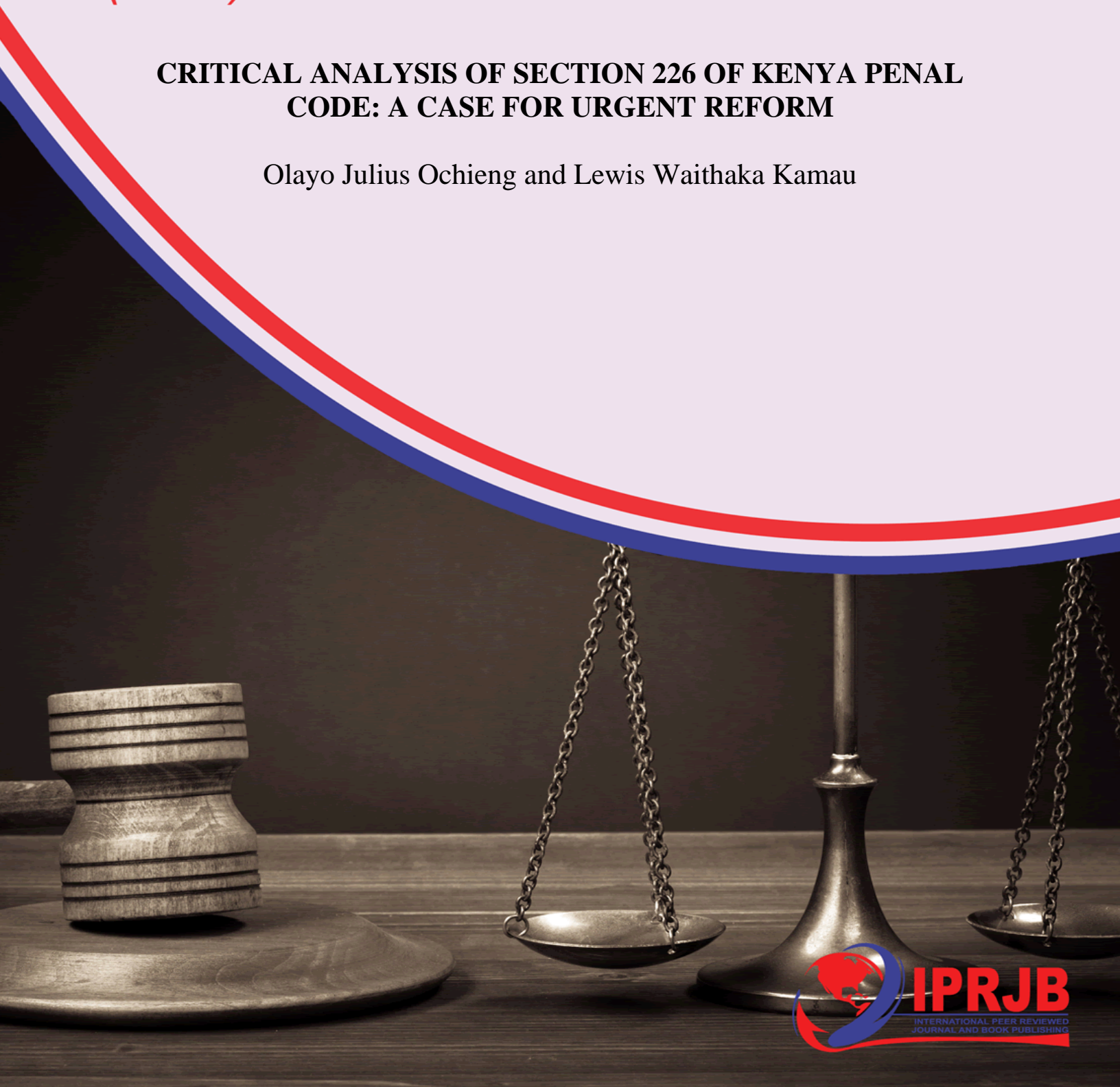


# International Journal of Law and Policy *(IJLP)*

## **CRITICAL ANALYSIS OF SECTION 226 OF KENYA PENAL CODE: A CASE FOR URGENT REFORM**

Olayo Julius Ochieng and Lewis Waithaka Kamau



## **CRITICAL ANALYSIS OF SECTION 226 OF KENYA PENAL CODE: A CASE FOR URGENT REFORM**

Olayo Julius Ochieng PhD, CHRP-K  
A Certified Human Resource Professional and Lawyer.

