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*End-of-Life*

**SALLEKHANA: THE ETHICALITY AND LEGALITY OF RELIGIOUS SUICIDE BY STARVATION IN THE JAIN RELIGIOUS COMMUNITY**

**Whitny Braun\***

**Abstract:** This article examines *Sallekhana*, the Jain religious ritual of fasting to death, from the American and Indian legal and ethical perspectives. Two cases are presented. The first involves a woman in her twenties who starved herself to escape a voice in her head. The second case involves a woman with terminal cancer who chose to starve to death rather than accept palliative care. Both are analyzed with attention paid to the Jain theological rationale behind the practice and the social circumstances that predicate this vow. I argue that within Jain communities the moral presumption should be that *Sallekhana* is a valid religious ritual and should therefore be legally protected if it is freely chosen by an informed person free from coercion.

**Keywords:** *Sallekhana*; Jainism; India; religious suicide; starvation; medical ethics; religious ethics; right to die; human rights

**INTRODUCTION**

*Sallekhana*, also known as *santhara* and *samadhi-marana*, is a centuries old religious ritual of starvation, considered by the Jain faith to be the ideal form of death. For nearly two millennia the rite went uncontested. This changed on September 24<sup>th</sup>, 2006 when human rights activist Nikhil Soni and his lawyer Madhav Mishra, filed a Public Interest Litigation (PIL) with the High Court of Rajasthan. The PIL claims that *Sallekhana* is a social evil and should be considered to be suicide under Indian legal statute. The petition extends to those who facilitate individuals taking the vow of aiding and abetting an act of

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suicide.<sup>1</sup> For the 5.2 million Jains living in India<sup>2</sup> this is a violation of the Indian Constitution's guarantee of religious freedom.

This landmark case sparked debate in India, where bioethics is a relatively new phenomenon.<sup>3</sup> Historically, *Sallekhana* has been accepted because of its religious context, while euthanasia and attempted suicide are criminal offenses. Hunger strikes are a common form of protest in India but often end with forced hospitalization and criminal charges. In the 1996 case of *Gian Kaur v. State of Punjab*<sup>4</sup> the Indian Supreme Court ruled that human rights guaranteed by the Constitution do not include the right to suicide under any circumstance.<sup>5</sup>

Creating a bioethic which can integrate the multiplicity of beliefs in India is daunting. More challenging is a legal remedy for *Sallekhana* in the United States where 60,000 to 100,000 practicing Jains reside<sup>6</sup> and at least one documented case of *Sallekhana* has occurred.<sup>7</sup> Jain beliefs are, in many cases, anathema to the religions of the Abrahamic tradition and Western ethics, and finding common ground is no small matter.<sup>8</sup>

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1. See *Nikhil Soni v. Union of India and Ors.* AIR (2006) Raj 7414.

2. Statistics about the Jain Community are published in the Census of India 2001 under the heading The First Report on Religion Data, available at <http://www.censusindia.net/religiondata/index.html>, accessed on June 27, 2007.

3. Puri, V. K. (2005). "End-of-life issues for a modern India - Lessons learnt in the West." *Indian Journal of Critical Care Medicine* 9(2): 81-85.

4. See *Gian Kaur v. State of Punjab.* AIR (1996) Supreme Court; 83:1257-65.

5. Mani, R. K. (2003). "Limitations of life support in the ICU: Ethical issues relating to end of life care." *Indian Journal of Critical Care Medicine* 7: 112-7.

6. Answering the question of exactly how many Jains reside in the United States is difficult as they have, in many cases, been incorrectly identified on censuses and surveys as Hindus. For a demographic study of Jains in America see Kumar, B. (1996). *Jainism in America*. New Delhi, Jain Humanities Press.

7. Davis, D. S. (1990). "Old and thin." Second Opinion 15: 6.

8. Laidlaw, J. (1995). *Riches and Renunciation: Religion, Economy and Society among the Jains*. Oxford, Clarendon Press.

