Euthanasia and Santhara: Two Sides of the Same Coin?

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ABSTRACT

Euthanasia, according to the Oxford English Dictionary is defined as, "the practice (illegal in most countries) of killing without pain a person who is suffering from a disease that cannot be cured." The rationale behind the process of euthanasia is to relieve a patient, mostly a terminally ill patient where there is no reasonable alternative, of their pain and suffering by ending their life. The reason is that the patients are in such a condition that living will cause more suffering than a painless death. Santhara is the religious practice of gradual fasting which will lead to death. The intake of food and liquids are reduced accordingly. This practice is carried out by the Jain community. It is well known that euthanasia has been subject to many debates and it is opposed by an overwhelming majority of the international community. Bills dealing with the subject of euthanasia are not easy to pass and come under immense parliamentary debate and even more public scrutiny and criticisms. Physicians and doctors face the living nightmare of having to make these difficult decisions as often patients are in no condition to speak for themselves. Santhara, on the other hand, takes on a more religious character. Given that it is backed as being part of Jain scriptures and texts, this practice has been ongoing without much interference as it is seen as a way of attaining salvation. The efforts to legalise euthanasia in India have always been difficult and had to face many ups and downs to establish itself as a lawful act. When describing the practice of Santhara, the method has its origins and core prescribed

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in the holy scriptures of the Jain community as mentioned. Hence, while there is an interference of law in the concept of euthanasia and it has been subject to much judicial scrutiny before been, Santhara did not have to go through as stiff an opposition. This once again shows the power religion exudes over the people of India in the way between the two concepts, euthanasia and Santhara. Some think that the two are similar in nature given their end goal while others believe that the two are different given their character and the discussion in the country. This article will examine euthanasia and Santhara together and trace their path through Indian jurisprudence. Then it will deal with the question of whether the two are actually similar and should the practice of Santhara continue to remain? For the purpose of this article, Santhara is being compared with passive euthanasia as active euthanasia remains illegal in India.

Keywords: *Santhara, Passive Euthanasia, Jain community, Essential practice, Right to Die*

INTRODUCTION

Euthanasia is more complex than just killing a person who is suffering from a disease that cannot be cured. To understand the law behind euthanasia, it is important to understand it from a medical jurisprudence. Euthanasia is often confused with assisted suicide, as it involves a doctor pulling the plug on a patient to relieve them of their suffering. A useful distinction between both is that in euthanasia, it is a doctor ending the life and suffering of a patient, provided there is consent from a patient or the family, and usually, it requires the opinion of a medical board as well. A physician-assisted suicide is a doctor prescribing or providing access to lethal medication to enable a patient to end their own life.[1] Euthanasia can further be categorized into active and passive euthanasia. Active euthanasia is when a physician deliberately acts in a way to end a patient's life. Passive euthanasia, on the other hand, is the withholding or withdrawing of treatment necessary to maintain life. [2]

Santhara, also called Sallekhana, is a process of gradual fasting wherein a person

1 'What's the difference between assisted suicide and euthanasia?' *BBC News* (8 February 2019) <https://www.bbc.com/news/uk-47158287> accessed 10 January 10 2022 .

2 Vinod K.Sinha, S.Basu, and S. Sarkhej, 'Euthanasia: An Indian perspective' 2012 54(2) Indian Journal of Psychiatry 177 <https://www.ncbi.nlm.nih.gov/pmc/articles/PMC3440914/> accessed 10 January 2022.

gradually voluntarily stops eating and drinking which leads to eventual death. It is a practice of the Jain community and is only allowed for a terminally ill person, a person with great disability, or when a person is nearing the end of their life. It is a means to salvation signifying the importance of ahimsa. The practice of Santhara is a highly respectable and longstanding one in the Jain community. The Maghada emperor Chandragupta Maurya undertook Santhara atop the Chandragiri Hills in Karnataka, around 300 BC. More recently, famous saint Acharya Shantisagar of the Digambar Jain sect, undertook Santhara due to his inability to walk or see properly. As per a survey in 2006, an average of 200 Jains practice Santhara until death each year in India. The practice of Santhara is not confined to any particular economic class or gender. [3] In fact, the number of women who undergo Santhara compared to the number of men is in a ratio of 60:40. This is believed to be the case because women are considered generally more driven and strong-willed and have a 'religious bent of mind'. In Jain texts and scriptures, it is mentioned how Santhara is different from suicide. This is due to the quality of the intent behind it.[4] Hinduism endorses a very similar practice as well, named proposita. This literally means fasting unto death. It is undertaken by people who have fulfilled their career goals, have no ambition left in life, or if death is imminent to the person with the condition being so bad. [5] The reason it might be considered different from suicide is that it is not violent in any way. It is the stoppage of intake of food and liquids as opposed to directly harming oneself. The intent behind suicide is to end a life usually due to being in a depressed state of mind, whereas the intent behind Santhara is to attain 'moksha',i.e., salvation. And while the attempt to suicide is criminalized by Section 309 of the Indian Penal Code, 1860, there is no bar on the practice of Santhara as it has been a long-standing one.

