

## The Course of the Proceedings or Judicial System in Iran and the West Country (Qajar period)

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*Received: September 20, 2014*

*Accepted: November 23, 2014*

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### ABSTRACT

In the research paper, an attempt has been made to the institution of agency proceedings, the judicial system in Iran and the West, in terms of rule-based Qajar period, are examined.

In the Qajar period, the settlement of disputes by courts and legal authorities, and it has been customary rules. Kings higher authorities of the country, the judicial system and the structure of the nucleus and had illegal. Tradition and practice of litigation and trial of prominent government officials and rulers, no systematic rules and correct, and further their personal interest, and the link is on.

Procedures and methods of the trial of the accused in the court of the Qajar period, with a few examples supplied encountered, but more or less non-written rules and regulations, is mentioned. Course of the trial the defendants and offenders, the state is best described by authorities to show that the principles of judgment and judicial decisions, mainly on anger and mistrust, and fear Abu mania and said the authority was based. Issued and penalties imposed by a plurality, diversity and the time and replacement of governments, more or less was associated with quantitative and qualitative changes. The general attitude of the emerging changes in the judicial arena, following the changes in the Qajar era, particularly in view of the increasing integration and enterprise transformation, and get out of the traditional situation, the changes, referring to the although making powers, judicial favorable conditions for the development of sustainable, proactive justice and the rule of law, the society did not provide.

**KEYWORDS:** The institution of proceedings, Judicial system, Ghajar, Common law courts, Sharia courts, West Country

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### INTRODUCTION

Institution and the institution of judicial proceedings, along with a set of rules and principles of religion, mysticism, however, be naive, since the issue of human communities, tribal and urban formats existed. The system is always going to struggle and fight with Rampage, acts of justice and equity, harnessing the power And offenders, respect the rights of others, and to achieve peace and security, has been accepted and is clearly feeling the presence and process change with changes oriented and sometimes degeneration, and fairly outrageous to experts, symbol of the historical record and represent the culture and civilization of nations, and governments are taken into account and even conquerors as a necessity and requires collective life, of continuing to function in the context of the history and changes of government, and Islam, with leaps and bounds in ancient times, has retained.

How, what, workbook and transformational change and decline of the Iranian judicial system in the context of the spirit and methods of historiography, consistent with the fact, rule-based, effect on development and underdevelopment in many countries on grounds of vagueness, obscurity Join silence and lies. Due to the interdisciplinary nature of the subject, researchers in history and law, any research on this matter to another, surround. Few studies have been able to demystification and clarification of facts, and facts are not favorable. For example, researchers on this subject in passing, brief and sparsely attended, among other political and governmental issues, and reluctant to do independent studies have shown. The attitude and approach of a few scholars and legal experts, discussions and presentations in the field of historical perspective, the lack of adequate knowledge of the nobility and historic resources on research methods, devoid of all Unilateralism, accuracy and robustness. With effort, this success was achieved, the medium, the information gap existing research on the topic at hand, high and clear picture of the field and the field of discussion, and with this step, however small, to please provide audience research.

#### Justice and judicial institutions in Qajar

The Qajar rule, judicial proceedings and related matters and disputes arise, and present in a variety of areas and depends on the nature of the secular and religious authorities, it was resolved, they

are based on common rules governing (Shia Jurisprudence Front) inherited traditions and rules related to customary from past, impressions, volition, personal desires And effectiveness factors outside the court, in resolving legal issues and lawsuits from people in towns, villages and among nomadic activities and their responsibilities. within the realm of after the trial functions, not always clearly marked and clear, and depends on the strength and determination, sovereignty, influence and position of the courts reservation, or will develop, but in general the function and scope of activities related to customary courts, the extent and beautifying more. in the context of the time course of each of the courts, especially courts - custom, in some aspects of exposure, and the route change was made .change - resulting in a rare era of stagnation, during the Zand dynasty in Total transformation oriented, and in the later Qajar period and organizational theory, and in comparison with the Zand period of change with changes pursued by more and more evident, came.

