



Investigation of Student Punishment Permission by a Teacher in Shia Jurisprudence

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Abstract: Islam has paid special attention to human education so that one of the important tasks of parents and teachers that Islam has introduced is raising children. Physical punishment is one of the ways of raising and castigation of children, which, of course, is the last step in preventing children from making mistakes and deviations. Physical punishment has not been approved by the educational system of Islam for the purpose of raising as a training method, but it has been confirmed in narrations in some specific cases. The result of all the narrations is that punishing students is permissible for the sins that are not legal or discretionary (Ta'zir) and is determined based on the expediency and the discretion of the teacher. In case of doubt as to whether the student deserves punishment by doing so, the teacher is not entitled to punishment and in case of doubt in the intensity of punishment, it should be specified and does not exceed. However, it is better to use other effective punishments instead of physical punishment.

Keywords: teacher, castigation, student, physical punishment.

INTRODUCTION

Punishment means awareness to reduce some behaviors. The majority of psychologists oppose physical punishment and deny it. They attribute undesirable side effects to it such as fear, failure to learn proper behavior, justification for hurting others, aggression toward the punishing factor, and modeling it by others. Of course, punishment is sometimes necessary and this prohibition is not absolute. Shi'a jurisprudence has also imposed strict sanctions for physical punishment. The purpose of this research was to answer the question whether it is permissible for a teacher to punish a student. If so, what are the conditions and what is its quantity and quantity?

Castigation Permission Evidence of Children

It can be said that punishment is permissible in certain cases from the Islamic point of view, because there are many narrations in which the punishment of the child are pronounced and the implications of these narrations for different aspects of punishing the child are different. Some narrations imply on three issues, namely the punisher, the subject of castigation, and its quantity, and others only refer to the subject of castigation and its quantity. However, out of the total of narrations, four are mentioned as examples:

• First Narration

1. It is narrated from Sakkūnī that children gave their writings to Amir al-Mu'menin in order to select the best of them. He said, "Making decision about the best of these writings is to judge and the oppression in this case is like the oppression in judgment. Tell your teacher if he beat you more than three times, I will retrieve him." (Tusi, 1407, 150-149 10/11)

✓ **Review the first narration**

This narration is valid from the perspective of jurists (Tabrizi, 1417, 265) and there is no weakness in narrators (Madani Kashani, 1408, 48).

This narration refers to the punisher, the subject of castigation, and its quantity. As some Sunni jurists have pointed out to the punisher and the subject of punishment based on Sakkūnī authentic narration and stated that the narration implies the castigation of children by teachers (Tabatabai, 1409, 3/367).

The quantity of punishment is also limited to three beats in addition to the implicating the narration of punishment permission for children by teachers. Sakkūnī narration mentions the non-authorization of the teacher to beat more than three times, which is no obstacle to citing the narration unless someone has not acted and the jurists have objected to it. (Momeni Qomi, 1422, 2/254). Of course, the probability that it seems strong is that the intensity of punishment is based on the expedient at that time. (Moghaddas Ardebili, 1403, 13/179).

• **Second Narration**

2. Hamad says, "I asked Imam Sadeq about the politeness of children and belonging." He said, "Five or six beats, try to tolerate and be kind." (Kleini, 1407, 267.7)

✓ **Review the second narration**

The Majlesi Dovom says, "It is known that the narration is weak." (Majlesi, 1404, 234/416) Momeni Qomi believes that the appearance of the narration is non-aggression of six beats as stated in Nahaye book, but the evidence of this narration is weak. (Momeni Qomi, 1422, 2/523) However, Sabzevari credits this narration (Sabzevari, 1413, 36/36). Also, Reza Madani Kashani states, "After much study I came to the conclusion that there is no weakness in this hadith." (Madani Kashani, 1408, 48) and Fazel Lankrani find this narration authentic. (Fazel, 1422, 425) This narration implies five or six beats (Ibn Idris, 1410, 534/334).