### The Rationale of *Sallekhana*

Jains claim that *Sallekhana* is the most ideal, peaceful, and satisfying form of death. However, depending upon the person's general health, certain vitamin or mineral depletion or electrolyte imbalances, along with intolerance for cold temperatures, dizziness, hair loss, and extreme fatigue the starvation process can be excruciating.<sup>9</sup> Jains acknowledge the suffering one endures while in the process of starving but rationalize it by stating that it allows for a better understanding of the inherently painful and flawed nature of earthly existence. To further explain the rationale, Jains claim moral superiority in that they stop sustaining their own life at the cost of the other life forms they might otherwise consume. The supreme goal is to minimize the damage one does to their environment. Asceticism is revered and practicing ascetics are worshipped.<sup>10</sup>

The rationale behind *Sallekhana* comes from the Jain belief in *karma*, rebirth, asceticism and spiritual purification. Jainism teaches that every living creature has an immortal soul called a *jiva*, which has consciousness and intelligence and which ideally should be able to ascend to the summit of the universe and achieve omniscience.<sup>11</sup> However it is *karma* that prevents the immaterial soul from achieving liberation. It is important to note that the concept of *karma* in Jain theology is very different from the understanding of *karma* in Hinduism and western popular culture. In Hinduism *karma* literally translates as "deed" or "act", representing a cosmic understanding of cause and effect, the actions and reactions that governs all life. *Karma* is not understood as fate, rather, in Hinduism man acts with free will creating his own destiny. According to the *Vedas*, if man sows goodness, he will reap goodness; if he sows evil, he will reap evil. This understanding is not terribly dissimilar from the western popular culture interpretation of "what goes around comes around", and a generalized belief that good deeds are rewarded and bad deeds are punished. However, for Jains *karma* is a much more sophisticated and developed belief system. The physical body is viewed as a prison for the soul and it is believed that *karma* is responsible for keeping the soul trapped within the body. *Karma* is

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9. Keys, A., J. Brozek, et al. (1950). *The Biology of Human Starvation*, Vol. I-II. Minneapolis, MN, University of Minnesota Press.

10. Babb, L. A. (1994). "The Great Choice: Worldly Values in a Jain Ritual Culture." *History of Religions* 34: 23.

11. Varni, J. (1999). *Saman Suttam*. New Delhi, Bhagwan Mahavir Memorial Samiti.

understood to be an invisible supernatural substance composed of very fine particles that permeate the soul determining what physical form the soul will take. It is the accumulation of *karma* that determines the form in which a soul is reincarnated. The deliverance of the soul from *karma* is achieved through strict asceticism whereby the soul hinders the *karmas*, or tiny particles of matter, from infusing the soul and purges the old *karmas* before they are realized in the next life.<sup>12</sup>

Ascendance is achieved through strict asceticism which hinders *karmas* from infusing the soul while purging old *karmas*.<sup>13</sup> To limit the *karma* a soul accumulates Jains adopt the vow of *ahimsa* or non-violence. By not interfering with the will of other creatures Jains seek to accrue as little *karma* as possible, to be reborn with a healthy attractive physical form or into a respected family. Conversely, the accumulation of *karma* results in rebirth with a disability or even as a lower life form. Jains cannot inherit property if they are suffering any disorder that is permanently crippling.<sup>14</sup> Infirmary is seen as punishment for the victim as a result of bad actions in their previous life.

The ultimate achievement is spiritual liberation or *moksha*, a separation from the mortal body and with eternal bliss. *Ahimsa* or non-violence is the path one must take to attain this. Sweeping the ground before them to avoid stepping on insects and plants and wearing a *mupatthi* or piece of cloth over their mouths to avoid inhaling microorganisms is common. Jainism has a hierarchical ranking of foods according to the amount of *karma* that is accumulated as a result of eating particular items. The number of seeds denoting the potential for life carries significant *karmic* forces. Jainism discourages professions which involve "violence". Farming disturbs plant life. Work with livestock which may harm animals is unacceptable.<sup>15</sup> As a result of centuries of avoiding professions that are seen as "violent," many Jains are engaged in banking and the diamond trade.

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12. Glasenapp, H. V. (1991). *Doctrine of Karman in Jain Philosophy*. Varanasi, P. V. Research Institute.

