

RESEARCH ARTICLE

Branded Bodies: Judicial Torture, Punishment, and Infamy in Nineteenth-Century Iran

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Abstract

Forced branding, tattooing, and bodily inscriptions were linked to a complex intersection of meanings and uses in nineteenth-century Iran. Drawing on insights from studies of bodily inscriptions in other world historical contexts, this paper discusses branding as a marker of ownership, both of human slaves and of animals; Islamic attitudes toward bodily inscription and its symbolic significance in the afterlife; and associations between branding and human or divine love in Persian poetry. From this semiotic foundation, it turns to judicial uses of branding in nineteenth-century Iran: as torture for the extraction of incriminating admissions, and as punishment intended to shame (symbolically casting the criminal from society, stigmatizing their crime) and identify (tracking convicted criminals). Throughout the paper, branding's legal place is understood in relation to silence and speaking, writing and reading, pain, humiliation, and the inversion of branding's meaning by its victims, in Iran and a number of other societies.

Keywords: branding; judicial torture; punishment; Iran; stigma; body; crime

In Franz Kafka's short story "In the Penal Colony," an explorer visits such a colony, in which a strange machine inscribes the crime of the condemned on their bodies as capital punishment. The inscription process, which produces intense pain through its many needles, tortures the condemned over a twelve-hour period, six hours into which they become deeply aware of their crime. But the condemned are not allowed to defend themselves in court, nor are they even afforded a trial. In fact, they are entirely ignorant of their sentence. When the explorer expresses incredulity at this procedure, the officer who was in charge of administering the punishment defends it by saying: "There would be no point in telling him [his sentence]. He'll learn it on his body." Despite the officer's zeal for the machine, by the time of the explorer's visit it was quickly falling out of favor with not only the new military superior, the

Commandant, but also the general public, who no longer came out in droves to witness the executions.¹

In light of Kafka's provocative short story, what might the branded, tattooed, or otherwise forcibly inscribed bodies of suspected and condemned criminals tell us about the history of judicial torture and punishment? At first sight, we, like the explorer in the story, may find the text inscribed on the criminal's body to be indecipherable and the logic behind its judicial procedure inscrutable. Only by learning the complex signs these bodily inscriptions represent can we understand their legal functions throughout human history. Much like branding as judicial torture, the machine, and by implication the pain it inflicted, was intended to render the truth of the crime legible. This legibility, like branding as punishment, was targeted at an audience that could read its pronouncements. Similar to the machine, branding and forced tattooing were thought of as "old" technologies of biopolitics—the control, surveillance, and sovereignty over subject bodies. By the mid-nineteenth century there were people, even in European colonies, who viewed such technologies of torture as "primitive" and "barbaric" that needed to be replaced by "new" modern penal measures that left no visible scars.

Instead of focusing on the disappearance of forced branding, tattooing, and bodily inscriptions, though, this article seeks to understand branding's functions, meanings, and practices by examining from a host of primary sources ranging from chronicles, letters, government reports, diaries, and religious and ethical texts to Persian poetry, *Mirrors for Princes*, Islamic jurisprudence, newspapers, and legal codes. While my emphasis is on branding in nineteenth-century Iran, a comparative lens is maintained through an engagement with secondary literature on branding and tattooing in other societies so as to highlight parallel meanings and functions, and avoid the pitfalls of seeing this phenomenon as somehow unique or specific to Iran or Muslim societies generally.²

To contextualize the meanings associated with branding, I begin with a discussion of branding as a marker of ownership, both of humans as slaves and of animals, and then turn to Islamic religious attitudes toward bodily inscriptions, including tattooing and branding, and their symbolic significance in the afterlife. Then, I explore the rich semiotic linkage of branding with human and divine love in Persian poetry. Having laid this foundation for understanding branding's meanings, I turn to its use in judicial torture in nineteenth-century Iran. Judicial authorities considered the pain generated by branding as an effective means of delivering truthful and incriminating utterances by suspects who were hiding secrets. While this torture was usually done outside of public view, it involved a process of disclosure in which the hot brand was the instrument of truth-telling. Branding featured prominently in two types of cases: first, those involving Babis, Baha'is, and those suspected of being affiliated with them who were accused of seditious or heretical activities; and second, murder cases involving multiple suspects and conspirators. Despite the stated goal of attaining the truth, the brand rarely produced a genuine confession to the crime or knowledge of its details. Far more common were false confessions or betrayals of associates. Finally, I examine the

¹Franz Kafka, "In the Penal Colony," in Nahum N. Glatzer, ed., *Franz Kafka: The Complete Stories* (New York: Schocken Books, 1971), 140–67.

²For brief overviews of branding (*dagh*) and tattooing (*khalkubi*) in Iranian contexts, see Sadeq Sajjadi, "DĀĠ," *Encyclopaedia Iranica* [hereafter *Elr*]; Willem Floor, "ĶĀLKUBI," *Elr*.

two levels on which branding as a punishment typically operated: shame and identification. As a marker of shame, branding was a means of symbolically casting out the criminal from the rest of society and communicating the stigma of their crime to others. Branding as identification, on the other hand, was primarily about tracking convicted criminals who might otherwise escape imprisonment.

Branding as a Marker of Ownership

Branding has been a marker of ownership and sovereignty since antiquity. Persons, tribes, or empires branded slaves and animals to signify subjugation and to identify them in case of escape. Cuneiform tablets from the ancient Near East suggest that slaves were branded or tattooed as a sign of human or divine ownership.³ In ancient Mesopotamia, the main function of marking private slaves was “to render them trackable so as to prevent escape.”⁴ Parthian slaves who worked in royal mines were branded in a distinctive manner that expressed imperial sovereignty.⁵ In seventeenth-century Burma, a local king used an elaborate system of tattooing “to minimize [the] physical and social mobility” of palace servicemen, especially within the army.⁶ Similarly, Thailand’s early Chakri Dynasty (1782–present) tattooed royal servicemen to prevent them from switching status and evading state duties.⁷ In the United States prior to abolition, stigma symbols on slaves, such as branded initials or cropped ears, communicated “ownership by a particular master.”⁸

In Persian, branding was associated with slavery, and recaptured runaway slaves were branded with a “slavery mark” (*dagh-i ghulami*) to hamper their future escape.⁹ Similarly, one with a “branded face” bore a “mark of servitude.”¹⁰ The “possessor of a mark” could refer to a slave or simply one who was branded, spotted, blemished, or perverse.¹¹ Finally, a person born into slavery and thus stigmatized was “they who are born with a brand on their face.”¹² The association between societal stigmatization and face branding was fully consistent with meanings found in religious, poetic, and everyday practices in Persian-speaking societies.

Branding was used in similar ways to denote human dominion over animals, especially among nomadic communities. Bedouins, who had branded camels since antiquity, identified their camels through a specific brand (*wasm*) in case the animal strayed, was stolen, or was in a congregate setting where differentiation was

³Mallory Ditchey, “Body Language: Tattooing and Branding in Ancient Mesopotamia,” *Journal of Ancient Near Eastern History* 3, 1 (2017): 1–24, 2.

⁴*Ibid.*, 12.

⁵Mansour Shaki, “CLASS SYSTEM iii: In the Parthian and Sasanian Periods,” *EIr*.

⁶Victor B. Lieberman, *Strange Parallels: Southeast Asia in Global Context, c. 800–1830, 1, Integration on the Mainland* (Cambridge: Cambridge University Press, 2010), 163.

⁷*Ibid.*, 308.

⁸Erving Goffman, *Stigma: Notes on the Management of Spoiled Identity* (Englewood Cliffs: Prentice-Hall, 1963), 46.

⁹Francis Joseph Steingass, *A Comprehensive Persian-English Dictionary* (London: Routledge & K. Paul, 1892), s.v. “Dagh,” 498.

¹⁰*Ibid.*, s.v. “Dagh bar ru,” 498.

¹¹*Ibid.*, s.v. “Dagh-dar,” 498.

¹²*Ibid.*, s.v. “Dagh-bar-rukhd-zadah,” 498.

required.¹³ The brand potentially signaled ownership by a tribe, a group within a tribe, or even a subgroup.¹⁴ Among the Oghuz Turks, branding animals with a special insignia (*tughra* or *tamgha*) marked them as belonging to a specific tribe.¹⁵ Similar practices were used for camels in Iraq, where a crescent (*hilal*) was a mark of ownership for a specific tribe, while elsewhere camels were branded with crosses.¹⁶ Consistent with these practices, in Iran camels were branded with “letters of the alphabet, words, numbers, and combinations of two or more single marks,” including on the rump, neck, or head, depending on the animal.¹⁷

In Muslim empires, branding became a means of identifying royal military horses. Under the ‘Abbasids, the supervisor of payments to the army (*‘arid*) registered men in the military and “animals branded with the mark of the prince.”¹⁸ This involved noting the physical features of soldiers and the brands of mounts “to prevent intruders or substitutes entering the ranks or good horses being switched round or removed from the stables.”¹⁹ Medieval and early modern South Asian empires continued the practice. Sultan ‘Ala al-Din Khalji (d. 1316) was credited with first introducing the practice of horse branding, while Emperor Akbar (d. 1605) of the Mughal Dynasty revived it to ensure that horses were not swapped by members of the imperial bureaucracy. In this latter system, known as “branding and verification” (*dagh u tashihah*), horses were branded, and detailed descriptions of soldiers’ faces were recorded.²⁰

The Safavid Empire had similar branding practices, with a Shi‘i twist. Royal horses were branded on the left thigh with “five marks” (*dagh-i panjah*), an allusion to the Prophet Muhammad, his son ‘Ali, his daughter Fatimah, and his grandsons Hasan and Husayn.²¹ Horses owned by ordinary people were branded on the right thigh.²² The branding of ‘Ali’s name on royal horses continued into the nineteenth century in Iran as did simple symbols like a circle with a horizontal line drawn through it.²³ A mid-nineteenth-century Iranian military code stated that riding horses belonging to

¹³F. H. Stewart, “Wasm,” *Encyclopaedia of Islam*, 2d ed. [hereafter *EI2*], 11: 173.

¹⁴*Ibid.*

¹⁵Cl. Cahen, “Ghuzz,” *EI2*, 2: 1107; G. Leiser, “Tamgha,” *EI2*, 10: 170.

¹⁶R. Ettinghausen, “Hilal,” *EI2*, 3: 385; A. J. Samsick [D. Thomas], “al-Salib,” *EI2*, 8: 980.

¹⁷Sadeq Sajjadi, “DĀĠ.”

¹⁸Cl. Cahen, A. Cour, and E. Kedourie, “Djaysh,” *EI2*, 2: 507.

¹⁹C. E. Bosworth, “Isti‘rad, ‘ard,” *EI2*, 4: 265.

