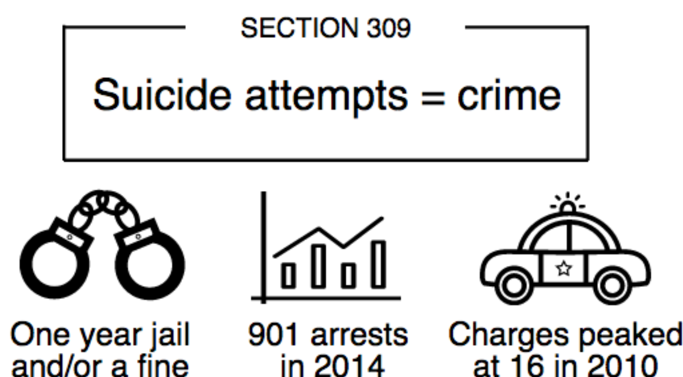
Distress is not a crime: repeal Section 309

AWARE: Decriminalise suicide attempts

Suicide is a matter for social services and public health, not criminal law. We urge the total repeal of Section 309 of the Penal Code so that suicides attempts are not treated as crimes.



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Although men are more likely than women to die from suicide, globally, women attempt suicide at twice the rate of men.[2] How society treats those who attempt suicide will therefore have a particular impact on women.

Charges are usually brought when a person makes repeated attempts; suicide prevention is deemed resource-intensive; or other offences are committed.[3]

Under the Criminal Procedure Code (CPC), Section 309 is seizable (police must arrest suspects) and triggers mandatory reporting (third parties must report attempts or intentions to the police). Even if Section 309 is not immediately repealed, the CPC should be amended so that it is non-seizable and does not trigger mandatory reporting.

Why repeal Section 309?

People attempt suicide in response to distress. To address their distress, they need support from society – from communities, schools and healthcare providers.

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[1] Tee Zhuo, 'More arrested for attempting suicide', The Straits Times, 18 July 2015.
[2] Tee Zhuo, 'More arrested for attempting suicide', The Straits Times, 18 July 2015.
[3] Mavis Toh, 'When all hope is lost', The Sunday Times, 12 August 2008

[4]

When someone attempts suicide, this shows that they are not getting the help they need. Society needs to provide help, not the threat of punishment.

Section 309 carries the threat of investigation, arrest, charge and/or punishment, which **increases rather than reduces distress,** worsening the root cause leading to suicide. As a seizable offence that triggers mandatory reporting, Section 309 also **deters help-seeking,** by encouraging the escalation of all cases to the criminal justice system and alienating those who need help.

The law also creates an additional barrier to help-seeking for people who deliberately self-harm. Police officers may misconstrue or wrongly equate deliberate self-harm with suicide attempts (see Z's story below), even though people who deliberately self-harm do not necessarily have suicidal intentions.[5] Even if police officers ultimately correctly assess their intent, the investigation itself may still increase distress. Thus while the law does not criminalise non-suicidal self-harm in itself, investigating potential cases of attempted suicide draws more vulnerable people into criminal justice processes and places additional demands on police resources.

Rather than threatening people in distress with punishment, we should invest resources into social support to alleviate distress, including greater mental health support and public awareness.

The high number of arrests that are made - 901 in 2014 - also indicates that Section 309 places significant demands on the police. If the offence is repealed or made non-seizable (so that arrest need not accompany intervention), scarce police resources can be better directed, for instance toward psychological first aid or other urgent priorities.

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[4] 'Suicide in Singapore', The Singapore Family Physician 2010.

[5] Janis Whitlock, Minton, R., Babington, P., & Ernhout, C. 'The relationship between non-suicidal self-injury and suicide,' The Information Brief Series, Cornell Research Program on Self-Injury and Recovery (2015) Cornell University, Ithaca, NY.

Real stories

In 2015, these three women faced investigation or arrest under Section 309. In each case, **the threat of the law harmed rather than helped them.**

E's story: After being arrested once for "doing the right thing" and seeking help, "Next time, I will make sure I succeed."

Diagnosed with depression, E has thought a lot about ending her life. In 2015, she attempted suicide outside a hospital, choosing this location in case she changed her mind. She put 10 sleeping pills in her mouth, then spat them out, rinsed her mouth, and walked into A&E to "do the right thing" and seek help.

On her second night there, police officers came. She was interrogated and told that Section 309 charges might be brought. She spent 14 hours cuffed to the bed, her legs in restraints, with no idea what would happen next. She had to use a bedpan all night. The police officers she spoke to did not seem to know that depression is an illness, and they even told her that what she did was selfish.