&

Lewis Waithaka Kamau  
Governance Expert

### **Abstract**

**Purpose:** The aim of this paper was to critically analyze the provision of section 226 of Kenya penal code that provides for criminalization of suicide attempt.

**Methodology:** The research paper was exploratory in nature and was based on secondary data. A number of research papers, journals and articles published in renowned websites are studied to build conceptual basis of decriminalization of attempted suicide in Kenya. Valuable insights about the suicide have been gathered from various websites.

**Results:** The found that although decriminalizing suicide is important, it is not enough. The paper found that suicide is more of a health problem than a crime. It noted that modern day constitution framework in many countries including South Africa and Kenya have provided that every person right to the highest attainable health standard, including the right to healthcare services. This is thus an indication that suicide as mental health problem should be given the required attention.

**Unique contribution to theory, practice and policy:** The government needs to move and put major efforts to enhance the overall mental health in the country including sufficient budget allocation. This will reduce the burden of suicide and mental health. Thus, there is a need for a comprehensive health program to reduce its incidence. Furthermore, the stigma attached with suicides will only recede if the government and the social sector take a proactive role in spreading anti-suicide awareness.

**Key Words:** *Criminalization, Suicide, mental health, Stigma.*

## Introduction

As they say, life is a gift from God and can only be given by him. Therefore it was always forbidden to take your own life and others. Suicide has always been the subject of constant controversy and endless debate.<sup>1</sup> Religion, monarchy and colonialism have condemned and forbidden suicide. Suicide is defined as death from self-destructive behavior with the intention of dying as a result of that behavior.<sup>2</sup> A suicide attempt, on the other hand, is non-fatal, self-directed, potentially harmful behavior with the intention of dying as a result of that behavior.<sup>3</sup> Attempting suicide may or may not result in injury. People who have committed or attempted suicide have historically been the object of the wrath of religious societies.<sup>4</sup> Following this religious trail, past legislators have condemned the bodies of victims and survivors of attempted suicide. Sometimes even surviving family members were punished for their crime. But liberalization and education, with advances in understanding the underlying causes of suicide, have shifted that position around the world.

According to the World Health Organization (WHO), over seven hundred thousand people take commit suicide and many others attempt suicide.<sup>5</sup> The agency notes that suicide is a tragedy that affects many families, societies and the entire world, and has long term impact on the family members. Reports indicate that suicide was the fourth leading cause of death globally in the year 2019. It is important to note that the report indicated that out of the recorded successful suicided case, the youth contributed a larger share. Thus, this data shows that suicide has now become a global phenomenon. However, low and middle income countries record over seventy percent of the cases. The further continues to point out that suicide has become a serious public health problem. Nevertheless, the act is still preventable. It proposes that for preventive measure to take effect, there is need for states to take a multidisciplinary approach.

Although WHO reports that developed countries report low suicide case, there are reports of increase of the cases. In United States of America, suicide is considered as a public health crisis.<sup>6</sup> Among the developed states in the world, USA has the highest rates of suicide.<sup>7</sup> Suicide is a major national public health issue in the United States. According to the Centre for Disease Control and Prevention report of 2018, America reported an increase in number of suicides by over two thousand people to reach a record high of forty eight thousand suicide cases.

The U.S. government seeks to prevent suicides through its National Strategy for Suicide Prevention, a collaborative effort of Substance Abuse and Mental Health Services Administration, Centers for Disease Control and Prevention, National Institutes of Health, Health Resources and Services Administration, and Indian Health Service. Their plan consists of eleven

---

<sup>1</sup>Prakash B Behere, TS Sathyanarayana Rao and Akshata N Mulmule, 'Decriminalization of Attempted Suicide Law: Journey of Fifteen Decades' (2015) 57 Indian journal of psychiatry 122.

<sup>2</sup>TE Joiner and others, *The Interpersonal Theory of Suicide: Guidance for Working with Suicidal Clients* (American Psychological Association 2009).

<sup>3</sup>ED Klonsky and others, *Nonsuicidal Self-Injury* (Hogrefe Publishing 2011).

