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Sallekhana: Embracing Death

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ABSTRACT

Jainism is one of the oldest religion that is known to the world. The founder of Jainism, Mahavira, who was the last of the twenty four tirthankaras that is the divine teachers. There are three ethical tenets of Jainism they are (i) right faith, (ii) right knowledge and (iii) right conduct. The Jains strictly believe and accept no violence. They have a very different diet as keeping in mind that no violence should be committed against animals though it may be for their eating or clothing purposes. They believe that salvation can only be attained when one has achieved all these three important tenets and to attain these tenets they regularly keep on fasting. One such kind of fasting is Sallekhana Vrata, in this Vrata one peacefully gives worldly pleasures and attachments and to give up food and water and embrace death slowly. Sallekhana has been in controversies lately believing it to be a suicide or a process of euthanasia. It was also stated that Sallekhana is violating Article 21 that is Right to life. For anyone to take vow of Sallekhana there has to be some prescribed conditions. Sallekhana holds very important and glorifying value as the Founder Mahavira had fasted for a very long time. Even Bhadrabahu and Chandragupta Maurya had this ritual fasting to their death.

Keywords: *Fasting, suicide, life, fundamental rights, personal liberty.*

I. INTRODUCTION

It is well known that Jainism is one of the oldest religions that is believed to be evolved in India somewhere in parallel with Buddhism at around 7th- 5th Century BCE. It is estimated that Jainism is at least 2,500 years old. The philosophy of Jainism has three core tenets they are, right faith, conduct and knowledge. Along with these tenets the monks and the nuns follow rules known as five vows. These are Ahimsa (non- violence), Satya (speaking of truth), Asteya (not stealing), Brahmacharya (chastity or faithfulness to a spouse) and Aparigraha (non- attachment) Jains have very strict rules unlike other religion. They purely believe in no violence. There are strict rules to abide this belief like they do not eat meat or any kind of non-vegetarian edible as they believe it will be obtained through violence, they are so careful that they do not kill any insect even by any mistake as per their knowledge. They do not consume their meals after sunset as they believe that there will be lot of insects attracted to their food. They strictly avoid potato

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and onion or any kind of vegetable that is uprooted from the ground or is the root of a plant as they believe that they might be actually killing the plants by taking out such roots. They follow these rules as they believe then only they can attain salvation.

To attain these ethical tenets Jains keep fasting most of the time in their life. As it is known that Mahavira, the founder himself fasted for an extraordinary long time and stated that fasting is the vital part of Jain spiritual pursuit. Most of the times, it is during any festival that they will be fasting. Even in this modern time, it is still frequent or occasional fasting is very common as a part of tradition, spiritual practices and routine life. But there are different forms of fasting in two different sects of Jainism.

The Jainism is divided into two major sects:

1. Digambara Sect
2. Svetambara Sec

They may have some minute differences in the customs and culture of the sects but they are similar in one vow that is Sallekhana. The meaning of Sallekhana can be translated as thinning of the passions and the body and lying on the sacred dharbai (kusha) grass.

II. BACKGROUND OF THE STUDY

The Jain religion is very well known for its strict beliefs. They do believe in no violence and their basic aim is to attain liberation. They believe in karma and follow their five doctrines. Jainism teaches that the path to enlightenment is through non-violence and harm to living things (including plants and animals) as much as possible. The way of their repentance of any sin is by fasting. In Jainism, Sallekhana is said to be one of the most precious form of death that any person. It is said that Sallekhana is an ultimate way to expunge all sins and karma, liberating the soul from the cycle of birth, death and rebirth. One has to give up food and water and slowly the person will writher always as he/ she has not taken proper diet. So in the end, one takes away his life by his own wish. Any person who takes Sallekhana vow, after his death there won't be any kind of grief in the family. It will be entirely opposite, their death will be celebrated their will be bhajans and pujas made, the family people will be very happy and proud of such fastings. But there has been a constant confusion in the term "Sallekhana" and "suicide" or "euthanasia".