13. *Ibid.*

14. Jain, C. R. (2004). *Selections from the Jaina Law*. Rajasthan, Jaina Vidya Samsthana.

15. Jain, J. P. (1999). *Religion and Culture of the Jains*, Fourth Edition. New Delhi, Bharatiya Jnanpith.

Non-violence translates as non-action. Elaborate practices of nonviolence amount to an avoidance of interaction for fear of accumulating *karma*.<sup>16</sup> Starvation, while engaged in meditation, serves to prevent the accumulation of *karma*. Another act ascetics practice unique to Jainism is *kesá-loca*, which involves slowly pulling the hair from the scalp in five handfuls.<sup>17</sup> Mahavira, the founder of the Jain tradition, is believed to have practiced *kesá-loca* and to have attained enlightenment after 13 years of strict asceticism. In 420 BCE, he took the vow of *Sallekhana*, ending his cycle of birth and rebirth.

### The Final Vow

The linguistic origin of the word *Sallekhana* is unknown but the commonly accepted definition is “properly thinning out the passions of the body”.<sup>18</sup> Any Jain who is faced with ailments can approach their guru and express their wish to take the vow of *Sallekhana*. They do so by saying the words,

Please instruct me sir. I have come forward to seek...*Sallekhana*, (the vow of) which will remain in force as long as I live. I am free of all doubts and anxieties in this matter. I renounce, from now until the moment of my last breath, food and drink of all kinds.<sup>19</sup>

Assuming that permission is granted the person either decides independently or consults with their physician as to the approximate amount of time he or she has left to live and then develops a program of fasting to coincide with their vow of *Sallekhana*. Consulting their physician for an opinion and assistance in formulating a timetable is a practice that is becoming increasingly common.<sup>20</sup>

A member of the laity who accepts the vow gives up all personal relationships and possessions. He/she forgives all and asks for the pardon of all their sins.<sup>21</sup> During the period all negative emotion should be eliminated. It must also be

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16. *Ibid* at 8

17. Jaini, P. S. (1979). *The Jaina Path of Purification*. Delhi, Motilal Banarsidass Publishers

18. *Ibid*.

19. *Ibid*.

20. This trend was observed by the author during a series of interviews conducted with Jain physicians practicing in Madhya Pradesh, and Rajasthan, India in June 2006.

21. Sogani, K. C. (2005). *Jainism - Ethico - Special Perspective*. Rajasthan, Jaina Vidya Samsthana.

understood by the person taking the vow of *Sallekhana* that should their disease be cured, or their diagnosis found to be incorrect the vow of *Sallekhana* may not be rescinded.<sup>22</sup>

*Sallekhana* is typically done in the family home or in a fasting hall. While a person practices *Sallekhana* they have no worldly responsibilities. They turn all property over to their family and sequester themselves to avoid distraction. Relatives often publicize the event by taking out ads in local newspapers. When the person eventually dies it is not uncommon for the body to be ornately decorated and paraded through the community before cremation.

The practice of ritual suicide by starvation is not unique to the Jains<sup>23</sup>. What is distinctive is that such an extreme measure is so entrenched in the culture and is practiced on such a consistent basis.<sup>24</sup> Not every Jain takes the vow of *Sallekhana*, but all Jains have the option available to them.

### **Triumph Through Death: The Case of Kirin<sup>25</sup>**

Kirin, a Jain nun in her twenties, was in her first year in the monastery when she began reporting that she was being tormented by what she claimed was the spirit of her lover from a past life. As months passed the voice haunted her with increasing frequency. One night while the other nuns were at prayer they heard screaming coming from Kirin's room. An elder nun entered the room to find a fire burning in the center of the room and Kirin convulsing. Upon examination, it was found that her ponytail had been torn out and her scalp was bleeding profusely. Kirin told the elder nun that she believed the voice to be that of her husband from a past life and he had revealed to her that she had

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22. *Ibid* at 17

23. On the topic religious suicide in Buddhism see Keown, D. (2001) *Buddhism and Bioethics*, London: Palgrave, 58-62. Also see Wiltshire, M.G. "The 'Suicide' Problem in the Pali Canon," *The Journal of the International Association of Buddhist Studies*, 6(2), 124-140.

24. Laidlaw, J. (2005). "A life worth leaving: fasting to death as telos of a Jain religious life." *Economy & Society* 34(2): 178-200.