<sup>4</sup>Eport OF An, 'The Role of Faith Communities in Preventing Suicide.'

<sup>5</sup>'Suicide' <<https://www.who.int/news-room/fact-sheets/detail/suicide>> accessed 2 October 2021.

<sup>6</sup>S Saxena and others, *Preventing Suicide: A Global Imperative* (World Health Organization 2014).

<sup>7</sup>ibid.

goals aimed at preventing suicides. However, some U.S. jurisdictions have laws against suicide or against assisting suicide. In recent years, there has been increased interest in rethinking these laws. Suicide has been associated with tough economic conditions, including unemployment rate. In America Suicide prevention has been thought of as the responsibility of mental health professionals within clinical settings between. Thus, as of 2019, suicide prevention has been recognized as a public health responsibility rather than within clinical settings due to the trend in increasing suicide rates.

In the United Kingdom (UK), suicide is recognized as a national social issue. In 2019, UK government reported over five thousand five hundred deaths as a result of suicide in England and Wales.<sup>8</sup> This was equivalent to approximately eighteen suicides cases per day. The government also reported that suicide was the major cause of deaths to men under the age of forty five years. This has prompted the government and non-governmental organizations to come up with different initiatives on the issue. For instance, there has been the establishment of parliamentary Undersecretary of state (Mental Health, Inequalities and Suicide Prevention).

In addition, researchers and sociologists have identified several causes of the UK's high suicide rate; these include recent recessions, unemployment, austerity and loneliness.<sup>9</sup> Research carried out by Samaritans agrees that socio-economic status tends to be the main culprit, as is the case with other groups. The breakdown of the relationship is another factor as they are often dependent on a partner for emotional support and have more limited access to their children.

In the spirit of even taking bold steps, the UK people have been advised to change the language used in discussing suicide. There has been calls to stop using the phrase “Commit suicide”. The reason associated to this was that the language seemed to criminalize suicide. They argued that there was no difference with the words “committing rape” or “committing murder”. This they said did not auger well since suicide had been decriminalized in 1961. Further, with the era of digital media, the media has set out guidelines that require journalists to avoiding using the phrase while reporting.

According to the WHO report, South Korea is ranked the tenth globally in terms of suicide incidence. The rate is high in the elderly compared to others.<sup>10</sup> One of the reasons for the suicide of older South Koreans is the widespread poverty of older people, with nearly half of the country's older population living below the poverty line.<sup>11</sup> Coupled with a poorly funded social safety net for the elderly, this can lead them to commit suicide so as not to put a financial burden on their families, as the old social structure in which children cared for their parents has largely challenged their parents, and part of it disappeared in the 21st century.

---

<sup>8</sup>‘Suicides in the UK - Office for National Statistics’

<<https://www.ons.gov.uk/peoplepopulationandcommunity/birthsdeathsandmarriages/deaths/bulletins/suicidesintheunitedkingdom/2017registrations>> accessed 2 October 2021.

<sup>9</sup>David Mcdaid and Political Science, ‘SOCIOECONOMIC DISADVANTAGE AND SUICIDAL BEHAVIOUR.’

<sup>10</sup>Jin Pyo Hong, Myeng Ji Bae and Tongwoo Suh, ‘Epidemiology of Suicide in Korea’ (2006) 3 Psychiatry Investigation 7.

<sup>11</sup>ibid.

African countries have not well reported the mortality data to WHO. About ten percent is reported to the agency. In a study conducted to increase African understanding of the prevalence, patterns and risk factors for suicide and attempted suicide across the continent by reviewing and consolidating the available literature, showed that suicide incidence rates have been reported in only 16 countries which together account for approximately 60% of the total population of Africa.<sup>12</sup> However, national-level suicide data are lacking for most of these countries. There has been considerable variation in the rates reported, both within and across countries. This could reflect the unreliability of the data, or alternatively could highlight the importance of the cultural context. Suicide rates in urban South Africa are reported to be much higher than in the other countries, perhaps due to the better quality and reliability of mortality data available.