But is it so different from passive euthanasia? To understand, comparisons have to be made between the jurisprudence and the way the two are perceived by law and society.

PASSIVE EUTHANASIA: THE STORY

The Indian Penal Code (IPC) has no provision directly naming passive euthanasia as illegal. The IPC does criminalize the attempt to commit suicide under Section 309,[6] as well as

3 Karuna Madan, 'What is Santhara?' (*World Asia,* 2 September 2015) <https://gulfnews.com/world/asia/india/what-is-santhara-1.1577191> accessed 10 January 2022.

4 '10 facts to know about Santhara - Jain practice of ending life voluntarily' (*India TV News Desk*, 27 August 2015) <https://www.indiatvnews.com/news/india/10-facts-to-know-about-santhara-jain-practice-of-ending-life-54034.html> accessed 10 January 2022.

5 'Euthanasia, assisted dying, and suicide' *BBC* (25 August 2008) <https://www.bbc.co.uk/religion/religions/hinduism/hinduethics/euthanasia.shtml> accessed 10 January 2022.

6 Indian Penal Code 1860, s 309.

the abetment of suicide under Section 306. [7] Article 21 guarantees the right to life and liberty as a core fundamental right. It can only be taken away by a process established by law. During the lockdown itself, the Supreme Court revisited its stance in 1976 of suspending Article 21 during an emergency and termed it retrograde. It commented that the right to life cannot be suspended during the coronavirus lockdown either.[8] This established the importance of the right to life. Thus, given the nature of passive euthanasia, arguments are often couched in terms of the importance of the right to life against the right to die. Euthanasia is not a process established by law. Thus, the legal argument surrounding passive euthanasia has always been whether the right to life under Article 21 includes the 'right to die' as a facet. For a long time, the only time it was deemed acceptable to pull the plug on a patient in India was a case of brain death. Brain death in law is described as a situation where the functions of the brain are permanently and irreversibly ceased. This results in the person being as good as dead even though the mechanical functions of the body are still operational.[9]

In India, the Hindu religion does not condone passive euthanasia. Hindu principles and duties seemed accommodating and even advocating for suicide and self-liberation. Even the Manusmriti talks about self-liberation as a way out when one is suffering from an incurable disease to attain moksha.[10] Proponents of passive euthanasia argue how passive euthanasia is an essential show of humanity by relieving a patient of their suffering. When the likelihood of the patient surviving is so low and they are terminally ill, it should be ethical to withhold treatment for not only their benefit but also for that of the family which has to bear the trauma and expenditure to support their loved one who has little to no chance of surviving. Opponents of euthanasia naturally argue the opposite, stressing on the value of human life and how assisted suicide or passive euthanasia must be prevented at all costs.[11]In addition to that, passive euthanasia as a way out must not be the measure taken but proper medical and psychiatric care. For the longest time, India was very much in consonance with the rest of the world and was completely against passive euthanasia, deeming it a form of suicide or against the taking of life at all. The jurisprudence around passive euthanasia was also in terms of whether a right to die was included within the meaning of Article 21, and this saga had its fair share of ups and downs.

7 Indian Penal Code 1860, s 306.

8 *S Kasi v State Through the Inspector of Police Samaynallur Police Station Madurai District* CRIMINAL APPEAL NO. 452 OF [2020] (ARISING OUT OF SLP (CRL.) NO.2433/[2020]).

9 The Transplantation of Human Organs Act 1994, s 3.

10 Achal Gupta, 'Euthanasia — Indian View' (*SCC Blog,* 28 November 2020) <https://www.scconline.com/blog/post/2020/11/28/euthanasia-indian-view/> accessed 3 January 2022.

11 (n 2).

