

THE PLACE OF THE PRINCIPLES GOVERNING PUNISHMENT IN LITERARY WORKS

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ABSTRACT

Most governments, from the beginning, have often used to protect themselves and their sovereignty from a variety of factors including the torture, cruel and inhuman punishment, a phenomenon established to create fear among people, there is now also found cases in which inhuman behaviors occur to discover the crime. Saeb, as the poet who reflects the various social and political themes in his poems, encouraged us in this paper conducted by the library method, to review such punishments, indicating the absence of justice at the great work, Divan of Saeb. It seems that even though Saeb lived in the period, Safavid kings announced Shiite as the official religion, and tried to spread the religion of truth, but in the guise of religion, they behaved with people as they wanted so that Islamic justice is seen on no account, and instead of holding a fair trial, kings destroyed the truth tellers and their critics. Accordingly, Saeb prefers the submission and approval.

Keywords: Torture, Inhuman Punishment, Fair Hearing, Saeb's Divan

INTRODUCTION

Most governments, from ancient times until now, to reform society and scare people away from the insurgency as well as showing their strength to the opponents, have selected the torture as a tool. Sometimes punishment has gone up to brutality and has been imposed on those convicted arbitrarily. "Many anthropologists believe that all human societies, may not have a government, but a society with not any kind of legal organization is lacking. It is true that in many societies, there is no law in the form of modern written rules, but all of them enjoy obvious and hidden norms that people are expected to obey them and penalties have been considered for those who ignore social norms." (Malekzadeh, 318: 2011). Punishment existed throughout history, from the earliest times when people forced to live together, forced to committee reaction to keep the properties or lives or the authorities against the abnormal behavior of the other side. However, "penalty or punishment has a long background dating back in history and some believe that, it is as old as human history. Human committed such mild and sometimes severe reactions in different ways in ancient times and undoubtedly in the face of actions needed to be responded, e.g., anti-religion and anti-government actions, ruler, King and also acts contrary to the provisions of the family,". (Nourbaha, 350: 2010) Level of these reactions, held in front of others' behaviors, is not always and at all times expressed in a similar degree and changes with paradigms, behaviors, norms and anomalies shifts. In some cases, the severity of the punishment was not proportional to the crime that is often "social

reaction against crime is not always expressing in a degree of strength, because excitements that have provoked this reaction are not always the same. In fact, the intensity of these emotions more or less is hurt with the intensity of the feelings and is proportional to the importance of aggression" (Ardebili, 119: 2010) So in the meantime, we should not neglect human dignity because man, just because of humanity nature is born with some rights according to which apart from any dignity who later earns by his behavior is deserved to be known. So "the limits of the value of respect criminal human enjoys, are not identical in terms of schools of thought. In Islam it is believed that human has a God-given dignity and as long as he avoids sins and crimes and aggression to others' rights others is obliged to observe his/her rights. Thus, the offender is not honorable a person worthy of respect anymore." (Ardebili, 144: 2010) But poets have always been reflecting issues related to society in their writings and poems. And with the scrutiny in these works, we can find out the political and social situation of that era. Each of these works, reflect the prevailing political and social atmosphere and thinking and attitude of this educated class including the conflicts and criticisms. Thus, "Some critics in literary criticism have known social foundations valid. Researching the relationship with the community is the subject of criticism by those critics. There is no doubt that the literary atmosphere is influenced by the social environment. Thoughts, beliefs and interests are subject to social status. In social criticism, the impact of literature in society as well as the impact that the community has in literary works are studied." (Zarrinkoob, 41: 2006) Here, the question that comes to mind is to research whether anyone was concerned with people's rights and private security among Safavid kings who were claiming the followership of Shiite religion? Has an educated poet like Saeb expressed the tyranny of kings of that era in his valuable work? I have tried in this study, to carefully examine all verses of his poems items governing in our (religious) laws as fairly trial and Islamic judgment in Shiism. Contemplated in this work, I realized that Saeb, in most of his poems, is directly protesting to the oppression inflicted by Safavid kings on people. In some of other poems he has used words in order to guide the reader to his purpose.

-The king, who oppresses his subjects, is a drunk makes grill out of his own thigh. (Saeb's Divan 455:2011)

In this verse Saeb is directly warning kings about oppression to the weak. Elsewhere, he enumerates the stringency to people as a sign of the decline of the states.