### **Research Problem**

In Kenya, there is growing alarm over a shocking rise in the number of suicides. According to the Kenya police report, four hundred and eighty three people are reported to have killed themselves in the second quarter of 2021, more than the whole of 2020.<sup>13</sup> The report shows that the youngest person to take their life was nine years old and the oldest seventy six years. The annual average earlier reported was about three hundred and twenty people. The four hundred and eighty three suicide cases during a three month period was a clear indication of how things are becoming worse. This was even noted by the Directorate of criminal investigation, Mr. George Kinoti, who pointed that there is need for urgent remedial measures.

According the Kenya National Commission on Human Rights (KNCHR), there were over one thousand four hundred attempted suicide cases between the year 2015 and 2018.<sup>14</sup> The commission reported that this figure was only a reflection of a fraction of cases reported. In giving its reasons for the high number, the commission linked the cases to mental health issues. It reported that structural determinants of mental ill-health such as extreme poverty, lack of access to empowerment opportunities and discrimination increased the likelihood of individuals committing suicide.

The commission noted that the initiatives to address the rise in suicide cases in the country has been hampered by the criminalization of attempted suicide. The Kenya penal code under section 226 provides that any person who attempts to kill himself/herself is guilty of a misdemeanor. According to KNCHR, this provision re-victimizes the already victimized and vulnerable people in the society. This paper aimed at critically analyzing the above provision of law and propose the reforms needed.

### **Research Objectives**

---

<sup>12</sup>Becky Mars and others, 'Suicidal Behaviour across the African Continent: A Review of the Literature' (2014) 14 BMC Public Health 606.

<sup>13</sup>'Concern Grows in Kenya after Alarming Rise in Suicide Cases | Global Development | The Guardian' <<https://www.theguardian.com/global-development/2021/aug/10/concern-grows-in-kenya-after-alarming-rise-in-suicide-cases>> accessed 2 October 2021.

<sup>14</sup>KNCHR, 'The World Suicide Prevention Day: "Working Together To Prevent Suicide' 1.

1. To investigate the nature and extent of suicide in Kenya.
2. To analyze the legal framework on suicide in Kenya.
3. To assess the effectiveness of the law on suicide in Kenya.
4. To propose reforms needed.

## Research Methodology

The research paper was exploratory in nature and was based on secondary data. A number of research papers, journals and articles published in renowned websites are studied to build conceptual basis of decriminalization of attempted suicide in Kenya. Valuable insights about the suicide have been gathered from various websites.

## Findings

### **The Relationship between Suicide and the law: A Historical Perspective.**

Suicide has been viewed in many ways. It has been regarded as an expression of emotional distress or a cry for help. It has also been regarded as an expression of aggression against self or against significant others or as a result of mental illness. Most researchers see suicide as a human problem and observe that there is no period in history it has not occurred.

The association of suicide and criminality began as early as the seventh century.<sup>15</sup> Much later, in a famous 1562 decision, an English court held suicide a punishable felony because it offended nature, God, and the King.<sup>16</sup> Subsequently, Blackstone's codification of English Labeled suicide "self-murder" and affirmed its classification as a heinous felony.<sup>17</sup> Punishment for self-murderers, unlike murderers of others, consisted not of hanging but of ignominious burial in the night at a crossroads with a stake driven through the torso and a stone on the face of the deceased. In addition, the self-murderer forfeited all his goods and chattels to the King. This last punishment was prescribed in hopes that "care for either his own reputation, or the welfare of his family, would be some motive to restrain him from so desperate and wicked an act. Ironically, those who failed in their attempt to take their own lives could be hanged by the state, although the frequency with which such individuals were actually hanged is not clear.

Incitement and conspiracy to commit suicide were also criminal in the eyes of the common law, but punishment of accessories to the crime depended upon conviction of the principal.<sup>18</sup> To obtain a conviction for the crime of suicide, the state was required to prove that the defendant was of "years of discretion" and "in his senses."

In fact, the sanity requirement enabled many courts to avoid penalizing the families of successful suicides.<sup>19</sup> The juries deemed the unfortunate individuals mad. Thus, those who committed

<sup>15</sup>Michael Zell, 'Suicide in Pre-Industrial England' (1986) 11 Social History 303 <<http://www.jstor.org/stable/4285541>>.

<sup>16</sup>Kate E Bloch, 'The Role of Law in Suicide Prevention: Beyond Civil Commitment. A Bystander Duty to Report Suicide Threats' (1987) 39 Stanford Law Review 929 <<http://www.jstor.org/stable/1228873>>.

