe had a guarantor to look after his welfare if he were to be released.¹⁷²

Impact on children

Depending on the legal code, the minimum age of criminality is either 7 or 10 years, meaning that no child under those ages can be prosecuted for attempted suicide, and additional leniency provisions are made for those under the age of 12. However, it is still possible for children under the age of 18 years to be prosecuted for attempted suicide.

Impact on families

Both the Criminal and Penal Codes carry a maximum of one year imprisonment for attempted suicide, the Penal Code provides the option for fines instead, or as well, with no maximum fine specified. Under the Lagos Criminal Law, a person convicted of attempted suicide must be subject to a hospitalisation order made by the court.

How to change the law

The legislative power in Nigeria is shared by the National Assembly and the state legislatures.¹⁷³ The National Assembly exercises its legislative power through the adoption of Bills in both the House of Representatives and the Senate. A Bill may originate in either of the houses. There are three categories of Bills: an Executive Bill, a Member's Bill, or a Private Bill. Although anyone may initiate a Bill, only a member of the National Assembly may introduce it on the floor of the House of Representatives or the Senate.

Progress on decriminalisation

There is a movement to repeal attempted suicide legislation in Nigeria. The Centre for Health Ethics Law and Development (CHELD) advocates for the reform of the law against attempted suicide in Nigeria. Through this Project, CHELD has provided legal support and representation, appearing before courts and obtaining the release of persons who have attempted suicide from prisons.¹⁷⁴

¹⁷¹ I Nnochiri and J Erunke (2018), 'Attempted suicide: Melaye docked on stretcher, granted N90m bail' <https://www.vanguardngr.com/2018/05/attempted-suicide-melaye-docked-stretcher-granted-n90m-bail/>

¹⁷² CNN.com (2018), 'Locked up for trying to take his own life, in a country where it's a crime to attempt suicide' <https://edition.cnn.com/2018/12/30/health/imprisoned-suicide-illegal-nigeria-intl/index.html>

¹⁷³ Library of Congress, <https://www.loc.gov/law/help/national-parliaments/nigeria.php>

¹⁷⁴ CHELD: <https://cheld.org/suicide-prevention-project/>

PAKISTAN

Relevant legislation: Section 325 of the Pakistan Penal Code

Date of law: 1860

Minimum age can be prosecuted: No minimum age as no distinction between children, juveniles, and adults

Punishment: One year imprisonment

Implementation of legislation: Insufficient data

Legislative repeal movement: Some previous effort to repeal, which has stagnated in the Government's National Assembly, new campaign underway



Pakistan, officially the Islamic Republic of Pakistan, is a country in South Asia with a population of 221 million.¹⁷⁵

What is the legislation?

The legislation criminalising suicide is 161 years old. In Pakistan, Section 325 of the Pakistan Penal Code¹⁷⁶ states that “whoever attempts to commit suicide and does any act towards the commission of such an offence, shall be punished with simple imprisonment for a term which may extend to one year, or a fine, or both”.

The Constitution of the Islamic Republic of Pakistan¹⁷⁷ is the supreme law of the jurisdiction, and both Parliament and a Provincial Assembly shall have the power to make laws with respect to criminal law, criminal procedure, and evidence. In the event of inconsistency between an Act of Parliament (including the Pakistan Penal Code) and the Constitution, the Constitution prevails.

Due to a lack of available data, the number of prosecutions brought for attempted suicide in the past five years, and the number of criminal convictions, is unknown.

Impact on children

The legislation does not distinguish between children, juveniles, and adults. The Penal Code carries a maximum of one year imprisonment for attempted suicide.

Impact on families

There are no formal consequences for suicide, however it is a “sin” under certain interpretations of Islamic teachings, and so stigma can follow.¹⁷⁸ This reduces the number of reported cases of attempted suicide, preventing the development of appropriate policies.

175 World Bank, Population, Total - Pakistan [accessed 2 August 2021] <https://data.worldbank.org/indicator/SP.POP.TOTL?locations=PK>

176 Pakistan Penal Code (ACT XLV of 1860) <<http://www.pakistani.org/pakistan/legislation/1860/actXL-Vof1860.html>> accessed 15 February 2021

177 The Constitution of the Islamic Republic of Pakistan, http://www.na.gov.pk/uploads/documents/1549886415_632.pdf

178 Murad M Khan and Martin Prince (2003), ‘Beyond rates: the tragedy of suicide in Pakistan’ Tropical Doc- tor 33(2) <https://journals.sagepub.com/doi/abs/10.1177/004947550303300203?journalCode=tdoa>

How to change the law

The process for amending or repealing an existing law is the same as the process of enacting new legislation. The Constitution requires a Bill to be passed by both Houses of Parliament – the National Assembly and the Senate. As a result, a change in the law requires bipartisan political support to pass the National Assembly. Upon a Bill's passage through both Houses, it is presented to the President of Pakistan for assent and becomes an Act of Parliament upon receiving such assent.

In the instance the Bill does not pass in the National Assembly, statutes may be promulgated by the President pursuant to art. 89(1) of the Constitution if the President is satisfied that circumstances exist which render it necessary to take immediate action, make and promulgate an Ordinance. Such Ordinances have the same forced and effect as an Act of Parliament.¹⁷⁹

The Senate of Pakistan and the Council of Islamic Ideology (CIE) will have already endorsed the law and a Bill can be resubmitted in either the Senate or the National Assembly. A targeted campaign highlighting the issue is required to gain bipartisan support as well as an endorsement from the Ministry of Human Rights.

Progress on decriminalisation

In 2017, Senator Karim Ahmed Khawaja introduced “The Criminal Laws Amendment Bill, 2017”. In the Statement of Objects and Reasons, Senator Khawaja said: “It is the duty of the welfare state to provide relief to its citizens instead of criminalising the one who is already suffering. It is, therefore, expedient to omit Section 325 of the Pakistan Penal Code.”¹⁸⁰ The CIE was asked to rule on the issue and decreed that suicide was a medical issue and not a religious one. After the council endorsed that those attempting suicide were likely to be mentally ill or under mental distress, the Senate Standing Committee on Interior (the Standing Committee) passed the Bill in 2017.