-Sun shade becomes less at the time of declining of the sun as stringency to subjects is a sign of the collapse of the Kings. (Ibid., 186)

RESEARCH BACKGROUND

About the research background it should be said that no combined research has ever been done in this regard. But separately, about the proportion of crime and punishment, a paper regarding punishments incompatible with human dignity is published in the Journal of Law by Ismail Rahimi Nejad, Professor of Criminal Law and Criminology in Azad University of Tabriz. Briefly, he knows "inhumane punishment as a punishment without regard to proportion criteria between guilt and punishment, i.e., inflicted injury measure is determined by relative and absolute importance of crime, type of crime and the offender's characteristics and the victim's degree and type of fault. Therefore, taking into account the objectives of punishment, i.e., punishment and correction of offenders, public and private prevention, and providing



social protection as part of the criteria of proportionality is contrary to existential philosophy of the principle of proportionality the principle of proportionality." (Rahimi Nejad, 133: 2007) In another paper by Leila Hashemian, Bu Ali Sina University faculty member, published in the Journal of Persian Language and Literature, Faculty of Humanities, University of Sanandaj entitled: Saeb and his social criticisms, "Saeb is introduced as a poet with special features and attention to social issues and reiteration of these criticisms implicitly. In each section, he has the criticisms in the form of advice to government officials." (Hashemian, 115: 2009) in a paper by Taherh Rashidi, in the history of Iran and world section of Tebyan website states the Safavid period punishments and tortures, which is the first independent government of Iran that chose Shia religion as the religion and official religion an legal system, and divided judicial system into two distinct religious and customary parts. Customary courts were managed by Divan Beigi and religious courts were managed by Divan Sadr. Investigation into the murder, rape of honor, blinding and breaking teeth were called ((four crimes)) were referred to Divan Beigi jurisdiction.

And issues related to privacy were at authority of Divan Sadr and other papers individually pointed to these punishments and tortures in judicial system of safavid system and we try to reflect this inhumane punishment in Saeb's poetry. Such a study has not been provided yet and this work can be used for those who write descriptions for Saeb's poetry.

Human dignity and the proportion of crime and punishment in the Quran

God says in the Quran:

((إِنَّ أَكْرَمَكُمْ عِنْدَ اللَّهِ أَتْقَاكُمْ))

Translation: *The noblest of you before Allah is the most righteous of you.*
(Surah al-Hojrat)

And in the verse:

((فَمَنْ يَعْمَلْ مِثْقَالَ ذَرَّةٍ خَيْرًا يَرَهُ وَمَنْ يَعْمَلْ مِثْقَالَ ذَرَّةٍ شَرًّا يَرَهُ))

Translation: *Whosoever has done an atom's weight of good shall see it. And whosoever has done an atom's weight of evil shall see it.*
(Surah Al-Zilzal 7-8)

God does not always punish criminals, but he often forgives sins and does not punish them. And elsewhere says:

((مَا أَصَابَكُمْ مِنْ مُصِيبَةٍ فَبِمَا كَسَبَتْ أَيْدِيكُمْ وَيَعْفُو عَنِ الْكَثِيرِ))

Translation: *If affliction befalls you, it is what your own hands have earned, but he pardons a lot.*
(Surah al-shora, 30)

Any unpleasant event that you are dealing with is the consequence of behavior that you have done. "In human-based or humanitarian-oriented schools, it is believed that even when the accused are punished their inherent dignity as human being should be protected. In these schools, many corporal punishments particularly physical punishments such as flogging and execution are not recognized worthy to human's dignity". (Ardebili, 145, 2010)



Quran says about fitness of retaliation:

((يَا أَيُّهَا الَّذِينَ آمَنُوا كُتِبَ عَلَيْكُمُ الْقِصَاصُ فِي الْقَتْلِ الْحُرُّ بِالْحُرِّ وَالْعَبْدُ بِالْأَنْثَىٰ بِالْأَنْثَىٰ فَمَنْ عُفِيَ لَهُ مِنْ أَخِيهِ شَيْءٌ فَتَبَاعَ بِالْمَعْرُوفِ وَإِذَا إِلَيْهِ بِإِحْسَانٍ ذَلِكَ تَخْفِيفٌ مِّن رَّبِّكُمْ وَرَحْمَةٌ فَمَنِ اعْتَدَىٰ بَعْدَ ذَلِكَ فَلَهُ عَذَابٌ أَلِيمٌ*وَلَكُمْ فِي الْقِصَاصِ حَيَاةٌ يَا أُولِي الْأَلْبَابِ لَعَلَّكُمْ تَتَّقُونَ))

Translation: Believers, retaliation is decreed for you concerning the killed, a free (man) for a free (man), a slave for a slave, and a female for a female. He, who is pardoned by his brother, let the ensuing be with kindness, and let the payment be with generosity. This is alleviation from your lord and mercy. He who transgresses thereafter shall have a painful punishment. And there is life for you in (the law of) retaliation, o men of understanding, that you may guard yourselves

(Surah Al Baqarah 178-179)

According to the above holy verse, retaliation is the divine sentence enacted by God. Second, forgiveness of retaliation is a charity and relief from the Lord. Third, helps the protection and security of human life. In Islam, according to the rule of law ((تُدْرَأُ الْحُدُودُ بِالشَّبَهَاتِ= Ward off suspicions border)) punishments are cancelled only with the slightest doubts. In retaliation, many delicacies are found in this verse. First in this order, the victim and his irritated soul have been considered, and justice and proportionality between crime and punishment, has been fully considered, thirdly, special consideration for humanity and dignity can be observed. And God has enacted this law to protect and provide human life. Fourthly, God has considered beneficence element in the process of retaliation, and encouraged victim to amnesty.

Here I think it is necessary to briefly explain about the definition and implications of these two terms in international documents and dictionaries to make aware the reader about the presence or absence of special meanings of these words. "In any international and regional human rights instruments, including the prohibition of inhuman treatments and punishments, these concepts are not defined, however, the UN Human Rights Committee, responsible for monitoring the implementation of the International Convention on Civil and Political Rights, in the overall interpretation of the concepts in the Article 7 of Convention, stated that due to the nature, purpose and severity of the action, we can distinguish these concepts from each other.

As the European Commission of Human Rights has stated, any form of torture is considered an inhuman and degrading behavior, and inhuman behavior is also degrading too. This Commission has defined human behavior any human behavior that deliberately causes severe mental or physical pain or suffering" (Rahimi Nejad, 108: 2007)

The literal and idiomatic meaning of the term torture included among inhuman treatments "has translated as Teasing, Annoying in Moeen Dictionary" (define, 1985)

And "culture Amid means hurting someone to punish, coerce a confession or to do something and suffering to come" It should also be added that "Torture means any severe physical or mental abuse, government officials and other public officials while on duty or on the occasion of their jobs and to obtain a confession or information, or any other intention apply on accused or sentenced people" (Rahimi Nejad, 184: 2007). Thus, we are scrutinizing the history which is one of the transition periods of justice houses because of the presence of Saeb in Safavid period and specifying Shia religion as the official religion of the country. "Administration of justice



house before the accession of the Safavid Shah Abbas I (996 shamsi calenda/1588 AD) was complex and complicated.

In the early Safavid period, Sadr who headed the religious institutions, was also responsible for the Court of Justice. But the courts affairs also had a number of other top officials such as the Chief Justice and Sheikh al-Islam. That's why there were a lot of conflicts and dispute arbitration." (Azhand, 165: 2007) While the Safavid era was the overcoming period of Sia Esna-Ashari religion. However, there was no sign of this religion and traces of Islamic justice because: "Foundation of the Safavid dynasty, from the beginning, was established on the violence and blood shedding that sometimes went up to the savagery and barbarism too. During this period, beheading, mutilation, peeling, stuffing straw in human skin, cutting into two halves, blinding, pulling out eyes, , choking, and such very brutal things were done easily." (Safa, 53:2007). Another very brutal actions was tearing with teeth and eating the flesh of the convicted people!