<sup>17</sup>David Markson, 'The Punishment of Suicide - A Need for Change' (1969) 14 Villanova Law Review 463.

<sup>18</sup>Zell (n 15).

<sup>19</sup>Bloch (n 16).

suicide and their families escaped the punishment of forfeiture and ignominious burial. In fact, Blackstone admonished coroners' juries for straining the excuse of insanity too far by pronouncing "the very act of suicide, evidence of insanity. Not only coroners' juries but coroners themselves mitigated the severity of suicide law by labeling suicides "accidents".

At one time the Irish jury stated in an attempted suicide case that;

"[H]e was only cleaning the muzzle of the gun with his tongue."

Despite popular hostility toward the legal punishment of suicide, however, both suicide and attempted suicide remained punishable common law crimes in England until 1961, although the last recorded public degradation of a successful suicide's corpse took place in 1823.

African too have had their perception of suicide. In Igbo world view, a tribe in Nigeria, believes that suicide disrupts and disturbs the ontological order. In suicide, the self is the victim while in murder the other is the victim.<sup>20</sup> Both crimes are offensive to God, the Creator (Ezechiteoke), the earth goddess and the ancestors in Igbo Religion. Studies on the Igbo perception of suicide show that suicide is an abomination in Igbo religion and it goes with purification or cleansing rituals at every instance in order to appease God, the gods, deities, the earth goddess and the ancestors. However, studies show that suicide for altruistic reasons are termed heroic and celebrated as such in Igbo land. At some instances, the Igbo judicial process and traditional authority can approve, force or advise suicidal options for criminals who injuriously violate the social harmony of individuals and communities.

However, these are exceptions in this case. There are in African Traditional Suicidology cultural perspectives to understanding suicidal behaviors and ways to prevent suicides. Researchers recommends among others, the need to uphold life as supreme and as precious.

In many traditional African cultures, people fear death by suicide and this is one of the strongest taboos.<sup>21</sup> In East Africa, suicide is a terrible event for family and close friends. Suicide rates were considered low in Africa due to the rarity of depressive states and the frequent clashes in the community that distracted aggression from oneself and others.<sup>22</sup>

### **Analysis of Legal framework on suicide in Kenya.**

In Kenya, Section 226 of the Penal Code criminalizes suicide and is an offence as "any person who attempts to kill himself is guilty of a misdemeanor".<sup>23</sup> It is punishable by up to two years in prison, and/or a fine. From the data 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.<sup>24</sup>

---

<sup>20</sup>Christian O Ele, 'The Perception of Suicide in Igbo Religion : A Study in African Traditional Suicidology' (2017) 6 NG-Journal of Social Development 64.

<sup>21</sup>NK Ndosi, 'Perspectives on Suicide in Africa' (2006) 3 International psychiatry : bulletin of the Board of International Affairs of the Royal College of Psychiatrists 7.

<sup>22</sup>ibid.

<sup>23</sup>The Penal Code.

<sup>24</sup>Decriminalising Suicide, *Decriminalising Suicide : SAVING LIVES* ,.

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.<sup>25</sup> 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. 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*<sup>26</sup> and *Paul Isaac Okengo v Republic*,<sup>27</sup> in which both defendants were found to have been too unwell to stand trial.

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,<sup>28</sup>

- 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.

The Penal code 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.<sup>29</sup> 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

---

<sup>25</sup>‘Kenya’s Criminalizing of Suicide Makes Things Worse for Mentally Ill, Critics Say’

<<https://globalpressjournal.com/africa/kenya/kenyas-criminalizing-suicide-makes-things-worse-mentally-ill-critics-say/>> accessed 2 October 2021.

<sup>26</sup>*J S K v Republic* [2018].

<sup>27</sup>*Paul Isaac Okengo v Republic* [2017].

<sup>28</sup>The Penal Code.

<sup>29</sup>Suicide (n 24).



make the omission". Based on research of the Kenyan Law Reports, there appears to be no instances where a child under the age of 12 years old has been prosecuted for attempted suicide.

In the law of succession, 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.