²⁰M. Athar Ali, “Dagh u Tashiha,” *EI2*, 12: 176–77; J. F. Richards, “Mansab and Mansabdar,” *EI2*, 6: 422; C. E. Bosworth, “Isti‘rad, ‘ard,” 268. The branding regulation led some to protest it and refuse to enforce it. In Gujarat, an ex-sultan raised an army opposed to the practice. J. Burton Page, “Mirza ‘Aziz Koka,” *EI2*, 7: 131. In general, royal horses were “branded to prevent fraudulent exchange” in Mughal India. S. Digby, “Istabl,” *EI2*, 4: 219.

²¹Steingass, *Comprehensive Persian-English Dictionary*, s.v. “Dagh,” 498.

²²Jean Baptiste Tavernier, *Safarnamah-i Tavirniyah*, Abu Turab Nuri, trans. (Tihiran: Ibtikar-i Naw, 1985), 573, cited in Sadiqah Parvizi Nia, “Barrisi-yi Jaygah-i Asb dar Dawrah-i Safavi (ba ta’kid bar didgahha-yi safarnamahha),” *Parsah* 15, 25 (1974): 1–33, 8.

²³William Ouseley, *Travels in Various Countries of the East, More Particularly Persia* (London: Rodwell and Martin, 1819), 3: 449; Sa‘adat Yar Khan, *Faras-Nama-e Rangin; or, The Book of the Horse*, Douglas Craven Phillott, ed. (London: B. Quaritch, 1911), 18. For more on *Farasnamahs*, see Arash Khazeni, “Through an Ocean of Sand: Pastoralism and the Equestrian Culture of the Eurasian Steppe,” in Alan Mikhail, ed., *Water on Sand: Environmental Histories of the Middle East and North Africa* (Oxford: Oxford University Press, 2013), 156.

the army should be branded in a distinctive manner to differentiate them from horses owned by ordinary subjects.²⁴

The branding of animals and slaves demonstrates it operated as a marker of ownership, identity, and often royal dominion over those branded. The royal dominion over men and animals was particularly evident in military contexts. The owner's subjugation of the owned is crucial for understanding branding's association with shaming punishments that involved bestialization.

Bodily Markings, Tattoos, and Branding in Islamic Texts

The Quran, prophetic traditions (*hadith*), and works of Islamic ethics and jurisprudence provide further context for the symbolic meanings of tattoos and branding in Muslim societies. Bodily markings, especially on the face, were meant to communicate something about their bearers' extraordinary identities. Tattooing was prohibited, an unacceptable form of permanent body alteration, especially for women as a form of beautification or for illicit magic. Branding of either humans or animals was prohibited as excessively cruel and was reserved as an otherworldly punishment for unbelievers and Muslim sinners.

Hadith referred to facial inscriptions as revealing the person's moral condition. For instance, the Antichrist (*dajjal*) was said to have the word "unbeliever" (*kafir*), or the letters k-f-r connoting disbelief, "written between his two eyes."²⁵ The Prophet Muhammad, by contrast, was described as having a brow mark caused by his prostration on the earth during prayer—a mark of piety rather than disbelief.²⁶ A third *hadith* made a striking connection between bodily inscription, slavery, and redemptive sin. Before entering paradise, Muslim sinners in hell (*jahannamiyyun*) were purified in the river of life with the words, "These are the manumitted by God," written between their eyes.²⁷ In all three instances, facial inscription communicated the bearer's identity, as an unbeliever, prophet, or redeemed sinner.

Islamic texts prohibit tattooing for several reasons. Similar to the Jewish tradition, it is believed God made the human body in his image and so its willful alteration was prohibited.²⁸ Tattoos were generally prohibited by Muslim theologians based on a Quranic verse in which Satan commands his followers to change what God has created. In the *hadith*, tattooing (*washm*) is prohibited, specifically by female tattoo artists and for women, possibly because of its connection with pre-Islamic Arabian forms of beautification.²⁹ Hadas Hirsch argues that this gendered prohibition was "a

²⁴*Qanun-i Nizam*, 1277 H. [1860/1], 76, cited in Yahya Mudarrisi, Husayn Sami'i, and Zahra Safavi Mubarrhan, *Farhang-i Istilahat-i Dawrah-i Qajar: Qushun va Nazmiyah* (Tehran: Daftar-i Pazhuhihshah-yi Farhangi, 2001), 250.

²⁵*Sahih al-Bukhari*, book 25, ch. 30, Hadith 1580. All Sunni *hadith* references are from the Ihsan Network, a database of reliable *hadith* (<https://www.ihsanetwork.org>).

²⁶*Sunan Abi Dawud*, book 2, ch. 159, Hadith 894.

²⁷*Musnad al-Imam Ahmad*, book 7, Hadith 12664.

²⁸For this prohibition in Jewish scriptures and interpretations, see C. P. Jones, "Stigma: Tattooing and Branding in Graeco-Roman Antiquity," *Journal of Roman Studies* 77 (1987): 139–55, 144. For parallels in Islamic *hadith*, see Hadas Hirsch, "Temporary and Permanent Body Modifications in Medieval Islam: The Legal Discussion," *British Journal of Middle Eastern Studies* 48, 4 (2021): 722–32, 727.

²⁹Quran 4:119; *Sahih al-Bukhari*, book 77, ch. 83, Hadith 6000; *Sahih al-Bukhari*, book 76, ch. 36, Hadith 5799; Göran Larsson, "Islam and Tattooing: An Old Question, a New Research Topic," *Scripta Instituti Donneriani Aboensis* 23 (2011): 237–56, 240–41.

declaration that women should not resemble animals that have to be marked with a tattoo as a proof of ownership.”³⁰ The Islamic prohibition of tattooing may also have been due to its links with magic.³¹ For instance, tattoos appear to have had a talismanic function in warding off the evil eye.³² A Shi’i *hadith* indicates a more specific reason why both tattooing and magic were prohibited: in it, Satan’s science was magic, his recitation was poetry, and his inscription was the tattoo.³³

One prominent nineteenth-century Shi’i jurist, Murtaza Ansari, prohibited tattooing despite its widespread practice in Iran, in accordance with certain *hadith*. He prohibited tattooing as a trade because it was a deceptive form of female ornamentation.³⁴ Despite this, nonelites in Iran, especially nomads and other social marginals, practiced tattooing as both a means of beautification and a talismanic protection. Women had their faces tattooed, including their eyebrows, chins, and lips, and their feet, hands, and breasts. Common images included “garlands of flowers, trees, and birds” or “a deer drinking water.”³⁵ The tattoo as a talisman, either as words or image, warding off the evil eye and protected its bearer.³⁶ Some men had the words “Oh ‘Ali, help!” (*ya ‘Ali madad*) tattooed on their arms, while others, especially victorious wrestlers, got lion tattoos.³⁷ Similarly, prostitutes in Kerman were tattooed “with a tree guarded by two chained lions” on “the front part of the body.”³⁸

Unlike tattooing, branding appears to have been prohibited for its connotation of excess pain. *Hadith* generally prohibited the branding of humans and animals. In one *hadith*, the Prophet prohibited “branding on the face and striking (it).”³⁹ Animals were specifically included in this prohibition, although it likely extended to humans as well.⁴⁰ In Islamic jurisprudence, both unnecessary cruelty to animals and the sanctity of the human face when inflicting punishment were emphasized in a manner consistent with these texts.⁴¹

³⁰Hirsch, “Temporary and Permanent Body Modifications,” 728.

³¹Johann Christoph Bürgel, *The Feather of Simurgh: The “Licit Magic” of the Arts in Medieval Islam* (New York: New York University Press, 1988), 13.

³²A *hadith* states the Prophet said the following: “The (evil) eye is real and he [God] prohibited tattooing.” *Sahih Bukhari*, book 77, ch. 86, Hadith 6007.

³³Muhammad Baqir ibn Muhammad Taqi Majlisi, *Bihar al-Anwar: al-Jami’ah li-Durar Akhbar al-Ai’mmah al-Athar* (Beirut: Dar Ihya’ al-Turath al-‘Arabi, 2011), 60: 281.

³⁴Murtada ibn Muhammad Amin Ansari, *Kitab al-Makasib* (Qum: Majma’ al-Fikr al-Islami, 1999), 1: 166–68.

³⁵Elena Andreeva, *Russia and Iran in the Great Game: Travelogues and Orientalism* (London: Routledge, 2010), 163.

³⁶The Amazigh of Morocco historically used tattoos as protection against the evil eye. Josep Lluís Mateo Dieste, *Health and Ritual in Morocco: Conceptions of the Body and Healing Practices* (Leiden: Brill, 2012), 97–98.

³⁷Major P. Molesworth Sykes, “Notes on Tattooing in Persia,” *Man: A Monthly Record of Anthropological Science* 9, 102 (1909): 177–78, 177.

³⁸*Ibid.*, 177.

³⁹*Sunan Tirmizhi*, book 19, ch. 30, Hadith 1413.

⁴⁰*Sunan Abi Dawud*, book 15, ch. 58, Hadith 2566.

⁴¹Christian Lange, “‘On that Day when Faces Will Be White or Black’ (Q3:106): Towards a Semiology of the Face in the Arabo-Islamic Tradition,” *Journal of the American Oriental Society* 127, 4 (2007): 429–45, 440–41; Sarra Tlili, “Animals Would Follow Shāfi’ism: Legitimate and Illegitimate Violence to Animals in Medieval Islamic Thought,” in Robert Gleave, ed., *Violence in Islamic Thought from the Qur’an to the Mongols* (Edinburgh: Edinburgh University Press, 2015), 237–38.

In *hadith* commentaries and works of ethics, branding is primarily mentioned as an otherworldly punishment. A Quranic passage describing the punishments awaiting unbelievers states that God “brands them on the snouts,” possibly a reference to the face.⁴² In an often cited *hadith*, the inhabitants of hell undergo all manners of burning tortures, including being branded by “molten metal.”⁴³ *Hadiths* vividly describe the face, sides, and back as spots that will be branded in hell.⁴⁴ Variants of these *hadith* appear in Persian works of Islamic ethics with little commentary, such as those of the medieval theologian Abu Hamid al-Ghazzali (d. 1111) and the Shi‘i jurist Mullah Ahmad Narraqi (d. 1829), yet a more elaborate discussion appears in a Safavid-era *hadith* commentary that provides further details as to the meaning of branding as divine punishment.⁴⁵ It mentions that the “possessor of gold or silver” would be repeatedly branded on the face, side, and back with “scrolls” or “books” heated by the fires of hell for fifty thousand years, until a final judgment could be made as to whether they would enter heaven or hell.⁴⁶ The *hadith* commentator, ‘Abd al-Baqi Sufi Tabrizi, explained why the rich (presumably those miserly toward the poor) would be branded in these three places for their sin. Each time they saw a poor person, the rich person scrunched up their brow (in disapproval), turned their back, and emptied their sides (refusing to give charity), which meant that their foreheads, backs, and sides deserved branding.⁴⁷ The otherworldly punishment by branding was reminiscent of an ordeal by fire in which a wrongdoer must endure torture before possibly being granted redemption in a way that paralleled its function in judicial torture.