The Bombay High Court in 1986 ordered that while euthanasia was a mercy killing as opposed to self-killing, passive euthanasia was legally distinct from an attempt to suicide. The Bombay High Court held that the right to life also includes the right to die under Article 21. [12] However, the Andhra Pradesh High Court, division bench took the opposite view. It held that confering a right to destroy oneself would lead to several incongruities which would not be desirable and there was no right to die in Article 21.[13] The Supreme Court in *P. Rathinam/Nagbhusan Patnaik v Union Of India*,[14] in 1994, while did not entertain the subject of euthanasia directly, it sought to make a distinction between an attempt of a person to take their life and action of others to bring to an end the life of a patient, based on principle. It talked of a decision of the US Supreme Court in *Mokay v Berastedt*, where it held that a patient wanting to discontinue life supporting treatment would not be considered suicide. And it upheld the view that the right to life includes the right to termination of life. But in 1996, a larger bench of the Supreme Court overruled the earlier decision on the grounds that the right to life would be enjoyed up to the end of natural life. The right to die with dignity did not include death by unnatural means. In 2011, the famous case of nurse Aruna Shanbaug, who was sin a vegetative state for over 35 years, came to the Supreme Court. While ultimately rejecting the petition to euthanize Shanbaug, the court legalized passive euthanasia, setting up an elaborate procedure for the same. If the person is in a permanent vegetative state, these guidelines would apply. The decision to pull the plug could only be taken on consent from the parents, spouse, or other close relatives. In absence of any of these relatives, a person or a body of persons acting as a 'next friend' can take the call. This decision had to be approved by an application to be decided by a division bench of the High Court of the concerned state to ensure that the relief of passive euthanasia was not misused via their powers under Article 226. The High Court itself must nominate a committee of three reputed doctors in the process of making a decision of such application. [15] The Supreme Court in *Common Cause (A Regd. Society) v Union of India*,[16] while correcting the Aruna Shanbaug case's misinterpretation of the Gian Kaur case, confirmed the legality of passive euthanasia in India in 2018. The court held that the right to die of patients' incompetent to express their views on the same could not be held to be outside the purview of Article 21. Hence, the legalization of passive euthanasia in India has been confirmed.

12 *Maruti Shripati Dubal v State Of Maharashtra* [1987] (1) BomCR 499.

13 *Chenna Jagadeeswar And Anr. v State Of Andhra Pradesh* [1983] Crl. Law Journal 549.

14 AIR [1994] SC 1844.

15 *Aruna Ramchandra Shanbaug v Union Of India & Ors* [2011] 4 SCC 454.

16 WRIT PETITION (CIVIL) NO. 215 OF [2005].

SANTHARA: AN ESSENTIAL PRACTICE

The debate around the legality of Santhara takes on a completely different turn due to it being ingrained in religion. And religion is one of the most powerful forces in India. Nikhil Soni brought a public interest litigation (PIL) to the Rajasthan High Court seeking to criminalise Santhara by reading it as suicide. This PIL was largely triggered due to two incidents in Jaipur that made headlines. First was the case of Bimla Devi, a 60-year-old cancer patient who fasted unto death. It was alleged she was forced into Santhara by her family. Similar circumstances surrounded the death of Kaila Devi, a 93-year-old woman who also died of Santhara.[17] It was argued that the practice violated the right to life under Article 21. Thus, it could not be seen as the freedom of religion of Article 25 because it came at the expense of another fundamental right in the right to life. The representatives of the Jain community defended the practice by arguing that it was an ancient practice. Moreover, it takes place to attain salvation and when all of life's vows have been completed and fulfilled. It is not the active taking of life but the reduction of food for salvation as the end goal.[18] It could not be deemed as suicide. The practice of Santhara did not involve any violence or weapons to end one's life. The arguments seen in the PIL are mainly the arguments of the debate around Santhara.

This PIL was argued and delved into by the Rajasthan High Court in the case of *Nikhil Soni v. UOI*,[19] where it was held that the practice of Santhara was illegal. It was vehemently argued that Santhara was different from suicide, as in suicide, the victim is under emotional stress, is overpowered with ill feelings, with the main intention of committing suicide is as an escape from consequences, and has no religious or spiritual considerations. Suicide utilizes weapons, death is usually sudden not gradual, committed in secrecy, and causes misery to loved ones. The next argument presented was that this practice fell under the right to freedom of religion and was thus protected by Articles 25 and 26. In addition to that, the practice of Santhara by a person was a matter of privacy and in a 1987 case of Muni Badri Prasad, a woman who practice Santhara, the Supreme Court refused to entertain the petition which represented it as suicide. But the High Court rejected these arguments and separated the practice of Santhara from the right to die. Interestingly, the court delved into past Supreme

17 Abhishek Gaur, 'Court verdict on Santhara triggers huge debate, protests' *Deccan Herald* (31 August 2015) <https://www.deccanherald.com/content/498213/court-verdict-santhara-triggers-huge.html> accessed 11 January, 2022.