However, the Bill has not been passed by the National Assembly and lapsed at the end of the previous government's term.¹⁸¹ A Standing Committee report at the time stated that: “Secretary Interior said that State could not allow its citizens under whatever circumstances to take their lives, punishment for suicide would act as a deterrence and that omission of Section 325 would be tantamount to legalizing suicide.”¹⁸² There has been debate between Pakistani lawmakers regarding the inconsistency of (1) any amendment to section 325, and (2) the rules of Islam (which forbid suicide).

The newly formed Pakistan Mental Health Coalition (PMHC) is actively working with religious, civil society and political stakeholders to repeal Section 325 and decriminalise suicide.

179 Omar Sial and Sahar Iqbal (2005), ‘A Legal Research Guide to Pakistan’ Heaser Global Law School Program <https://www.nyulawglobal.org/globalex/Pakistan.html>

180 Senate of Pakistan Report of the Standing Committee on Interior, ‘The Criminal Laws (Amendment) Bill 2017’ (further to amend the Pakistan Penal Code, 1860 and the Code of Criminal Procedure, 1989) introduced by Senator Karim Ahmed Khawaja’ (Report No. 35) http://www.senate.gov.pk/uploads/documents/1517210952_735.pdf

181 Dawn (2019), ‘Section 325 must go’ <https://www.dawn.com/news/1518536>

182 Standing Committee, Report No. 35, para. 6



PAPUA NEW GUINEA

Relevant legislation: Section 311 of the Criminal Code Act

Date of law: 1974

Minimum age can be prosecuted: 7 years old

Punishment: One year imprisonment and/or a fine of up to PGK 2,000

Implementation of legislation: Insufficient data

Legislative repeal movement: No known movements or campaigns identified

Papua New Guinea, officially the Independent State of Papua New Guinea, is a country in Oceania with a population of 8.9 million.¹⁸³

What is the legislation?

The legislation criminalising suicide is more than 45 years old. Section 311 of the Criminal Code Act 1974¹⁸⁴ provides for the offence of attempting suicide: “A person who attempts to kill himself is guilty of a misdemeanour.” Punishment for attempting suicide is a custodial sentence of one year, and/or a fine of up to PGK 2,000. According to Papua New Guinea’s legal system, the Constitution of Papua New Guinea 1975¹⁸⁵ states that the Constitution and the Organic Laws are the supreme law of the land. The Criminal Code is not an Organic Law and is therefore construed according to the Constitution.¹⁸⁶ Any provision of the Criminal Code that contradicts the Constitution is therefore void.

There are provisions in the Criminal Code for diminished responsibility by way of insanity and intoxication. In Papua New Guinea’s law, there is a presumption that any person is of sound mind at any time that comes into question. If this is rebutted, insanity can constitute a defence against criminal charges, if: a person was in a mental state whereby they do not have capacity to understand what they are doing; cannot control their actions; do not know that they ought not to do the act; or are suffering from delusions on specific matters. While medical doctors are able to give evidence, their opinions do not bind the court.¹⁸⁷ Regarding intoxication, a person can only use this as a valid defence if it can be proven that the intoxication was unintentional, and that they either partially or completely lost the use of their mental faculties, and powers of judgement. Any intentional intoxication invalidates this defence.

There is insufficient data on the number of prosecutions for attempted suicide in the past five years, although the number of prosecutions brought is likely to be low, if not non-existent. Since the 1970s, it has been the policy of the Office of the Public Prosecutor to exercise its

183 World Bank, Population, total - Papua New Guinea, [accessed 18 August 2021] <https://data.worldbank.org/indicator/SP.POP.TOTL?locations=PG>

184 Pacific Islands Legal Information Institute, Papua New Guinea Consolidated Legislation, Criminal Code Act http://www.pacii.org/pg/legis/consol_act/cca1974115/

185 Pacific Islands Legal Information Institute, Constitution of the Independent State of Papua New Guinea http://www.pacii.org/pg/legis/consol_act/cotisopng534/

186 Articles 10 and 11(1) of the Constitution

187 Magistrates’ Manual, Chapter 5.25.2

discretion not to prosecute offences of attempted suicide. In two specific cases,^{188 189} wilful murder charges were brought against defendants (in relation to murders of their children followed by attempted suicide), but charges of attempted suicide were not prosecuted. Convicted persons have a right to appeal both convictions and sentencing in either the National Court, or the Supreme Court.

Impact on children

The Criminal Code distinguishes those of an “immature age”, as children under the age of 7 years. Anyone under the age of 7 cannot be held criminally responsible, and anyone under the age of 14 years will not be criminally responsible unless it can be proven that at the time of the criminal act, they have the capacity to know that they should not carry out the act.

Impact on families

There are no laws which relate to those who have died by suicide, nor their families.

Progress on decriminalisation

There do not appear to be any current campaigns calling for decriminalisation of suicide, nor do there appear to be plans for government reviews of the legislation. The WHO-led Pacific Islands Mental Health Network, of which Papua New Guinea is a member, does not appear to have put forward any policies or campaigns to date in relation to the decriminalisation of suicide,¹⁹⁰ and other NGOs working in the area, while having a focus on destigmatising mental health issues, do not appear to appear to be working towards suicide decriminalisation.^{191 192}

188 Pacific Islands Legal Information Institute, PGNC 276; N4988 (19 January 2011) <http://www.pacii.org/cgi-bin/sinodisp/pg/cases/PGNC/2011/276.html?stem=&synonyms=&query=attempted%20suicide>

189 Pacific Islands Legal Information Institute, PGLawRp 689; [1979] PNGLR 536 <http://www.pacii.org/cgi-bin/sinodisp/pg/cases/PGLawRp/1979/689.html?stem=&synonyms=&query=suicide#disp17>

190 Frances Hughes (2009), “Mental Health in the Pacific: the role of the Pacific Island Mental Health Network” 15(1) Pacific Health Dialog <https://www.tepou.co.nz/uploads/files/resource-assets/mental-health-in-the-pacific-the-role-of-the-pacific-island-mental-health-network.pdf>

191 WHO (2013), ‘WHO proMIND: Profiles on Mental Health in Development: Papua New Guinea’ <https://apps.who.int/iris/handle/10665/85310>

192 Mental Health Innovation Network, ‘Mental Health Awareness for the People of Papua New Guinea’ [5 January 2021] <https://www.mhinnovation.net/organisations/mental-health-awareness-people-papua-new-guinea>

QATAR

Relevant legislation: Article 304 of the Penal Code

Date of law: 2004

Minimum age can be prosecuted: 14 years old

Punishment: Fine of up to QAR 3,000

Implementation of legislation: No prosecutions between 2016 and 2020

Legislative repeal movement: No known movements or campaigns identified

Qatar, officially the State of Qatar, is a country in West Asia with a population of approximately 2.9 million.¹⁹³

What is the legislation?