• **Third Narration**

3. Ishaq ibn Amar says, "I told Imam Sadeq that I punish many children for committing some crimes." He said, "How many beats? I said, "Many, hundreds". He said, "This is profligate, obey the divine rules." I said, "How many beats are competent?" He said, "One beat." I said, "I swear to God that if I knew it is enough to hit once." He said, "Beat two times." I said, "It kills me." I continue bargaining until I reached five beats. Then He became angry and said, "Ishaq, if you know that the person deserves punishing, so do the punishment and do not exceed the limits. (Klein, 1407, 277.7)

✓ **Review the third narration**

The second Majlesi says, "It appears to be weak narration." (Majlesi, 1404, 234/416). The Majlesi Aval says, "This narration is true and true like a correct news." (Majlesi, 1406, 91/10) and Sabzevari also consider it authentic. (Sabzevari, 1413, 36/36)

• **Fourth Narration**

4. The Prophet (peace be upon him) says: "It is not lawful for a ruler who believes in God and the hereafter to flog more than ten beats unless in legal cases and castigation of belongings from three to five beats." (Sheikh Saduq, 1413, 4/73)

✓ **Review the fourth narration**

Fazel Lankrani believes that this narration is said by the Prophet (Fazel, 1422, 11). Some jurists have decreed abomination for more than ten beats based on the narration by the Prophet «لَا يَحِلُّ لَوَالِ يُؤْمِنُ» (Fazel Hendi, 1416, 541/10).

Castigation permission conditions

Reviewing narrations, it can be concluded that the castigation of the child is permissible by the teacher and, of course, the first narration explicitly permits castigation by the teacher, but in three cases the castigation is forbidden.

- **Respect the castigation for anger**

Hitting the discerning child for anger is not permitted (Golpayegani, 1412, 2/281) and if castigation was based on anger, the punisher would be castigated (Najafi, Bi Ta, 446/41).

- **Respect the castigation for in discerning minor**

Cruelty is forbidden and it is unacceptable to beat a child and it is not rationally permissible to do so because it is assumed that the minor cannot distinguish why he\she is being beaten (Golpayegani, 1412, 2/281).

- **Respect the castigation for unprofitable**

According to narrations, physical punishment by father is permissible if the castigation and raising realize. (Golpayegani, 1412, 2/285) So if punishment does not result in emendation, then punishment is not permissible and if this is the rule for parents who are authorized for castigation, then the same is true for the teacher.

Castigation permission by teachers

Sometimes the action of a child deserves ta'zir and sometimes it is contrary to customary practices such as failure in studying. So there are different forms that need to be considered separately.

- **First form, Student Punishment Permission in the case of committing a transgressive (ta'zir) sin**

According to definitions, the term ta'zir is a punishment imposed on capital crimes from a forbidden act to obligatory abandonment, which is not legislator for retribution and the punishment limit determined by the legislator. (Mughniyeh, 1421, 246.6) If a student commits an act that is accompanied by ta'zir, it is performed by the religious ruler. (RK Ameli, 1410, 46) So it is not allowed by the teacher.

Regarding a child who committed an act by ta'zir, it should be said that it is a general rule that if a child commits a capital crime, faces with ta'zir. The quality and quantity of the ta'zir is determined by the religious ruler, which depends on the action and circumstances, and it must be less than the limit (Golpayegani, 1412, 2/282). So then the teacher has no option.

- **Second Form, Student Punishment Permission in non-ta'zir cases**

Is castigation permissible when a child does not observe customary matters of human interest and concern, such as saying hello and politeness, study the lessons, or sins that are not accompanied by ta'zir, etc.?

There are several reasons for castigation permission.

- ✓ **First Reason: Consensus and Narration**

Sheikh Tusi explicitly ruled on the consensus, saying: "It is permissible for teachers for castigation according to the consensus by jurists." (Tusi, 2008, 69/8) and in Sakkūnī narration (Tusi, 1407, 150-149/1049) Imam (PBUH) declared the authorization of castigation by teachers and only commented on its amount.

- ✓ **Second reason: Benefaction Rule**

One of the reasons it has been applied for castigation permission of children is the benefaction rule. The purpose of benefaction rule is that when someone cause harm with the motive of serving and doing good to others, is not responsible for damages. (Mohaghagh Damad, 2004, 2/295) For example, if a guardian or parent performs actions that would cause harm to the minor, he\she would be responsible according to the first principle, but according to the rules of benefaction rule, if the act was done in good faith with the belief that it is good for the child and accidentally causing harm, he\she is not responsible (Mohaghagh Damad, 2004, 2/299)

According to Sakkūnī narration, castigation is permitted whether for committing forbidden acts or failure to do homework or disrupt the order. In other words, punishment and castigation is a kind of benefaction for their raising as fathers does so for his child (Golpayegani, 1412, 2/285)

But the question that arises is whether it is permissible for a teacher to punish a student for habituating them to morality and leading them to their benefit like a parent. In response, it should be said that benefaction applies to the two means of the elimination of loss and the attraction of profit. If the punishment is for elimination of loss, it has one result and if the punishment is for the attraction of profit, it has another result. So, they should be examined separately.