### **Rationale for Criminalizing Suicide**

Several theories support the legality of governmental intervention for the prevention of suicide. The state, for example, has an interest in protecting both the value of life to society as a whole as well as the value of an individual's life. These two aspects of the state interest in the preservation of life have corresponding state powers to further them: the police power to protect societal values and the *parens patriae* power to protect individuals.<sup>30</sup> The first, and perhaps more sweeping, aspect of the state interest in life preservation is the interest in the preservation of the value of societal life.<sup>31</sup>

States assert this interest regularly in numerous contexts- e.g., abortion, euthanasia, and suicide. In *Roe v. Wade*, for instance the Supreme Court held that the state's interest in preserving a mother's life was compelling enough to limit the fundamental constitutional right to privacy and the mother's derivative right to an abortion after the first trimester.<sup>32</sup> The Court further held that the state's interest in the potential life of the fetus was compelling enough to allow the state to prohibit abortion after the second trimester.

In the euthanasia context, states assert the same interest in opposing termination of life support measures or life-prolonging treatment. Similarly, in the suicide context, courts emphasize the state's interest in life preservation. The courts hold that the preservation of life has a high social value in our culture and suicide is deemed a 'grave public wrong.

In addition to the protection of societal life, the state interest in life preservation also extends to the protection of each individual from harm, even self-inflicted harm.<sup>33</sup> The paternalistic *parens patriae* power is employed by the state in the suicide context to protect individuals, namely suicidal individuals suffering from mental illness, from self-induced harm, on the theory that the individual is, at that time, incapable of protecting herself.<sup>34</sup> Mentally-ill suicidal individuals are perceived as having lost their capacity for rational decision. Therefore, the state assumes that power of decision and exercises it in favor of life, at least until the individual has recovered from her mental illness.

### **Analysis of the History on Decriminalization of suicide in the world.**

---

<sup>30</sup>Margaret Thomas, 'Parens Patriae and The States' Historic Police Power' (2016) 69 SMU Law Review 759.

<sup>31</sup>PG Peters, 'The State's Interest in the Preservation of Life: From Quinlan to Cruzan.' (1989) 50 Ohio State law journal 891.

<sup>32</sup>*Roe v Wade*, 410 US 113 (1973).

<sup>33</sup>Peters (n 31).

<sup>34</sup>Bloch (n 16).

The decriminalization of the act of suicide began with Durkheim's pioneering work. His theory that external pressure or social stressors can contribute to suicidal behavior and raised awareness of suicide and contributed to decriminalization.<sup>35</sup> Another important factor influencing society's attitudes towards suicide was the beginning of psychology.<sup>36</sup> Sigmund Freud proposed the concept of psychosis, suggesting that mental disorders are indeed medical conditions. Acceptance of the concept that psychological or emotional distress is due to natural and physical factors.

Internationally, Germany was the first country to decriminalize suicide attempts in 1751.<sup>37</sup> After the French Revolution, all countries in Europe and North America decriminalized suicide. In 1983, the Roman Catholic Church repealed canon law that prohibited proper burial rites and burial in church cemeteries for those who had committed suicide.<sup>38</sup> All of these developments have helped change attitudes towards suicide in modern society. Some countries like Scotland never considered suicide a crime and had no laws for it. India recently announced the decriminalization of suicide, but its neighbors Pakistan, Bangladesh, Malaysia and Singapore, among others, continue to view suicide as a crime.

Articulating the precise causes of any sociohistorical event is difficult, but three phenomena probably contributed to effacing the stamp of criminality from the acts of suicide and attempted suicide. First, penalties failed to deter individuals from attempting to commit suicide.<sup>39</sup> Second, coroners and coroners' juries, reflecting popular hostility to legal penalties for suicide, were reluctant to pronounce a suicide sane, and therefore punishable.<sup>40</sup> The third and probably most cogent explanation of decriminalization lay in the belief that most suicides were caused by mental illness.<sup>41</sup> Since the 1700s, Blackstone's "exceptional suicide" the mentally ill suicide, has come to be seen as the rule rather than the exception.

In 1944, one Oregon court explained: "Sane persons do not ordinarily kill themselves. With this recognition, the legal focus on suicide and its prevention has shifted from degradation and imprisonment to psychiatric treatment; from criminal prohibition to civil.