The legislation criminalising suicide is 17 years old. Under Law No. 11 of 2004 Issuing the Penal Code (the Penal Code)¹⁹⁴, the offence is defined by Article 304.

The maximum amount payable as a fine for committing an offence under Article 304 of the Penal Code is significantly greater than the monthly minimum wage in Qatar (as of March 2021).¹⁹⁵

No offence will have been committed if the person accused is in a state of unconsciousness or suffering from insanity or infirmity of the mind; in a state of intoxication as a result of substances given to him against his will or without his knowledge; or due to any other reason which leads one to believe that the offender has lost their reason and is not criminally liable.

Zero prosecutions were brought for offences under Article 304 of the Penal Code between 2016 and 2020.

Impact on children

Under the Juvenile Law,¹⁹⁶ children aged under 14 years old who commit an offence are not subject to normal penalties, but may instead be liable for other punishments. However, if a juvenile older than 14 years but under 16 years of age commits an offence punishable by a custodial sentence, the court may sentence them to imprisonment for up to half of the statutory limit. Under Article 304 of the Penal Code, a fine of up to QAR 3,000 may be imposed on an offender who attempts suicide, in addition to receiving a custodial sentence. The Juvenile Law provides that children under the age of 14 years old will not be subject to this penalty, while juveniles older than 14 but less than 16 years old may be fined an amount up to half of the statutory limit, being QAR 1,500 in the case of attempted suicide.

¹⁹³ World Bank, Population, total - Qatar, <https://data.worldbank.org/indicator/SP.POP.TOTL?locations=QA>

¹⁹⁴ Al Meezan, Law No. 11 of 2004 Issuing the Penal Code <https://www.almeezan.qa/LawArticles.aspx?Law-TreeSectionID=265&lawid=26&language=en>

¹⁹⁵ ILO, National Minimum Wage Law - Qatar, https://www.ilo.org/wcmsp5/groups/public/---arabstates/---ro-beirut/documents/legaldocument/wcms_754880.pdf

¹⁹⁶ Juvenile Law <<http://www.gcc-legal.com/LawAsPDF.aspx?opt&country=3&LawID=2880> (only available in Arabic)

Impact on families

While there is no evidence of legal consequences on families, suicide is generally regarded as being prohibited by Islam and so stigma and social judgement can follow.

How to change the law

The Penal Code is not subordinate to the Constitution, so far as the provisions of the Constitution are concerned, and should not be void to the extent it contradicts the Constitution. The Emir (the executive authority) and the Municipal Council (the legislative authority) may in exceptional circumstances issue new laws and/or appeal or amend existing legislation if they consider that following the existing provisions of the Penal Code would be contrary to the interests of the state or inconsistent with the principles and values of governance established under the Constitution.

Progress on decriminalisation

With regards to repealing or amending the relevant legislation, no test cases, campaigns, or government consultations were identified through this research.

SAINT LUCIA

Relevant legislation: Chapter 3.01. Criminal Code

Date of law: 2004 (revised in 2005)

Minimum age can be prosecuted: 12 years old

Punishment: Two- year imprisonment or fine of up to XCD 2,000

Implementation of legislation: No evidence of prosecutions

Legislative repeal movement: Limited movement to repeal



Saint Lucia is an island nation in the West Indies with a population of 183,629.¹⁹⁷

What is the legislation?

The legislation criminalising suicide is 17 years old. The Criminal Code states that “a person who ... attempts to commit suicide is liable on conviction on indictment to imprisonment for two years”.¹⁹⁸ Fines of up to XCD 2,000 may also be imposed instead of a custodial sentence.¹⁹⁹

Additionally, the legislation says²⁰⁰ that the accused will be seen as mentally ill at the time of the act if a mental disorder²⁰¹ prevented them from knowing the nature, consequences, or illegality of the act, or if they acted under the influence of a delusion which makes them unfit for punishment.²⁰²

If an individual appears to be mentally ill, the court can order a hearing before a jury to determine whether this is the case.²⁰³ If the jury decides they are mentally ill, they will be seen as unfit for trial. If there is evidence that the individual was mentally ill at the time of the offence, the jury may determine that they should not be held legally responsible for their actions.²⁰⁴ This will lead to a special verdict, meaning that the individual was guilty of the act but was mentally ill at the time. In either of these cases the Court may order the person to be detained in safe custody and dealt with as seen fit.²⁰⁵

The court is not required to pass a custodial sentence on a mentally disordered person and can deal with the offender in the manner considered most appropriate. Intoxication (including by narcotics or drugs) can also be a defence if the individual did not know what they were doing or that the act was wrong, and if they were intoxicated without their consent or were mentally ill

¹⁹⁷ World Bank, Population, total - St. Lucia, <https://data.worldbank.org/indicator/SP.POP.TOTL?locations=LC>

¹⁹⁸ Government of St. Lucia, Criminal Code, Section 94(b) the <http://www.govt.lc/media.govt.lc/www/re-sources/legislation/Criminal%20Code.pdf>

¹⁹⁹ Section 775(5) of the Criminal Code

²⁰⁰ Section 27 of the Criminal Code

²⁰¹ Defined in Section 6(1) the Criminal Code as mental illness, arrested or incomplete development of mind, psychopathic disorder and any other disorder or disability of mind, except intoxication

²⁰² Defined in Section 6(1) of the Criminal Code as the High Court or a district court as the case may be, in the exercise of its criminal jurisdiction, and includes the judge or a magistrate

²⁰³ Section 1018 of the Criminal Code

²⁰⁴ Section 1019 of the Criminal Code

²⁰⁵ Section 1020 of the Criminal Code

as a result of intoxication.²⁰⁶ If the individual can prove this,²⁰⁷ they are discharged. The court also has discretion to deal with the individual as it sees fit. In Saint Lucia individuals have a right to appeal convictions²⁰⁸ based on certain grounds.²⁰⁹ There is a limit of 15 days for bringing an appeal after the court’s decision²¹⁰ and the appeal must then be served within 21 days of the decision.²¹¹ There is a lack of data around the number and success of appeals brought forward.