If the teacher punishes the student for the elimination of loss, first of all, the purpose of loss in benefaction rule is a customary defect in property or honor or life. (Bojnourdi, 1998, 1/214) So the absolute loss is not meant here. For example, eating a food that cause cancer according to doctors, is not traditionally loss and it is not forbidden to eat, and no jurist has issued a fatwa. In this case, castigation of students for failure to study and such a thing is not considered a loss, and the instructor does not have the right to implement the castigation because he/she did not eliminate the loss.

Secondly, according to the abovementioned criterion, anyone who wishes to do benefaction can castigate the children of others if they commit inappropriate acts, while no one has said such thing, and this is traditionally abusive. For example, if someone does not study, someone else cannot castigate him/her for benefaction and will be compelled.

However, if the argument is for profit attraction and the teacher punishes student to prevent them from prostitution and help them to earn goodness, then, the action of teacher is a kind of benefaction and includes the verses «ما عَلَى الْمُحْسِنِينَ مِنْ سَبِيلٍ» (Tobe: 91) and «وَتَعَاوَنُوا عَلَى الْبِرِّ وَالتَّقْوَى» (Ma'adah: 2). (Ansari, 2013, Vol. 2, p. 453)

✓ **The third reason: Enjoining to Good [Ma'ruf] and Forbidding from Evil [Munkar]**

Is it permissible for a teacher to castigate in the case of enjoining to good [ma'ruf] and forbidding from evil [munkar]?

This reason cannot be accepted because firstly, enjoining to good [ma'ruf] and forbidding from evil [munkar] is for abandonment of the obligatory and the practice of forbidden acts and things like not saying hello and failure to study are not included. If the teacher considers pious perquisites and extensive as enjoining to good [ma'ruf] and forbidding from evil [munkar], it should be said that enjoining to good [ma'ruf] and forbidding from evil [munkar] should be expressed just oral or some way other than beating, which is not permissible for these cases like studying lessons, etc.

Secondly, if this reason is accepted, enjoining to good [ma'ruf] and forbidding from evil [munkar] is for non-children because enjoining to good [ma'ruf] and forbidding from evil [munkar] is not obligatory for the insane and children and they are not responsible. (R.K. Sheikh Hor Aameli, 1409, 45/45) So the necessity of enjoining to good [ma'ruf] and forbidding from evil [munkar] is eliminated like other duties. (Rouhani, Bi Ta, 270/1313) Of course, there are some narrations for obligatory to pray for children and this is not enjoining to good [ma'ruf] and forbidding from evil [munkar], but for practicing the child and getting them used to pray as forbids that are forbidden not to be used. (Rouhani, Bi Ta, 27 / 271-270)

After examining the evidence, it can be said that castigation of students is permissible by the teacher and documented in the narrations, consensus, and benefaction rules. However, in answer to the question of whether a teacher needs the permission of parents to punish the students, it should be said that the permission of father is not required in terms of narrations especially the Sakkūnī narrations that explicitly confirms castigation by teachers, but the stronger side is that the teacher's guardianship of castigation is contrary to the base and the requirement of consensus and benefaction rule to be sufficiently certain. That is, when the teacher has permission from the father because it cannot be claimed that castigation of children and beating them even if their father forbid is benefaction. It is simply probable that the reason be restricted the case that the father gave the permission for castigation. (Ansari, 2013, 2/454)

Imam Khomeini stated, "If a child commits one of the capital crimes, his/her teacher can beat him/her with his/her parents' permission to the extent that he/she be castigated and does not require compensation." (R.K. Khomeini, 1424, 832.2) Also the late Tabatabai says, "If a child causes annoyance for others or commits forbidden acts, he/she can be beaten five or six times with toleration." (Tabatabai, 1416/332), and the late

Ayatollah Golpayegani states, "The permission of beating a student for legal castigation with the permission of the legal guardian is not unlike if beating mild that does not cause compensation." (Golpayegani, *Majma Al-Masa'il*, 1409, 3/267).