(A) Research Problem:

Since Sallekhana is an act of self-offering, it is always confused with the term suicide or euthanasia. The issue with Sallekhana is whether it violates the principle of Article 21 that is

right to life. According to our law attempt to suicide has been criminalized as it violates the principle of Article 21. The law had already made it clear that right to live doesnot implicates right to die. So here the question is whether Sallekhana violates the fundamental right of our country and should it be criminalized?

(B) Review of literature:

- Jainism- HISTORY, PHILOSOPHY and TRADITIONS History of Jain Dharma
- The Jain Concept Of Sallekhana: A loss or a gain?
- Jainism- its relevance to psychiatric practice; with special reference to the practice of Sallekhana
- Jainism and society

(C) Research Question:

- Is Sallekhana a form suicide or euthanasia?
- Is Sallekhana not an integral part of the religion should it be criminalized?
- Does the performing of Sallekhana violate the fundamental rights?

(D) Research Objective:

- To know if Sallekhana, suicide and euthanasia are interrelated or not.
- To find out whether Sallekhana is an essential or integral part of the religion.
- Whether it should be criminalized or not if it violates the fundamental rights.

(E) Hypothesis:

Jainism has been one of the oldest religions that has emerged out of India. Similarly the founders of the religion believed in repentance of their sins and karma. It is believed that if one wants to repent then he or she has to bear hardships for the error done. Fasting is the way in which one can repent for their sins. There are various types of fasting, but one such that was given lot of importance was Sallekhana. Sallekhana was practiced by many known people like Chandragupta Maurya and Bhadrababu, it was followed by many monks. Even in this modern era we find people taking Sallekhana vow. Sallekhana may seem like suicide or euthanasia but there is a difference between them. One commits suicide after the breakdown of their mental health due to various personal reasons and euthanasia is mainly performed on people suffering from terminal diseases to help them with painless death and the death here caused is all of a sudden. In Sallekhana, the person who takes the vow has already completed his or her duties that they were bound to and now they themselves with free mind embrace death. It is a very

different act from suicide and euthanasia. It is a cultural part of the religion so it does not violate the Article 21 and is protected by Article 25 and Article 26.

(F) Scope and limitation:

This paper only observes the difference between Sallekhana, euthanasia and suicide and whether it is actually violating the fundamental right that is right to life.

(G) Methodology:

This paper is purely doctrinal research based paper. A lot of articles were referred to collect information about Sallekhana and the different kinds of fasting in the Jain religion. The topic has been narrowed down to know the constitutional validity of Sallekhana.

III. IS SALLEKHANA A FORM OF SUICIDE OR EUTHANASIA?

Sallekhana has often been misunderstood as suicide. It is known to everyone that Right to Life doesn't mean right to die. Nowadays, there have been a lot of problems rising legally and morally. So the main question here is Sallekhana a form of suicide? However according to the Jain concept, it is shown that Sallekhana is not a form of suicide. It is confused with suicide since the word suicide covers all self-implicated death.

(A) Suicide:

The suicide is killing oneself by the means employed by one. A victim of suicide is either a victim of a mental weakness or of the external circumstances which one is not able to circumvent. A person may commit suicide for reasons such as frustration in personal life, emotional or sentimental breakdown in married life or love affair, unexpected or unbearable economic loss in trade or business, or sudden heart break due to death of near ones, sudden development of depression, public disgrace or dishonor of one's self or family. Such frequent repetitions of situation about depression and mental and emotional conflicts lead the victim to the path of suicide. On the other hand Sallekhana is nothing like mentioned earlier psychological or sociological characteristics are found either in adopting this vow or in its fulfillment. There is a big difference in the intentions or situations. The sole intention of the person adopting this vow is spiritual and not temperamental. This vow is basically made for the purification of mind and to be free from the bondage of karma.