E was moved to IMH over her (and her doctors') objections. She had to pay for the ambulance. She estimated her C-class ward had 42 beds, mostly occupied. A staff member said "That bed is empty, you sleep there lor." E smelled urine, faeces and menstrual blood, and saw other women in states of undress, some strapped to beds.

E called IMH "a place where you lose all your dignity, not a healing place." To leave, E lied that she was stable and looking forward to her job. Discharged without any prescription or follow-up care, other than a further appointment in two weeks' time, she went back to a full dose of her own medication, with all its side effects.

E has been issued a formal warning by the police that she will be charged if she attempts suicide again. This does not stop her from thinking about suicide, but it affects her thinking about seeking help. "Next time, I will make sure I succeed. Even if I changed my mind halfway, I would force myself to succeed." She would no longer make an attempt outside a hospital.

Asked how her case should have been handled, E said that she wanted to stay at the first hospital for treatment. She asks that the state create more "healing places", for instance by improving IMH conditions, increasing the staff-patient ratio and creating the sense of people being cared for and deserving some dignity. "At the moment," she said, "it's jail."

Z's story: Pressured to lie by the threat of Section 309, she no longer trusts the police.

Z, an 18-year-old student, has struggled with depression for years. Early in 2015, Z went to the school toilet to cut herself. The cut was severe and she went to a counsellor, who called an ambulance and notified her parents.

Z stayed at A&E for a few hours. Two police officers came. When she told them that she had depression and had self-harmed "too much this time", they exchanged looks. She asked if she had said something wrong. The officers said, "You cannot tell us this – what you're doing is illegal." They said that attempting and considering

suicide are illegal.

When Z heard this, she cried harder, afraid of being imprisoned. The police officers told her to stop crying, or they would have to bring her to jail. They said, "We think you are a nice girl, so we'll let you off." They wrote a statement saying Z was there for a severe headache, and that she had never had thoughts of suicide or self-harm. They had her sign the statement and then left.

Z found this traumatising. It led her to distrust the police. She is troubled that law enforcement is based on whether someone "looks nice", and that there is a signed record of her saying something untrue. "Why did I have to do that?"

Asked how her case should have been handled, Z said that A&E should have checked her or hospitalised her. Instead they gave her a "pat on the back", charged her $100 and "[told her] to go home". They did not ask about the wound or check if it was infected.

Prior to this, Z had sought mental health support for some time. She found her secondary school teachers "completely uninformed" on mental health, barring her from a school trip due to her condition and treating her opinions as invalid. She could not access a trained counsellor, partly because her teachers assumed, incorrectly, that she could only get help from a woman (the school counsellor was male). One teacher told Z that, in his view, Z "didn't want to recover", because she smiled as she talked about her condition, when in fact she did this to make him comfortable. Uninformed remarks such as these made her feel unsupported, worsening her condition.

Z's parents are unsupportive of her desire for help. Her mother has pressured her to stop taking medication, even though it has helped to stabilise her condition. In general, Z found it very hard to get help – she made three requests for hospitalisation that were denied. She felt that more resources were offered when she pretended to be unenthusiastic about getting help.

B's story: "I felt I am like an animal in the cage of a zoo… I felt no support and I was treated like a criminal"

B is 28 years old. In September 2015, she attempted suicide after being raped by a colleague's fiancé and arguing with her boyfriend shortly afterward.

At 5pm that day, she was arrested and brought to the holding area of a police station where she was cuffed to a wall from 6.30pm till after midnight. She had no water and could not go to the toilet. She did not tell the police about the rape because she was afraid to talk about it and concerned about confidentiality.

As one police officer (a woman) took B's fingerprints, a second officer (a man) kept offering to take over. The two officers laughed and joked with each other about B's profession (a profession stereotypically associated with attractive women). The male officer said to B, "Next time if you want to kill yourself, call me. We can go drink."

The female officer asked B questions about the suicide attempt, but it was not clear whether they were out of curiosity or an attempt at investigation. B has reported, "I felt that I am being treated as a criminal."

B was brought to lock up, where she saw that another woman was not given water

when she asked for it. B slept and was awoken once by a police officer who stared at her and then walked away. She believed that other officers were discussing her, and this man had come to look at her out of interest. In the morning, more officers came, called loudly to her from the corridor, and laughed. B felt they were "mocking" her. "I felt I am like an animal in the cage of a zoo."