18 Milind Ghatwai, 'The Jain religion and the right to die by Santhara' *Indian Express* (2 September 2015) <https://indianexpress.com/article/explained/the-jain-religion-and-the-right-to-die-by-santhara/> accessed 11 January 2022.

19 *Nikhil Soni v Union Of India & Ors* D.B.Civil Writ Petition No.7414/[2006] (Public Interest Litigation).

Court judgments which talked about whether the right to die was included in the right to life, many of which were discussed in the Arun Shanbaug judgment. The court held that in the case of a terminally ill person or one in a vegetative state, these are cases of dying with dignity as in such cases, the process of death has already commenced and there is no reasonable solution. These are not cases where life is extinguished but it merely speeds up the process of death as death would be an imminent conclusion anyway. The court then drew attention to Article 25 and held that if the practice of Santhara was to be saved by Articles 25 and 26, it had to be proven that it was an essential practice of the religion as Article 25 is subject to public order, morality and health. The court held that it was not sufficiently established that Santhara formed an essential part of the Jain religion as it could not be proven that a sufficient number of Jains practiced it. Hence, the Rajasthan High Court held that the state was to stop the practice of Santhara and hold it punishable as an attempt to suicide under Section 309 and persons enabling this practice by a person were to be deemed punishable under Section 306 for abetment to suicide. Thus, Santhara was held illegal and a crime.

It did not take long for the effects of the verdict to be felt in the public. The Jain community came out in protest and open disagreement. Several politicians from Rajasthan, Madhya Pradesh, and all over India criticised the judgment and disagreed with its contents. [20] It was clear that the public had reacted strongly and sure enough the matter soon went into appeal and reached the Supreme Court. The Supreme Court had no hesitation in staying the order of the Rajasthan High Court and issued notice to the Rajasthan government and the Centre on why it opposed the practice. [21] Consequently, the legality of Santhara was restored and the practice was allowed very quickly after it was declared illegal.

PASSIVE EUTHANASIA & SANTHARA: POINTS OF COMPARISON

"*Jain philosophy believes that we have been given a human birth only to accumulate salvation, and practicing Santhara is a way of burning away one's sins*," said Ila Shah, a Jain scholar and lecturer from Mumbai. Santhara is for people of old age or those who are terminally ill. The people who qualify in these categories must be of sound mind and the decision to end their life by practicing santhara must be their own and no one else's. It is not allowed for healthy individuals who are young and still have responsibilities and ambitions in life. The fact that it is done to attain 'moksha' and shed all the negative karma of life makes

20 Milind Ghatwai, 'The Jain religion and the right to die by Santhara' *Indian Express* (2 September 2015) <https://indianexpress.com/article/explained/the-jain-religion-and-the-right-to-die-by-santhara/> accessed 11 January 2022.

21 Krishnadas Rajagopal, 'Supreme Court lifts stay on Santhara ritual of Jains' *The Hindu* (1 September 2015) <https://www.thehindu.com/news/national/supreme-court-lifts-stay-on-santhara-ritual-of-jains/article7600851.ece> accessed 11 January 2022.

it entirely different from passive euthanasia. This is the vehement argument put forth by the Jain community?[22]

But are the two concepts really that different? Are they different at all for that matter and is there a need for legislative oversight when it comes to Santhara? Should it also be subject to the guidelines like passive euthanasia? To compare the two and assess if the practices are similar or like the Jain community says, nothing like each other at all, the elements of the two concepts have to be dissected.

MEDICAL INVOLVEMENT

According to the statement of the Jain community, the person deciding to undertake Santhara has to make the decision on their own. This is a point of self-determination wherein that person chooses to stop the intake of food and water. It is the epitome of the 'right to die' as the person is choosing to die by gradual starvation. On the other hand, passive euthanasia involves assistance from another party, which is the medical practitioner. Since it involves taking a patient in a permanent vegetative state off life support or withholding treatment, it cannot be done manually by the patient. A doctor is needed. In addition to that, the guidelines in the Aruna Shanbuag judgment clearly elucidate that consent has to be taken from either immediate family, a certain class of relatives, or if neither exist then a 'next friend'. The people consenting have to submit an application and whether a patient is to be euthanized will be decided by the High Court and committee of three reputed doctors. They delve into the merits of the case and decide if the application is justified and the patient's condition warrants passive euthanasia. There is no such supervision and elaborate procedure surrounding Santhara. It is an individual decision taken to attain a religious goal. If a person decides to stop the intake of food and liquids, then that is the end of the matter. No medical or even religious committee reviews that decision and delves into its merits to decide if the decision is justified. The only binding factors on the decision of a person to undertake Santhara are the religious principles of Jainism. It is undertaken by a certain class of people, for a specific end goal and has to be undertaken by starvation. It does not face the same restrictions as passive euthanasia.