Kings and officials in the justice system and justice High country, the status and authority were high. Much of the judicial authorities, including the courts and related to customary Legitimacy, directly or indirectly, by them or their government representatives, were selected and approved selection criteria. In addition to considering aspects of expertise, particularly in the courts Legitimacy local influence and trust, allegiance - - and with good governance was the object of desire. The outcome is the result of the exercise of discretion, and the involvement of Qajar rule, more or less, along with the evolution of the slow, gradual, and in order to better fulfill the assigned tasks, and the context was more favorable for the activity. But in a more general assessment of the attitude of the rulers of each of the aforesaid courts, and weak intensity, and a means to strengthen and sustain the realization of being real, lasting and true justice and security, as the natural the potential and the objective this and the tasks actualized with policy rule, the nature and extent of unlimited power, and greed in conflict and confrontation was inevitable Courts mentioned and its officials, having political authority, the protection of the government, and the appointment of the sources of power High the location and the time had an important place in society. Which will be briefly discussed:

### **Customary courts**

In the judgment of the court of King as the main source of power at the head of the judiciary, and was related to customary courts and Legitimacy. The common law courts, all the components and indisputable function, followers and Shah were considered Ml. From the authorities, only a few Sharia courts clergyman had judicial independence. If the court rules, and how they act against the authority of the king, the monarchy and the establishment continuing question of power, the government faced harsh and hard . The will and asked the king, and to the house of the ruler of everything was in force. Nobody wishes and injunctions against him, the right to question and did not like and why. Only a few factors, such as fear Sharia or oppose the government's authoritarian regime, raises questions, the barriers did not fulfill all the will and decisions (Watson, 1935: 14-19).

King of all cases), religious and customary (right was involved. He just wanted arbitration rules clear, clear, clear and decisive was considered (Joubert, 1968: 247). As mentioned in the theoretical realm after death, the lives and blood of the citizens, and the country's military officials without court and proven guilty, maintained. the kings from time to time, based on the desire, the death of civilians and the country as a judge and magistrate the formation of the court, and the trial judge did not attempt (Drovil, 1949: 180; Ehteshamosaltaneh, 1960: 124; Markam, 1944: 34-35).

Powerful and undisputed rulers of Qajar princes, particularly in areas beyond the realm of kingdom after the king as the highest authority of customary courts, the high court had authority. The administrative hierarchy of government institutions and officials, as well as the forum and its agents, sheriff, sheriff, Reeve neighborhoods, villages and tribes, and sub Calculated appointees ruling in the city, were considered. Even Legitimacy court officials, such as Sheikh Aleslam and judges, were obliged to go along with her organization, though apparently at least tried to show her the reigning sovereign. Sometimes its ruling, in the exercise of their sovereignty, consolidate domination, intimidation, power, security, countering insurgency and opposition, and create conditions that would allow them to build resentment, judgment and sentencing harsh, they were engaged. Officials also mentioned a few times about a sense of duty, and expressed sympathy and solidarity with people on different levels of reference, the supply complaints, and litigation before the seat of empire, and provides a have been constructed. Provision of necessary formalities trial oral petitions and petitioners and books clients, listened to and studied, and subsequent rulings have been issued (Broksh, 1947: 606-607; Wales, 1948: 256-267; Haghigat, 1948: 845).

At the time of Fath Ali Shah, not the authority of the Court in Beigi, the Court as representatives or agents of the government, and to deal with major criminal cases like murder, mayhem, rape, rape, and theft, as well as any other civil proceedings, the people who lived, and on the basis of customary rules, the judge and the prosecution was founded, and the promise of Nazareth And tenure Amir Kabir, the 1850 forum with the extension of justice to Court Gallery justice, as was changing. The instructions issued, all Pleadings should, as far as may be given from the perspective .ta government rulings of courts have found that when credibility, Center, adjacent-formed Ministry of Justice have endorsed, in 1858 Court Gallery justice dissolved and the new ministry, was digested subsequently by the ministry, representatives entitled Beigi Court, were appointed in the provinces of the country (Vaghaeosaltaneh, 1953, p. 8; Mohit Tabatabai, 1927: 72).

During the investigation, police department and officers in both large cities and small towns, and the presence is .Sheriff capital, Shah served under direct supervision. As an agent of the king, while taking notice, even encouraged, badge and nicknames, and sometimes even murder were punished (Lambton, 1940: 13; Khormoji, 1943: 265). Sheriffs other cities, other than with respect to the role of public capital, and social status were elected by the Board. They tried to play along Counsel, Deputy Assistant to the authorities, by offering bribes and gifts, causes the survival and perpetuation of its power to provide. Trying to satisfy the people, the middle classes, there can sometimes lead to police officers, in a few generations of a family Continued (Fasayi Hoseini, 1947: 1464). Reeve towns, villages by the rulers were chosen by Sheriff and reeve. However, the selection of individuals to social status, and their popularity is due almost is. Sheriffs cities, governors and their deputies, the operation of Reeve, monitor and fitness services, errors or negligence encourages them to punish and or dismissal put (Olivieh, 1951: 65; Pollock, 1948: 296; government against Iran, 1950: p 495)....