In this research, prosecutions for attempted suicide were not found. Instead, individuals who attempted suicide have been sent to mental health facilities or returned to their families after hospital stays.²¹² There was a reported case of an arrest for murder and attempted suicide in 2021, but no evidence has been found that this led to a prosecution for attempted suicide.²¹³

Impact on children

The legislation makes a distinction for children, stating that children under 12 are not criminally responsible for any act that they commit,²¹⁴ and that children between 12 and 16 are criminally responsible unless they are insufficiently mature to understand and appreciate the nature and consequences of the act.²¹⁵ Research based on Saint Lucia Law Reports has not found any instances of child or juvenile prosecution for attempted suicide.²¹⁶

Impact on families

There are no laws which relate to those who have died by suicide, nor their families.

How to change the law

Existing legislation is amended following the same process as for proposing a new law. Draft legislation may be introduced in either the Senate or the House in the form of a Bill. If introduced to the House, the Bill must be passed by a majority of members of the House. It can pass without needing approval from the Senate if it is adopted by the House in two successive sessions, provided it has been sent to the Senate at least a month before the end of the session, and that six months has passed between each adoption by the House. The House may suggest amendments before the second reading of the Bill by the Senate.^{217, 218} If introduced to the Senate, a Bill must be passed by a majority in the Senate and a majority in the House. It is considered to be rejected by the Senate if its amendments are not adopted by the House.

²⁰⁶ Section 28 of the Criminal Code

²⁰⁷ Section 28(2)(a) of the Criminal Code

²⁰⁸ Section 720 of the Criminal Code

²⁰⁹ Sections 729 and 730 of the Criminal Code

²¹⁰ Section 724(1)(b) of the Criminal Code

²¹¹ Section 727 of the Criminal Code

²¹² St Lucia Star (2017), Teen Nearly Dies After Ingesting Weed Killer, <https://stluciarstar.com/teen-fights-life-suicide-attempt/>

²¹³ St Lucia Times (2012), ‘Teenager arrested for attempted murder and suicide’, <https://stluciarstar.com/teenager-arrested-for-attempted-murder-and-suicide/>

²¹⁴ Section 26(1) of the Criminal Code

²¹⁵ Section 26(2) of the Criminal Code

²¹⁶ Eastern Caribbean Supreme Court, Archives, <https://www.eccourts.org/category/saint-lucia-high-court-judgments/>

²¹⁷ The Senate of the Republic of France, St. Lucia Senate, <http://www.senat.fr/senatsdumonde/english/sainte-lucie.html>; FAO, The Constitution of Saint Lucia <http://www.fao.org/faolex/results/details/en/c/LEX-FA-OC132835/>

²¹⁸ FAO, The Constitution of Saint Lucia Chapter III, Part 2, section 50

Bills passed by the Senate and the House are passed to the Governor General, who must assent for the Bill to become law and be published in the Official Gazette. No law made by Parliament can come into operation until it has been published in the Official Gazette, but Parliament may postpone a law from coming into operation, and it may make laws with retrospective effect.²¹⁹

Progress on decriminalisation

There have been some challenges to the suicide legislation. In 2020 an event was organised by the Royal Saint Lucia Police Force (in collaboration with other partners) to discuss domestic violence, child abuse and suicide.²²⁰ At the event, the Minister for Equity, Social Justice, Local Government and Empowerment, Lenard “Spider” Montoute, noted that he believes it is time to revisit the law that criminalises attempted suicide. The Gros Islet MP also asserted that life is the most prized possession. He stated that “to attack the person who needs help, so to speak, is not the answer – support is what is required, and I think a different approach has to be taken”, and that he would support legislative reform on the issue.

219 The Constitution of Saint Lucia Chapter III, Part 2, section 47

220 St Lucia Times (2020) <https://stluciatimes.com/montoute-wants-law-that-criminalises-attempted-suicide>





SOMALIA

Relevant legislation: Article 437 of the Penal Code

Date of law: 1962

Minimum age can be prosecuted: 14 years old

Punishment: Up to five years' imprisonment or a fine of up to SOS 10,000

Implementation of legislation: Insufficient data

Legislative repeal movement: Limited movement to repeal

Somalia, officially the Federal Republic of Somalia, is a country in East Africa with a population of 15.9 million.²²¹

What is the legislation?

The legislation criminalising suicide is 59 years old. The Penal Code makes attempted suicide an offence, stating: "Whoever attempts to cause his own death by committing an act sufficient to cause it, shall be punished with imprisonment up to five years or fine up to Sh. So. 10,000."²²²

The punishment for attempted suicide may be more severe for an individual who makes themselves incapable of understanding for the purpose of committing an offence or to provide themselves with an excuse.²²³ Article 55 also states that punishment will be increased for offences committed in a "state of drunkenness by habitual drunkards".