22 Aarefa Johari, 'Fasting unto death for religion is not suicide or euthanasia, say outraged Jains' (*Scroll,* 13 August 2015) <https://scroll.in/article/748119/fasting-unto-death-for-religion-is-not-suicide-or-euthanasia-say-outraged-jains> accessed 12 January 2022.

INTENTION

What is often used as an important point of distinction is the intention behind these two concepts. The intention of euthanasia is to relieve a patient in a permanent vegetative state of their suffering and put them out of their misery. This occurs usually when the family of the person to be euthanized is convinced that it is a last resort mechanism and there is no other reasonable alternative. Santhara, on the other hand, is undertaken in the belief that for people who are very old or terminally ill and have no responsibilities remaining, it is the path to attain moksha. It is believed that undertaking Santhara wipes away all the negative deeds that one has done in their life, essentially receiving one of their bad karma. In this manner when the soul leaves the body after the fasting, it attains salvation. This is the main point of dissection between passive euthanasia and Santhara. The intention behind carrying out these processes is completely different, in terms of the desired effect both on the body and state of mind, in spite of the fact that the result is the same.

CHARACTER

Keeping the intention behind the two concepts in mind, the intention is a big factor in the debates and discussion of passive euthanasia and Santhara. It shapes the character that the two assume. The fact that passive euthanasia is seen as a threat to the right to life, takes a very legal and political character. Hence, even in the Aruna Shanbaug judgment, the Supreme Court talked about the right to die and judgments which discussed the same. That is also why all the past jurisprudence saw contrary judgments by different High Courts and even saw the Supreme Court overruling its own order which accepted a right to die. Even after the Shanbaug judgment, the Common Cause case which confirmed the legality of passive euthanasia talked of a right to die in passive euthanasia and lengthy discussion followed before confirming the legality of it. Indeed, even the public feels strongly about passive euthanasia, and debates among the public are along the lines of the value of the right to life and whether or not the right to die was included in it or would undermine the same. Santhara is not subject to much scrutiny. In spite of the fact that the end result is starving to death, which is a form of suicide, it is accepted as a practice and thus a part of society. The reason is that it is a practice in the Jain community bound by principles of Jainism, assuming a religious character. Article 25 provides freedom of religion as a fundamental right. It is well understood in India that religious practices must be left alone to their communities. Hence, it took till 2006 for an action to even be launched against Santhara and took till 2015 before it was deemed illegal. And the Supreme Court overturned the judgment and restored the legality of Santhara in no time. While the Rajasthan High Court did view Santhara and even

distinguished it from euthanasia in that for euthanized patients, death would have come for them anyway. But this view was overturned and even the public did not agree with the High Court. Santhara is seen more from the view of a right to privacy and a right to the freedom of religion. That is why the practice has been going for years without any legal interference and real jurisprudence. Due to the difference of character, passive euthanasia took till 2011 to be held legal which was confirmed in 2018, while Santhara took till 2015 to be held illegal which was shortly overturned.

SIDES OF THE SAME COIN?

Despite the points of comparison which seem to point to the fact that Santhara is not the same as passive euthanasia, they are more similar than what seems to be prima facie and what the representatives of the Jain community are pushing for people to believe. This is because the outcome of both is the same and this is a point that cannot just be brushed aside. The fact that Santhara is so closely associated as an essential practice of the Jain religion, gets masked over as not being the same as suicide or passive euthanasia. Revisiting the statement of Ila Shah and the Jain community, a dissection of that statement will paint a clearer picture. Santhara can only be undertaken by those who are terminally ill or old, and have no responsibilities in life. According to Indian law, euthanasia is also subject to terminal illness or permanent vegetative state of the patient. In both cases, there is an ending of life by deliberate action to the body. The only difference is that Santhara can be done by oneself while euthanasia requires the assistance of a medical practitioner. The intent behind the step should be irrelevant in law as both involve the ending of life by withholding essentials. In the case of passive euthanasia, it is withholding of life support while for Santhara, it is withholding of food and liquids. In both cases, the death is gradual and not abrupt. The gradual withdrawal of essentials contributes to the person declining in health until they eventually pass away. The outcome of both is the same.