While the worldly practices of branding and tattooing were prohibited in a range of Islamic texts, the symbolism of bodily inscription and branding stood out as powerful ways of conveying the exceptional status of their bearers. Branding was seen as a legitimate otherworldly punishment for unbelievers and Muslim sinners.

The Poetics of Branding

Building on the meanings of branding as ownership and otherworldly punishment, Persian poetry also makes ample allusions to it as a metaphor for love, cruelty, and pain. The dominant themes of such poetry include the relationship between God and humanity, slavery, the stain of human sinfulness, and branding as a punishment. At the center of this poetry often stands a beloved (worldly or divine) who is notoriously cruel and whose brand torments their lover.

⁴²Qur’an 68:16. The Arabic w-s-m connotes branding in this passage. See Larsson, “Islam and Tattooing,” 240–41.

⁴³Christian Lange, *Justice, Punishment and the Medieval Muslim Imagination* (Cambridge: Cambridge University Press, 2013), 150. Along similar lines, Al-Ghazzali suggests that one should stick one’s finger in a flame to test their tolerance of hell’s torments. Abu Hamid Muhammad Ghazzali, *Kimiya-yi Sa’adat* (Tihiran: Kitabkhanah va Chapkhanah-i Markazi, 1954), 777.

⁴⁴Lange, *Justice, Punishment*, 145–46.

⁴⁵Ghazzali, *Kimiya-yi Sa’adat*, 156; Ahmad ibn Muhammad Mahdi Narraqi, *Kitab-i Mi’raj al-Sa’adah* (Tihiran: ‘Ilmiyah Islamiyah, 1969), 624.

⁴⁶*Bihar al-Anwar*, 8: 243, cited in ‘Abd al-Baqi Šufi Tabrizi, *Minhāj al-wilāya fī sharḥ Nahj al-balāgha*, Ḥabīb-Allah ‘Azīmī, ed. (Leiden: Brill, 2019), 2: 846.

⁴⁷Tabrizi, *Minhāj al-wilāya fī sharḥ Nahj al-balāgha*, 2: 846.

In branding poetry, the dominant figure (God, prophet, or worldly beloved) brands the lover as a sign of domination. The branded figure welcomes the mark left behind by this encounter and may even have gained an elevated status because of it. This inversion of the usual meaning of branding parallels and possibly informs later religious appropriations of branding as a sign of spiritual suffering in a righteous cause. Nizami Ganjavi (d. 1209) employs the imagery of branding as both a form of servitude and punishment. Referring to God's relationship with humanity, Nizami writes, "Brand those with pure foreheads/Place a crown on the enthroned of the earth."⁴⁸ Since branding was a common sign of ownership, God's branding of humanity, by making them his slaves, is what elevates them to the status of kings, or "the enthroned of the earth." Elsewhere, he alludes more directly to branding the face as a punishment for sin while retaining the connotation of servitude: "He cast the tresses of the earth upon the world/He stamped the mark (*khal*) of the sinner upon the face of humanity."⁴⁹

In other poems, those branded are neither supplicant lovers nor suffering mystics, but evil figures who are either punished or infamous. Amir Khusraw (d. 1325) reserves the image of the branded forehead as a divine punishment for Satan in a manner reminiscent of *hadiths* about the Antichrist: "He (God) branded the forehead of Satan."⁵⁰ The "brand of wickedness" conveys the stigma of infamy, as in the following couplet by the poet 'Urfi (d. 1591): "You will never find a shaykh whose garment is pure/who does not have the brand of infamy upon their undergarments."⁵¹ In this line, the brand of infamy is hidden from plain sight, thus covering the shaykh's hypocrisy.

As a metaphor for love, Persian expressions and poetry allude to how branding binds the lover and beloved. To tattoo the hand or to burn a tattoo with "blue paper into the hand of a lover" signifies a love token: a visible marker of the lovers' bond.⁵² Jalal al-Din Rumi (d. 1273) made a similar reference to branding in a couplet recounting a crime: "The color is your color, you are my dyer/you are the source of my crime, my calamity, and my brand (*dagham*) [here meaning both punishment or pain/suffering]."⁵³ The poet Hafiz (d. 1390) uses the metaphor of branding the liver in a line describing a broken heart.⁵⁴ He describes a "branded heart" as in need of calm or medicine.⁵⁵ For Hazin Lahiji (d. 1766), the lover metaphorically became the Prophet Muhammad's slave: "I dwell in the sun

⁴⁸Nizami Ganjavi, Makhzan al-Asrar: *Matn-i 'Ilmi Intiqadi az ru-yi 14 Nuskhah-i Khatti*, Bihruz Sarvatiyan, ed. (Tihran: Amir Kabir, 2011), 36.

⁴⁹Ibid., 37.

⁵⁰Amir Khusraw Dihlavi, *Khamsah-i Amir Khusraw Dihlavi az ru-yi Nuskhahha-yi chap-i Anstutu-yi Khavarshinasi-i Shawravi Ma khaz az Qadimitarin Nuskhahha-yi Khatti-yi Mawjud*, Amir Ahmad Ashrafi, ed. (Tihran: Intisharat-i Shaqa'iq, 1983), 76.

⁵¹This part of the poem may be found in 'Ali Akbar Dihkhuda, "Dagh-i Fisq," *Lughatnamah* (Tihran: Majlis, 1946).

⁵²Steingass, *Comprehensive Persian-English Dictionary*, s.v. "Dagh," 498.

⁵³Jalal al-Din Rumi, *Sharh-i Jami'-i Masnavi-yi Ma'navi*, Karim Zamani Ja'fari, ed. (Tihran: Ittila'at, 1993), 410.

⁵⁴Khwajah Shams al-Din Muhammad Hafiz, *Divan-i Hafiz*, Parviz Natil Khanlari, ed. (Tihran: Khwarazmi, 1984), 241.

⁵⁵Ibid., 158, 356.

because of my slave brand for you/your name became my insignia for I am without name and station.”⁵⁶

Persian poetry conveyed the idea of branding as ownership, an expression of social identity, a metaphor for human-divine and human-human love, and a punishment or stain of infamy. Neither religious nor poetic traditions associated the brand with what was most commonly used on humans during the Qajar era: judicial torture.

Branding as Judicial Torture

Judicial torture was distinct from torture as punishment. It occurred *before* criminal guilt was established and was an instrument for establishing the truth of a crime that would lead to a conviction. Talal Asad defines judicial torture as the “application of pain to the body of the accused or of a witness, in order to extract a confession.”⁵⁷ Crucial to such torture was the rendering of “secret thoughts” into “meaningful sounds” that had to be repeated willingly in court as a basis for turning court “suspicions” into “knowledge” that could serve as the basis of a conviction.⁵⁸ Several scholars have argued that judicial torture combined elements of the earlier practice of the ordeal, in which an accused party might be subjected to physical torture to prove their innocence, and the inquisitory mode of questioning by a judge to determine the truth of a case, which became more common in thirteenth-century Europe.⁵⁹ In this shift from an ordeal to a trial by judge, Michel Foucault argues, torturing the body became a legal ceremony meant to produce the truth of a crime.⁶⁰

But what status does judicial torture have in Islamic jurisprudence? In classical Islamic jurisprudence, the majority of jurists rejected its use because the rules of evidence generally required a freely given confession, consistent witness testimony, or in cases of injury and murder, an oath procedure to establish guilt.⁶¹ In the *hudud* crimes, crimes requiring a fixed mandatory punishment, the existence of what Intisar Rabb has called a “doubt canon,” or the judge’s obligation to forego conviction if the evidence fell short of this high evidentiary bar, meant there was strong pressure not to prosecute.⁶² The criminal suspected of harboring a secret, in this case a “bad” one,

⁵⁶Muhammad ‘Ali Hazin Lahiji, *Divan-i Hazin Lahiji*, Zabih Allah Sahibkar, ed. (Tihran: Nashr-i Sayah, 1995), 54.

⁵⁷Talal Asad, “Pain and Truth in Medieval Christian Ritual,” in *Genealogies of Religion: Discipline and Reasons of Power in Christianity and Islam* (Baltimore: Johns Hopkins University Press, 1993), 84.

⁵⁸*Ibid.*, 93–94.

⁵⁹Asad, “Pain and Truth”; Michel Foucault, “Truth and Juridical Forms,” *Social Identities* 2, 3 (1996): 327–42.

⁶⁰Michel Foucault, *Discipline and Punish: The Birth of the Prison* Alan Sheridan, trans. (New York: Vintage, 2012), 35.

⁶¹Rudolph Peters, *Crime and Punishment in Islamic Law: Theory and Practice from the Sixteenth to the Twenty-First Century* (Cambridge: Cambridge University, 2005), 12–19. This high evidentiary burden is similar to that of Roman canon law. John H. Langbein, *Torture and the Law of Proof: Europe and England in the Ancien Régime* (Chicago: University of Chicago Press, 2012), 3–5.

⁶²For doubt in Shi‘i jurisprudence, see Intisar Rabb, *Doubt in Islamic Law: A History of Legal Maxims, Interpretation, and Islamic Criminal Law* (Cambridge: Cambridge University Press, 2017), 260–315. For a nineteenth-century Shi‘i jurist’s discussion of this principle, see Muhammad Hasan Najafi, *Jawahir al-Kalam* (Bayrut: Dar Ihya’ al-Turath al-‘Arabi, 1981), 34: 302; 41: 481.

therefore enjoyed a level of inviolability.⁶³ This high burden of evidence for conviction became a legal barrier for government authorities intent on convicting criminals.

Beyond the classical position, there were two other broad views on judicial torture. The Shafi'i jurist and political theorist al-Mawardi (d. 1058) believed that it was forbidden in an Islamic court but permissible for rulers and executive authorities. This position most resembles how judicial torture was practiced in Muslim societies historically, which included government and police officials use of branding as an "investigative technique."⁶⁴ In the thirteenth century, the Mamluk scholar Ibn Taymiyyah articulated the doctrine of *siyasa shari'yyah*, or shari'ah-bound policies, which included for the first time a shari'ah justification of judicial torture.⁶⁵ Several other late medieval Sunni jurists echoed this justification, although it is unclear if the doctrine was ever applied in actual criminal cases at a shari'ah court.⁶⁶

Like its classical Sunni counterpart, Shi'i jurisprudence viewed torture as an illegitimate means of extracting evidence for a criminal conviction. A Safavid-era Shi'i jurist stated, "If a person confesses through force and torture (*shikanjah*), it [the confession] has no credibility."⁶⁷ A voluminous and widely used mid-nineteenth-century textbook of Shi'i jurisprudence echoed this position: in considering the example of "confession by beating," the author considered it invalid because it was "confession through torture" (*i'tiraf 'ala al-'azhab*).⁶⁸

From the mid-nineteenth century onward, Shahs and their Prime Ministers in Iran issued imperial rulings (*farmans*) banning the use of judicial torture by governors on similar grounds. Prime Minister Hajji Mirza Aqasi composed one such imperial ruling banning torture to gather evidence for crimes such as theft, murder, and other "ugly acts." Judicial torture was described as both against the shari'ah and "the necessities of justice and fairness (*'adl va insaf*)"; governors were expected to rely instead on reliable documents (*asnad*) gathered from the parties involved.⁶⁹ This ban was renewed when Nasir al-Din Shah barred the use of judicial torture to make suspects confess to crimes or reveal hidden stolen property, this time appealing not only to the shari'ah for justification but also to "chivalry" (*muravvat*) and personal imperial "opinion" (*ra'i*).⁷⁰

⁶³Michael Cook, *Commanding Right and Forbidding Wrong in Islamic Thought* (Cambridge: Cambridge University Press, 2010); Ruqayya Yasmine Khan, *Self and Secrecy in Early Islam* (Columbia: University of South Carolina Press, 2008).