B was escorted to IMH around 2pm. In the waiting room, she heard police officers discussing her and another case, both described as "309". The police officers spoke in Chinese so B could not understand them, but she heard them say "boyfriend" several times. She also heard them joking (in English) about another arrested woman, whom they called "fat". "I felt all the police are so curious and mocking all the time. And I feel like there is no confidentiality at all… With all these experiences, I felt no support and I was treated like a criminal."

Myths and misunderstandings

Several common myths and misunderstandings lead people to support Section 309.

1) "It has to be a crime so that police can intervene to stop ongoing attempts."

Emergency intervention need not involve police investigation and arrest, which are inherently intimidating. Another agency (such as SCDF or a specialist support team) could be empowered to intervene. Alternatively, Section 7 of the Mental Health (Care and Treatment) Act already requires police to take "mentally disordered" individuals "believed to be dangerous to [themselves]" to a medical practitioner, but does not criminalise them. Thus, a precedent exists for police to stop ongoing attempts without criminalisation.

However, this Act only applies to people who are "mentally disordered". An amendment may be needed so that relevant authorities (police or SCDF) are required to intervene preventatively without making an arrest or investigating the individual for an offence.

Removing the obligation to arrest will also alleviate a substantial burden on already overstretched police resources.

2) "Making attempted suicide a crime saves lives by deterring people."

The World Health Organization (WHO) states: "No data or case-reports indicate that decriminalization increases suicides; in fact, suicide rates tend to decline in countries after decriminalization."[6] Studies in New Zealand[7] and Canada agree.[8] Of 192 countries and states WHO looked at, only 35 criminalised suicide. E's story suggests that criminalisation deters not suicide, but help-seeking behaviour.

[6] World Health Organization, 'Preventing suicide: A global imperative', 2014: http://apps.who.int/iris/bitstream/10665/131056/1/9789241564779_eng.pdf
[7] David Lester, 'Decriminalization of suicide in New Zealand and suicide rates', Psychological Reports (1993) 72, 1050.
[8] David Lester, 'Decriminalization of suicide in Canada and suicide rates', Psychological Reports (1992) 71, 738.

3) "Attempted suicide must be a crime to signal the sanctity of life."

It is because human life is precious that we should promote supportive approaches which encourage help-seeking behaviour. A symbolic gesture of legal prohibition may seem satisfying, but in practice, it counterproductively endangers the vulnerable.

The way forward

In summary, we recommend the following:

For the short term,

- Amend the CPC so that the Section 309 offence is no longer seizable and does not trigger mandatory reporting.

- Carry out research on the impact of police intervention on the recovery and well-being of those who attempt suicide, with a view to developing more sensitive response mechanisms.

- Increase the sensitivity of police responses to social and medical issues pertaining to suicide, distress and mental health. For instance:

    - Provide psychological first aid training to all police officers, or
    - Consider directing all attempted suicide cases to a specialised unit within the police force, with special training for police officers in this unit, or
    - Partner with an NGO/VWO who can provide intervention teams to accompany police when responding to suicide attempts. This can first be done on a pilot scale.

In the longer term,

- Repeal Section 309 so that attempted suicide is not a crime. Instead, empower another agency (e.g. SCDF, or a specialist support team) to intervene to prevent attempts, or give the police powers to intervene for solely preventative purposes (analogous to Section 7 of the Mental Health (Care and Treatment) Act), but applying even in cases of those who are not "mentally disordered").

- Develop an institutionalised response system for suicide attempts. For instance:

    - Provide psychological first aid training to all police officers, or
    - Set up specialised unit within police force who are specially trained, or
    - Partner with NGO/VWO who will provide intervention teams to accompany police when responding to suicide attempts, or
    - Set up a specialist psychological support unit that may also serve as a stand by in a national crisis where people may need substantial psychological support (e.g. disaster or violent attack).

- Proactively invest in promoting better support for people experiencing suicidal thoughts throughout all of society, including:

    - Increase and make more accessible the resources available for mental health support in the healthcare system.
    - Develop more sources of self-empowerment for attempt survivors/ suicidal people through involvement in the community, support groups etc.[9]
    - Ensure better mental health awareness and training for those who work with vulnerable populations, e.g. teachers and other school personnel.
    - Address any further factors that are shown by research to be relevant.

A more holistic approach toward supporting the well-being and mental health of those in distress will better achieve the aim of suicide prevention, and more closely accord with our shared societal value of compassion.

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[9] National Action Alliance for Suicide Prevention: Suicide Attempt Survivors Task Force, 'The Way Forward: Pathways to hope, recovery, and wellness with insights from lived experience', Washington, DC: Author (2014) 23-26.