

**RIGHT TO DIE WITH DIGNITY:
A CONSTITUTIONAL ANALYSIS OF EUTHANASIA AND SANTHARA**

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1. ABSTRACT

This research examined the constitutional analysis of Euthanasia and Santhra. We aim to understand whether Santhra comes under the ambit of the right to die with dignity, as Euthanasia does. Currently, Santhra's legal status is debated and not explicitly settled in constitutional law or court decisions. Our methodology includes legal foundations, such as constitutional law and court decisions, as primary sources. Secondary sources include law books, scholarly writings, and research papers, to analyse constitutional doctrines such as Essential religious practices. Our main research is based on laws and past court decisions on euthanasia. We conducted a survey to understand people's discernment on euthanasia, santhara, dignity, autonomy, and religious freedom, to ensure unbiased results. Our key findings include the evolution of the right to die through landmark cases. As well as people's responses in the form. A comparative case study approach was used to examine different perspectives on euthanasia and Santhra. We have used a comparative analysis approach to analyse the legal and constitutional distinction between Euthanasia and Santhra within the broader framework of fundamental rights and Judicial reasoning.

2. INTRODUCTION

The Law commission of India had submitted its 241st report aftermath of **Aruna Ramachandra Shanbaug vs. Union of India** case whereby the report described euthanasia as mercy killing. The 'Euthanasia' is derivative from Greek word 'eu' and 'thanotos' which mean "Good Death". It is pertinent to note that The European Association of Palliative Care 's task force has clarified that medicalised killing without the consent whether non-voluntary (where the person/patient unable to consent) or voluntary (against someone's will) is murder. Euthanasia is further classified even in judgement with Passive and Active Euthanasia whereas Active Euthanasia taking actions such as injecting Sodium Pentothal and Passive Euthanasia withholding of medical treatment or life-support. (it came into purview with

Shanbaug case where it was stated that failure to save someone's life is not an offence). Shanbaug case, the patient was in Persistent Vegetative State hence the main contention was 'Involuntary Passive Euthanasia'. Where the Court prescribed guideline for both competent and incompetent patients and it was later streamlined by court in 2023.

The 'essential practice doctrine' which has its genesis with Indian encounter with the western conception of separation of State and Religion and constitution with its transformative essence (semi-feudal society into modern since inception) . (S.R Bommai V Union of India) Secularism has been held as 'basic structure' of constitution with 'Principled distance' between state and religion .

Secularism as per The Secular State in broad sense separation of worldly and divine. Part 3 of constitution article 25,26,29 guarantees religious denomination to manage their own religious matter. **Commissioner Hindu Religious Endowments, Madras v. Shri Lakshmindra Thirur Swamiar (1954)**, was the case where the court held that 'religion includes all practices and ritual essential to it, hence it paved the way to rationalising religious practices to differentiate with other practices that are superstitious where the court dives into nature of practice and importance the community gives to it. Hence the practices safe from this doctrine's scrutiny immune from state's interference. **Ram Prasad Seth v. Uttar Pradesh** further distinguished essentially religious- those practices that are by nature of religious character 'essential to religion' phrase meant importance the practice holds for the community. While exercising this essential practices test in **Nikhil Soni case** postulated that Santhara is not the practice essential to Jain Faith. 31 August 2015 Supreme Court of India stayed the decision of Rajasthan High Court.

This paper sought to look and critic this act of overpowering Judicial interference in Religion (Article 25) and other matter without having backing of theologian and philosophical background or area which in practice filled by Parliamentary Action. We will look at this religious practice in contestation with euthanasia especially in light of 'right to life with dignity' article 21 (**Common Cause vs Union Of India**).

3. LITERATURE REVIEW

Santhara is only applicable after the (educative vow) vow of Sallekhana after seeking permission from religious leader or munis and from family member. The leader may refuse the seek of the vow of Sallekhana on the ground where death isn't imminent or the seeker is still otherwise fit and continue to lead life. Originated from Sanskrit word 'Samstara' meaning bed of grass , 'Mahaprasthana' and 'Prayopavesa' is similar practice in Hindu faith (fast unto death). These practices only sanction if the bodily function is not usual or on accounts of terminal illness and extreme old age. Like Sati () the practioners are admired (hence

dignity) , once given permission the person sits on bed of grass and goes into deep meditation gradually leaving all attachment from material world and eventually gives up food and water. As per core Jain thought religion is a way to liberating soul from the bondage of karma as we age we accumulate more karma. This is a practice that is done without the desire for either death or life , it doesn't have any age constraint, caste or class constraint (Universal) taken in full consciousness(hence voluntarily chosen)(the undertaker is spiritual aspirant) by the undertaker and with permission of family member and spiritual leaders and Muni. Sallekhana is reversible vow which means it can be revoked if the undertaker become sick due to fast and take food. There is even pre-requisite that the person undertaking is free from all desire including desire to die. In Jain faith the suicide is also violence hence strictly prohibited. Duration of practice could be upto 12 years and more.