Doubt in beat permission

If the teacher doubts whether the act committed by a child is deserves castigation, the answer is that the base is the lack of permission for punishment unless in specific cases in a way that harassment of the believers is also forbidden, and according to the mentioned base, punishment is not permitted in suspected cases and if the teacher punished, he has committed a sin.

Quantity of castigation

There is a discrepancy in the amount of punishment among the jurists that we examine them.

• First quote; abomination on over ten beats

Sheikh Hor Aameli expressed a section in *Wasā'il al-Shī'a* entitled "The abomination of castigation of child and belongings for more than five or six beats." (Hor Aameli, 1409, 28/372).

Sahebe Al-Sharaie says, "Castigation of child on more than ten lashes is abominable. (Mohaghegh Heli, 1408, 154/4) and in his other book on punishment says, "Castigation of child on more than ten beats is abominable (Allameh Heli, *Bi Ta*, 2/237) and it is said in somewhere, "More than ten beats against children and belongings is abominable." (Allameh Heli, 1421, 323) He also says, "More than ten beats against children and belongings is not allowed. (Allameh Heli, 1410, 179/2) Some jurists have issued more than ten beats is abominable based on the narrated by Prophet. (Fazel Hendi, 1416, 541/10) The second martyr in Hashiye Ershad believes that more than ten beats is abominable. (Second martyr, 1414, 22/24) Elsewhere says, "More than ten lashes is not allowed for castigation of the children whether for punishment or for other reasons. Is the prohibition of waste implies on the embarrassment or a disgrace; the second is stronger because of the base and destiny of *Ta'zir* for the Ruler of the Shari'a (Ibid, 1410, 193/9).

✓ Criticizing this view

Author of *Jawahir al-kalam* says, "I did find any clear reason for the view that the castigation permission of child on more than ten lashes is abominable for someone who is allowed to castigate. The intensity of punishment should be based on the ruling discretion regarding the guilt of the man and his physical ability and talent." (R.K. Najafi, *Bi Ta*, 444-444 / 41) On the other hand, the appearance of Sakkūnī and Hamad narration is based on the lack of transcendence of the said amount and compensation is required for the exceeded amount. Compensation is incompatible with abomination.

Another disadvantage on this view is that there is no reason for the lack of abomination. The purpose of *Ta'zir* is Morsale Faqih is the limited cases, especially as mentioned in the narration of the governor. (Fazel Lankrani, 1422, 425) On the other hand, if there are more than ten beats, so it is forbidden and not abomination (Golpayegani, 1412, 2/285)

• Second quotation; castigation based on the expedient of the punisher

Punisher castigates based on expedient and its abandonment may be abomination or even forbidden if it results in prohibitions. Castigation is based on expedient of the punisher. (Moghaddas Ardebili, 1403, 13/178)

In the authentic narration of Isaac ibn Ammar, including the recent one, it is stated that the father is subject to expedition and the reference is to the expedient and no excess is permitted. In this narration, castigation is based on expedient, which is contrary to the narration of Hamad, which requires only five or six lashes to be enough (Fazel Lankrani, 1422, 426).

• Third quote: Respect for more than ten beats

Allameh Heli says, "Children and belongings will not be castigated for more than ten beats." (Allameh Heli, 1410, 2/179) Faiz says, "Children and belongings are not hit more than ten and caution is three beats." (Faiz

Kashani, 1418, 180) The first martyr says, "It is not permissible to castigate a child on more than ten beats"(First Martyr, 1410, 259). Hor Aameli says, "Castigates on more than ten beats" (Hor Aameli, 1412, 460/8). Ibn Idris says, "It is permissible to castigate children and belongings in the case of making mistakes, but more than ten beats is not allowed while Saduq says the ruler who believes in God and the Hereafter is not allowed for more than ten lashes unless three to five lashes to castigate children and belongings"¹ (Sheikh Saduq, 1413, 4/73). Although the Hamad narrated that he asked from Imam Sadeq about the castigation of children and belongings. Imam said five or six beats and tolerance and kindness.