### **Comparative Analysis on Suicide Law in Africa.**

Different states have put in place different approaches. Some have continued with the colonial laws that criminalized the act while others have decriminalized the law. Attempted suicide is not a crime in Botswana. However, aiding or abetting the suicide of another person constitutes a criminal offense under Botswana law. The Botswana Penal code provides any person who;

- 1) procures another to kill himself;
- 2) counsels another to kill himself and thereby induces him to do so; or

<sup>35</sup>Behere, Sathyanarayana Rao and Mulmule (n 1).

<sup>36</sup>R Kalimo and others, *Psychosocial Factors at Work and Their Relation to Health* (World Health Organization 1987).

<sup>37</sup>Behere, Sathyanarayana Rao and Mulmule (n 1).

<sup>38</sup>ibid.

<sup>39</sup>ibid.

<sup>40</sup>ibid.

<sup>41</sup>ibid.

- 3) Aids another in killing himself, is guilty of an offence and is liable to imprisonment for life.”

Attempted suicide is prohibited by Gambian law. The country’s anti-suicide laws are covered under Chapter 21, Sections 205 and 206 of the Gambian Penal Code. Section 205 captioned “Aiding Suicide,” stipulates that any person who;

- 1) procures another to kill himself; or
- 2) counsels another to kill himself and thereby induces him to do so; or
- 3) Aids another in killing himself, is guilty of a felony, and is liable to imprisonment for life.

Section 206 is titled “Attempting Suicide.” It stipulates that any person who attempts to kill himself is guilty of a misdemeanor. In Gambia, a person who survives a suicide attempt is typically reported to law enforcement authorities, arrested, and turned over to the court for prosecution. Upon conviction, they are subjected to judicial sanctions in the form of monetary fines or penal custody.

Attempted suicide is no longer a crime in Zambia following a repeal of a prior law that criminalized suicide. Chapter 89 of Zambia’s penal code is titled “The Suicide Act.” Chapter 89, Section 3 titled “Suicide not to be an Offence,” states that the rule of law whereby it is an offence against the common law for a person to kill himself is hereby abrogated. With the abrogation of the law against suicide, there are currently no legal consequences for suicide attempts in Zambia. Survivors of suicide are not liable to judicial penalties.

### **The Impact of Decriminalization.**

Decriminalization has proved to towards lessening the stigma associated with suicide.<sup>42</sup> Studies show that People no longer feel the need to hide their thoughts of suicide and will be encouraged to discuss them with others and then seek professional help.<sup>43</sup>

However, there are also some points to consider, such as the arguments made by some states that decriminalizing attempted suicide would render law enforcement agencies unable to deal with people who engage in self-drive to suicide, so that the government can meet their unreasonable or illegitimate demands.<sup>44</sup> Such people, they argued, can no longer be convicted or force-fed for attempted suicide. Some people have called for a clear distinction between people who are driven to suicide due to illness and suicide bombers who do not blow themselves up or terrorists who use cyanide pills to erase evidence and want the former covered by separate legislation. .

### **Recommendation and Conclusion**

---

<sup>42</sup>Bernardo Carpiello and Federica Pinna, ‘The Reciprocal Relationship between Suicidality and Stigma’ (2017) 8 *Frontiers in Psychiatry* 35.

<sup>43</sup>Joseph Osafo and others, ‘Police Views of Suicidal Persons and the Law Criminalizing Attempted Suicide in Ghana: A Qualitative Study With Policy Implications’ (2017) 7 *SAGE Open* 2158244017731803.

<sup>44</sup>Behere, Sathyanarayana Rao and Mulmule (n 1).

Decriminalizing suicide is not enough. Studies have shown that suicide is more of a health problem than a crime. Modern day constitution framework in many countries such as South Africa and Kenya have provided that every person right to the highest attainable health standard, including the right to healthcare services. Thus, there is a need for a comprehensive health program to reduce its incidence. Furthermore, the stigma attached with suicides will only recede if the government and the social sector take a proactive role in spreading anti-suicide awareness.

The government needs to move and put major efforts to enhance the overall mental health in the country. This will reduce the burden of suicide and mental health. Finally, law can never be the entire answer. Hence, framing laws and getting them perfect should not take up all our time. There is a need to build the political will to implement these laws. Suicide attempt is thus a multidimensional problem having legal, social and psychological implications. Hence, teamwork is required to assess and tackle this problem. Work should be done from a multidisciplinary approach which may include social workers, government agencies, non-governmental organization, medical health professionals and psychologist and psychiatrist. The role of social workers should mainly focus on the society and enable them to confront suicide. Government agencies should provide support that are available through welfare schemes to the victims. Nongovernmental organization should provide rehabilitation structures, as medical health officials provide medical checkups. Finally, the psychologist and psychiatrists should be in a position to provide counselling and the need therapy.

