

THE INDIAN PENAL CODE (KERALA) AMENDMENT BILL

A bill to delete Section 309 of the Indian Penal Code, to accord legal sanction for Euthanasia thereby eliminating the culpability of this manner of deprivation of life from the scope of homicide under Section 300 of Indian Penal Code and for the purposes hereinafter appearing:—

Be it enacted in the Fifty Ninth Year of the Republic of India.

1. *Short title, extend and commencement of the Act.*—(i) This Act may be called the Indian Penal Code (Kerala) Amendment Act—
(ii) It shall extend to the whole of the State.
(iii) It shall come into effect on such date as the State Government may notify in the Gazette after obtaining the assent of the President of India.
2. *Definition.*— For the purpose of this Act.“Euthanasia” means and includes deprivation of life by oneself or by any other person at the instance of the person whose life is lost or by any medical practitioner doing any act or omission resulting in the termination of life.”
3. *Deletion of Section 309 of the Indian Penal Code.*—Notwithstanding anything contained in the Indian Penal Code, Section 309 thereof shall stand repealed and any attempt to commit suicide shall not be an offence: Provided that any action or omission amounting to attempt at commission of suicide or any abetment thereof shall be punishable as an attempt to commit murder if it is proved that the act, omission or abetment thereof was done frivolously, vindictively or for socially vicious purposes.
4. *Recognition of the Act of Euthanasia.*—Notwithstanding anything contained in the Indian Penal Code, no person shall be guilty of murder or other form of homicide or attempt to commit such offence if the life of the person is extinguished by way of euthanasia as defined in this Act. No euthanasia shall be legal or be considered less than homicide if before the commission or omission referred to above takes place without the written sanction of the 3 Doctors recognized by the State as entitled to medical practice, certify in writing that the case of the patient who is to be subjected to euthanasia is a fit case where, all things considered, death is the only salvation and preservation of life would be medically impossible and visited with insufferable pain physical or mental.
5. *Amendment to Section 354.*—In Section 354 for the words “to two years” the words “to five years” shall be substituted.

6. *Addition of a new Chapter and a new Section 498B.*—After Chapter XXA, add a new chapter as Chapter XXB with the name ‘of offences relating to Cyber Crimes’ and add Section 498B in the said Chapter.

CHAPTER XXB

OF OFFENCES RELATING TO CYBER CRIMES

498B *Cyber crimes and punitive action.*—(a) Every violation of the regulations and obligations provided for in the Information Technology Act shall be an offence punishable with not more than three years imprisonment or Rs.10,000 fine or both.

(b) Every abetment of the aforesaid offence shall carry a similar sentence.
(c) The offence under this Section shall be cognizable and non-bailable.”

Statement of Objects and Reasons

Every Indian citizen has a guaranteed right to life under the Constitution. The right to life is not a formal declaration or ritual proclamation, but a fundamental right of paramount significance. The Supreme Court and eminent jurists have explained and expanded the dimensions of this substantive right. The right to life has many solemn facets. The right to live in dignity, to live in good health, to secure on reasonable terms, the right to be given medical aid and relief from distress and disability and more than that the right to endurable existence free from escalating pain and poignant sufferings which in its intensity frustrates freedom of survival. Life has a positive dimension which is the basis for the longing to live. The negation of freedom of this liberty by infliction of intolerable torture, poignant pain and dreadful anguish extinguishes the desire to live, mars the meaning of mental, moral and physical continuance. Such an unbearable degree of torment overwhelmingly commands the deprivation of life as a desideratum, frustrates the right to life itself and out of this grievous state of situation, a mood of exasperation justly mandates the view that life is void of value and every moment of its furtherance is an unjustified terror. The innocence of a human being should not be subjected to all that stage. The victim of

suffering and his closest relatives after taking responsible medical opinion about their irrecoverability of pain-free normality creates the right to euthanasia. Solace, compassion, justice and humanism make euthanasia a legally permissible farewell to life in its misery and desperation.

The Indian Penal Code of Victorian Vintage was enacted and drafted by McCauley, a great jurist limited by fossil vision which today has ceased to be humanity’s spiritual and temporal norm. Necessarily, law must change when social philosophy changes. It is in this context that two basic Penal mutations have become necessary. (A) By way of abolition of the offence of attempt to commit suicide under certain circumstances and (B) by recognizing the claim to extinguish the right to life in its irrecoverably extreme stage. The present bill serves the above twin purposes of abolition of Section 309 of IPC which

creates an offence of attempt to commit suicide and the grant of legal sanction for euthanasia thereby eliminating the culpability of this manner of deprivation of life from the scope of murder under Section 300 IPC or otherwise under Indian Penal Code. There is no adequate provision in the Indian Penal Code which effectively commensurate the gravity of sexual assault made on women and children by the opposite sex. The evil can be curbed to a certain extent at least by effecting amendment to the sentence for the offence suitably. The Constitution emphasizes the need to protect women and children by enacting adequate laws and provision has been added in the Bill to achieve the above object also.