⁶⁴Lange, *Justice, Punishment*, 73–74; Sadiq Reza, "Torture and Islamic Law," *Chicago Journal of International Law* 8, 1 (2007): 21–42, 25.

⁶⁵Baber Johansen, "Signs as Evidence: The Doctrine of Ibn Taymiyya (1263–1328) and Ibn Qayyim al-Jawziyya (d. 1351) on Proof," *Islamic Law and Society* 9, 2 (2002): 168–93. See also Reza, "Torture and Islamic Law."

⁶⁶Christian Lange, "Torture and Public Executions in the Islamic Middle Period (Eleventh–Fifteenth Centuries)," in Harriet Zurndorfer, Matthew Gordon, and Richard Kaeuper, eds., *The Cambridge World History of Violence: 500–1500 AD*, vol. 2 (Cambridge: Cambridge University Press, 2020), 167–69.

⁶⁷Muhammad Baqir Majlisi, *Hudud va Qisas va Diyat*, 'Ali Fazil, ed. (Qum: Nashr-i Asar-i Islami, 198 [?]), 87.

⁶⁸Najafi, *Jawahir al-Kalam*, 41: 525.

⁶⁹Faridun Adamiyat, *Amir Kabir va Iran* (Tihran: Intisharat-i Khvarazmi, 1982), 314.

⁷⁰*Ibid.*, 315.

Despite the apparent consistency between Shi'i jurisprudence and *farmans* in nineteenth-century Iran in rejecting judicial torture, it was regularly employed both by governors and by the Shah's court in practice. Since circumstantial evidence, no matter how strong, was usually seen as legally insufficient for conviction, the torturer's task was to render secrets public so as to approximate the ideal standard of evidence required to punish a criminal.

The Judicial Torture of Babis and Baha'is

During the Nasiri era (1848–1896) in Iran, government officials repeatedly branded suspects to elicit confessions or names of co-conspirators. The court of Nasir al-Din Shah favored branding in cases of suspected sedition, whether the suspects were members of the royal family, Babis, or Baha'is. In provincial centers such as Shiraz, governors employed branding in murder cases in which there was insufficient evidence to convict suspects. The branders were typically the head-attendants (*farrashbashi*) of the Shah or a provincial governor, and/or their executioner (*mir ghazab*).

One of the best-documented episodes of branding as judicial torture emanated from a Babi plot to assassinate Nasir al-Din Shah in the early 1850s. One would-be assassin, Mullah Muhammad 'Ali Nayrizi, sought vengeance for the branding of his twelve-year-old brother; Nayrizi's governor had the brother repeatedly branded in front of his mother so she would transfer her property legally to him, and he eventually died. Nayrizi made common cause with several others.⁷¹ The attempt on the Shah's life failed and most of the plotters were subsequently subjected to judicial torture.

Most of the main would-be assassins involved in this episode were branded to extract the names of their accomplices. For example, Mullah Fathullah Qummi underwent branding (*dagh va dirafsh*) but revealed no names.⁷² The most prominent of the group was Shaykh 'Azim. The Shah ordered his Farrashbashi, Hajj 'Ali Khan Hajib al-Dawlah, to torture him, and he had the executioners under his command brand him two hundred times. Despite this, Shaykh 'Azim incriminated no one.⁷³ If the torturer understood branding as a means of summoning the body to speak truth, the tortured who endured it, and their supporters, understood it as the righteous body remaining silent in its truth.

Not all those subjected to branding torture remained silent. In the late summer and early fall of 1852 (1268 H.), Nasir al-Din Shah strongly suspected that his half-brother, the governor of the city of Qum 'Abbas Mirza (later Mulk Ara), had conspired with the group of Babis involved in this same assassination attempt. Since his half-brother was of royal status and a relative, the Shah likely hesitated to order his torture. Instead, his close associate, the Babi head shrine guardian

⁷¹Asad Allah Fazil Mazandarani, *Tarikh-i Zuhur al-Haqq*, vol. 3 (n.p., n.d.), 299–300; Muhammad Tahir Malmiri, *Khaṭirat-i Malmiri: Sharh-i Tasharruf-i Huzur-i Jamal-i Qidam va Sa'ir-i Vaqayi' dar 'Asr-i Rasuli va Aghaz-i Asr-i Takvin* (Langenhain: Bahá'í-Verlag, 1992), 25. For a similar gubernatorial use of torture alongside property seizure of a Kashani Jewish craftsman in 1884/5 (1302 H.), see Faridun Adamiyat and Huma Natiq, *Afkar-i Ijtima'i va Siyasi va Iqtisadi dar Asar-i Muntashir Nashudah-i dawran Qajar* (Tihran: Intisharat-i Agah, 1989), 307.

⁷²Mazandarani, *Tarikh-i Zuhur al-Haqq*, vol. 4, 69–70.

⁷³*Ibid.*, 112.

(*mutivallibashi*) of Qum, Mirza Husayn Mutivallibashi, was chosen to provide the sought-after evidence. Royal guards detained the shrine guardian and brought him to Tehran, where he was handed over to the Shah's Farrashbashi for interrogation. The Farrashbashi handed a document to Mirza Husayn Mutivallibashi which stated that he and the other Babis had been instructed by 'Abbas Mirza to kill the Shah. The Mutivallibashi refused to sign the statement, claiming that it was filled with lies. At this point, the Farrashbashi told him that he would either sign it or be branded. Shortly thereafter, a fire was brought, and the Farrashbashi branded the Mutivallibashi on the chest and back. According to one account, he was branded in this manner eighty times before he revealed several names. Out of pain and fear for his life, he stamped the document, which was then taken to the Shah and used as the legal basis for detaining, imprisoning, and later exiling 'Abbas Mirza for the crime of conspiring to kill the Shah. Ironically, the Farrashbashi had been branded during the previous Shah's reign because of 'Abbas Mirza, so he may have relished the opportunity to repay the deed.⁷⁴

The use of branding to judicially torture Babis, especially after the plot to kill the Shah, continued well into the 1860s despite shifting European and colonial norms away from branding specifically and judicial torture generally. The best-documented example was the branding of Mirza Buzurg Badi', an eighteen-year-old follower and messenger for the exiled Baha'u'llah, the Prophet-founder of the Baha'i Faith and an early follower of the Bab. Badi' traveled from 'Akka in the Ottoman Empire to Iran on foot to deliver a special tablet (*lawh*) of Baha'u'llah's that was addressed to Nasir al-Din Shah in 1869 (1268 H.). He approached the hunting grounds of Nasir al-Din Shah outside of Tehran to present it directly to the Shah. Although he managed to do so, given the suspicion of Babis (the distinction between Babis and Baha'is was not well-known at the time), the Shah ordered his Farrashbashi, Kazim Khan, to torture Badi' for the names of his contacts. The torturers stripped off his clothes, "put the iron rods to the fire," and proceeded to brand his back in a tent which became engulfed with the smell of burning flesh. When the torture did not elicit the desired information, the executioners became angry and plunged the iron rods across his chest, drawing two lines across it from right to left and then left to right. On neither occasion did Badi' buckle, at which point the Shah ordered that he be photographed before he was eventually executed. In both Baha'i and Muslim accounts, Badi' showed no signs of pain, nor did he beg for mercy from his torturers; he smiled and laughed. The Farrashbashi eventually ordered another attendant (*farrash*) to pound Badi's head to a pulp with a pounder meant for iron pegs, while another account stated that his head was smashed by the butts of rifles.⁷⁵ In Baha'i hagiography, he stood out as a

⁷⁴Abbas Mirza Mulk Ara, *Sharh-i Hal-i 'Abbas Mirza Mulk Ara*, 'Abd al-Husayn Nava'i and 'Abbas Iqbal, eds. (Tihiran: Intisharat-i Babak, 1976), 49–50. The Shah subsequently accused 'Abbas Mirza of sedition in an imperial rescript (*dastkhatt*), Mulk Ara, 24–25. See also Abbas Amanat, *Pivot of the Universe: Nasir al-Din Shah and the Iranian Monarchy, 1831–1896* (Berkeley: University of California Press, 1997), 220. According to the official newspaper report, the Mutivallibashi was branded eighty times before giving up the names of several Babis. *Ruznamah-i Vaqayi'-i Ittifaqiyah* (19 Aug. 1852/3 Zi Qi'dah 1268 H.). For an alternative account, see Mazandarani, *Tarikh-i Zuhur al-Haqq*, 4: 73.

⁷⁵Mazandarani, *Tarikh-i Zuhur al-Haqq*, 6: 111–16; H. M. Balyuzi, *Baha'u'llah: Shams-i Haqiqat*, Minu Sabit, trans. (Oxford: George Ronald, 1989), 376–94; Abbas Amanat and Fereyduun Vahman, *Az Tihiran Ta 'Akka: Babiyan va Baha'iyān Dar Asnad-i Dawran-i Qajar* (New Haven: Nashr-i Ashkar, 2016), 404–14. For the letters between Iranian statesmen about this episode, see *ibid.*, 229–32.

martyr whose endurance and silence in the face of torture exemplified the strength of his conviction. In fact, the silence of the body when it should have spoken under the pain of torture was seen as proof of its truth: “But, torture, brand, and torment him as they might, they saw naught but steadfastness and silence, and found naught but dumb endurance [on his part].”⁷⁶ Instead of merely seeing this episode as a failure of judicial torture, those who memorialized the tortured read it as an ordeal by fire that vindicated its truth, an inversion of meaning common in branding punishments.

The judicial torture of Babis and Baha’is assumed the existence of a wide underground network of conspirators. Often, those tortured were assumed to be front-persons for more prominent masterminds. Through the infliction of searing pain on the body, usually the chest and/or the back, the torturers hoped to ascertain a hidden truth. For those who managed to survive the ordeal of judicial torture without incriminating themselves or others, the meaning of torture was reversed, and became to a sign of vindication and righteousness in the face of pain and death.

Investigative Torture in Murder Cases

Investigative torture was also employed in murder cases. Much as in early-modern France, Qajar-era branding was often intended to implicate an associate rather than the tortured as the murderer or criminal mastermind.⁷⁷ In some cases women were also threatened with branding. When a confession or incriminating testimony was offered, especially before branding took place, suspects sometimes received leniency in return.