The suicide actually involves any kind of dangerous action that might result in instant death whereas in Sallekhana one does not have any intention to end the life as quickly as possible by some dangerous means or actions. The vow has to be adopted only with the permission of spiritual preceptor (Guru). There are proper circumstances described under which a person who

is in such condition is only eligible of taking this vow, the following are the conditions;

- 1) Condition of extreme calamity
- 2) Severe scarcity of food
- 3) Very old age
- 4) Terminal illness

(B) Euthanasia:

Sallekhana cannot be termed as a form of euthanasia. The term euthanasia is defined as an art of killing a person painlessly for reasons of merely suffering from an incurable disease. There are two forms of euthanasia (i) Active Euthanasia (ii) Passive euthanasia. Usually Court doesn't not allow such kind of death processes only in exceptional in the case were the victim had been in vegetative state for a very long time and a certified trained doctor has notified that the victim is eligible for Euthanasia. Euthanasia is fast and quick process aiming to get rid of the pain and suffering that is physically caused to a person. But Sallekhana on the other hand has a difference in intention. Sallekhana can be called as an act of 'self-offering'. Its basis is fearlessness and in Sallekhana death is not forcefully invited.

The Supreme Court held that active euthanasia is illegal but there are conditions in which "passive euthanasia" may be implemented as long as its bonafide and in the best interest of the patient. Though the plea of euthanasia for Aruna was rejected. But due to this case today the permission for passive euthanasia can be obtained³.

It was held by Supreme Court that "Right to life" under article 21 of the constitution does not include "right to die", the right to life is a natural right embodied in the Article 21 which means to die a natural death and does not include the right to commit suicide which is unnatural extinction of life and inconsistent with the concept of the right of life.⁴

IV. IS SALLEKHANA INTEGRAL PART OF JAINISM

Sallekhana has been practiced from ancient times. There are proper scriptures like the Acharanga Sutra (5th century BCE – 1st century BCE) describes three forms of the practice. Early Svetambara text Shrivakaprajnapti notes that the practice is not limited to ascetics. The Bhagavati Sutra also describes Sallekhana in great detail, as it was observed by Skanda Katyayana, an ascetic of Mahavira. The 4th century text Nava- pada- prakarana mentions

3 Aruna Ramachandra Shanbaug V Union of India, (2011) 4SCC 454, (2011) 2 SCC (Civ) 280, (2011) 2 SCC (Cri) 294.

4 Gian Kaur V State of Punjab, 1969 AIR 946, 1996 SCC (2) 648

seventeen methods of “voluntarily chosen death”, of which it approves only three as consistent with the teaching of Jainism.

The Archaeologists have found a memorial stone or footprint is erected to commemorate the death of person who observes Sallekhana. This is also known as Nishidhi, Nishidige or Nishadiga. This term was derived from the Sanskrit root Sid or Sad which means “to attain” or “waste away”.

(A) Vow:

There were five major vows prescribed to the followers of Jainism: Ahimsa, Satya, Asteya, Brahmacharya and Aparigraha. Sallekhana vrata was treated as supplementary to the further vows prescribed.

Sallekhana is divided into two components:

1. Kashaya Sallekhana (slenderising of passions) or Abhayantra Sallekhana (internal slandering)
2. Kaya Sallekhana (slenderizing the body) or Bahya Sallekhana (external slandering)

According to Jain texts, Sallekhana leads to Ahimsa (non-violence or non-injury), as a person observing Sallekhana subjugates the passions, which are the root cause of Himsa (injury or violence).

(B) Conditions:

Sallekhana is a vow that is prescribed not only for the householders but also the ascetics. There is proper description about the conditions when one can take the Sallekhana Vrata. It is prohibited when it is not done under the guidance of a Jain ascetic.

Sallekhana is always voluntary, undertaken after public declaration, and never assisted with any chemicals or tools. As death is imminent, the individual stops all food and water, with full knowledge of colleagues and spiritual counselor. In some cases, Jains with terminal illness undertake Sallekhana, and in these cases they ask for permission from their spiritual counselor.

For a successful Sallekhana, the death must be with “pure means”, voluntary, planned, undertaken with calmness, peace and joy where the person accepts to scour out the body and focuses his or her mind on spiritual matters.

(C) Procedure:

The duration of practice can vary from a few days to years. The Sallekhana and its procedure in the sixth part of the Ratnakaranda is described as-

“Giving up solid food by degrees, one should take to milk and whey, then giving them up, to hot or spiced water. [Subsequently] giving up hot water also, and observing fasting with full determination, he should give up his body, trying in every possible way to keep in mind the pancha-namaskara mantra.”