((Padri Simon)), one of Carmel priests, who was present at Abbasi Court of Justice and had seen and described many punishments is speaking about "a dozen man-eating dogs and a dozen cannibalistic men, who were even ready in the Abbasi's House to rip and eat those that king ordered without questioning. These live-eating people were called ((Chigeen)) that is raw meat eaters. They had a special clothe and were responsible for ripping the condemned with nails and teeth and eat his raw meat." :

(Ibid., 55)

هم از ناخن خویش تیغ و سپر

نمودی در آن رزم هر پر جگر

(Saeb's Divan, 3605:2011)



Often poets, impressed by the thoughts and beliefs of society form their thoughts and beliefs and seek to reflect these thoughts in the form of poetry and prose. Saeb, as a poet who did not know himself out of the community, in most of his poems is influenced by this atmosphere in different forms (visible and hidden) and has composed and displayed them in his poetry.

Drawing general situation of the early years of the tenth century to the middle of the twelfth century, the right is to say, the period under our scrutiny, in terms of social processes was generally undesirable.

"In the same productive period of Iranian history, flogging and killing justice-seekers and giving latitude to oppressors, mass massacres of the population, blinding, peeling human, burning people in the fire or in the gunpowder cloak, imprisoning men in the cage and deflagrating him down from top of mosque minaret. Cutting ears, tongue and nose were among many of these normal brutal operations" (Safa, 41: 2007)

Punishment and torture during Saeb's lifetime (Safavid)

Investigating the punishment in different periods, we should note that, in this respect, we can divide history to the periods of private revenge, private Justice period and the public-justice period. In Safavid period, despite the religious appearance of the government and superficial binding to religious rules, in some cases punishments are harsh and brutal. ((Karrer)) says in his ((itinerary))):

They punish pirates ruthlessly and without intercession, and kill them in various ways. The common punishment is fastening the bandit's feet to four camels and slashing his chest and

abdomen from top to bottom, and shows him to citizens in all neighborhoods to scare others about theft punishment. Sometimes they put bandit's head into a narrowed wall so that head was placed in one side of the wall and the body was placed on the other side of the wall and a pipe was also put in his mouth to pull his leg. Accordingly the bandit was gradually tortured and killed. (Karrery's itinerary) Cannibalism in the Safavid rulers' age to kill the sinners, or those who were rightly or wrongly outraged by kings was an ordinary event. "Henchmen would begin to work, beheading, peeling, burning in fire, cutting hands, feet, ears, noses and pulling out eyes and covering in cow's skin, etc were considered as normal punishment" (Shams Natri, 29: 1998) Another East Experts who had traveled to Iran in the Safavid era says about punishment in this period as follows:

"Piercing the sentenced people's legs and hanging him upside down from the tree to die so that his head to be toward the ground and in case of lack of death, his abdomen would tear with a sword and he would remain in a painful situation to die. Because in this case his intestines would pour to his face and he would force to return them into his abdomen". (Ibid., 29)

Inhumane punishment Saeb's Divan

Although Saeb, in the court of Safavid kings was in relative welfare and "after a trip to Kashmir, seven years after leaving Iran (1040 AH), he returned to the homeland and served for Shah Abbas II and he took the title of laureate from him". (Safa, 446: 2007)

But due to dealing with various social issues, and Safavid kings' oppression, whenever he found an opportunity criticized their oppression with his fiery words openly, and sometimes with hidden admonitions tried to reflect these injustices in his poems and odes. In what follows some of them will be briefly pointed out. About the oppression that kings imposed to the weak, Saeb has composed following verses:

The king, who oppresses his subjects, is a drunk makes grill out of his own thigh.

(Saeb's Divan 455:2011)

Saeb, understands the lack of concern for the king of sighs and groans of the oppressed and criticizes as follows:

خمار خون مظلومان که بی قیدانه می خوردی سر بی مهریت را آشنای درد سر کرده

Translation: The retaliation of the oppressed killed on no account, will create trouble for you in the resurrection.

(Ibid. 829)

زنده در گور کند حشر مکافات تو را بر دل موری اگر از تو غباری باشد

(همان، 1671)

فردای قیامت رگ ابريست گهر بار هر آه که از سینه ی افکار بر آید

(همان، 2130)

Translation: Saeb, believes that the sequel of injustice against the oppressed, even if it is as trivial as a little dust on the termite's heart will be deserved to punishment on the day of judgment, and every sigh rises up of the oppressed people's heart will lead to your punishment.