1. Intention and Psychology behind committing suicide and Sallekhana is clear where person committing suicide has ambivalence and desire to die, feeling of exhaustion, depression and possible mental disorder and generally considered pitiful (not admired) whereas set of circumstance where Sallekhana is allowed- Famine, Old Age, condition of extreme natural calamity, Terminal illness. While Suicide is immediate cessation of living the practice of Santhara requires commitment that can go beyond a decade.
2. Now it is contended whether Sati was religious practice or cultural practice likewise with Jauhar however person who performed Sati or Jauhar were admired similar to Sallekhana. It is historically certain that it was also forced upon hence non-voluntary or consented by a person. It was restricted and illegalised by Bengal Sati Regulation 1829 and Commission of Sati (Prevention) Act 1987 which criminalised glorifying Sati. It is certain in Nikhil Soni v Union of India case. Jauhar and Sati are ritual suicide hence mental capacity of person if it is not forced is desire to die or be immortalised and commit fidelity to dead husband or desire to preserving honor. Whereas Sallekhana is Yogic Technique which requires neither desire of death or life and leaving material world and requires due permission.
3. While Euthanasia means ‘ Mercy Killing’ often done with consent of close family (non-voluntary) or the person by a medical profession while following protocol in India case aftermath of Common Cause V Union of India and streamlined in 2023 for Involuntary and voluntary Passive euthanasia with permission from High court. While Passive Euthanasia requires withholding Treatment or life-support (inaction) Active Euthanasia requires action like injecting Sodium Pentothal etc. The circumstances where the Euthanasia and Santhara is given are similar to preserve dignity (Article 21 – Right to Life with Dignity aftermath of Common Cause)

and cease suffering for the person with PMV (Persistent Vegetative State) or terminal illness. The Nature of Santhara is quite different where the person is also spiritual aspirant and take consent of Muni (Voluntary) and there is not any non-voluntary alternative , the practice is for refurbishing the ‘Atman’ which has been polluted by ‘Karma’ and has theological basis, it requires rigorous penance from the under-taker and Sallekhana vow is only given by the discretion of Muni or Spiritual leader , it has timeframe , constraint and revokable . Like Euthanasia it also advisable in specific circumstances like Terminal Disease , extreme natural calamity. (ends for Santhara is always spiritual and theological in nature while Euthanasia it is strongly cessation of ‘suffering’). The Euthansia and Santhara overlap in ‘Right to life with Dignity’ under ‘Right to Life’ Part 3 of Constitution since Santhara could be preference of Under-taker (Voluntarily) for theological reasons over Medically Inclined Euthanasia. Whether it comes under the ambit of ‘Right to Life’ is a legal question.

4. Jurisprudence of Dignity It is Stated that dignity is reducible to concept such as autonomy or has core meaning that is applicable to all context which can draw boundaries too broad. (Henry, L. M. (2011))

In Academics:

‘Essentialists and Reductionist have different Approach towards ‘ Dignity’

- a) The reductionists contend that dignity's features are so well aligned with some other concept that dignity is in fact reducible to Autonomy.- philosopher Ruth Macklin famously claimed that "dignity seems to mean nothing other than respect for autonomy." Since autonomy is already a respected societal value, Macklin argues that dignity ,as used in medical ethics, "can be eliminated without any loss of content." Likewise, psychologist Steven Pinker has stated that "when the concept of dignity is precisely specified ultimately it's just another application of the principle of autonomy.

Essentialist - They aim to distill dignity's meaning down to its fundamental core by searching for the root or basic meaning of dignity

- b) Wittgensteinian - 'family resemblances' Once we abandon the purely referential notion that the meaning of a word is fixed and uniform, and turn to its actual use in language, we begin to see- as Wittgenstein and Frankfurterdid- that the same word often has different meanings in different contexts. Consider the word "game," Wittgenstein's primary example- card game, board games

5 different conception of Dignity

- Institutional status as dignity
- equality as dignity
- Liberty as dignity
- Personal integrity as dignity
- Collective virtue as dignity

Our Focus would be Liberty as dignity & Personal Integrity as dignity

Liberty as dignity

The notion that humans deserve respect as free, autonomous, sovereign, and self determined agents is so entrenched in American political liberalism that it appears self evident.¹⁸⁴ Its origins can be traced back to ancient Greece and Rome, where the Stoics were among the first thinkers to connect humans' unique capacity for moral reasoning with their dignity

Immanuel Kant, who wrote that "humanity so far as it is capable of morality, is the only thing which has dignity."¹⁸⁹ Kant claimed that human dignity derives from autonomy

Liberty as dignity commands respect at two levels: **first, respect for individual choice, and second, respect for individuals because they have the capacity for choice.**

The Court's application of liberty as dignity appears most prominent in cases involving personal decisions, namely the choice to have abortion

In *Planned Parenthood of Southeastern Pennsylvania v. Casey*, a plurality of the Court again employed liberty as dignity in the abortion context

Opinion in the landmark case *Lawrence v. Texas* hints at an answer. In a decision invalidating Texas's anti-sodomy statute, the Court defended "choices central to personal dignity and autonomy."