In the 1884 murder of a dervish in Shiraz, local government authorities used branding as a means to extract a suspect’s confession. The city magistrate (*biglarbigi*), Muhammad Riza Qavam al-Mulk, appointed Hajji Aqa Farrashbashi and twenty *farrashes* to track down the murderer. When a witness provided them with two names—‘Abd al-Husayn and Sayyid Mirza ‘Ali—the Farrashbashi raided the home of the former and proceeded to interrogate him. He denied all involvement. They had him beaten with sticks and branded for three days, but he refused to confess. The other suspect, Sayyid Mirza ‘Ali, was similarly investigated. Although he endured being beaten by a stick, he agreed to confess when he saw the branding rod put into the flame. He told his torturers: “Do not brand me and also promise that you will not kill me so that I will tell you the truth about what happened.” In front of his friend, ‘Abd al-Husayn, Sayyid Mirza ‘Ali narrated what had transpired after receiving his assurance. He admitted to holding down the murder victim while ‘Abd al-Husayn mutilated him and murdered him. The case ended with ‘Abd al-Husayn being mutilated and then executed. Sayyid Mirza ‘Ali’s hand was cut off for his role.⁷⁸ The threat of branding led Sayyid Mirza ‘Ali to confess to a joint crime, and he thereby averted a death sentence for himself but provided the proof required for conviction.

⁷⁶Abdu’l-Bahá, *A Traveller’s Narrative: Written to Illustrate the Episode of the Báb*, Edward Granville Browne, trans. (Cambridge: Cambridge University Press, 1892), 1: 131; 2: 105.

⁷⁷Paul Friedland, *Seeing Justice Done: The Age of Spectacular Capital Punishment in France* (Oxford: Oxford University Press, 2014), 93.

⁷⁸Ali Akbar Sa’idi Sirjani, ed., *Vaqayi’-i Ittifaqiyah: Majmu’ah-i guzarishha-yi khafiyah navisan-i Inglis dar vilayat-i junubi-i Iran az sal-i 1291 ta 1322 h.q.* (Tihran: Nashr-i Naw, 1982), 223–24.

In 1901, two Russian subjects, Sattar and Muhsin, murdered an Ottoman hide merchant in Shiraz. The apprentice of the murdered man, along with his father, reported their suspicions as to the identity of the murderers to the Biglarbigi. After two or three days, the government's investigatory council determined that the two Russian subjects were likely guilty. The Biglarbigi then summoned the wife of Sattar, who was threatened with the brand if she did not "reveal" what happened. The threat of torture was effective: she told the entire story to the Biglarbigi, including where the body could be found.⁷⁹ An irrigation expert was called in to recover the corpse from a nearby well. The Biglarbigi had the body buried and Sattar, Muhsin, and the wife of Sattar were all arrested.⁸⁰ Because those involved were foreign subjects, the case ultimately ended in a settlement rather than a punishment, but it is noteworthy that their status as foreigners did not protect them from the threat of torture.⁸¹

In the Fall of 1847, the murder of the prominent Shi'i scholar Hajji Mullah Taqi Baraghani in Qazvin led to the threat of branding for the purpose of collecting evidence. Executioners threatened the servant of the Babi female leader, Qurrat al-'Ayn Tahirah, if she did not implicate her master in the murder. A heavy door was placed on her hands while the executioner heated rods to brand her outside of the interrogation room. The threat did not lead any of the accused to confess, and the branding was avoided only because an excited crowd had gathered, saying "the murderer has been found," announcing that another man had claimed responsibility for the crime.⁸² Here again, the threat of branding was directed against a woman and appears to have been intended for her hands rather than her back or chest, suggesting a gendered difference in branding practices.

Finally, as in the 1852 assassination attempt on the Shah's life, in which one accused assassin had been motivated in part by a previous branding, the man who succeeded in killing him in 1896, Mirza Riza Khan Kirmani, had been on the receiving end of judicial torture by branding in the early 1890s. The governor of Qazvin, Vakil al-Dawlah, and the son of Nasir al-Din Shah, Kamran Mirza Na'ib al-Saltanah, had extracted confessions by stripping down Kirmani and branding him. These confessions implicated him for mobilizing people during the Tobacco Protest movement (1890–1892).⁸³ The humiliation of being branded and otherwise tortured at least partially motivated Mirza Riza Khan Kirmani to assassinate the Shah, whose name, for his opponents, had become synonymous with torture.

Judicial torture through branding was meant to yield confessions or testimonies implicating others in crimes. There was often a gap, though, between the intention of torture—the production of credible evidence—and the desired form of conviction. In

⁷⁹Ibid., 631–32.

⁸⁰Ibid., 660.

⁸¹Ibid., 662.

⁸²Shaykh Kazim Samandar, *Tarikh-i Samandar va Mulhaqat*, 'Abd al-'Ali 'Ala'i, ed. (Tihran: Mu' assasah-yi Milli-i Matbu'at-i Amri, 1975), 357–58; Mazandarani, *Tarikh-i Zuhur al-Haqq*, vol. 2, 179–80; Abbas Amanat, *Resurrection and Renewal: The Making of the Babi Movement in Iran, 1844–1850* (Ithaca: Cornell University Press, 1989), 332–33.

⁸³Edward Granville Browne, *The Persian Revolution of 1905–1909* (Cambridge: Cambridge University Press, 1910), 67–69. According to another account, Kirmani's entire body was branded on one of these occasions in Qazvin. Lutf Allah Asadabadi, *Sharh-i Hal va Asar-i Sayyid Jamal al-Din Afghani ma'ruf bih Afghani* (Tihran: Intisharat-i Sahar, 1977), 67. For a discussion of this episode and the use and threat of branding, see Darius M. Rejali, *Torture and Modernity: Self, Society, and State in Modern Iran* (Boulder: Westview, 1994), 22.

some cases, the branded suspect refused to implicate anyone else and even laughingly goaded their inquisitors for their efforts to inflict pain. In other instances, the threat or reality of pain led suspects to sign testimonies that they thought untrue, but which served the objective of an official in charge of the investigation. In several murder cases, local officials already had what they felt to be compelling evidence of criminal guilt, but they used branding to extract a confession from suspected accomplices to provide a stronger legal basis for conviction. Branding as judicial torture almost always appears to have occurred outside of public view, attended by only government officials, such as the governor, city magistrate, attendants, and executioners. And while the intent was to generate a public declaration or signed testimony or confession, the torture itself and its effects were usually concealed from outsiders since they were not meant as punishments.

Branding as Punishment: Identification and Shame

Unlike judicial torture, branding or tattooing as punishments communicate criminal status to others. While the act of branding may not have been performed in public, the brand mark was usually intended to be visible. The favored spot for branding as punishment was not the back, chest, or even the hand, but the forehead. In a number of societies across diverse geographies and ages, the offenses singled out for branding included theft, sexual immorality, heresy, and military desertion. Also sometimes branded were those condemned to life imprisonment. The message of facial branding appears to have operated on two levels: as a way to identify and capture repeat offenders likely to escape incarceration, and as a means of shaming. The mark could be a symbol, a letter, a word, or even a phrase.

It is tempting to approach a “branding society” by castigating it as “culturally deficient, irrational, violent, and dangerous” and to take an “ameliorist perspective,” like that of Norbert Elias, in which punishments like branding are aberrations of modernity that will disappear as “civilization” takes hold.⁸⁴ For Pieter Spierenburg, a historian inspired by Elias’ ideas, the shift away from branding paralleled a change in the history of emotions in Europe, in which the people came to feel disgust at the sight of public violence.⁸⁵ Certainly, such changes in emotions did occur across many segments of society, but this does not explain branding’s cultural meanings and legal functions, or the persistence of torture and even branding after such changes took place.

Sovereignty often lies at the juridical core of branding as a punishment. Jane Caplan argues that the branding and marking of slave bodies and the foreheads of criminals embodied sovereign authority through the “involuntary and painful infliction of power.”⁸⁶ Employing the insights of Giorgio Agamben, Patricia Skinner reads “extreme acts,” including branding and tattooing the face, as permitted to the ruler as part of the sovereign’s “constituting power” that operated

⁸⁴G. Geltner, *Flogging Others: Corporal Punishment and Cultural Identity from Antiquity to the Present* (Amsterdam: Amsterdam University Press, 2015), 15.

⁸⁵Pieter Spierenburg, *The Spectacle of Suffering: Executions and the Evolution of Repression from a Preindustrial Metropolis to the European Experience* (Cambridge: Cambridge University Press, 2008).

⁸⁶Jane Caplan, “‘Speaking Scars’: The Tattoo in Popular Practice and Medico-Legal Debate in Nineteenth-Century Europe,” *History Workshop Journal* 44 (1997): 106–42, 115.

“outside the law.” This “potential use of force” was therefore exceptional and “only used and visible when forced upon the ruler by the transgressor.”⁸⁷

Branding also functioned as a form of social exclusion, castigation, and visual differentiation of the “deviant.” Esther Cohen has succinctly captured two central functions of “physical marking and mutilation”: “The pain they caused was both purifying and retributive, but the long-term result was to set the criminal apart from society for life....”⁸⁸ Building on these insights, Paul Friedland considers branding as involving a ritual “casting out of the condemned” through a “visible mark of their difference” in a way that parallels mutilation and banishment.⁸⁹ Banishment itself often involved branding or mutilation to differentiate “the condemned from others in the community” in case they escaped or broke their pledge to live elsewhere.⁹⁰

The branded and mutilated body was meant to communicate a permanent message of ejection, making social reintegration next to impossible. Those branded or otherwise mutilated were, in medieval Europe, “labelled for life as criminals and marginals.”⁹¹ As Geltner observes, branding enforced a “long-term measure” in which offenders were forced to “roam the earth, excluded from all activities relating to the Law.”⁹² Seen from a semiotic perspective, branding not only hurts but “indexes varieties of social otherness.” The altered body thus “comprises rather than symbolizes a penal act” in which the intention is to eliminate ambiguities in normative boundaries.⁹³

The ejection of a person from normative society by branding was violent, dehumanizing, and bestializing.⁹⁴ This marginalizing process is captured in a word of Greek origin, “stigma,” which today means “symbol of disgrace.” But for much of its history before the eighteenth-century, stigma meant tattoos in a number of European languages. Branding and tattooing involved forcibly transforming someone from “normal” to “stigmatized” through “an act of violence and a gesture of domination.”⁹⁵ Erving Goffman defined stigma as “bodily signs designed to expose something unusual and bad about the moral status of the signifier,” such that these signs advertise “that the bearer was a slave, a criminal, or a traitor—a blemished person, ritually polluted, to be avoided, especially in public places.”⁹⁶ Lisa Silverman, similarly concerned with the public message of branding, considered the branded shoulders of the condemned in early modern France as indicative of how the streets became a “theater in which identity was performed” and “the body was its stage.”⁹⁷ In nineteenth-century Czarist Russian law, branding was one of the “most serious forms

⁸⁷Patricia Skinner, *Living with Disfigurement in Early Medieval Europe* (New York: Palgrave Macmillan, 2017), 72.