25. The details of this case are drawn from *Guardians of the Transcendent: An Ethnography of a Jain Ascetic Community*, (2002) Toronto: Toronto University Press by Dr. Anne Vallely who conducted thirteen months of fieldwork in the Terapnathi Shvetamabar Jains ascetic community of Ladnun, Rajasthan, India.

killed him. Kirin also reported that the spirit planned to kill her so they could be reunited in the next life.

As time passed, Kirin presented signs of physical abuse and claimed she only experienced relief from the torment of the spirit when she engaged in meditation and fasting and that the intensity of the attacks increased when she was not engaged these rituals. She believed that if she died before becoming an ascetic or *sadhvi*, she would be linked with the man's spirit for eternity. She felt her only choice was *Sallekhana*, which would free her of the spirit in the next life.

With permission from her guru, Kirin took the vow. She grew weak and became unable to speak as her mouth filled with sores. On her deathbed she was initiated as a *sadhvi*. After 49 days without food and very little water she died.

### **The Ideal End: The Case of Vimla Devi**

The case of *Sallekhana* that brought about legal action in the Indian state of Rajasthan is that of Vimla Devi, a 61-year-old *Shwetambar* Jain woman diagnosed with a brain tumor and leukemia. With the blessing of her husband, family and Jain clerics Vimla Devi died in her home after 13 days of fasting. Human rights activist Nikhil Soni attempted to break her fast by informing the local police and requesting they take action. He argued that *Sallekhana* is akin to the practice of *sati*, in which Hindu widows immolate themselves on their husband's funeral pyres. Police needed clarification as to what the legal precedent was for interrupting a person's religious fast before they could act. Vimla Devi died before this could be resolved. Soni filed a civil writ with the court. Now the issue of *Sallekhana* as a legal means of terminating life is being heard in the court for the first time in India's history.<sup>26</sup>

### **The Justification of Suicide**

The concept of a terminal cancer patient fasting to death is not as distasteful to the Western ethic of clinical medicine as the thought of a healthy young person fasting to death for spiritual purification. Yet, ironically, it was the case of

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26. The events surrounding the Public Interest Litigation (PIL) filed by Soni and Mishra were covered by numerous Indian newspapers, most of which were published in Hindi. For an article in English please see Kim Barker's October 15th, 2006 Chicago Tribune article, "Jains deny rite takes life in vain: In Indian, human-rights activists want to stop the practice of fasting until death, but religious leaders say Jains have a right to die with dignity."



Vimla Devi that served as the impetus for the *Sallekhana* debate.

Kirin's story poses some of the more challenging ethical questions related to *Sallekhana*. Cases which involve the elderly, the chronically ill and those with terminal medical conditions fit more easily into the guidelines of the western medical ethic. The mental status of these individuals is not in question. The four moral principles of medical ethics: autonomy, nonmaleficence, beneficence and justice<sup>27</sup> give a framework for analyzing the ethics of *Sallekhana* practiced by these individuals. It can be argued that the terminal cancer patient is protected under the principle of nonmaleficence from having to endure the pain and suffering associated with chemotherapy and radiation. It can also be argued that the elderly person who has all of their faculties has the right of ending their life with dignity under the principle of autonomy. But in the case of Kirin, a young woman who believed she was being haunted by the ghost of her dead lover, issues of mental stability and her ability to make rational decisions must be addressed.

In the Jain community, especially among the Terapanthi Jains of Rajasthan, Kirin is regarded as an almost saintly example of triumph over the temporal for spiritual advancement. Kirin's death, believed to be completely dispassionate, was cause for celebration. People cheered as a procession carrying Kirin's body posed in the meditative position passed by. After Kirin's cremation, two books and several pamphlets recounting Kirin's spiritual conquest were published, making her story a part of Terapanthi Jain folklore.<sup>28</sup>

Separated from the geographical and cultural circumstances of Kirin's case she probably should be viewed as a young woman suffering from psychosis with suicidal tendencies. In an American clinical setting she would likely have been referred for psychiatric evaluation and if she had insisted on proceeding with her fast she almost certainly would have been forcibly fed and declared incompetent to participate in her own care.

