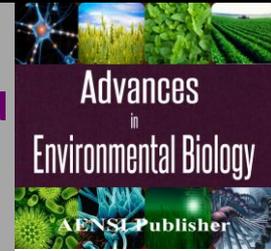




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Straying Media Religious Jurisprudence and Law Placement and Their Relations with Liberty in Islam

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ABSTRACT

Narration and verse s review mostly conducted on straying books, determines that liberty negation differs according to the situation and even can be differ in a specific time for different people. Sometimes liberty negation seems necessary to prevent decline improvement and this is governments duty to adopt specific policy and necessary tact to protect its people moral, belief and spiritual health. But straying media are the ones which cause people decline and let them to deviation. Today, straying media evidences has improved and beside written subjects, includes virtual subjects too and in fact most straying media are under internet sites liability. In Islamic religious jurisprudence including Shia and Sunni authorities sayings, straying books and their selling ,buying ,storing and their publishing has been inhibited(Haram), according to some narration and verses. Although there are some complaint and doubts in contentions but they are not accepted and in both beliefs whatever is against the book(Holy Quran) and its traditions, is prohibited which includes straying media too.

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INTRODUCTION

In this article, we try to study and review straying media criterion in religious jurisprudence and law. Straying means, (from Sooni religious leaders point of view) whatever against Quran and tradition and is prohibited. From Shia religious leaders point of view, having and keeping straying books, is one of the prohibited actions in religious jurisprudence.

Preceding religious leaders have specified the subject according to their time and situation but we see that since Sheykh Ansari time, religious leaders have made the rule prevalent and included all works and the instruments which transmit straying thinking .Now a days with science and technology improvement, there are different and various media. Therefore straying evidences have increased in comparison with the past so it can be said that as in preceding religious leaders time, books have been the only culture transmission factor, have been stabled in the issue. So the concept of straying books is of concepts which have been changed greatly by the time. If the religious leaders only way of destroying was burning and tearing in the past, today with media s improvement and widening, burning, tearing and making them wet, is not effective for destroying the straying element, so we should review all kinds of straying media that straying book s, is just one of its evidences and find out the prohibited ones and find some policies and ways for destroying and disorganizing them.

Straying media are the ones that their contents are deviated from religious main and secondary rules and there are two conditions: firstly the main right, whether of religion principles or subsidiaries should be unquestionable, but if one of doubtful cases naturally be against a part of it, is not as deviation means. Secondly, the deviation should be clear, not by interpretation. Religious leaders have said about these media business: It is not allowed except for the ones who have the knowledge for answering and denying its contents. and about testament, it is said that of prohibited testaments are the ones for making decline centers and straying media publications.

In this research we refer to the cases which cause deviation and also their allowance and prohibition has been previewed from Islamic law and religious jurisprudence and also straying media relation with liberty in Islam from different points of view.

Media literal meaning:

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Any message delivery equipment like: Radio, Television, Newspaper. Equipment for sending messages (like: radio, books, newspaper. Equipment which transmits the news and information to people, like: Radio, Television, Newspaper, Magazine and computer networks.

Media terminological meaning:

A general terminology that is used for information transmission or entertainment like Radio, television, newspaper, magazine, movie, book, CD and cassettes.

Media kinds:

1- Written media:

Book, printed matters (including newspaper, magazine, timing publications and news agencies printed products).

2- Visual media:

Cinema, Theatre, Television and satellite.

3- Audible media:

Radio, Music and its kinds.

Commandments prevalence from straying books to straying media in religious jurisprudence:

Obviously straying book was mentioned for the first time by Sheykhe Mofid in Mghnaee (Ankbari, 1410 h, p 588). Sheykhe Mofid specified two subjects (infidelity books) and (straying books) and made the commandment of saving and business by straying and infidelity books. Sheykhe Toosi in Nahaye, (Toosi, 1417h, s2, p102), selar in Marasem, (Salar Deylami, 1404h, s2, p218), Allame Helli in Tazkerat o l foghaha (Helli, 1431h, s18, p130) and Montaha Almatlab (Hamo, 1413 h, s2, p1013) have called both. Later on infidelity book was deleted from the subjects and straying books was the subject of discussion. (Soltani, 1374, no 36, p1) Allame Helli in Ghavaed Alahkam (Helli, 1418h, s2, p8) and Tahri Alahkam (Hamo, 1420h, s2, p260) and Talkhis Almaram (Hamo, 1421h, s1, p92) Ershad Alazhan (Hamo, 1410h, s1, p357) and Ebne Edris in Alsaraer (helli, Bit, s2, p218) Ghazi in Almohazzab (Terablosi, 1406h, s1, p345) Mohagheghe heli in Mokhtasar Onafee (Helli, 1362 sh, p148) and Sharaye oleshlam (Helli, 1983m, s2, p 10) and Fahad heli in Almazhab Olbaree (fahad Helli, 1411h, s2, p350) and other religious leaders have talked about straying books and related subjects. But as it can be seen, late religious leaders especially since Sheykhe Ansari time have made the commandment prevalent to all works and instruments which are capable for ill and deviating thoughts transmission.