⁸⁸Esther Cohen, *The Crossroads of Justice: Law and Culture in Late Medieval France* (Leiden: Brill, 1993), 168.

⁸⁹Friedland, *Seeing Justice Done*, 90.

⁹⁰Ibid., 100.

⁹¹Cohen, *Crossroads of Justice*, 167.

⁹²Geltner, *Flogging Others*, 34.

⁹³Ibid., 27.

⁹⁴Ditchey, “Body Language,” 1.

⁹⁵Ibid., 20.

⁹⁶Goffman, *Stigma*, 1.

⁹⁷Lisa Silverman, *Tortured Subjects: Pain, Truth, and the Body in Early Modern France* (Chicago: University of Chicago Press, 2014), 27–28.

of punishment” since “general opinion concerning branding maintains that it inspires loathing [of] those who are so marked and visits upon them shame.”⁹⁸

At another level, branding not only maintains social boundaries but also constructs social identities through “visible marks.” It was intended as a penal measure to keep “fugitives and vagrants” from contesting the Russian state’s “rigorous status system.”⁹⁹ As a British penal policy, the tattoo became a method of policing and deciphering criminal identity, especially among the “dangerous” and laboring classes.¹⁰⁰

From the top down, forcible branding and tattooing were sometimes used to assert authority over subordinated criminal bodies. Viewed from a community perspective, it was an act of ejection, exclusion, and visual stigmatization. Bodily inscriptions were intended to erect a permanent boundary between the normal and the abnormal, the fully human and the bestial. Branding constituted and maintained social categories, and so lent itself to government projects of policing and surveillance.

Branding and Forced Tattooing as Punishment in World History

Beyond expressing ownership, branding slaves functioned as a punishment in its own right. In ancient Mesopotamia, branding runaway slaves who had been recaptured was a way of robbing them of control over their bodies.¹⁰¹ This was embodied in the words branded on their foreheads, “Runaway! Seize (me)!” which were repeated almost verbatim in marks used on Roman runaway slaves several millennia later.¹⁰² According to Orlando Patterson, branding in the Americas was primarily used for identification until the second half of the eighteenth century, but after that it was used as a “punishment on runaway slaves and insubordinate slaves.”¹⁰³ In the mid-nineteenth century, states including Kentucky and South Carolina allowed the branding of slaves as punishment.¹⁰⁴ In Georgia, slaves convicted of crimes were flogged and branded with the letters A for arson, B for burglary, and M for murder.¹⁰⁵ The Barbados Code of 1688 stated that slaves should be branded with a hot iron as punishment.¹⁰⁶ Runaway slaves in colonial Brazil who formed maroon communities inverted the meaning of being branded with the letter F by viewing it as a badge of honor.¹⁰⁷

⁹⁸ Abby M. Schrader, “Branding the Exile as ‘Other’: Corporal Punishment and the Construction of Boundaries in Mid-Nineteenth-Century Russia,” in David L. Hoffmann and Yanni Kotsonis, eds., *Russian Modernity: Politics, Knowledge and Practices, 1800–1950* (London: Palgrave Macmillan, 2000), 33.

⁹⁹ *Ibid.*, 35; Abby M. Schrader, “Branding the Other/Tattooing the Self: Bodily Inscription among Convicts in Russia,” in Jane Caplan, ed., *Written on the Body: The Tattoo in European and American History* (Princeton: Princeton University Press, 2000), 174, 179.

¹⁰⁰ Caplan, “Speaking Scars,” 109.

¹⁰¹ Ditchey, “Body Language,” 2.

¹⁰² *Ibid.*, 7.

¹⁰³ Orlando Patterson, *Slavery and Social Death: A Comparative Study* (Cambridge: Harvard University Press, 1982), 59.

¹⁰⁴ Goffman, *Stigma*, 46; Patterson, *Slavery and Social Death*, 59.

¹⁰⁵ Geltner, *Flogging Others*, 74.

¹⁰⁶ Clare Anderson, “Godna: Inscripting Indian Convicts in the Nineteenth Century,” in Jane Caplan, ed., *Written on the Body: The Tattoo in European and American History* (Princeton: Princeton University Press, 2000), 107.

¹⁰⁷ Patterson, *Slavery and Social Death*, 59.

In the ancient Mediterranean and Asia branding was used to punish a host of other crimes. Branding was a common punishment in the Shang Dynasty (ca. 1600–1046 BCE).¹⁰⁸ The Buddhist law code (second or third century BCE) employed images in its branding punishments: illicit sex with an elder's wife was represented by a vagina icon, drinking liquor in a tavern, theft with a dog's foot, and killing a Brahmin with a headless man.¹⁰⁹ The Code of Hammurabi (ca. 1755–1750 BCE) called for a false accuser to be branded on the forehead.¹¹⁰ In a case from Achaemenid Iran, a judge threatened to stigmatize a woman as being of ill repute by branding her when a man attempted to marry her without her father's consent.¹¹¹ A portion of the Avesta, the Zoroastrian holy book, prescribes branding as a punishment for theft and identifies "suitable places for branding."¹¹² The Greek philosopher Plato argued that a slave or foreigner caught stealing from a temple should be punished by having the crime written on their hands and face.¹¹³ The ancient Greeks, who likely learned to use tattoos or branding as a punishment from the Persians, passed on this practice to the Romans, who used it especially for runaway slaves.¹¹⁴ The bishop Macedonius, under the rule of Constantinus, occasionally branded heretics on the forehead "with a hot iron as *infamis*."¹¹⁵

In medieval Europe, the list of crimes punished by branding was expanded to include not just heresy but also blasphemy, theft, and giving false testimony. Heretics were sometimes branded on their forehead or cheek in a continuation of the late antique practice.¹¹⁶ Louis IX branded blasphemers on the face and included this punishment in his legal customary compilation, *Establisement* (ca. 1254).¹¹⁷ Much like in the case of Brazilian maroon communities, certain Christians gave a positive mystical connotation to stigmata, which came to mean a metaphorical "mark of disgrace or ridicule ... for participation in Jesus's suffering."¹¹⁸ The Lombard king Liutprand's laws of 726 included branding on the forehead as a punishment for theft.¹¹⁹ The Assizes Codex of the Lusignan Kingdom of Cyprus assigned branding as punishment for people testifying for gain and first-time thieves.¹²⁰

European states continued branding into the early modern period, albeit in less visible ways. William Shakespeare's plays include passages considered to be references to branding as a punishment for prostitutes.¹²¹ In France, those

¹⁰⁸Geltner, *Flogging Others*, 30.

¹⁰⁹Anderson, "Godna," 106; Geltner, *Flogging Others*, 33.

¹¹⁰Geltner, *Flogging Others*, 36.

¹¹¹Ditchey, "Body Language," 14.

¹¹²Mansour Shaki, "DĀD NASK," *EIr*.

¹¹³Plato, *The Laws of Plato*, Thomas L. Pangle, trans. (Chicago: University of Chicago Press, 1988), 246.

¹¹⁴Jones, "Stigma," 147–48.

¹¹⁵Sarah Bond, "Altering Infamy: Status, Violence, and Civic Exclusion in Late Antiquity," *Classical Antiquity* 33, 1 (2014): 1–30, 19.

¹¹⁶R. I. Moore, *The Formation of a Persecuting Society* (Oxford: Blackwell Publishing, 2007), 26.

¹¹⁷Geltner, *Flogging Others*, 64; Mary Mansfield, *The Humiliation of Sinners: Public Penance in Thirteenth-Century France* (Ithaca: Cornell University Press, 2018), 278.

¹¹⁸Jones, "Stigma," 150.

¹¹⁹Skinner, *Living with Disfigurement*, 71.

¹²⁰*Ibid.*, 130.

¹²¹See Shakespeare's plays *The Comedy of Errors*, 2.2.129, and *Hamlet*, 3.4: 40–45; Standish Henning, "Branding Harlots on the Brow," *Shakespeare Quarterly* 51, 1 (2000): 86–89, 86. Henning argues branding was never used as a punishment during Shakespeare's time, but this does not exclude its use in a literary text.

condemned to work in the galleys were branded with the *fleur-de-lis*, and had their nose and ears cut off.¹²² A 1724 French royal declaration replaced this symbol with V for thieves, GAL for those sentenced to the galleys, and double V for female criminals.¹²³ This shift from symbols to letters may indicate increased literacy. As late as 1810, the French Penal Code included an article on branding criminals with the letter R.¹²⁴ Spierenburg notes that by the early modern era in Amsterdam branding had become less visible: the shoulder, or sometimes the ear, or the ball of the thumb, were the body parts chosen for branding. He views this shift as significant since, hidden beneath clothes, the brand was less public.¹²⁵ Only by the first half of the nineteenth century was branding abolished in England, France, and other parts of Europe.¹²⁶

Branding and tattooing were also culturally legible punishments in the Middle East and South Asia. The eleventh-century Saljuq vizier Darguzini was branded before being put to death in a spectacular fashion on the gallows.¹²⁷ The Ottoman Sultan Bayazid II's legal code, *Kanunname*, included multiple branding punishments. A woman who willingly was abducted or ran away from her house was to be punished by branding on the vulva.¹²⁸ A second situation which warranted branding, this time on the forehead, was a pimp involved in procurement.¹²⁹ After the mass executions of Shi'is during the reign of Sultan Selim, the remaining known Shi'is were purportedly branded on the forehead as a stigma mark.¹³⁰ In early nineteenth-century Egypt, the reformist governor Muhammad 'Ali Pasha furthered his goal of population control by branding criminals publicly.¹³¹ An eighteenth-century Armenian-Iranian law code designates branding and nose-cutting as punishments for those convicted of incest with in-laws, aunts, uncles, step-children, or step-parents.¹³²

British-rulers of India continued earlier practices of local Muslim governments of using public shaming rituals as punishment, but later employed tattooing as a way to identify runaway prisoners. In eighteenth-century Bengal, the name of the criminal and their offense took the form of a tattoo (*godna*) on their forehead as a part of the publicizing (*tashhir*) punishment.¹³³ Colonial Indian governments continued

¹²²Friedland, *Seeing Justice Done*, 100; Langbein, *Torture and the Law of Proof*, 31.

¹²³Friedland, *Seeing Justice Done*, 100; Geltner, *Flogging Others*, 65.

¹²⁴Foucault, *Discipline and Punish*, 100.

¹²⁵Spierenburg, *Spectacle of Suffering*, 69–70.

¹²⁶Foucault, *Discipline and Punish*, 10.

¹²⁷Lange, *Justice, Punishment*, 74.

¹²⁸Uriel Heyd, *Studies in Old Ottoman Criminal Law*, V. L. Ménage, ed. (Oxford: Clarendon Press, 1973), 59, 98.

¹²⁹See Article 75 in *ibid.*, 76, 114. Leslie Peirce suggests this article only refers to a male pimp, while Heyd does not specify their gender. Leslie Peirce, "Domesticating Sexuality: Harem Culture in Ottoman Imperial Law," in Marilyn Booth, ed., *Harem Histories: Envisioning Places and Living Spaces* (Durham: Duke University Press, 2010), 115. The Ottoman criminal code also included branding (*damgha*) for someone "who patently commits a fraudulent and deceitful act." Heyd, *Studies in Old Ottoman Criminal Law*, 83, 121.