On the Judiciary, Darcy, resolve conflicts and handle petitions and complaints of the people, including Reeve neighborhoods and villages, access to religious and customary courts, the less there is, the common law judge, striking and decisive role they were. Especially those in rural areas, one or more days of the week to review, and resolution of complaints, customary rules based on assigned, and the assignment of cases to higher authorities even Avoidance kings said, but the importance of the mass is located, legal complexity of the case or the inability to justice, and arrest the offender or offenders, subject to the higher authority of customary and religious reference or help you defied them (Wilson, 1946: 96; Chrikof, 1937: 75-76) .

Sheriff Reeve city with neighborhoods, where several tasks had to deal with thieves and insecurity factors were coordinated Shah in Isfahan Testament. For example, in the area of security, Reeve subcommittees were sheriff. So that the security forces under the command of Reeve, were in the hands of guarding the city. Each local village chief, was responsible for the problems associated with security incidents reported to the sheriff, and he, in turn, established during the experiment (Momtahanodovlah, 1941: 223-224) in 1850 in Tehran and other major cities, reasons and motives that remain hidden to us, Calculated duties as sheriff) Sheriff market (was assigned (flora, 1951: 93), over ten years since the abolition of the official, and, in 1860, Shah, sought its re-emergence of a revival in Tehran and other cities, and therefore endeavors in the country. but the attempt to achieve an objective, enduring and stable, as did the former. and sheriff market, especially in center still Calculated duties as assigned the (flora, 1951: 93) finally, after the Constitutional revolution, and the 1907 Act and Sheriff market Calculated duties, the police in 1878, in imitation of European nations was formed, transferred after a while, the police, police Department and the police had to change the name (sepehr, 1932: 130; Bayani, 1936: 345-347; Sayah Mahalati, 1943: 27).

Necessity of additional positions, as patron relations and peasant masses, the over harvesting vested, financial and tax crackdown and threats of Governors, and the Government was emphasized. Etemad Aldovleh reform proposals in the interest of members of the House in 1859, the emphasis is on giving this authority to the Vakiloroaya drafts and money orders. For example, the ruler of the people, under the rule, you must be signed and stamped. but the powerful rulers, especially the younger princes were given to the intervention and supervision; Far that the fulfillment of their duties, no evidence has been presented (Naraghi, 1986: 2487-249).

The resources of the officials, and members of tribes and tribal affairs, to the position of Ilkhani) patriarch (Ilbeigi, the sheriff and the village chief Learn. Ilkhan as ruler of the whole, and the tribe's highest office, appointed by the king and central government it was. her status as one of the pillars of the state, the state of the rulers of the city. If the child Ilkhan, was sufficient enough, so the inheritance, he was transferred .Ilkhan among the tribe, as a manifestation unity of power and influence, respect and enjoy the prominent position, and the tribe of officials like Sheriff and Reeve, and oversaw a sub-

prefecture. one of his tasks, collecting taxes from families, tribes, and delivered to the government (Watson, 1935: 366). in the judicial proceedings and Ilkhan, IL Beigi, a council consisting of the chief and the elders, in some States, the dominant role, and the village chief sheriff in urban and rural played. Tribes and nomads, legally subordinate chiefs and officials were mentioned.