Hence dignity can be understood in many forms following Wittgenstein's 'Familiarity', since the space of 'Die with Dignity' and other person of his family's 'choice' is the same. Similar question with Santhara and Indian Jurisprudence.

Is 'Essential Practices' Judiciary Overlap ?

The pivotal moment where the court formulated the 'essential practices test' is when the court allowed the state intervention to religious practices and institutions. Initially after *S.R Bommai* case where 'Secularism' has been held 'basic structure' while 'principled distance between State and Religion' in Indian Context it has been argued by Sanskriti Prakash 'SANTHARĀṆ/SALLEKHANĀ AND THE INDIAN LAW: A

CRITIQUE OF THE ESSENTIAL RELIGIOUS PRACTICE TEST’ that Judiciary is creating ‘ Secularism’ as religion on it’s own. “ These tests are solely based on the judges’ own conception of right and wrong, morality and immorality, equality and justice”. **Commissioner Hindu Religious Endowments, Madras v. Shri Lakshmindra Thirur Swamiar of Shirur Mutt 1954**, is where court held that religion included all the practice and ritual essential to it which needs to be decided by Denomination. However court rejected the ‘ Assertion Test’ and looked into the nature of practice itself with the importance the community gives to it. Further, in **Ram Prasad Seth v. State of Uttar Pradesh 1957**, where expression ‘ essential part of Hindu religion’ which started the scrutiny of courts in the jurisdiction of Denomination. This Test isn’t safe from criticism especially in Qureshi v. State of Bihar ; where slaughtering of cow was n’t essential to Islamic faith followed by Fasi v. SP of Police where beard was not the essential part of the Islamic faith or Bal Patil v. Union of India; where court held Jainism is not separate from Hinduism. Similarly in Nikhil Soni Judgement ‘ Santhara wasn’t essential to Jain’ equating it with suicide.

Criticism and Outlook

‘The judges, being untrained in theology and philosophy, cannot be expected to understand a religious philosophy in a comprehensive manner.’ Outlook – In the Reading ‘ Jurisprudence and Theology and following Dworkin ‘Moral reasoning’ whether the Judges have ‘ positivist stance or theistic stance :

‘The Constitution must take a position on whether it, and it alone, is the ultimate source of legal authority in the republic or else, whether the Constitution may be supplemented (or perhaps even superseded) by some form of higher law.”(Foley, E. B. (1998))

Since the Constitution at least the positivistic construction , it can fit into both the atheistic term of social contract or God’s will (theistic). Since the Judiciary is the interpreter of the Constitution , and it via discretion has taken step for the ‘essential practices’ following the flow of Argument satisfied both contractalist (positivist) and Theist (‘God’s will’ will agree)

‘Criticism of Legal System’ Legal Transplant is much contended topic ‘ as we have ‘borrowed’ the legal system (IPC)‘ common law of UK’ willingly after the independence however legal system anglo-saxon origin compatibility with Indian sentiments where ‘ philosophy which treats the body as a gift of God and a temple for the soul. That is why, suicide or voluntarily choosing death is considered as disrespectful towards God’ inspired by western religious traditions is a topic in itself .

Inspired by American constitution and British Constitution (rule of law)

American judicial interpretation especially in *Brown v Board of Education* and *Roe v Wade* where Judge relies on ‘Moral Reading’ of Judges to interpret the constitution which have obscure origin do not have parliamentary essence or British constitution which is both written and unwritten but relies on Majoritarian democratic premise to understand rights (Parliament not judiciary). With India inspired by US judicial Review and Britain Constitution what the Santhara practice choose to be rode on 1) Judiciary (Case still Pending on Supreme Court) 2) Parliamentary intervention ?.

4. RESEARCH METHODOLOGY

The present study adopts a mixed-method research design, combining doctrinal legal research with an empirical survey to examine the constitutional dimensions of euthanasia and Santhara, particularly the interplay between Article 21 and Article 25 of the Constitution of India. The doctrinal method was used to analyse the constitutional validity of the "Right to Die with Dignity" under Article 21 and its nexus with religious freedom guaranteed under Article 25, employing a comparative constitutional approach to examine judicial reasoning on euthanasia alongside the constitutional debates surrounding Santhara. The doctrinal component of the research is based on the analysis of primary and secondary legal sources. Our primary sources include constitutional provisions, judicial decisions, and other legal materials relating to euthanasia, dignity, consent, and religious freedom. Judicial decisions such as *Gian Kaur v. State of Punjab*, *Aruna Ramachandra Shanbaug v. Union of India*, *Common Cause v. Union of India*, *Nikhil Soni v. Union of India*, and *Harish Rana v. Union of India* have been examined to understand evolving constitutional interpretation regarding the Right to Die with Dignity in India.

Secondary sources including law books, journal articles, research papers, legal commentaries, online legal databases, and scholarly writings have also been referred to in order to analyse constitutional doctrines such as the Essential Religious Practices Doctrine, Constitutional Morality, the doctrine of *parens patriae*, and the principle of personal autonomy.