¹³⁰Nasr Allah Falsafi, *Zindagani-i Shah 'Abbas Avval* (Tehran: Intisharat-i 'Ilmi, 1985), 3: 34.

¹³¹Khaled Fahmy, *In Quest of Justice: Islamic Law and Forensic Medicine in Modern Egypt* (Oakland: University of California Press, 2018), 5–6, 240.

¹³²Houri Berberian, "'Unequivocal Sole Ruler': The Lives of New Julfan Armenian Women and Early Modern Laws," *Journal of the Society of Armenian Studies* 23 (2014): 83–112, 100.

¹³³Radhika Singha, *A Despotism of Law: Crime and Justice in Early Colonial India* (New Delhi: Oxford University Press, 2000), 245.

tattooing as a punishment but with a renewed focus on identification rather than as a shaming ritual. The English East India Company tattooed thugs in Central India; they were often marked with English letters when they were given transportation for life but vernacular letters when sentenced to local imprisonment.¹³⁴ The main purposes here were criminal identification and deterrence of convict escapes.¹³⁵ The East India Company only abolished the practices of branding or marking convicts in 1849, much to the chagrin of the Andaman Islands penal settlements, which, as late as 1870, proposed branding each convict's right forearm before they took up residence there.¹³⁶

In nearby Thailand, face tattoos marked criminals who had in some way acted against the state.¹³⁷ A fifteenth-century Thai legal code outlawed same-sex relations among palace women, and violators were to be punished partly by being tattooed on the neck.¹³⁸ A Thai governor and his wife, convicted of having hired a magician to harm the king in 1896, were punished with lashes and life imprisonment, while the magician suffered a range of punishments that included having "his face tattooed to indicate his crime"¹³⁹ Similarly, two female recruiters convicted of abducting women from the Inner Palace of the Thai court both had their faces tattooed as a part of their punishment, which barred them access to the court forever.¹⁴⁰

From antiquity through to the nineteenth century, then, there was a semiotically rich set of associations between forced branding or tattooing and criminality. The mark could be a symbol, letter, word, or phrase that communicated the nature of the crime or criminal identity to a broader public. While the crimes associated with such bodily inscriptions varied, there was considerable overlap in their intended meaning across societies unlikely to have influenced one another directly.

Branding Punishments in Nineteenth-Century Iran

Branding as a worldly punishment appears to have no foundation in Islamic jurisprudence. According to Rudolph Peters, Islamic law justified punishment as "deterrence, retribution, rehabilitation and ... the idea of protecting society by incapacitating the offender."¹⁴¹ The *hudud* punishments included cutting off hands (or fingers in Shi'ism) and feet, beheading, crucifixion, lashing, beating, stoning, imprisonment, and banishment.¹⁴² Muslim jurists did not categorize these bodily punishments as torture. For example, the Shi'i jurist Najafi argued that dismemberment of fingers as a *hadd* punishment should be carried out with a single blow rather than repeated ones since the latter constituted torture. He concluded

¹³⁴Anderson, "Godna," 109.

¹³⁵Ibid., 112–14.

¹³⁶Ibid., 115.

¹³⁷B. J. Terwiel, "Tattooing in Thailand's History," *Journal of the Royal Asiatic Society of Great Britain & Ireland. Royal Asiatic Society of Great Britain and Ireland* 111, 2 (1979): 156–66, 159.

¹³⁸Tamara Loos, "Sex in the Inner City: The Fidelity between Sex and Politics in Siam," *Journal of Asian Studies* 64, 4 (2005): 881–909, 895.

¹³⁹Tamara Loos, *Subject Siam: Family, Law, and Colonial Modernity in Thailand* (Ithaca: Cornell University Press, 2018), 23.

¹⁴⁰Ibid., 142.

¹⁴¹Peters, *Crime and Punishment*, 30.

¹⁴²Ibid., 30–38.

by stating, “The intention (*al-gharad*) of implementing a *hadd* punishment is not torture (*min ghayr ta’dhib*).”¹⁴³ In reference to dismemberment, the term *dagh* appeared in a Shi’i legal compendium not as a punishment but as cauterization to stop the bleeding.¹⁴⁴ Shi’i jurists disagreed as to whether or not there were limits to discretionary punishments (*ta’zirat*): some argued that “it had no limit” (*haddi nadarad*), while others claimed it had to be less than a comparable *hadd* crime.¹⁴⁵ Other punishments in jurists’ manuals included throwing someone from a high tower or mountain, parading them through town, and shaving their head.¹⁴⁶ Certain jurists put limits on where lashing punishments could be administered on the body, especially on the face and genitals, which were considered inviolable.¹⁴⁷

Qisas, or legal retribution for injury or murder (known in the Roman legal tradition as *lex talionis*), often operated on the logic of equivalences. Here, the issue of branding becomes murkier, because forms of disfigurement that would otherwise be prohibited as punishment—such as cutting off the ears, lips, nose, or penis—became legal as *talion*.¹⁴⁸ Perhaps this is why a rare mention of branding in a nineteenth-century Persian Shi’i legal compendium was in the context of *qisas* for murder, which involved branding in the lead up to retaliatory execution. Its author argued that branding and other forms of torture before *qisas* were valid if it mirrored the injury or murder. Thus, the convicted individual could not claim retaliation for similar injuries inflicted upon them prior to execution.¹⁴⁹

Nineteenth-century Persian ethical treatises and Mirrors for Princes rarely mentioned branding, despite its contemporary practice. In medieval Mirrors for Princes, the sovereign’s use of capital punishment, sometimes cruelly and without mercy, was commonly justified on the basis of expedience and the common good rather than the shari’ah.¹⁵⁰ In a similar vein, the Qajar-era man of letters, Rustam al-Hukama, enumerated the types of punishments due to sinners, including lashing, branding, enchainment of the neck, and fines. He did so in the context of advising the Shah against taking executions, disfigurements, and disabling criminals lightly, and to only order them when deemed necessary by God’s command.¹⁵¹ Drawing on the medieval philosopher Nasir al-Din Tusi, Sayyid Ja’far Kashfi Darabi, author of a wide-ranging ethics treatise, discussed an unchaste woman with a “branded back” who was one of five types of women that

¹⁴³Najafi, *Jawahir al-Kalam*, 41: 530.

¹⁴⁴Muhammad bin Husayn Shaykh Baha’i, *Jami’-i ‘Abbasi* (Isfahan: Hasab al-Amr-i Nizam al-Saltanah, 1894/5), 418–19.

¹⁴⁵Majlisi, *Hudud va Qisas va Diyat*, 59.

¹⁴⁶*Ibid.*, 21, 24, 63.

¹⁴⁷*Ibid.*, 17; Hajj Mulla ‘Ali Shari’atmadar, “Jami’-i Nasiri,” 1884, mss. 2973, folio 1453 recto, Kakh-i Gulistan Archive, Tehran, Iran.

¹⁴⁸J.N.D. Anderson, “Homicide in Islamic Law,” *Bulletin of the School of Oriental and African Studies, University of London* 13, 4 (1951): 811–28. For Shi’i jurisprudence, see Majlisi, *Hudud va Qisas va Diyat*, 73–74, 106–7.

¹⁴⁹Shari’atmadar, “Jami’-i Nasiri,” folio 1466 recto.

¹⁵⁰Lange, “Torture and Public Executions,” 168–69.

¹⁵¹Muhammad Hashim Rustam al-Hukama, “Shams al-Anvar,” in *Siyasatnamahha-yi Qajari: Si va Yak Andarznamah-i Siyasi-i ‘Asr-i Qajar*, Ghulam Husayn Zargarinzhad, ed., (Tihran: Nigaristan-i Andishah, 2016), vol. 1, 371.

a man should avoid in marriage.¹⁵² Whenever the husband of such a woman was absent from a gathering, the people of that gathering would mention the unchaste woman and thus place a “brand on the back of that man” as well.¹⁵³ The metaphoric brand on the back of the husband was a marker of shame, and that it was done on his back suggests that it was back-biting, or perhaps more aptly “back-branding,” which shamed him in a manner visible to all but himself.

Outside of the Islamic legal context, a nineteenth-century book of laws composed by Baha’u’llah included provisions for punishing thieves with a stigma mark on their forehead, in a manner reminiscent of Zoroastrian branding penalties for thieves. In his *Kitab-i Aqdas* Baha’u’llah states, regarding recidivist thieves, “Exile and imprisonment are decreed for the thief, and, on the third offence, place ye a mark upon his brow (*fi jabinihi ‘alama*) so that, thus identified, he may not be accepted in the cities of God and His countries.”¹⁵⁴ This added an extra level of exclusion to mere banishment since the condemned would struggle to live a normal existence even in a new community. Baha’u’llah himself had been imprisoned in the Siyah Chal, Tehran’s most notorious dungeon prison, and may well have encountered branded criminals there since he said his fellow prisoners had included roughly 150 “thieves, assassins, and highwaymen.”¹⁵⁵

Just as he formally banned judicial torture, Nasir al-Din Shah also banned governors from inflicting torture punishments. In response to European criticisms, the official Qajar newspaper stated that the government never implemented harsh punishments without first proving guilt, nor did the Shah condone “the pain of torture” in such punishments.¹⁵⁶ Similarly, a detailed imperial decree in 1871 banned the use of torture as punishment and commanded that all punishments be subject to imperial review before implementation. Like earlier *farmans*, it considered torture to be “outside of the shari’ah” and blamed some governors for torturing innocent people. On closer inspection, however, the ban may be read as an effort to circumscribe the discretionary authority of governors, who often branded subjects without the Shah’s knowledge or authorization.¹⁵⁷ Two years later, the Shah’s courtier, Mustawfi al-Mamalik, penned an administrative manual for provincial governors in which branding, torture, disfigurement, and extractive fines were

¹⁵²Nasir al-Din Tusi and ‘Ali Riza Haydari, *Akhlaq-i Nasiri*, Mujtaba Minuvi, ed. (Tihran: Shirkat-i Sihami-i Intisharat-i Khwarazmi, 1977), 221.

¹⁵³Ja’far ibn Abi Ishaq Kashfi, *Tuhfat al-Muluk: Guftarha’i dar barah-i Hikmat-i Siyasi*, ‘Abd al-Vahhab Farati, ed. (Qum: Bustan-i Kitab-i Qum, 2002), 811.