### **Sharia courts**

Courts need Legitimacy, the whole Muslim community, and the To solve related to the religious feeling. Qajar rule, in order to respond to the desire to General inevitable, meet people's needs, it is necessary to fulfill the duty of the government, endorses .so put towards centralization in different ways, attempts office. Sheikh, the highest spiritual authority for approval, and is appointed by the government (Wishard, 1943: 151; Dr..yl, 1950: 194). In various cities in Iran even small towns and always had an active presence (Etemadosaltaneh, 1943: 314; Adibalmolk, 1928: 34). Sheikholeslam cities, summoned by the king, and according to cooperate with the regime, sometimes in consultation with regional and local popularity of Sheikh al-Islam, were elected (Kashmiri, 1882: 333-367). In their selection, in addition to local basis, characteristics such as religious education and seminary education, grace and simple life, was almost considers her. Sheikh al-Islam, in view of the dignity and status of the well (in) Nadermirza, 1953: 312-313; Zelosoltan, 1948: 432) and even some of them were in sympathy for the King (Sheibani, 1946: 265 ; Fraser, 1943: 152) in an attempt to conduct with honor, decency and friendly people, than to prove (Adibolmolk, 1928: 47). Judgment-villages, both large and small, public well-being as they were called, in comparison with the city judge, the judicial and legal knowledge, had less (Curzon, 1928: 588-589, Shirazi,1941, 54-55), in many cases, on how to resolve the conflicts, disputes and matters arising, the Priests have more knowledge of Jurisprudence, and had attended seminary, and guidance necessary to obtain or file they were referred to (flora, 1935: 137-138). Priests Justice and judicial matters, within the scope of their responsibilities think. but some of them in piety, prudence and obsession, the iconic shirk their responsibilities, so in this respect, committed malpractice and injustice (Shils, 1948: 117). But some from Priests, so feel religious duty, a reference to lawsuits and Pleadings people, or their religious views expressed Investigation government, and from there go to the priest, that the consent of the parties if accepted, Judgements of the trust was acceptable (Damghani, 1936: 30-31).

At the hearing, the oppressed masses who, in some cases as an interface between arbitration and the people they serve, as far as complaining to the king, by a priest, and he frequently resorted to was helpful. British occult writers, the judicial authorities in Iran have pointed tops (Vaghaye Atefaghiah, 1953: 47). Undoubtedly appointed, and is approved by the government, the provinces important forum for comment and resolution of disputes relating to Islamic law, the task is busy, and sometimes even by the king, the missions were entrusted to him (Kazem Beik, 1858: 454). The rank will be revealed in the court of the Qajar kings and powerful princes, had a presence in the provinces. On the set of tasks given to them, what information is available . so recrystallized, keeping the pedal king, even in the campaign missions are carried out, accompanied by political and governance, and teacher Qajar prince and princess were prominent (Minorsky, 1935: 72).

### **Justice and legal system in the West Country**

Of land owned by tribes, sometimes not so clear, why so much conflict between them created. Such Sanjabi and Kalhor Sanjabi that was causing strife and conflict.

Several branches of the smaller tribes, who probably had a common ancestor, were formed. These are mostly agricultural and animal husbandry, and often armed and horse riders, and to generally volatile element, comprised of mobile and aggressive. So that the document comes back, and he was standing between them, and the more powerful tribes Weaker attack was tribes, such as the Goran tribe, was more powerful than the Sanjabi, and he was repeatedly assaulted, and their livestock was used. Some of the group itself, and the way they gather loot and steal, their livelihood (Etehadieh, 1966: 1). The rural community of small and homogeneous and settled, which was composed, were engaged in farming and ranching, and to be constantly exposed to the invasion and conquest of tribes and clans, the bundles were mounted. Kermanshah state of permanent insecurity, unrest, which was reflected in the correspondence, which is a similar situation in the Gulf of Nazareth, reports occult writers are English (Vaghaye Atefaghiah, 1940: 147) and Astar Abad, the situation is probably similar circumstances elsewhere in Iran also, in the same way, but the story which has come down to us. Kermanshah government also had some Gharehsavar, were responsible for establishing the safety of the road. The government also drove some armed, hired, but these were sometimes guilty of theft and looting.

Another cause of conflict, weak governance, as a general rule, non-labor income, which is a vast and restive region of Kermanshah, Lorestan and Borojerd, the permanent protection Just at the point when the attack occurred, it was possible force was sent. Budget limited government, and the government will not help (Etehadieh, 1962: 224). Tax collection, the government's perennial problems, forcing its inhabitants to Accept that must pay in installments, or give them a discount deadline. When people asked him Poshtkoh that, in every episode, giving six months notice. He also wrote one of the officers who had been a resident falcon and Koliaie appeasement, to collect the tax. But it seems that before anything else, because of unrest in the region, signified tribal structure of society. Tribes and clans, Kermanshah, Lorestan, armed rider, most of them had a long rivalry, had eyes for each other's property or power, more than rural (Etehadieh, 1966: 1).

Current law, the same Sharia law or the common law, but no details about the crime and the punishment and punishment, and the punishment is not specified, depending on the possibilities of enforcement, government policies and accept the ruling on law enforcement, and handling claims, justice and the prevention of conflict of duties is considered. None of the documents, there is no trial. Government employee may, at the inquest, or according to observers, Sometimes the enough criminals, sent to the governor. However, no organization, no judgment and justice. The most important factor in maintaining security, power and prestige of the ruling was personal.