In the case of Vimla Devi, her choice to starve to death after having learned from her physicians that there were no further medical options available to her would very likely not have raised many eyebrows in the American medical

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27. See Beauchamp, T. and J. Childress (2001). *Principles of Biomedical Ethics*, 5th ed. New York, Oxford University Press.

28. *Ibid* at 25.

community. It is not uncommon for the elderly and terminally ill in hospitals and skilled nursing facilities in the United States to refuse food and water and pass away without objection or interference from medical professionals. In a study conducted by Ganzini, Goy *et al.*, in 2003<sup>29</sup> questionnaires were mailed to all nurses employed by hospice programs in Oregon and analyzed, with 33% of nurses reporting that in the previous four years they had cared for a patient who deliberately hastened death by voluntarily refusing food and fluids. Nurses reported that patients chose to stop eating and drinking because they could foresee no quality of life. The survey also showed that 85 percent of patients died within 15 days after stopping food and fluids. Whether or not there was a religious aspect involved in the decision was not discussed but the parallels between the phenomenon of refusal of food and fluids by the elderly in the United States and the vow of *Sallekhana* practiced by Jains in India and the United States are fascinating, if for no other reason, their opposition in motivations behind the choice of action.

Kirin's case raises ethical issues very different from those raised by refusal of nutrition and hospice care, but it somewhat parallels the case of Elizabeth Bouvia, a 26-year-old hospitalized quadriplegic woman who sued the state of California to keep the hospital staff from inserting a nasogastric tube to prevent her from starving herself to death. The court ruled that Bouvia had the right to refuse medical care and eventually Elizabeth Bouvia was released from the hospital<sup>30</sup>. However, after several months she entered a private nursing facility and was treated for pain associated with other ailments. Today she is still alive. She has not attempted suicide again because the prospect would be agonizing given her pain management regimen.

In the non-Jain Indian and American clinical and legal settings the fundamental difference between Elizabeth Bouvia and Kirin is the matter of competency. Elizabeth Bouvia's competency was never questioned and her quality of life was largely determined by her quadriplegia. Conversely, Kirin's physical state was not compromised. Arguably her quality of life was lessened by her mental

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29. See Ganzini, L., E. R. Goy, *et al.* (2003). "Nurses' Experiences with Hospice Patients Who Refuse Food and Fluids to Hasten Death." *New England Journal of Medicine* 349(4): 359-365.

30. See *Bouvia v Superior Court*, 179 Cal. App. 3d 1127, 1135-1136, 225 Cal. Rptr. 297. (Ct. App. 1986), review denied (Cal. June 5, 1986) and *Bouvia v County of Los Angeles*, 195 Cal. App. 3d 1075, 1080, 241 Cal. Rptr. 239 (1987).

state. The question to ponder is whether the suffering associated with paralysis should be compared to the suffering associated with psychosis. Further, should that determine whether or not a person is qualified to make the choice to terminate their life? What is the rubric by which a person's quality of life can be measured? Kirin's social status and culture virtually guaranteed that she would have never seen a psychiatrist or had the option of treatment. In a sense, her condition cannot be viewed as treatable. Thus, both Kirin and Elizabeth Bouvia faced suffering without possibility of relief.

### Social Aspects of *Sallekhana*

The social pressure to engage in *Sallekhana* cannot be ignored. Because people who take the vow of *Sallekhana* are elevated to a position of reverence, admiration and worship, it is difficult to discern the individual's true intentions in taking the vow of *Sallekhana*. For some, *Sallekhana* is probably motivated by belief alone. For others, their decision to end their life may be motivated by reasons ranging from the economic hardship to the desire for redemption for some bad act. Regardless of the motives, speaking out against *Sallekhana* is rare and it is commonly understood in the Jain community that preventing or interrupting *Sallekhana* invites social ostracism. Statistically *Sallekhana* is undertaken by more women than men<sup>31</sup> and some have argued that in this way *Sallekhana* serves as a means of coercing widows and elderly relatives into taking their own lives.