In addition to doctrinal analysis, the study also includes an empirical method through an online survey conducted through SurveyMars to understand public perception regarding euthanasia, Santhara, dignity, autonomy, and religious freedom. The questionnaire primarily consisted of structured questions designed to assess public perceptions regarding euthanasia, Santhara, personal autonomy, dignity, religious freedom, and constitutional rights. Neutral wording was adopted to minimise response bias. A total of 107 valid responses were collected from individuals belonging to diverse educational and professional backgrounds through a non-probability convenience sampling method.

The empirical findings were not intended to determine constitutional validity but to supplement the doctrinal analysis by illustrating contemporary public perceptions surrounding end-of-life decisions and religious autonomy.

The study follows an analytical and comparative approach by examining constitutional principles alongside public opinion and contemporary societal debates. As the survey employed convenience

sampling and a relatively limited sample size, its findings cannot be generalized to the entire Indian population. Accordingly, the empirical findings are used to supplement the doctrinal constitutional analysis rather than establish conclusive or generalizable social trends.

5. CASE STUDY FRAMEWORK: EVOLUTION OF THE RIGHT TO DIE AND THE CONSTITUTIONAL CONFLICT SURROUNDING SANTHARA

A. Evolution of the “Right to Die with Dignity” in India

The constitutional understanding of the “Right to Die with Dignity” in India has evolved through significant judicial interpretation under Article 21 of the Constitution.

The issue first came up in the P. Rathinam case, where the Supreme Court decided that the right to life also means the right to die. They struck down the law that made trying to commit suicide a crime, saying that punishing someone for it was considered irrational and goes against human dignity. (P. Rathinam v. Union of India, 1994)

However, this position was subsequently overruled in *Gian Kaur v. State of Punjab*, where the Court clarified that Article 21 does not include an unrestricted right to die. Still, the ruling made it clear that dignity matters at the end of life, too. This judgment laid the constitutional foundation for future recognition of dignified end-of-life decisions. (*Gian Kaur v. State of Punjab*, 1996)

The jurisprudence further developed in *Aruna Ramachandra Shanbaug v. Union of India*, where the Supreme Court conditionally recognised passive euthanasia under strict judicial supervision. The judges recognized that keeping someone on artificial life support in a hopeless situation can violate human dignity and personal freedom. So, they put a rule in place: you have to get permission from the High Court before withdrawal of life support. (*Aruna Ramachandra Shanbaug v. Union of India*, 2011)

The constitutional interpretation of personal autonomy and bodily integrity was further expanded in this case, which points back to the landmark *Puttaswamy v. Union of India* case, where the Supreme Court ruled that privacy is a basic human right protected by Article 21. The judgment emphasized dignity, decisional autonomy, and individual control over personal choices, thereby strengthening the constitutional foundation for recognising end-of-life decisions and the “Right to Die with Dignity.” (*Justice K.S. Puttaswamy v. Union of India*, 2017)

A broader constitutional recognition emerged in *Common Cause v. Union of India*, where the Supreme Court formally recognised the “Right to Die with Dignity” as a part of Article 21 and legalised passive euthanasia along with living wills. The Court emphasized bodily integrity, autonomy, privacy, and informed consent. The modified guidelines issued in 2023 further simplified procedural requirements in order to ensure timely decisions in cases involving irreversible medical suffering and prolonged vegetative conditions (*Common Cause v. Union of India*, 2018)

The constitutional approach was further reinforced in *Harish Rana v. Union of India*, where the Court applied the doctrine of *parens patriae*, recognising the responsibility of courts and the State to act in the best interests of patients incapable of making rational medical decisions (*Harish Rana v. Union of India*, 2024)

B. Constitutional Conflict Surrounding Santhara

The constitutional debate surrounding Santhara or Sallekhana differs significantly from euthanasia due to its religious and philosophical foundations. In the Jain faith, Santhara is a deeply spiritual choice where a person slowly lets go of worldly desires as their life comes to an end. Followers do not regard it as suicide; instead, it is viewed as a peaceful and disciplined way to accept death and purify the soul.

However, the constitutional validity of Santhara became a major issue in *Nikhil Soni v. Union of India*, where the Rajasthan High Court declared the practice unconstitutional by equating it with suicide under Sections 306 and 309 of the Indian Penal Code. The Court held that the practice was not protected under Article 25 as an essential religious practice and emphasized the State's obligation to protect life under Article 21.

The judgment generated significant opposition from the Jain community, which argued that Santhara is fundamentally different from suicide due to its spiritual intention and voluntary nature. Unlike suicide, which is often associated with emotional distress or despair, Santhara is viewed as a gradual and peaceful religious practice undertaken under exceptional circumstances such as terminal illness, old age, or irreversible suffering. The Supreme Court subsequently stayed the Rajasthan High Court judgment, leaving the constitutional status of Santhara unresolved (*Nikhil Soni v. Union of India*, 2015).