The ancient Svetambara Jain text Acharanga Sutra dated to about 3rd or 2nd century BCE, describes three forms of Sallekhana:

1. c- A person stands “like a tree” without food and drink until he dies.

Another form of Sallekhana is ITVARA which consists of voluntarily restricting oneself in a limited space and then fasting to death.

Hence the Jain scholars have always stated that it is an integral part as it has already been prescribed in their text.

To know better about what exactly is an integral part of a religion, we will now look into a case law regarding this issue;

In the famous case of triple talaq, the question aroused in the Court of law whether triple talaq is an essential or integral part of Islam and whether this practice of triple talaq violates the fundamental rights, that is the Articles 14, 15, 21 and 25 of Indian Constitution. The petitioner’s argument was that there are only three types of talaq but only talaq ahsan and talaq hasan are both approved and recognized by Quran and Hadith, while the third type that is talaq-e-biddat is neither recognized nor approved by the Quran nor Hadith. Respondent argued that this practice has been going on for a very long time and matters about marriage and divorce have sources in religious scriptures and thus are essential matters of religion protected under Article 25 and 26 of Indian Constitution.

The Supreme Court laid down its judgement with the 5-judge bench and held that even in other Islamic countries have banned such practices and with a 3:2 majority held the practice of triple talaq unconstitutional. It was held constitutional as it was arbitrary and gender discrimination⁵

V. DOES SALLEKHANA VIOLATES FUNDAMENTAL RIGHTS?

In 2015, the Rajasthan High Court was faced with deciding such a conflict (Nikhil Soni V. Union of India & Other)⁶. The practice of Sallekhana prevalent amongst the Jains, is a religious/spiritual practice which entails fasting as a way of embracing death. The practice has often been questioned as being equivalent to suicide and in direct conflict with the fundamental

⁵ Shayara Bano V Union of India, AIR 2017 SCC 1 (SC)

⁶ Nikhil Soni V Union State of India, 2015 Cri LJ 4951

right of life, while Jains view it as an intrinsic part of the Jain faith, and a part of the fundamental rights of the religious freedom and the freedom to manage the own affairs of a religious community, guaranteed by the Constitution. The practice was challenged in the Rajasthan High Court, which passed a judgement holding the practice of Sallekhana as being violative of Section 306 and 309 IPC and Article 21 of the Constitution. The court further observed that it could not be included as an 'essential religious practice' under Article 25 of the Constitution.

Later, Supreme Court had put a stay on the judgement given by the High Court though the fact that the High Court had not communicated to any Jain scholars to know about Sallekhana whether it is an essential practice or not but they are still protected under the Article 29 as Jains are minority in India. The case is still pending before the court. But it has been made clear that it does not violate any fundamental rights and is no against any public policy.

VI. FINDINGS

It was found that there were proper scriptures about Sallekhana in the Jain texts and the Rajasthan High Court had not communicated with any Jain monks to know about whether Sallekhana is essential or not. Sallekhana is not a form of suicide or euthanasia, the concept of Sallekhana itself is very different from both of these terms. Sallekhana is a way to achieve salvation. Sallekhana in no ways has any negative effects on the public. On the contrary if someone who dies after taking this vow, the person's demise is celebrated. There are pujas held bhajans and kirtans will be played. Sallekhana is now allowed to be performed and it is protected by Article 25, 26 and 29 of the Indian Constitution. As they are minority of our country.

VII. SUGGESTION

Since India is a secular country, every religion should be allowed to follow their own customs and culture that is prescribed in their religion. The law should always look after the fact that during the process of following such customs the rights or the public interest should not be harmed

VIII. CONCLUSION

Sallekhana is a Jain custom that has been followed from a very long time and there have been regular confusions or misinterpretation as suicide or euthanasia. India being a secular country allows each and every religion the freedom to follow the customs and usage as there in their culture. Sallekhana is now protected by Article 25 that is, freedom to follow, practice and profession, Article 26 that is, freedom to manage religious affairs and Article 29 that is protection of interest of minorities. Hence, now one can perform Sallekhana without any

difficulties.