There are some additional exceptions:

- **According to the Penal Code, those who lack capacity to understand the act will not be found guilty of a criminal act.**²²⁴
- **Individuals will also not be found guilty if another person made them incapable of making their own choice – instead the second person will be found responsible.**²²⁵
- **If an individual's state of mind reduced their ability to understand the act, they will still be found liable, but their punishment will be reduced.**²²⁶
- **Individuals who have reduced ability to understand the act due to drunkenness (from accident or force majeure) will not be found liable, and the punishment may be reduced.**²²⁷
- **The court can decide whether intoxication (from alcohol or narcotic drugs) means the individual had total or partial mental deficiency, reducing their ability to understand the act.**²²⁸
- **The Penal Code also states that a deaf or dumb person who was not able to understand the act as a result of their infirmity will not be deemed liable.**²²⁹

221 World Bank, Population, total - Somalia [accessed 18 August 2021] <https://data.worldbank.org/indicator/SP.POP.TOTL?locations=SO>

222 Refworld, Penal Code 1962, Article 437 of the Penal Code, Decree no 5/1962, Article 437 . <https://www.refworld.org/docid/4bc5906e2.html>

223 Article 49 of the Penal Code

224 Article 47 of the Penal Code

225 Article 48 of the Penal Code

226 Article 51 of the Penal Code

227 Article 53 of the Penal Code

228 Article 57 of the Penal Code

229 Article 58 of the Penal Code

Successful prosecutions can be appealed.²³⁰ In the case of minor children or wards, parents or legal representatives may appeal on their behalf.²³¹ If the appeal is against a judgement, the time limit for giving notice is 30 days, starting on the day the judgement was received.²³²

There is a lack of data around the number of prosecutions for attempted suicide, and how many of these led to criminal convictions, over the past five years.

Impact on children

Children under the age of 14 cannot be held criminally responsible, and therefore cannot be prosecuted for attempted suicide.²³³ Those aged 14-18 can be convicted if they are considered to have capacity to understand the act, although their sentence will be reduced due to their age.²³⁴ In this case there will be no additional penalties, such as restrictions on the individual's ability to vote, to receive state allowances, or to work in certain professions.

Impact on families

There is insufficient data on wider consequences for those who have died by suicide, or their families.

How to change the law

The House of the People of the Federal Parliament has the power to pass, amend or reject legislation. This is the lower house of the Federal Parliament, and includes professionals and university graduates.²³⁵ There is a lack of further information around how the process for passing, amending, or rejecting legislation works.

Progress on decriminalisation

There are limited efforts to challenge the existing legislation in Somalia. Meanwhile in Somaliland, the autonomous but not officially recognised state in Western Somalia, individuals who attempt suicide are consistently jailed. A group of volunteer lawyers work to provide these people with legal counsel and to get released from jail to receive treatment.²³⁶

230 Nuhanovic Foundation, Article 209(1) of the Criminal Procedure Code (Legislative Decree No: 1 of 1 June 1963) http://www.nuhanovicfoundation.org/user/file/1963_criminal_procedure_code_of_somalia_-_english_version.pdf

231 Article 209(3) of the Criminal Procedure Code

232 Article 214 of the criminal Procedure Code

233 Article 59 of the Penal Code

234 Article 60 of the Penal Code

235 Somali Federal Government, Somali Federal Parliament, [accessed 18 August 2021] <https://www.somalia.gov.so/parliament/>

236 Mishara BL, Weisstub DN. The legal status of suicide: A global review. Int J Law Psychiatry. 2016 Jan-Feb;44:54-74. doi: 10.1016/j.ijlp.2015.08.032. Epub 2015 Sep 13. PMID: 26375452. Since this review Sri Lanka has repealed suicide legislation

SOUTH SUDAN

Relevant legislation: The Penal Code Act 2008

Date of law: 2008

Minimum age can be prosecuted: Children under 12 cannot be tried for any offence

Punishment: Up to one year imprisonment, and/or fines (no limit)

Implementation of legislation: Insufficient data

Legislative repeal movement: Some challenge to the legislation



South Sudan, officially the Republic of South Sudan, is a country in East Africa with a population of 11.2 million.²³⁷

What is the legislation?

The legislation criminalising suicide is 13 years old. According to the Penal Code, “whoever attempts to or engages in any act towards committing suicide, commits an offence”.²³⁸ As a result, attempted suicide punishable by up to one year in prison.

The courts may recommend special treatment, depending on the nature of the offence, the history of the individual, and whether special treatment is necessary and appropriate.²³⁹ However, there is a lack of public information around what this looks like. There is also a possibility of probation, depending on the length of the sentence, and the history, age, character, and circumstances of the individual.²⁴⁰ The individual may also be issued with a warning.

There is an exception for those considered either unable to appreciate the nature of the act, or unable to control their actions due to permanent or temporary insanity or mental illness.²⁴¹ Additionally, an individual cannot be found guilty if they could not understand the nature of their actions or control their actions due to intoxication, provided they were intoxicated against their will or without their knowledge.²⁴²

There is a lack of data around the number of prosecutions brought for attempted suicide over the past five years and the number of criminal convictions as a result. However, one publication reported seven cases of attempted suicide between October and December 2012, and 31 cases between January and March 2013.²⁴³

Successful prosecutions can be appealed,²⁴⁴ although there is a lack of data around the number and success of these. The time limit for bringing an appeal is 15 days after the sentencing.²⁴⁵

Impact on children

Children under the age of 12 cannot be tried for any offence.²⁴⁶ Children aged 12-14 will be assumed to be criminally liable unless proved to be incapable of fully understanding and intending the act.²⁴⁷ Courts cannot pass a sentence of imprisonment on those under 16 years of age.²⁴⁸

Impact on families

There do not appear to be any statutory or legal consequences for families.

How to change the law

Amendments to legislation must go through the same process as new legislation. This means it should be introduced into the National Legislature as a Bill and tabled by the National Legislative Assembly.²⁴⁹ Once introduced, a Bill will have its first reading to the National Legislative Assembly. It is then submitted for a second reading, for general deliberation and approval in principle. This is followed by a third reading for detailed deliberation and any amendments. It is then submitted for the final reading, at which point it is passed section by section, and then as a whole. It requires a simple majority to pass,²⁵⁰ and then has 30 days to receive the President’s assent and be signed into law. If assent is not given within 30 days and no reason is given, the Bill is signed into law regardless. If assent is withheld, the Bill is reintroduced into the National Legislative Assembly, which may amend it, or pass the Bill with a two-thirds majority of the National Legislature.