The claim that Santhara is not the same as suicide is true. But neither is passive euthanasia. This is where intention becomes important. Neither passive euthanasia nor Santhara involves the active ending of one's life. There is no use of weapons and no depressing state of mind which may drive one to take one's own life. No one is directly inflicting pain on themselves and the death is not abrupt. In the case of passive euthanasia, it can be argued that there is a complete absence of intention to end one's life due to the procedure to be followed and the fact that there is medical involvement in the process. Euthanasia is done to relieve a patient of their suffering when death is the most reasonable solution. Santhara is done to shed negative karma and when one's responsibilities in life are fulfilled.

Hence, while passive euthanasia and Santhara are similar despite contrary claims, neither are similar to suicide as even the outcome is not quite the same in terms of the abruptness of death.

A NEED FOR LEGISLATION ON SANTHARA?

Santhara is a practice that has lasted for centuries and it is legal in India virtue of the Supreme Court. Given its similarity with passive euthanasia, is it necessary to have some guidelines or procedure or a need for a statute on Santhara? There is no need for the same.

The decision to end one's life by starvation is a choice of the individual. If a person decides to gradually reduce the intake of food and liquids, it is their personal choice and is a matter of privacy. What a person eats is their own affair and included in the right to privacy which in turn is included within Article 21.[23] A right to privacy also includes the right to be left alone. [24] Hence, it follows that it is also a person's right to choose to eat and drink lesser and lesser is their decision and no one can make them choose what and how much to eat. The Rajasthan High Court's contention of Santhara not being an essential practice of Jainism has been quashed. Hence, not only is there a freedom to practice religion under Article 25, it is a matter of liberty under Article 21. The practice of Santhara has continued for centuries. The practice is bound by the principles of Jainism and is only applicable to a certain class of persons. No one can be coerced into it and if coercion exists, there are remedies within the criminal justice system. After the numerous debates and efforts to get passive euthanasia legalized, it would be hypocritical to place restrictions and make Santhara illegal. This practice exists in Hinduism as well in the name of Prayopaseva. It is a matter of religious practice and must be left as it is. As unsettling as the thought is, it must be recognized that it is a matter of religion and privacy. Hence, there is no need for a separate statute on Santhara.

CONCLUSION

Passive euthanasia is the withholding of life support or medical treatment for a patient who is terminally ill or in a permanent vegetative state to cause their death. It is seen as a humane way of relieving a person, who is in a dire condition, of their suffering. These are for cases of permanent vegetative state when death is the only reasonable solution. The debate around the legality of passive euthanasia is a constant struggle between the right to life against the right to die. It was finally held legal in 2011 subject to an elaborate procedure

23 *Hinsa Virodhak Sangh v Mirzapur Moti Kuresh Jamat & Ors* [2008] 5 SCC 33.

24 *R. Rajagopal v State Of T.N* [1995] AIR 264.

of consent from family and an application to the High Court. Santhara is the practice of the Jain community which is when a person gradually fasts to their death. It is undertaken to attain moksha and shed one's bad karma. Only terminally ill, old people, or people who have fulfilled their responsibilities in life can undertake this practice and they cannot be coerced into it. Because Santhara is a religious practice, it has never come under the scrutiny that passive euthanasia has when it comes to the right to die. In 2015, pursuant to a PIL filed in 2006, the Rajasthan High Court held Santhara to be illegal as it could not be proved that it was an essential practice of Jainism. But after much outcry from the Jain community, this judgment was stayed and the ban lifted by the Supreme Court shortly after.

Passive euthanasia and Santhara are different when it comes to (1) medical involvement: passive euthanasia requires the assistance of a doctor, but Santhara does not (2) intention: passive euthanasia is carried out to relieve a patient of their suffering while Santhara is done for moksha (3) character: while passive euthanasia attains a more legal character, Santhara takes on a religious character. This being said, the two are very similar given that they are both gradual ways in which a person perishes. Both result in death and the intention is irrelevant as the process and outcome is fundamentally the same. Neither, however, are the same as suicide as there is no direct harm to oneself with weapons and the state of mind is not necessarily the same as one of a suicide victim.

The practice of Santhara, to gradually stop the intake of food and liquids, is a personal choice and matter of privacy. Neither the government nor the courts have a right to intervene.

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