Jains maintain that *Sallekhana* is never forced upon individuals. However, the case of a nun who left the monastery but returned months later begging to resume the life of an ascetic only to be told that she could return on the condition that she take the vow of *Sallekhana* would suggest otherwise.<sup>32</sup>

Proponents of *Sallekhana* defend it on two fronts: religious freedom and autonomy. However, when belief manifests itself in an activity that is in direct opposition of civil law the religious act become a matter for the courts. The matter of paternalism in the medical community is especially relevant to the topic of end-of-life decisions. Because *Sallekhana* is a religious ritual, theoretically its practice should be protected by both American and Indian

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31. Baya, D. S. (2006). Relevance of *Sallekhana* in Today's Society and Euthanasia. *conference paper delivered at the International Summer School for Jain Studies, Jaipur, India*. Jaipur, India.

32. *Ibid* at 25

constitutions. However, the American interpretation of the Hippocratic oath often manifests itself in paternalistic behavior towards patients. It is difficult to imagine a western physician treating a patient such as Kirin and not intervening. However the physician's efforts may be in vain as case law in the United States has shown that the court favors freedom of the individual to refuse medical treatment over the medical advice of physicians<sup>33</sup>, except in the case of children as evidenced by cases filed on behalf of the Jehovah's Witnesses and Christian Scientists.<sup>34</sup>

### Implications for the Medical Community

*Sallekhana* is being practiced in the United States. Though official numbers are unknown conversations with members of the Jain community reveals that it is increasing in frequency as more Jains immigrate to the United States. In order for the United States to maintain cultural pluralism the medical community needs to become familiar with the rules, rationale and rituals associated with this practice in order to offer Jain patients in the clinical setting effective holistic care and possibly prevent the abuse of the practice of *Sallekhana*.

Non-Jain clinicians both in India and the United States can lay the groundwork for an inter-faith and inter-cultural dialogue that could facilitate a reconciliation of the American healthcare system's largely Christian-inspired bioethic with the Jain concept of right knowledge and practice. The question begs to be asked: is it not maleficence to deprive a person who believes that their soul will be damaged by being prevented from engaging in their religiously sanctioned ideal form of death?

### Conclusion

The normative ethics of *Sallekhana* constitute a larger and more complicated issue. For health care professionals *Sallekhana* is an ethically and morally troubling practice. If *Sallekhana* is ever used as a means of coercing the

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33. Cohan, J. A. (2006). "Judicial Enforcement of Lifesaving Treatment for Unwilling Patients." *Creighton Law Review* 39(4): 849-913.

34. For more information on the history of Jehovah's Witnesses and Christian Scientists see Talbot, N. A. (1983). "The Position of the Christian Science Church." *New England Journal of Medicine* 39(26): 1641-1644 and Beauchamp, T. L. (2003). "Methods and principles in biomedical ethics." *Journal of Medical Ethics* 29(5): 269-274.

elderly, infirm or simply unwanted members of the society into suicide, from a Kantian perspective, the practice is unquestionably wrong. However, if *Sallekhana* is a religious ritual and an exercise in autonomy that brings comfort to the dying in their final days, then *Sallekhana* can also be defended from the deontological perspective as ethically appropriate. *Sallekhana* must be addressed from a casuistic perspective.

To outlaw *Sallekhana* would be unethical as a violation of the right to religious freedom guaranteed not only in the constitutions of the United States and India but by Article 18 of the Universal Declaration of Human Rights. However, in the interest of protecting vulnerable members of the community, both the Jain and global communities' attention must be drawn to *Sallekhana* to prevent its abuse. For the sake of delivering culturally appropriate counsel and treatment to those members of the Jain community seeking health care it is imperative that medical professionals familiarize themselves with the rules, rituals and rationale of *Sallekhana*.

Ultimately the argument must be put forth that within Jain communities – whether in India or in the United States – the moral presumption should be that *Sallekhana* is a valid religious ritual of dying and therefore should be legally protected. However, the legal sanctioning of *Sallekhana* should only take place when the vow is freely chosen by an informed person. Given that *Sallekhana* is sometimes abused, the person contemplating *Sallekhana* should be advised of the availability of medical treatment for the condition precipitating consideration of *Sallekhana*, if such treatment exists, and of the right to forego *Sallekhana* if the person is experiencing pressure or coercion in any form.