¹⁵⁴Bahá’u’lláh, *The Kitáb-i-Aqdas: The Most Holy Book* (Wilmette: Bahá’í Publishing Trust, 1994), see par. 45. The Baha’i scholar Ishraq Khavari comments on this first and refers to the mark by the more generic Persian word for a mark (*nishanah*) but also refers to “the person with a brand (*dagh*) on their brow,” suggesting that he was inclined to see this mark as a brand. ‘Abd al-Hamid Ishraq Khavari, *Taqrirat darbarah-i Kitab-i Mustatab- Aqdas*, Vahid Rafati, ed. (Hafheim: Mu’assasah-i Matbu’at-i Amri-yi Alman, 1997), 122. Udo Schaefer refers to this mark as a stigmata, which captures the implication of community ejection. Udo Schaefer, “Crime and Punishment: Bahá’i Perspectives for a Future Criminal Law,” in *Law and International Order: Proceedings of the First European Bahá’i Conference on Law and International Order* (London: Bahá’í Publishing Trust in association with the Tahiri Institute, 1996), 47, 52–53.

¹⁵⁵Baha’u’llah, *Epistle to the Son of the Wolf*, Shoghi Effendi, trans. (Wilmette: Bahá’í Publishing Trust, 1971), 20–21.

¹⁵⁶*Vaqayi’-i Ittifaqiyah*, no. 202 (23 Rabi’ al-Avval 1271 H./[14 Dec. 1854]).

¹⁵⁷*Ruznamah-i Iran*, no. 26 (2 Jumadi al-Avval 1288 H./[20 July 1871]).

banned and labeled as “barbaric acts,” possibly a nod to European civilizational discourse.¹⁵⁸ In practice, the Shah did chastise governors for carrying out excessive punishments, such as Saham al-Dawlah, the governor of Bujnurd, who had cut off the beards of criminals and threw them off rooftops in 1885.¹⁵⁹ In response to a petition of five or six subjects who had been branded as punishment (*siyasat*) in a village close to Malayir, the Shah expressed outrage, asking, “What is this branding and torture?” before ordering further investigation.¹⁶⁰ These sources do not explicitly ban the Shah from commanding the use of torture. Since he had the authority to issue such a ban by decree, he probably viewed himself as exempt from it. In all likelihood, the Shah intended to monopolize the legitimate use of corporal punishments for his court while curtailing the authority of governors whose excessive use of branding may have reflected poorly on him.

In the early nineteenth century, European observers noted that branding was used to punish several crimes, including theft and desertion, as a means of shaming, exclusion, and identification. The practice of branding thieves dates back to the Safavid era.¹⁶¹ By the early nineteenth century, Qajar authorities punished swindlers and pickpockets by branding their foreheads with a hot iron.¹⁶² In the 1830s, deserting soldiers from troops in Urumiyah were said to have their foreheads branded and their houses burned down.¹⁶³ Closer to the middle of the century, criminals, too, were branded on the forehead and their dwellings were torched.¹⁶⁴

In one notable 1826 case, Fath ‘Ali Shah presided over the branding and execution of an upstart local claimant to sovereignty in Isfahan. Unlike other known instances of branding, either as judicial torture or to permanently mark an individual who would go on to live, Fath ‘Ali Shah used this branding as a spectacle of punishment. The upstart in question, Hajji Hashim, already found guilty, was dragged before the Shah bound in fetters. After being exposed to the rack, his beard was shaved off with a blunt razor without water, and he was then paraded through the streets with a rope passed through his nose, bastinadoed and blinded, and had his ears cut off and “his body branded with red hot iron.”¹⁶⁵ Judicial torture generally occurred beyond plain view, as did the branding of foreheads, although in the latter case its mark was visible and instantly legible. In this case, however, Fath ‘Ali Shah was concerned primarily with inflicting pain via a hot iron rod as a deterrent lesson for others.

Nasir al-Din Shah’s son and minister of war, Kamran Mirza Na’ib al-Saltanah, served the court both in cases of judicial torture, such as that of the aforementioned

¹⁵⁸Mustawfi al-Mamalik, “Takalif-i Hukkam-i Vilayat,” Shaval 1290 H./[1873],” no. 295/7491, folio 83, Sazman-i Asnad wa Kitabkhanah-i Milli Archive, Tehran, Iran.

¹⁵⁹Khanbaba Bayani, *Panjah Sal Tarikh-i Iran dar Dawrah-i Nasiri: Mustanad bih Asnad-i Tarikhi wa Arshivi*, vols. 4–6 (Tihiran: Nashr-i ‘Ilm, 1996), 139.

¹⁶⁰“Petition to Nasir al-Din Shah and Response,” Safar 1303 H./[Nov./Dec. 1885],” microfilm 2929, folio 303, University of Tehran Archive, Tehran, Iran.

¹⁶¹Jean Chardin, *Voyages*, L. Langlès, ed. (Paris: n.p., 1811), 6: 116–17, cited in Willem Floor, “The Secular Judicial System in Safavid Persia,” *Studia Iranica* 29, 1 (2000): 9–60, 39.

¹⁶²Thomas Smith et al., *The Wonders of Nature and Art...* (London: Printed for J. Walker..., 1803), 4: 242; Frederic Shoberl, *Persia: Containing a Description of the Country...* (Philadelphia: John Grigg, 1828), 78.

¹⁶³Horatio Southgate, *Narrative of a Tour through Armenia, Kurdistan, Persia, and Mesopotamia* (London: Tilt and Bogue, 1840), 13–14; Justin Perkins, *A Residence of Eight Years in Persia* (Andover: Allen, Morrill & Wardwell, 1843), 322.

¹⁶⁴Charles Dickens, “Persian Prejudices,” *All the Year Round* 9, 221 (18 July 1863): 496–500, 497.

¹⁶⁵*Oriental Herald*, vol. 9 (1826): 171.

Mirza Riza Kirmani, and in ordering and carrying out punishments. Branding was central to his investigatory and punitive toolbox. In a remarkable undated letter from Na'ib al-Saltanah to Nasir al-Din Shah, he mentions having constructed an iron mold following wishes expressed in a previous imperial decree. The iron-mold had “the mark of life imprisonment,” which probably means that the words “life imprisonment” were written in Persian. The Shah had commanded that this iron mold be stamped on the brows of thieves who had previously run away, before they were thrown into the “imperial prison.” Na'ib al-Saltanah then stated that he would keep the iron mold for future use on those sentenced to life imprisonment.¹⁶⁶ That the Shah ordered the production of an iron mold for stamping the foreheads of repeat offenders and life convicts suggests he was aware of past Qajar (and possibly Safavid) punishments for thieves and their branding of recidivist criminals who were flight risks. This type of branding was intended to identify and catch runaway prisoners sentenced to life and to stigmatize them in a manner such that anonymity and reintegration into society would be next to impossible.

This brand may have been used in a case involving five runaway thieves from Tehran's imperial prison. In a telegram to the governor of Qum, Na'ib al-Saltanah provided detailed descriptions of each thief, their height, build, distinct facial hair, and even dismembered fingers. One of them, named Yusuf, was of medium height and had a red face, blonde hair, two dismembered left-hand fingers, and a brow that “bore the mark of branding.” Na'ib al-Saltanah ordered the gatekeepers of the city and government officials to keep an eye out for these men and to capture them.¹⁶⁷

Despite its dubious status in shari'ah as a punishment, the nineteenth century saw repeated cases of thieves being branded, and to a lesser extent, army deserters. The motivation behind branding, again, was to ensure that those so punished led a marginal existence, condemned to be outsiders with no possibility of anonymity or societal reintegration. Branding appears to have continued into the Constitutional Revolution (1906–1911), although further research would need to be done to determine its prevalence into the Pahlavi era (1921–1979).¹⁶⁸ Sadiq Hidayat, a fiction writer and folklorist, mentioned branding among the tortures and punishments under the heading “shari'ah and tribal laws,” which ethnographers should collect from local subjects in the mid-twentieth century.¹⁶⁹ After the 1979 Revolution in Iran, the executed corpses of political opponents and “heretic” Baha'is were branded or inscribed with words such as “God is Great, Khomeini is our leader,” or “enemies of Islam,” which suggests that far from withering away with modernity and changes in emotional sensibilities, branding has continued to have resonance.¹⁷⁰

¹⁶⁶“Undated Letter from [Kamran Mirza Na'ib al-Saltanah] to Nasir al-Din Shah,” no. 295/8070, folio 115, Sazman-i Asnad va Kitabkhanah-i Milli Archive.

¹⁶⁷“Telegram from [Kamran Mirza] Na'ib al-Saltanah to I'tizad al-Saltanah,” 2 Jumadi al-Avval 1296 H./ [23 Apr. 1879], no. 295/8102, folio 11, Sazman-i Asnad va Kitabkhanah-i Milli Archive.

¹⁶⁸Nazim al-Islam Kirmani, *Tarikh-i Bidari-yi Iranian*, 1: 81 cited in Mudarrisi, Sami'i, and Safavi Mubarhan, *Farhang-i Istilahat-i Dawrah-i Qajar*, 251.

¹⁶⁹Sadiq Hidayat, “Tarh-i Kulli bara-yi Kavush-i Fulklur-i Yik Mantaqah,” in *Farhang-i 'Amiyanah-i Mardum-i Iran*, Jahangir Hidayat, ed. (Tihiran: Nashr-i Chashmah, 1999), 254.

¹⁷⁰United States Congress House Committee on Foreign Affairs, *Religious Persecution as a Violation of Human Rights* (Washington, D.C.: U.S. Government Printing Office, 1983), 171–72; Rejali, *Torture and Modernity*, 124.

Conclusion

To return to “In the Penal Colony,” Kafka’s short story condenses the various judicial and penal meanings of bodily inscriptions and pain into a single illuminating event. Instead of torture producing a confession which then leads to punishment, the process is inverted: the suspect is punished by painful bodily inscription through which the reality of the crime is revealed without interrogation, trial, or defense. Instead of pain-generating speech, the body remains silent until well into the inscription process; the machine ensures that all can read the crime on the body without the suspect having to say a word. As Elaine Scarry has noted in her landmark study, torture involves “the dissolution of the boundary between inside and outside” through physical pain and an “almost obscene conflation of private and public.”¹⁷¹ It is this process which translates “all of the objectified elements of pain into the insignia of power.”¹⁷² Branding, too, embodies this conflation of private and public, which translates into a literal “insignia of power.”

In nineteenth-century Iran, government authorities regularly employed branding as both judicial torture and punishment. Judicial torture was a means of forcing a suspected criminal to confess to a crime or to name accomplices. It was meant to make the body speak its secrets through the infliction of intense pain. This publicness involved the victim articulating through speech the secret of the crime they committed or abetted. In contrast, branding as a punishment usually involved the body speaking not through vocal articulation but through inscribed signs. Here, the body was orally silent but textually articulate: people could read its signs and understand its crimes without mediation. In both cases, branding was intended to rob its recipient of autonomy and control over their body. Branding was one of several methods of prolonging the suffering of a criminal during public punishment, often before an eventual execution. Finally, and closely related to its use as punishment, branding, especially on the forehead, signaled that a repeat offender should be readily and publicly identified as infamous for their crimes. Unlike in judicial torture, the branded person remained silent—it was their bodies that spoke.

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¹⁷¹Elaine Scarry, *The Body in Pain: The Making and Unmaking of the World* (New York: Oxford University Press, 1988), 53.

¹⁷²*Ibid.*, 56.

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