243 South Sudan National Police Service, ‘Quarterly Crime Statistics January – March 2013’ http://www.undp.org/content/dam/southsudan/library/Reports/southsudanothertools/SS-CSR_Q1_2013.pdf Note, the quarterly report published by the South Sudan National Police Service seems to have discontinued after the quarterly

244 WIPO, Article 123 of the Transitional Constitution <https://www.wipo.int/edocs/lexdocs/laws/en/ss/ss013en.pdf>

245 Section 263 of the Criminal Procedure Code

246 Section 20 of the Penal Code

247 Section 31 of the Penal Code

248 Section 9 of the Penal Code

249 WIPO, Article 83 of the Transitional Constitution

250 Article 76 of the Penal Code

237 World Bank, Population, total - South Sudan [accessed 30 July 2021] <https://data.worldbank.org/indicator/SP.POP.TOTL?locations=SS>

238 Penal Code Act 2008, which came into force on 22 August 2008. <https://wipo.lex.wipo.int/en/text/250684>

239 Section 253 of the Code of Criminal Procedure Act 2008, The Criminal Procedure Code <http://www.gurtong.net/LinkClick.aspx?fileticket=HwVixTfxA0Y%3D&tabid=342>

240 Section 284 of the Criminal Procedure Code

241 Section 34 of the Penal Code

242 Section 24 of the Penal Code

Progress on decriminalisation

There has been some limited challenge to the current legislation, although it tends to focus on wider calls for improved mental health care. For example, in 2016, according to Amnesty International, a joint open letter was sent to the National Legislative Assembly of South Sudan asking for amendments to the Penal Code to conform with international law.²⁵¹ It was signed by Amnesty International, Community Empowerment for Progress Organization, Human Rights Development Organization, Soweto Community Based Organization, Assistance Mission for Africa, End Impunity Organization, Jonglei Development Agency and South Sudan Law Society. The draft amendment is not available online, but research suggests that the amendments in this letter did not cover the criminalisation of attempted suicide.

In 2021 Amnesty International produced a report on the impact on mental health of South Sudan's conflict, calling for an improvement to "the availability, accessibility and quality of mental health services across the country", and to "provide reparations for psychological harm".²⁵²

The report also showed that individuals with mental health conditions considered a danger to themselves or others, often end up arbitrarily detained in prison, even without committing any crime. They may be transferred to prison from medical facilities or taken directly to prison by family members. The report detailed the situation in May 2016, when there were 66 male and 16 female inmates in Juba Central Prison categorised as mentally ill, and over half had no criminal files. Some had been brought in by family members due to them being suicidal.²⁵³

251 Amnesty International (2016), 'South Sudan: Joint Open Letter to the National Legislative Assembly on the Penal Code (Amendment) Bill 2016', <https://www.amnesty.org/en/documents/afr65/3365/2016/en/>

252 Amnesty International (2016), 'Our Hearts Have Gone Dark' The Mental Health Impact of South Sudan's Conflict', <https://www.amnesty.org/download/Documents/AFR6532032016ENGLISH.PDF>

253 Amnesty International (2016), 'Our Hearts Have Gone Dark' The Mental Health Impact of South Sudan's Conflict'



SUDAN

Relevant legislation: Penal Code 1930

Date of law: 1930

Minimum age can be prosecuted: 10 years old

Punishment: Up to one year imprisonment and/or fine

Implementation of legislation: Insufficient data

Legislative repeal movement: Insufficient data



Sudan, officially the Republic of the Sudan, is a country in Northeast Africa with a population of 42.8 million.²⁵⁴

What is the legislation?

The legislation criminalising suicide is 90 years old. Section 261 of the Penal Code punishes attempted suicide “with imprisonment for a term which may extend to one year or with fine or with both.”²⁵⁵ There is no maximum fine specified.

Prosecutions can be brought forward to the County Judge under Section 254(2) of the Criminal Code, against matters decided by a magistrate if they are considered to have granted excessive punishment.²⁵⁶

Section 50 of the Penal Code also provides for diminished capacity due to unsoundness of mind. This applies if a person was unable to understand the nature of their acts or control them due to permanent or temporary insanity or mental infirmity, at the time of the act (although there is a “presumption of sanity” under section 11 of the Penal Code). Intoxication may also form a defence to a criminal charge if the person did not know their act was wrong, did not know what they were doing, and they were either intoxicated without consent or rendered insane at the time of the act. The “insanity” component does not need to result from mental illness in this instance, if the person is incapable of knowing what they are doing due to intoxication.

There is a lack of data around specific decisions, number of prosecutions brought forward, or number of criminal convictions over the past five years.

Impact on children

There is some exception to this, as the legislation distinguishes between adults and children. Section 49 of the Penal Code provides that children under 10 cannot be held criminally responsible for any act or omission, therefore they cannot be prosecuted for attempted suicide. Under Section 49 (b), a child aged 10-14 “who has not attained sufficient maturity of understanding to judge the nature and consequences of such act” is not criminally responsible. No instances of child prosecution were found as part of this research.²⁵⁷

Impact on families

There is insufficient data available around the legislation’s impact on families.

How to change the law

The legal process for amending or repealing an existing law relies on the Sudanese Parliament, which has the power of amending and operating laws. However, insufficient data was identified on how laws can be changed.

Progress on decriminalisation

With regards to repealing or amending the relevant legislation, no test cases, campaigns, or government consultations were identified through this research.

254 World Bank, Population, total - Sudan [accessed 30 July 2021] <https://data.worldbank.org/indicator/SP.POP.TOTL?locations=SD>

255 ILO, Laws of new Sudan, Penal Code <https://www.ilo.org/dyn/natlex/docs/ELECTRON-IC/75718/78931/F440057801/SDN75718.pdf>

256 Note that, as per s.18 of the Criminal Code, attempted suicide is a matter covered under the original jurisdiction of a Court of a Magistrate

257 UNICEF (2016), Child Notice Sudan, <https://www.unicef.nl/files/unicef-child-notice-soedan-en.pdf>

TANZANIA

Relevant legislation: Penal Code 1981

Date of Law: 1981

Minimum age can be prosecuted: 10 years old

Punishment: Up to 2 years imprisonment, and/or a fine

Implementation of legislation: Insufficient data

Legislative repeal movement: None found



Tanzania, officially the United Republic of Tanzania, is a country in East Africa with a population of 59 million.²⁵⁸

What is the legislation?