(Ibid, 1671), (ibid, 2130)



با تو ظالم در نمیگیرد فنون عجز ما ورنه گوش آسمان را آه ما پیچیده است

Translation: Saeb, believes that the oppressed people can face with the tyranny of the oppressors on no account, and killing the oppressed which is these kings' traditional approach cannot be dealt with. However the oppressed people's sigh has been distributed in the universe but no one respond to it and they have no helper but great God. (Ibid, 588)

زمین بود دریا ز خون عدو ز شمشیر کج، موج خونریز او
فتاده در آن بحر خون بی حساب کلاه و کمر همچو موج حساب
(همان، 3606)

Translation: He criticizes the kings' bloodshed launched the sea of blood and created this bloody wave with sword without any consideration and regardless of being guilty and innocent.
(Ibid, 3606)

گردبادش آسیای خون به گردش آورد دامن دشتی که کشد از آب تیغش لاله زار
(همان، 3578)
ز خود دشت دریای خونخوار بود در او کشته پنهان چو کهسار بود
(همان، 3608)
خون بلندی گرفت آنچنان که شد یک ورق دفتر آسمان
(همان، 3606)
چنان جوش زد خون گردنکشان که شد جوی خون بر فلک کهکشان
(همان، 3605)



Translation: Saeb, has also known the severity of bleeding so that they can spine a mill and plains can be watered by blood instead of water. In the following verses, the incalculable severity of the bleeding is so that they have even covered a sheet of sky. Or the bleeding is considered so excessive that has created a blood stream such galaxies in the sky, or (kings) are attempting for all bloodsheds and do not mind it:
(Ibid, 3578), (Ibid, 3608), (Ibid, 3606), (Ibid, 3605)

Even beheading, which was one of the death penalties in the Safavid period and Saeb in this verse introduces it as the punishment for disobeying the order of King. That is defy is just enough for people to be beheaded. No proof and evidence can help the victim in this regard. Because no court, justice and questioning can cope with the power of king's command and kings can take any decision very easily:

در خم محراب تیغش سجده بی سر کند هر که از فرمان او سرپیچد از گردنکشان
از سردشمن شود چون رشته پنهان در گهر راست سازد چون به قصد خصم بر گوهر سنان

(Ibid, 3580)

Saeb, about the cause of such beheadings and brutal punishments has said that many heads were cut in order to strengthen the government tree and many heads were cut in order to materialize the fruits of this government. (Safavid kings use every means to reach the goal):

چه سرها گشت بی تن تا حسام او تناور شد چه تن ها گشت بی سر تا سنان او به بار آمد

(Ibid 3580)

سری کز جنبش ابروی تیغش بر زمین افتد که برمی دارد از خاک مذلت جز سردارش

(Ibid, 3627)

Hanging criminals reflected so widespread was just among common punishments of this period. He also points out to hanging someone called Mansour in the following verse due to inexperience (in how to address with king):

ثمر پخته نگیرد بسر شاخ قرار سر منصور ز خامیست که بر دار بود

(Ibid, 1717)

آنچه میجست از درخت وادی ایمن کلیم همت منصور بی زحمت ز چوب دار یافت

(Ibid, 679)

بر دوش دار از تن منصور سر به تن آتش کجا سپند کجا اوفتاده است

(Ibid, 969)

Another punishment Saeb refers to is putting oppositions under the quadruped's hooves, which is considered as inhumane punishments at the time. Saeb knows the critics' punishment as falling under the quadrupeds' hooves:

فتاده به زیر سُمِ مرکَبان چو ریگِ روان، نقدهای روان

(Ibid, 3608)

ز نعل ستورانِ خار ای شکن سوارانِ درِ مرگ را حلقه زن

(Ibid 3604)

Stoning opponents and criminals, was another penalty in the reign of Shah Abbas. In the following verses Saeb delineates it into poem and transfers its inhuman nature to the reader using negative words:

از جُنود آسمانی لشکر اصحابِ فیل بارِ دیگر شد از این حصنِ مبارک سنگسار

(Ibid, 3570)

گردان به مهره تفک اصحابِ فیل را کردند همچو مرغِ ابابیل سنگسار

(Ibid, 3568)

