

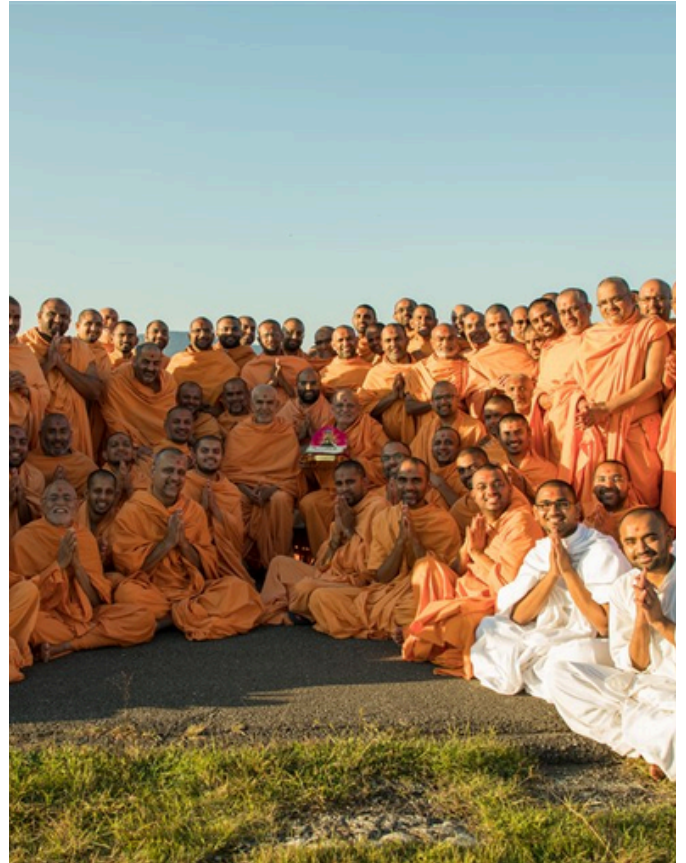
Re-evaluating Santhara

A Tradition in Conflict with Modern Legal Ethics

Santhara, an ancient Jain practice of voluntary and prolonged fasting unto death, has long been revered as a path to spiritual liberation. However, in the lens of modern legal and ethical standards this practice raises profound questions. Does Santhara align with the principles of constitutional morality or does it represent a form of suicide thus creating a legal paradox in contemporary India?

Constitutional Morality vs. Religious Freedom

The practice of Santhara, rooted in centuries-old Jain tradition is increasingly scrutinized for its compatibility with the constitutional principles of the world's largest democracy. While religious freedom is a fundamental right it is juxtaposed against the constitutional commitment to preserve life. This great chasm places Santhara at a crossroads between personal belief and public law.



Santhara vs. Suicide: A Legal Paradox

At the heart of the legal debate is the comparison of Santhara to suicide. In India, attempting suicide was historically punishable under law, reflecting a societal and legal stance against self-harm. Although recent legal reforms have decriminalized suicide attempts, recognizing the need for psychological care over penal action, the legal system still grapples with practices like Santhara. If suicide is viewed through a lens of mental health and compassion it brings to question as to where this leaves Santhara, a religious act that culminates in self imposed death?

Case Studies and Legal Precedents

The legal battles, notably the *Nikhil Soni v. Union of India* case, bring these questions into sharper focus.

The courts are tasked with discerning whether Santhara constitutes a protected religious act or a form of suicide. This distinction is crucial, as it determines whether the practice aligns with or contradicts the legal framework governing the right to life and personal liberty.

Balancing Tradition with Modernity

This discussion extends beyond legal technicalities into the realm of societal values and human rights.

While respecting religious traditions is essential, the paper argues that such practices must be critically evaluated in light of contemporary understandings of human rights and dignity. This has been based on the fact that there are several religious and cultural practices that have been outlawed due to its nature which conflicted with the grander scheme of constitutional morality. Such practices includes Dowry, Sati, Jallikattu and Jati amongst others.

The enforcement of laws against Santhara presents another layer of complexity. How does one distinguish between a deeply personal religious decision and an act that should be subject to legal scrutiny? The challenge lies in interpreting religious freedom in a way that respects individual autonomy while safeguarding fundamental human rights.



Global Perspectives: Comparisons with Euthanasia and Assisted Suicide

Internationally, the debate around Santhara finds parallels in discussions about euthanasia and assisted suicide. While some countries have legalized these practices under strict conditions, they are contentious and heavily regulated. This global context provides a backdrop for reevaluating Santhara, considering the fine line between religious rites and the right to end one's life. This in turn spurs up the question as to whether there should be a Right to Die and whether it coexists with the Right to Life.

A Call for Legal Reform

In light of the intricate ethical, legal and societal considerations discussed in this article, this article concludes with a definitive stance: Santhara, despite its deep religious roots and historical significance, does not align with the values and legal ethics of the present generation and should be outlawed. This conclusion is not reached lightly but is a necessary response to the challenges Santhara poses to contemporary notions of human rights, personal autonomy and constitutional morality. The practice, which culminates in self imposed death is a direct contrast with modern legal principles that prioritize the preservation of life and the prevention of suicide.

While the decriminalization of suicide attempts in India marks a progressive step towards understanding and compassion, it simultaneously casts a shadow on the legality and moral acceptance of Santhara. In a society that increasingly views suicide through a lens of mental health and societal support, a practice that ends in voluntary death is an anachronism. Furthermore, the potential for societal pressure and the ambiguous nature of consent in the practice of Santhara only exacerbate these concerns. In an era where individual rights and freedoms are paramount, any practice that might impinge on these rights even under the guise of religious freedom must be scrutinized and if necessary, curtailed.

Thus, the article advocates for a clear legal stance that categorizes Santhara as incompatible with contemporary societal norms and legal ethics. This position is not just a reflection of changing times but a necessary alignment with the evolving understanding of human rights, dignity and the sanctity of life. Outlawing Santhara is a step towards ensuring that religious practices do not override the fundamental rights and protections that modern legal systems strive to uphold. In conclusion, while respecting and



acknowledging the historical and spiritual significance of Santhara, it is imperative to recognize that certain ancient practices no longer have a place in our evolving societal and legal landscape. The outlawing of Santhara would be a testament to the commitment to uphold the values of life that defines our current era.



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