### **Bibliography**

An EOF, 'The Role of Faith Communities in Preventing Suicide.'

Behere PB, Sathyanarayana Rao TS and Mulmule AN, 'Decriminalization of Attempted Suicide Law: Journey of Fifteen Decades' (2015) 57 Indian journal of psychiatry 122

Bloch KE, 'The Role of Law in Suicide Prevention: Beyond Civil Commitment. A Bystander Duty to Report Suicide Threats' (1987) 39 Stanford Law Review 929

<<http://www.jstor.org/stable/1228873>>

Carpiniello B and Pinna F, 'The Reciprocal Relationship between Suicidality and Stigma' (2017) 8 Frontiers in Psychiatry 35

'Concern Grows in Kenya after Alarming Rise in Suicide Cases | Global Development | The Guardian' <<https://www.theguardian.com/global-development/2021/aug/10/concern-grows-in-kenya-after-alarming-rise-in-suicide-cases>> accessed 2 October 2021

Ele CO, 'The Perception of Suicide in Igbo Religion : A Study in African Traditional Suicidology' (2017) 6 NG-Journal of Social Development 64

Hong JP, Bae MJ and Suh T, 'Epidemiology of Suicide in Korea' (2006) 3 *Psychiatry Investigation* 7

Joiner TE and others, *The Interpersonal Theory of Suicide: Guidance for Working with Suicidal Clients* (American Psychological Association 2009)

Kalimo R and others, *Psychosocial Factors at Work and Their Relation to Health* (World Health Organization 1987)

'Kenya's Criminalizing of Suicide Makes Things Worse for Mentally Ill, Critics Say' <<https://globalpressjournal.com/africa/kenya/kenyas-criminalizing-suicide-makes-things-worse-mentally-ill-critics-say/>> accessed 2 October 2021

Klonsky ED and others, *Nonsuicidal Self-Injury* (Hogrefe Publishing 2011)

KNCHR, 'The World Suicide Prevention Day: "Working Together To Prevent Suicide' 1

Markson D, 'The Punishment of Suicide - A Need for Change' (1969) 14 *Villanova Law Review* 463

Mars B and others, 'Suicidal Behaviour across the African Continent: A Review of the Literature' (2014) 14 *BMC Public Health* 606

Mcdaid D and Science P, 'SOCIOECONOMIC DISADVANTAGE AND SUICIDAL BEHAVIOUR.'

Ndosi NK, 'Perspectives on Suicide in Africa' (2006) 3 *International psychiatry : bulletin of the Board of International Affairs of the Royal College of Psychiatrists* 7

Osafo J and others, 'Police Views of Suicidal Persons and the Law Criminalizing Attempted Suicide in Ghana: A Qualitative Study With Policy Implications' (2017) 7 *SAGE Open* 2158244017731803

Peters PG, 'The State's Interest in the Preservation of Life: From Quinlan to Cruzan.' (1989) 50 *Ohio State law journal* 891

Saxena S and others, *Preventing Suicide: A Global Imperative* (World Health Organization 2014)

‘Suicide’ <<https://www.who.int/news-room/fact-sheets/detail/suicide>> accessed 2 October 2021

Suicide D, *Decriminalising Suicide : SAVING LIVES*,

‘Suicides in the UK - Office for National Statistics’

<<https://www.ons.gov.uk/peoplepopulationandcommunity/birthsdeathsandmarriages/deaths/bulletins/suicidesintheunitedkingdom/2017registrations>> accessed 2 October 2021

Thomas M, ‘Parens Patriae and The States’ Historic Police Power’ (2016) 69 SMU Law Review 759

Zell M, ‘Suicide in Pre-Industrial England’ (1986) 11 Social History 303

<<http://www.jstor.org/stable/4285541>>

*J S K v Republic [2018]*

*Paul Isaac Okengo v Republic [2017]*

*Roe v Wade, 410 US 113 (1973)*

The Penal Code.