The debate surrounding Santhara also raises important constitutional doctrines, including the Essential Religious Practices Doctrine, the doctrine of Constitutional Morality, and the principle of personal autonomy under Article 21. While Article 25 protects religious freedom, such protection remains subject to public order, morality, health, and other fundamental rights. Consequently, the constitutional question remains whether the State should prioritise religious autonomy or intervene to protect life and vulnerable individuals.

C. Child Rights, Consent, and Constitutional Safeguards

The constitutional and ethical complexity surrounding Santhara intensified following the 2025 incident involving a three-year-old girl from Indore suffering from a terminal neurological condition who reportedly underwent Santhara before her death. The incident reignited debates regarding child rights, parental authority, and religious freedom.

Adults can make their own decisions involving irreversible consequences, but minors legally can't give consent when it comes to permanent harm or death. Because of this, the State assumes a protective role. Under the constitution, the State has a direct responsibility to protect vulnerable minors who aren't able to protect their own interests. The incident therefore shifted the constitutional discussion from individual autonomy to the protection of children under Article 21.

The controversy further highlighted a major distinction between passive euthanasia and Santhara. Passive euthanasia in India operates under strict legal and medical supervision. Before anything happens, medical experts must check the case, procedural safeguards must be followed, and assessment of the patient's best interests is required. In contrast, Santhara primarily operates within a religious framework without equivalent medical oversight or statutory safeguards. Concerns regarding coercion, social influence, vulnerability, and absence of institutional regulation therefore become constitutionally significant, particularly in cases involving minors (Sharma, 2024)

The incident also intensified debates regarding the extent to which religious freedom under Article 25 can justify practices involving vulnerable individuals. While constitutional jurisprudence increasingly recognises dignity and autonomy as essential components of Article 21, such autonomy becomes legally limited where informed consent is absent or where the rights of children and vulnerable persons are implicated. Because of this, constitutional morality and child protection laws require the government to step in. The State must ensure that religious practices never override a child's safety, dignity, and fundamental rights (Tomar, S 2025)

The ongoing debate over euthanasia and Santhara highlights the continuing judicial challenge to balance individual rights against state duties. Specifically, the judiciary must weigh personal dignity, autonomy, and religious freedom against the government's obligation to protect life.

6. KEY FINDINGS:

Evolution of the Right to Die in India -

Landmark case	year	legal Decision	Judicial Reasoning
P. Rathinam v. Union of India	1994	Section 309 of the IPC, which made attempted suicide a criminal offence was declared unconstitutional as it violated article 21.	This right to life under Article 21 includes the right to Die. It is inhuman And irrational to punish someone for attempting suicide.
Gian Kaur v. State of Punjab	1996	Court overturned the earlier decision in P. Rathinam case, and declared that sections 306 and 309 of the IPC constitutionally valid.	Right to live includes the Right not to live i.e., Right to die. However, the right to die is not constitutionally valid. Life with human dignity does not allow a person to end their life in an undignified manner by taking their own life.
Justice K.S.Puttuswamy v. Union of India	2017	The court recognized the Right to privacy as a Fundamental Right under Article 21.	Right to privacy includes the right to make important decisions about one's own life with dignity.
Common Cause v. Union of India	2018	The court recognized the Right to Die with Dignity under Article 21. Passive euthanasia and "Living Wills" were legalized.	Right to life includes the Right to a dignified death. It provides protection against inhuman treatment. It also ensures individual autonomy and liberty for patients to refuse treatment.

7. DATA OVERVIEW

This research paper gives an overview of how Indian constitutional law handles the choices to end life, along with the medical choice (Passive Euthanasia) under Article 21 and the religious traditions (Santhara) under Article 25. This includes formal legislative constitutional laws along with the case laws and their key information and we collected the data from citizens by doing a survey providing information about the concept and by posing some questions. By this approach we can understand whether judicial choices are actually aligning with the perspectives of the society.

Constitutional provisions and statutes

The primary baseline of our research and legal analysis was directly taken from the codified legislative and constitutional rules and texts that define and differentiate between the state powers, intervention and the individual freedom, choices.

The constitutional baseline:

Article 21 – Protection of life and personal liberty.

This article explains whether the right to life includes the right to die with dignity by way of medical choice (known as Passive Euthanasia) and if it is legal or not, in what conditions a person can legally avail.

Article 25 – Freedom of conscience and free profession, practice and propagation of religion.

This article explains about the religious traditions like Santhara(Jain ritual, the person decides to give up his life by abstaining from food, water, medicines and other things, often called as suicide) it is still a debated concept in India about whether it is legal or not.

Statutory report and guidelines:

241st Law Commission of India Report:

“Passive Euthanasia – A relook” was established in August 2012.

This report was drafted to refine the legal approach to “Right to die” following the Supreme Court’s landmark verdict of Aruna Shanbaug 2011. This report divided patients into 2 categories to outline legal protocols.

1. Competent Patients (capable to give the consent)

- **Protection for Doctors:** Doctors who are acting according to the competent patient's decision to stop the treatment, then the doctor is legally protected from any liability.
- **Right of Self-Determination:** Any adult patient of sound mind (minimum age of 16 years) has an absolute right to refuse treatment.