However, the group believes that the appearance of the news is about respect like the news by Hamad and Sakkūnī and there is not abomination in the other news and there is no opportunity to stick to the base due to the weakness of the document in the news because beating is persecution and annoying a believer is unacceptable, and it may be impossible as if the learner is not able to teach even though he\she has spent all his\her time studying. (Khansari, 1405, 7/119)

✓ Criticizing

Author of Jawahir al-kalam says, "but in some of the texts, although requires respect, but apparently this news is weak and has no compensator and is in contradiction with the moral justification." (Najafi, Bi Ta, 445/41) and is the narrative of Saduq Morsal. (Fazel Lankrani, 1422, 11)

• Evidence Review

The general understanding of the public from legal terms is that beating children is not allowed unless the minimum of what is wished and the excessive amount is crime and the guardian punisher or who is allowed for punishing by parents is like a teacher. (Tabrizi, 1417, 265) so it is not true that punisher is absolutely permitted to determine the intensity of punishment because castigation is done according to what the punisher considers necessary and thereby the desired politeness is obtained. So higher amounts is not permitted, though the lesser is allowed. (Moghadas Ardebili, 1403, 13/178)

However, according to Hamad bin Osman, "Children are castigated to do the better behavior." (Momeni Qomi, 1422, 2/253) The appearance of the narration is that it speaks of the quality of castigation and that is toleration during castigation. (Fazel Lankrani, 1422, 425).

Caution is to be limited to five to six beats according to the Hamad news of Sheikh and Yahya Sa'id (Momeni Qomi, 1422, 2/2525). Three beats may be used in other narrations. Of course, all the above narrations can be summed up and said that these differences are due to different states and times. The general criterion of beating emphasize the upbringing and not to reach the religious level. (Golpayegani, 1412, 2/285) But, it should be considered that of ta'zir for a mature is specified so castigation for ordinary affairs is at a minimum. (Fazel Lankrani, 1422, 426-427) Finally, according to the different numbers in the intensity of punishment, it should be said that the amount of beating and its number should be determined by the punisher. (Momeni Qomi, 1422, 524/2).

Doubt about the amount of castigation

In the case of doubt in the allowed amount of beating, it should be said that in suspicious cases, the teacher should beat as much as he\she is sure should be cautious in avoiding suspicious amounts because if he\she exceeds the required amount, he\she committed a sin and the excess waste is not in the jurisprudent's rule.

Suggestion

It should be noted that just as rewarding the child at any time he or she performs the desired behavior can be empowering, refusing to give rewards can help reducing inappropriate behaviors, but in rare cases, punishment (such as a painful slap, or a scream) should be used. (Morris, 2008, p. 73-83) However, it is worth mentioning that physical punishment can have a detrimental effect on students. When children are punished, all they learn is that in some situations hurting others is permissible. (R.K. Seyf, 1995, 391-400) However, the best way to prevent inappropriate behavior is to use ways that can replace physical

¹ رسول الله (صلى الله عليه وآله): «لا يحل لوال يؤمن بالله و اليوم الآخر أن يجلد أكثر من عشرة أسواط إلا في حدٍّ و أذن في ادب المملوك من ثلاثة الى خمسة.»

punishment like the tangible behavioral differentiation of a teacher with a good and a bad student, encouraging polite students, and lack of encouraging the rude student are itself a punishment. Giving more homework to a non-disciplined student is also one of the ways that can be used. However, the choice of punishment is at the discretion of the teacher because a punitive approach may have a positive effect on a student and the other punitive method has a negative effect on the student.

Conclusion

According to narrations, punishment of a student is permitted by the teacher with parental permission in certain cases.

1. The teacher has the right to castigate with parental permission in case of committing a capital sin that does not have any punishment and ta'zir, such as not studying, etc., but in the case of necessity with toleration and kindness and the intensity is determined by the teacher.
2. If there is any doubt as to whether a student needs castigation for this action, it should be said that castigation of children is not allowed and excessive amounts of punishment have to be avoided and the sufficient amount should be observed.
3. Punishments are different for castigation and upbringing of students, which is not limited to physical punishment. Due to the rigidity of Islam in physical punishment and its adverse effects on the student, a teacher is better to find options that can replace physical punishment to achieve a greater effectiveness on the student education.

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