Pilgrims came to Iraq, transport merchandise, customs and quarantine and transport the body including permanent problems. Moreover tribes on both sides of the border, with the affinity or animosity and competition, the reported attack by the Ottomans, is much like the Ottoman invasion Sumar, is also problematic issue was Shia and Sunni, refuge or nomadic group of subjects Ottoman territory, was a constant concern (ibid., 1-2). Probably decisions and judgments, for the ruler was not easy, because it was possible that contradictory information is given, but it seems that most of the government officials tried to coax and trotted gently with the bandits, they are. In particular, it was necessary that the person be arbitrarily revenge. In this regard, it may be effective to some extent governs personal power.

There is a lot in this case, if the looting and theft of the ruling has been requested, or the right to receive, or allow him to retaliation and revenge. Not easy to punish miscreants and security. Offenders incarcerated for some time, but it may not run continuously, for long term storage place for prisoners, no more. Imprisonment for the edification of others, sometimes brutally punished. Punishment work was done.

The interesting thing is that, with all the evil in it, tribes were willing, if necessary, defend the territory of Iran. In one of the reports Moshir-ol Doleh Foreign Minister said) Sarpol (Zohab), sweet (regular army was organized, it was heard that the tribes "Talabani and Ahmad Ottoman citizen, could invade the sacred] to [their Twenty-second news that, with a hundred gentlemen to the house to Mr. Bajalan attacked and looted him. Qadraqa sent to the provinces, and immediately transmit power. the Telegraph also Samsam olmamalek Sanjabi, ruling he also said the Palace and ride Sanjabi, to prevent smoke Hoodlums goes.

On the eve of the Revolution, in 1903, roughly in Tehran constitutionalism, constitution, freedom, justice and democracy was introduced. Elections were conducted, and the National Assembly was set up adjacent to the Constitutional Revolution, an event in a city, but a flood of petitions from the public discontent, from all over the country, the House was flowing (Shams, 2012: 56). But it seems that, in this respect, the government is replaced, as well as afterwards, in Kermanshah, as there are so many petitions and reports. In none of these, the petitions that were studied here, sign of political awareness in rural and tribal communities are not present, and the general affairs of the collective or individual. (Etehadieh, ibid ).

### **Outcome**

Judicial body and the judicial review and the introduction of the Qajar period, the court first convention) authorities and their tasks (allocated. In this period, the king as the source of all power, and even Legitimacy was related to customary courts headed by the judicial authorities only some clergyman who enjoy judicial independence, as they are issued and how they operate, against the authority of the king and the monarchy, questioning the establishment, they faced harsh.

Powerful and undisputed rulers of Qajar princes, especially within the scope and limits of the empire, - the highest civil courts, the high court had authority.

In the scope of duties of the courts of common law, based on reports, the issues such as civil affairs, felony robbery, drinking wine, embezzlement of public funds, an uprising against the

government and the monarchy, murder, assaults and offenses relating to the purchase and sales can be learned. Responsibilities relating mentioned, the norm does not mean that the court officials, court officials Legitimacy in the review above, do not have any involvement or role play. Judgment and settlement of claims in the courts of common law, the movable and hearsay, past traditions, local customs and community, the will of the individual ego and the rulers, and the authorities were based.

Sharia courts more or less in dealing with relationships, division of labor and coordination was set .so range of tasks, challenges and ups and downs and sometimes the relative superiority of one over the other, continued.

No statute or recorded, lack of bed arrangement, for justice, bribery, influence the desire, will, love and hatred rich owners, in the judgment, not enough time to defend the lack of specific reference to appeals and objection to the verdict, no record of the case, and confessions parties, including flaws and imperfections to the report, the court custom. Penalties issued to penalties that were issued by some local authorities, mass balance and is located towards the rational, logical, and not religious, the West is no exception, even in the Qajar period, some conventional practices was stopped, but the authorities in enforcing the penalty imposed, partly autonomous being.

As in previous findings among transient noted, following the changes occurring in the states of the overall political atmosphere, the occurrence of new domestic and foreign policy interests of the rulers and authorities and High country, and how to deal with problems structure and the institution of judicial proceedings also were exposed to volatile changes. Changes in Qajar emerged, particularly in theoretical aspects of the organization, with the increasing development-oriented, and more, along with traditional out of the former, but faced a series of transformational changes, due to the structure, texture, vertical the person or persons sought no enforcement agents, compassionate and never expands desired justice, and justice is not possible extent.

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