2. Incompetent Patients (who are in a coma, PVS, or unable to communicate)

- **Relatives Role:** The patients who are unable to give the consent, family members, or close relatives, or treating doctors can request the withdrawal of treatment .
- **High Court Permission:** To prevent the misuse, every non-voluntary passive euthanasia case must get permission from the relevant High Court.
- **Medical Expert Panels:** A panel of independent medical experts will be consulted by the High Court regarding the patient's likelihood of recovery, then the Court will make its decision.

Chronological case laws and evolution

-Under Article 21 (Right to die):

1. - **P. Rathinam v. Union of India, (1994) 3 SCC 394** : The Supreme Court ruled that section 309 of IPC was declared unconstitutional as it violates Article 21.
2. - **Gian Kaur v. State of Punjab, (1996) 2 SCC 648** : The court overturned the earlier ruling in the P. Rathinam's, and declared that sections 306 and 309 of IPC are constitutionally valid and stated Article 21 includes Right to die .
3. -**Aruna Ramachandra Shanbaug v. Union of India, (2011) 4 SCC 454** : The Supreme Court rejected the plea to end Aruna's life, However Supreme Court conditionally legalized involuntary Passive Euthanasia with strict guidelines.
4. -**Justice K.S. Puttaswamy v. Union of India, (2017) 10 SCC 1** : The Supreme Court unanimously declared Right to privacy as a fundamental right under Article 21.
5. -**Common Cause v. Union of India, (2018) 5 SCC 1** : The Supreme Court recognised the Right to Die with dignity under Article 21 and fully legalized Passive Euthanasia and Living Wills.

Under Article 25 (Religious Freedom – Santhara)

1. **-Commissioner, Hindu Religious Endowments, Madras v. Sri Lakshmindra Thirtha Swamiar of Sri Shirur Mutt, (1954) SCR 1005** : The Supreme Court established the **ESP Test**, to determine which religious practices are constitutionally protected under the Articles 25 and 26.
2. **-Ram Prasad Seth v. State of Uttar Pradesh, AIR 1957 AII 411** : The High Court ruled that Article 25 guarantees the freedom to practice religion, but it is not an absolute right.
3. **-Nikhil Soni v. Union of India, (2015) SCC OnLine Raj 3247** : The High Court declared Santhara as a criminal act and banned it.

But the Supreme Court issued an “absolute stay” in the same year, suspending the ban.

Doctrine of Essential Religious Practice(ERP) :

It is a legal principle used by the Indian judiciary to determine which religious practices are constitutionally protected under the Article 25 and 26 and tests determines it.

-This doctrine was initially proposed in the case of Shirur Mutt case in 1954 by the Supreme Court . However , the test has been evolved overtime .

-There are some tests to be passed by any practice to get protect under this doctrine:

1. The Scripture Test(Textual Mandate Test) : The practice must be textually mandatory in the tradition/religion . It should not be an optional custom/popular.

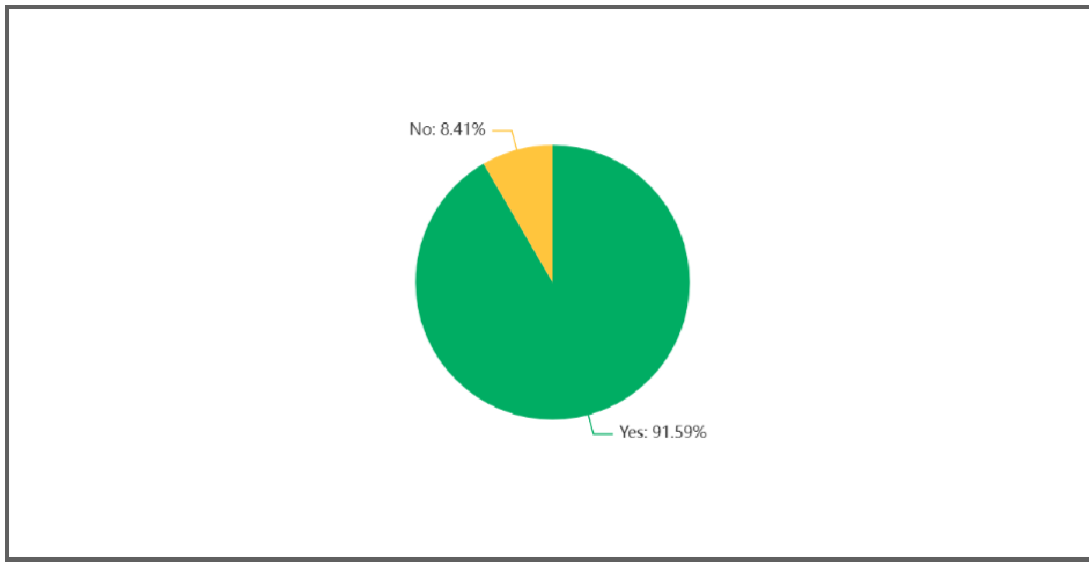
2. The Antiquity test(Historical Continuity Test) : The practice should have been followed consistently and uninterepted from past and it is not a recent/modern innovation.