Saeb, also states the outcome of the stoning Indian as follows:

Because of stoning many Indians, all stones are stained with their blood and these stones have created mountains as high as Kandahar Mountains:

بس که شد آلوده هر سنگی به خون هندیان
کوه بزکش شد سراسر کوههای قندهار
خاک را از بس به خون هندیان آمیختند
چون شفق، از خاک خون آلودمی خیزد غبار

(Ibid, 3571)

One of the brutal punishments in the Safavid period was ripping the convicted people in the war ceremony by nails and teeth and eating the victims' raw liver, Saeb reflects these events artistically:

نمودی در آن رزم هر پسر جگر
هم از ناخن خویش تیغ و سپر

(Ibid, 3605)

Buried alive the convicted people by Shah Abbas's armies is another is inhumane penalty.

This is also reflected in Saeb's poems as follows:

در آن دشت خونخوار، طوفان کرد
بسی مرده را زنده در خاک کرد
(Ibid, 3607)



Punishing victims with a tool called Khesht which has been a kind of arrow or punishing people with spear and mace was also common in that era. In the following some of them are mentioned:

ز هر جانبی خشت پیران شده
ازو قالب مرد بی جان شده
(Ibid, 3607)
گذشت از سر نیزه ها موج خون
فلک تاز شد چون شفق فوج خون
(Ibid, 3606)
به انداز مغز یلان گرز خاست
ز خواب گران کوه البرز خاست
(Ibid, 3605)
ز یک میل گرزش کشد در و غلا
به چشم زره ز استخوان توتیا
(Ibid, 3603)

Finally, he regrets the lack of humanity in the country and adds that there is no land in the world where people live in peace and security:

از دیار مردمی دیار در عالم نماند
آشنا روئی بجز دیوار در عالم نماند
گوشه چشمی نماند از مردمی در روزگار
سر مه داری نرمی گفتار در عالم نماند
(Ibid, 1212)

Saeb even disagrees, and has always declared war against muhtasib, the officer supervising the correct provisions of Shiism, and the establishment of these provisions in the context of government and society:

با محتسب بجنگیم از زاهدان به تنگیم

(Ibid, 2881)

With scrutiny in all these poem reflections, ultimately, Saeb knows opening lips and telling the secrets of government to the people nothing but trouble and conviction for the crime of telling the truth, and introduces Mansour's execution for learning about the fate of telling truth. And because he is tired of seeing the oppressions and bloodsheds and cannot tolerate the truth tellers' execution, recommends only submission and approval:

لب گشودن می شود موج خطر را بال و پر
لنگر این بحر پر آشوب، تسلیم و رضا است

(Ibid, 3589)

به جرم این که دم از صدق می‌زنم چو صبح
لبالب است ز خون شفق گریبانم

(Ibid, 3632)

در پیش بلبان جهان حرف حق مگو

منصور شد هلاک ز حق گفتن اینچنین

(Ibid, 3115)



CONCLUSIONS

1. Saeb's Divan and in the Safavid period living concurrent with Saeb's life, it is rarely possible to find a punishment to fit the crime and punishment of the crime is always several times more than the crime imposed on offenders, and in some cases leads to loss of life of the convicted. It should not be forgotten that, all penalties have been committed in the name of justice and setting up security. And that this punishment was so common that even running it by poor people also proved to be correct, and they rarely could deal with it, although they did not have enough power to cope with it.
2. With scrutiny in Saeb's Divan, it seems no such thing as a fair trial existed in which the rights of the plaintiff and defendant are the same there. And the king as head of state applied every punishment he wanted and no one could oppose against it and it was performed with the king's nod.
3. In the period under study, it seems that despite selecting Shiism by Safavid kings as the official religion, and appointing an officer called Muhtasib to oversee the proper implementation of the religious provisions, not only he did not act to his tasks properly but he acted as an assistive to the crimes and atrocities and Saeb is pointing out to the constant struggle with this authority in some verses and remind people in this regard. Finally, Saeb among Hindi style poets has a very important role in terms of addressing social and political issues. And focusing in Saeb's works, we can easily realize the atmosphere of the government in that era and know the public culture and kings' policies and even with a bit of fantasy we can imagine the events of that era.

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