The legislation criminalising suicide is 40 years old. In Tanzania suicide is criminalised or illegal under Penal Code 1981 (the Penal Code).²⁵⁹ Section 217 of this Penal Code provides for the offence of attempting suicide that, “any person who attempts to kill himself is guilty of a misdemeanour”, which is punishable with two years’ imprisonment, or a fine, or both.

There are exceptions for those considered to be insane at the time of the offence. A person will not be criminally responsible for an act or omission if, at the time of doing the act or making the omission, that person is, through any disease affecting his mind (a) incapable of understanding what he is doing; (b) incapable of appreciating that he ought not to do the act or omission; or (c) does not have control of the act or omission.

Intoxication, which includes a state produced by drugs and narcotics, constitutes a defence if the person charged at the time of the act or omission did not understand what they were doing and (a) the state of intoxication was caused without the person’s consent by the malicious negligent act of another person; or (b) the person charged was, as a result of the intoxication, rendered insane, temporarily, or otherwise at the time of such act or omission.

One prosecution was brought in relation to attempted suicide between 2016 and 2020 in the District Court of Meatu at Meatu. This led to a conviction and the defendant was sentenced to two years in prison. There is insufficient data available to determine whether this was the only prosecution and/or criminal conviction of attempted suicide in the past five years.

Impact on children

The legislation distinguishes between the law applicable to children and juveniles, and the law as applicable to adults. Section 15 of the Penal Code provides that a person “under the age of 10 years is not criminally responsible for any act or omission”. In practice, this means that a child under the age of 10 cannot be prosecuted for attempted suicide. It also provides that a person “under the age of 12 years is not criminally responsible for an act of omission, unless it is proved that at the time of doing the act or making the omission, he had the capacity to know that he ought not to do the act or make the omission”. Based on research of the Tanzanian Law Reports,²⁶⁰ there are no instances where a child aged 10 or 11 years of age has been prosecuted for attempted suicide.

Impact on families

No additional consequences of the legislation on families could be found.

How to change the law

There was insufficient data identified on how laws can be changed.

Progress on decriminalisation

With regards to repealing or amending the relevant legislation, no test cases, campaigns, or government consultations were identified through this research.

²⁵⁸ World Bank, Population, total - Tanzania, [accessed 30 July 2021] <https://data.worldbank.org/indicator/SP.POP.TOTL?locations=TZ>

²⁵⁹ ILO, Penal Code <https://www.ilo.org/dyn/natlex/docs/ELECTRONIC/59637/104199/F-1839757965/TZA59637.pdf>

²⁶⁰ Available online at <https://www.judiciary.go.tz/web/index.php?r=law-reports%2Fweblis>



TONGA

Relevant legislation: Section 100 of the Criminal Offences Act 1926

Date of law: 1926

Minimum age can be prosecuted: Those under 7 cannot be deemed to have committed an offence

Punishment: Up to three years' imprisonment

Implementation of legislation: Insufficient data

Legislative repeal movement: Limited evidence of attempts to change the legislation

Tonga, officially the Kingdom of Tonga, is a country in Oceania with a population of 104,000.²⁶¹

What is the legislation?

In Tonga the legislation criminalising suicide dates back to 1926. The Criminal Offences Act states that “every person who attempts to commit suicide shall be liable to imprisonment for any period not exceeding three years”.²⁶²

While the maximum custodial sentence is three years, sentences may be suspended. This means it is not immediately imposed, the individual is placed on probation, and the sentence may be dismissed.²⁶³ Individuals also have the right to appeal successful prosecutions²⁶⁴ provided they give written notice within 28 days of the decision,²⁶⁵ and pay a prescribed fee.²⁶⁶

There are also exceptions for those considered to be insane at the time of the offence.²⁶⁷ This means that they are suffering from a mental disease that prevents them from understanding the physical nature of their act, or that it was wrong. If the person is affected by delusions as a result of their illness, they will be judged according to the facts as they understood them (as a result of their delusions).²⁶⁸ Courts also have the right to consider an individual's mental disability when sentencing.²⁶⁹

²⁶¹ World Bank, Population, total - Tonga, [accessed 30 July 2021] <https://data.worldbank.org/indicator/SP.POP.TOTL?locations=TQ>

²⁶² Criminal Offences Act 1926, Cap. 10.9. (revised 2016), https://ago.gov.to/cms/images/LEGISLATION/PRINCIPAL/1924/1924-0010/CriminalOffencesAct_2.pdf

²⁶³ Section 24(3) of the Criminal Offences Act

²⁶⁴ Section 74(1) of the Magistrates' Court Act 2016, Cap. 07.36 <https://ago.gov.to/cms/images/LEGISLATION/PRINCIPAL/1918/1918-0002/MagistratesCourtAct_2.pdf> accessed

3 February 2021

²⁶⁵ 75(1) of the Magistrates Court Act

²⁶⁶ Section 75(2) of the Magistrates' Court Act

²⁶⁷ Section 7(1) of the Criminal Offences Act

²⁶⁸ Section 17(2) of the Criminal Offences Act

²⁶⁹ See Fa'asso v R (1996) TLR; Taufa v R [AC 17/04] https://ago.gov.to/cms/phocadownload/Judgement/2016/CR/Rex%20v%20Tevita%20Ahoafi%20CR%20103%20of%202013%20Sentence.pdf?zoom_highlight=mental+health+act#search=%22mental%20health%20act%22

Intoxication (included from narcotics and drugs) can be a defence if the person did not know what they were doing or that their act was wrong, and if they were intoxicated without their consent, or were rendered insane at the time of the act as a result of intoxication.²⁷⁰ Intoxication may also be taken into account when deciding whether the defendant actually intended to take their own life.²⁷¹

Despite attempted suicide being an offence, research does not show any successful prosecutions in Tonga's courts. There is some evidence that suicide attempts have been prosecuted, but these seem to have resulted in referral to mental health professionals.²⁷²

Impact on children

The legislation makes a distinction for children. Those under the age of 7 cannot be considered to have committed an offence,²⁷³ and neither can those aged 7-12 unless they have attained sufficient maturity of understanding to be aware of the nature and consequences of [their] conduct in regard to the Criminal Offences Act.²⁷⁴ Research from the Tonga Law Reports did not find any prosecution of those aged 7-12 for attempted suicide.