3. The Substratum Test(The Core Dependency Test): This test is an existential question for the ritual. The court checks whether religion will lose its identity and cannot survive if the practice is legally removed/abolished.

4. The Optionality Test ; If the practice allows alternative choices relating to rituals/religion practices, then that practice will not be protected under this doctrine.

Public Perception on Santhara, Euthanasia and Constitutional Rights

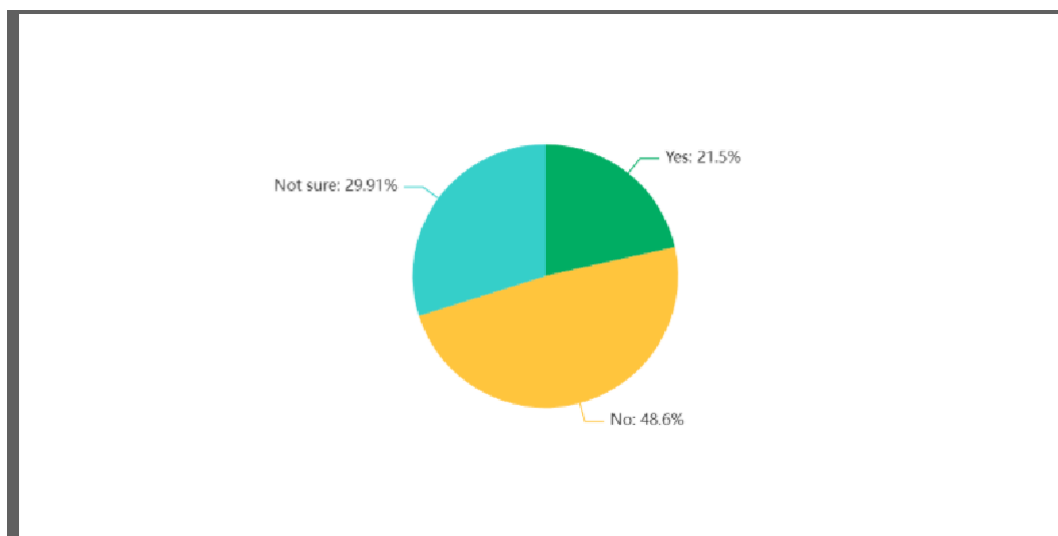
-Do you think the right to die with dignity is as important as the right to live with dignity.



-By responses, there is a strong public support recognizing the right to die with dignity is important with majority of 91.59% (98 Respondents) chose “YES” while only 8.41% (9 Respondents) chose “NO”.

-Do you think religious practices like Santhara should be allowed?

Explanation:“Santhara is a Jain religious practice involving voluntary fasting until death, usually followed for spiritual reasons.”



-By responses, nearly half 48.6% (52 Respondents) chose "NO" .i.e. disagreeing to religious practices like santhara, while 21.5% (23 Respondents) chose "YES".i.e. accepting santhara and 29.91% (32 Respondents) chose "NOT SURE" .i.e. undecided.

8. DISCUSSION

The findings carry significant theoretical and practical weight. Theoretically, this study compares the two practices one based on medical ethics and the other on religious freedom, despite that, they cover the constitutional value of dying with dignity. Practically, the study highlights the absence of a comprehensive legislative framework governing the constitutional issues surrounding euthanasia and Santhara. The study is also limited as it predominantly relies on secondary sources and does not incorporate primary data such as medical practitioners' opinion or perspective of the Jain community. An empirical future research would fill these gaps. Scholars may also explore end-of-life decisions across various religions. The study collectively points to a broader significance of India needing a legislative framework that respects individuals' dignity and also safeguard vulnerable individuals.

The study further raises important constitutional questions regarding consent, particularly in cases involving minors where the undertaker is not incompetent but also lacks the maturity to undertake such a decision concerning his/her life. The 2025 Indore incident involving a three-year-old child undergoing Santhara illustrates the constitutional and ethical challenges surrounding parental authority, child protection, and informed consent. It further poses serious philosophical and legal questions. The unresolved constitutional position also raises broader jurisprudential questions regarding institutional competence. Ronald Dworkin's theory of moral reading supports an active judicial role in constitutional interpretation, whereas the British constitutional tradition accords greater primacy to parliamentary

sovereignty. India's constitutional structure occupies a middle ground, requiring both judicial interpretation and legislative intervention. Until the Supreme Court finally adjudicates the constitutional validity of Santhara, this institutional tension is likely to persist.

9. CONCLUSION

This research has examined the constitutional validity of Santhara and euthanasia in the light of article 21 and article 25 of the Indian constitution. Though both euthanasia and Santhara are derived from two different foundations, the former being medical and the latter being religious or spiritual, they both come under the aspect of article 21, both of them involve the question of the right of dying with dignity. Where euthanasia's journey has evolved drastically through various cases like the P Rathinam V Union of India, Gian Kaur(1998), Aruna Shanbaug(2011), Common Cause (2018) to finally being judicially recognized in the Harish Rana (2026), Santhara's constitutional status has been on hold since the Nikhil Soni Case (2015) where the Supreme Court stayed the ban put by the Rajasthan High Court on Santhara upon the Special Leave Petition by the Jain community. This judicial interference is sometimes considered overpowered as the Indian constitution gives the right of professing one's religion freely and independently. The survey conducted as a part of this research shows that the public largely supports autonomy in end of life decisions but remains divided on religious practices like Santhara.

The Indian constitution as a part of fundamental rights gives its citizens the right to life under Article 21 and the right to profess one's religion freely under article 25. The combat of these two articles reveals a deep constitutional question as to whether religious practices like Santhara overrides the state's duty to protect the life of individuals. The 2025 Indore child case exposes this critical gap as Santhara provides no safeguards for child protection as it was practiced on a 3-year-old girl who was unable to give her consent, unlike passive euthanasia which has strict high court oversight. Euthanasia is operated under judicial and medical supervision whereas Santhara operates only under religious authority.

The most awaited verdict of the supreme court in the Nikhil Soni case would determine whether article 25 protects religious practices involving voluntary death. There also is an urgent need for the Parliament to address these issues as judicial pronouncements alone are not enough. The doctrine of 'constitutional morality' must evolve to balance the individual's autonomy in end-of-life decisions, religious practice and state's duty of protection of one's

life keeping in mind the vulnerable persons and children who are not able to give consent for themselves. The law must decide on whether an individual's right of dying with dignity must be decided by the individual themselves, their family, their religion, the doctor or the State?

10. LIMITATION AND FUTURE SCOPE

The present study, in its extensive nature, is prone to certain limitations that inevitably circumscribe its findings. The research relies exclusively on secondary sources, such as case law, constitutional provisions, and academic literature, and does not incorporate primary data, including medical practitioners' opinions, patient testimonies, or community perspectives within the Jain tradition. The research is primarily confined to the constitutional framework, relying on Articles 21, 25, and 29, and drawing heavily on judicial pronouncements.

The constitutional validity of Santhara, whether it qualifies as an essential religious practice under Article 25, and whether it forms part of a distinct religious culture protected under Article 29, remains unresolved at the highest judicial level.

This unresolved debate also collides with the fundamental rights of children, which was seen in the *Viyana Jain Case*, where a three-year-old child was administered to religious vows of Santhara, leading to death. This incident introduced a new side of the Santhara practice, which was not addressed in the *Nikhil Soni Case*. A three-year-old lacks the mental capacity to give consent to such practices and must therefore be protected by the state. The legal framework derived from this case was clear that no parental consent must be such that it overrides the moral and fundamental rights of the child.

Furthermore, the study of Euthanasia remains unfettered by any legislative framework and is only governed through judicial pronouncements like the landmark case of *Common Cause (A Regd. Society) v. Union of India* (2018) 5 SCC 1 and the recent case of *Harish Rana V. Union of India* (2026 INSC 222). This judicial silence constitutes a substantial limitation on the research, as any conclusions drawn regarding the interplay between the right to die with dignity under Article 21 and the religious and cultural protections afforded by Articles 25, 26, and 29 are necessarily tentative and subject to revision upon the Supreme Court's final ruling.

FUTURE SCOPE :

If we observe the advancements in the last decades, the Common Cause Case led the foundation of living wills and hence paved the way for the recognition of ‘dying with dignity’ under Article 21 of the Indian Constitution. Finally, in *Harish Rana v Union of India* (2026), a bench comprising Justice JB Pardiwala and Justice KV Vishwanathan allowed the withdrawal of life support of a 32-year-old man , making it the first case of Euthanasia to receive judicial recognition and thus setting a precedent for future cases. This gives way to a more structured legislative framework governing the right to die with dignity .

However, the practical implementation of this right to die with dignity across Indian states remains largely unstudied. Future research with an empirical orientation could examine the extent to which hospitals, medical boards, and state governments have implemented these directives, identify its systemic barriers, and recommend reforms to bridge the gap between constitutional recognition and ground-level reality.

The Rajasthan High Court ‘s ruling in the Nikhil Soni case was highly criticized by the Jain community, who then filed a Special Leave Petition in the Supreme Court, resulting in the stay of the High Court’s order, which lifted the ban on Santhara. The Supreme Court’s awaited verdict on this case would determine the legality of Santhara and, consequently, resolve the long-standing debate on whether the right to die with dignity under Article 21 extends to religious practices like Santhara under Article 25.

However, the Santhara issue is not a solitary one. There are multiple religions in India where practices can be considered to affect issues of bodily integrity, suffering voluntarily, or denying oneself in a way that might be in contradiction to state laws or medical ethical considerations. Future studies might focus on developing a constitutional framework within which such conflicts might be resolved when a religion’s practice affects issues of bodily autonomy, transcending the current approach of case-by-case decisions towards a more doctrinal perspective. The verdict will also have significant implications for correspondence practices in other religious traditions, making it a landmark for religious freedom, personal autonomy, and constitutional morality.

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