Impact on families

The legislation criminalising attempted suicide does not have any direct impact on families.

How to change the law

Amendments to legislation go through the same processes as new legislation, whereby the King and Legislative Assembly of Tonga (composed of the representatives of nobles, representatives of the people and all members of the Cabinet) enact laws. A member of the Legislative Assembly may introduce a Bill. The Legislative Assembly must agree on a Bill which has been read and voted on three times, before it is submitted to the King for his sanction. This then becomes law upon publication.²⁷⁵ The Rules of the Procedure of the Legislative Assembly of Tonga provide further detail on this process.²⁷⁶

²⁷⁰ Section 21 of the Criminal Offences Act

²⁷¹ Section 21(4) of the Criminal Offences Act

²⁷² Radio New Zealand (2016), 'Man charged with attempted suicide in Tonga' <https://www.rnz.co.nz/international/pacific-news/320520/man-charged-with-attempted-suicide-in-tonga>

²⁷³ Section 16(1) of the Criminal Offences Act

²⁷⁴ Section 16(2) of the Criminal Offences Act

²⁷⁵ UNESCO, Constitution of Tonga, Article 56 <http://www.unesco.org/education/edurights/media/docs/c2d-e08d12823b0d52d3184ae754ed6d914d7254c.pdf>

²⁷⁶ Available for download on the Parliament of Tonga website (20 February 2017) <https://www.parliament.gov.to/parliamentary-business/documents/file/244-rules-of-procedure-of-the-legislative-assembly-of-tonga>

Progress on decriminalisation

There is limited evidence for calls to change this legislation. Dr Mapa Puloka, a psychiatrist in Tonga, has spoken about an organisation known as “Suicide Prevention Tonga”²⁷⁷ but there is no information about this available online. In an interview with Radio New Zealand in December 2016, he also stated that he did not support those “who try to decriminalise [attempted suicide]” but did not state who these people were.²⁷⁸ He said that although police would charge people, the psychiatric unit at Vaiola Hospital in the Tongan capital Nuku’alofa cooperates very well with the magistrate or the Supreme Court on this issue, and that they are “very lenient and always make sure that the punishment is for treatment”.²⁷⁹

- 277 Radio New Zealand (2016), ‘Tonga psychiatrist backs attempted suicide law’ <https://www.rnz.co.nz/international/programmes/datelinepacific/audio/201828288/tonga-psychiatrist-backs-attempted-suicide-law>
- 278 Radio New Zealand (2016), ‘Tonga psychiatrist backs attempted suicide law’
- 279 Radio New Zealand (2016), ‘Tonga psychiatrist backs attempted suicide law’





UGANDA

Relevant legislation: Penal Code Act 1950

Date of law: 1950

Minimum age can be prosecuted: Not specified

Punishment: Up to two years' imprisonment

Implementation of legislation: Insufficient data

Legislative repeal movement: None identified

Uganda, officially the Republic of Uganda, is a country in East Africa with a population of 45 million.²⁸⁰

What is the legislation?

In Uganda, under the Penal Code Act of 1950 (Section 210), attempted suicide is punishable by imprisonment for a period of two years.²⁸¹

An individual's right to protection of personal liberty, where they are reasonably suspected to be of unsound mind, may preclude individuals from protection in relation to those who attempt suicide. This is deemed to be for the purpose of the care or treatment of that person or the protection of the community.

There are exceptions for those considered to be insane. A person is not criminally responsible for an act or omission if, at the time of doing the act or making the omission they are, through any disease affecting their mind, incapable of understanding what they are doing or of knowing what they ought not to do. Intoxication may form a defence if by reason of the intoxication the person charged, at the time of the act or omission complained of, did not know that the act or omission was wrong or did not know what they were doing and (a) the state of intoxication was caused without their consent by the malicious or negligent act of another person; or (b) the person charged was by reason of intoxication insane, temporarily or otherwise, at the time of such act or omission.

280 World Bank, Population, total - Uganda [accessed 30 July 2021] <https://data.worldbank.org/indicator/SP.POP.TOTL?locations=UG>

281 ULII, Uganda Penal Code <https://ulii.org/ug/legislation/consolidated-act/120>

No direct case law can be found on Ugandan databases in relation to attempted suicide. There are, however, some references to case examples in a journal article on Uganda's attempted suicide laws.²⁸²

1. Case of Innocent Muhangi (June 2013)²⁸³

Mr Muhangi was charged with the offence of attempting suicide in accordance with the penal laws of Uganda. Mr Muhangi confessed he wanted to commit suicide due to a delay in releasing important exam results. He was found guilty by a magistrate, convicted, and sentenced to a jail term of six months.

2. Case of Kalisti (June 2007)²⁸⁴

Mr Kalisti had been arrested for the alleged theft of two mobile phones. While in detention at a police station he attempted suicide. In court he testified that he was depressed on account of being detained for a crime he did not commit. Mr Kalisti was given a prison sentence (the length of sentence unknown).

Impact on children

The law does not distinguish between children, juveniles, and adults.

Impact on families

No specific impact on families as a result of the legislation were identified.

How to change the law

There was insufficient data identified on how laws can be changed.

Progress on decriminalisation

With regards to repealing or amending the relevant legislation, no test cases, campaigns, or government consultations were identified through this research.

282 Emma Charlene Lubaale (2017), 'The Crime of Attempted Suicide in Uganda: The Need for Reforms to the Law' https://www.researchgate.net/publication/324491604_The_Crime_of_Attempted_Suicide_in_Uganda_The_Need_for_Reforms_to_the_Law

283 The New Vision (2013), 'Jail Time for Suicide' <https://www.newvision.co.ug/news/1330902/jail-suicide>

284 The New Vision (2013), 'Suicide Cases on the Rise – Survey, The New Vision' <https://www.newvision.co.ug/news/1220532/suicide-rise-survey>

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8 SEPTEMBER 2021