Zalal (straying) meaning:

Deviation means going away from the true way (Anaam/74) (Deviation is against the truth) (Alkhori Alshatooni, 1416h, s3, p315). Straying means absence and turning from the right way, conscious or unconscious, little or much. (Lejannat o men Alasateza, Bit, p992). It also means doing fault and wrong doing means getting away from right way and goodness. (Anvari, s5, p 4827-4728).

Zalal (straying) terminological meaning:

Ragheb says: Straying is of two kinds, one in ideological sciences like God's recognition and his uniqueness and also straying in prophet-hood recognition. God says: whoever denies God, his prophets, angles and books, has been deviated (Nesa/167) and strayed in practical sciences like recognizing religious rules that is the praying and straying from right and true way refers to infidelities and says: The people who became infidel. (Esfahani, Ragheb, Mofradat, s2, p4620).

Straying in Religious law point of view:

Straying is one of the worst human behaviors and of religion necessities which there are many verses about it in Quran and narrations, like Nahl Sura verses 24 and 25: And when they are asked: What has your creator sent? They answer: These are not God's inspiration and all are previous unreal myths. They will be responsible for their sins in revival day and also part of people's sins whose they have mislead. Be aware that they have a great responsibility!

Business on straying media from law point of view:

Article 640 of Islamic punishment law says about first, second and fourth cases: People who are mentioned in following, will be sentenced to be prisoned between 3 months to one year and paying money from 1500000 R to 600000 R and will be whipped up to 74 taps or one or two of mentioned punishments: **1-** Anyone who uses and shows any painting, picture, image, newspaper, movie and film, design and signs that are against morality and society morals, making or storing them for business. (Mansour, Pishin, p176) The second case which is related to our subject says: **2-** Anyone who imports or exports mentioned objects, personally or by the others,

make any business with them or receives money from renting them .(The same, p176-177) Note 1: Doing mentioned activities related to deviating objects ,causes one of mentioned punishments (Ayubi Far, Pishin, p 214-216).

Note 2:

If the person does the mentioned actions as his job or organized, if is not recognized as mischief-maker, will be adjudged to two of punishments mentioned in this article.(Same, p216).

Statement freedom and its relation with straying media:

One of the most important human worries and needs is thought presentation and statement freedom .Statement freedom is one of human basic rights that is called as human greatness effects and social and urban life. In Islamic and western law system, thoughts, statement and writing freedom basis, is accepted as a basic law with a little difference and its performance is of importance. Freedom was born with human and God has created human, free. (Seyed Razi, 1414 gh, p 681,587,324).

Freedom is a humanistic worthiness and one of greatest life fortunes and most expensive human s moral and materialistic capital. Freedom willingness is mixed with human reality and nature, one of best and nicest natural human satisfactions. So freedom is deep in humans and limiting it is an exception which needs good reasoning.

All divine religions have been responsible for maintaining human freedom and have insisted against human slavery. Islam also, as the last divine religion is not of exceptions and has always advised it.

From Islam point of view, freedom is the best of human reverence and its favorites. In Islamic thinking basis, after unification, human respect is of religious learning. (Asra/70).

Statement freedom importance:

One of mentioned freedoms in Islam is statement freedom. Statement freedom means that a person can freely express his(her)thoughts, beliefs, feelings and sensations naturally, as human is a mobile creature which its existence relates to response to the around world and likes to express himself and whatever hidden in him. Statement freedom is of human and humanistic rights that is guaranteed by international rules .This right is mentioned clearly in 19th article of human rights international rule: Any one has the right to state his(her) beliefs in any way he(she) prefers, without any fear. But from Islamic point of view, statement and writing freedom is of the most important embodiment of human freedom that is revered by holly Quran and God has called speaking as important as human creation and has sworn to the pen and whatever comes from it. Because the secret of ideas improvement lies in expressing beliefs and consulting and imagination, creativity and invention result from free environment.

Statement freedom definition and meaning:

Statement and thinking freedom is one of the most important kinds of freedom. In the first stage, it means preparing good background for human thinking and using wisdom to choose way of life and at the second stage is human ability to use his ideas and expressing them in different verbal and written ways in social, cultural, economic and political issues by means of people good fortune. (Termanini, 1384, sh, 128 -129-p334).

Statement freedom fields:

1- scientific freedom:

It means: **a.** Science power freedom **b.** Giving everybody the right to report any received knowledge about astronomy, natural phenomena, solids, plants, humans and animals .This kind of freedom is accepted in Islam specially in experimental sciences.(Have you looked at camel s creation and.....) (Ghashiye/17-20).

So scientific freedom means anybody is free to think about any issue (Philosophy, political and religious) and no one has the right to control them. This freedom is the most natural and basic right for all humans and the cause of many cultural, social and political changes.

2-Political freedom:

It means any human has the right to take part in political issues and governing the country affairs in order to people and government interest improvement. Islam has given human beings the right to take part in political and social affairs and choose their destiny so the society will be prevented from being captured in despotism and oppression and also the government, system and people s satisfaction stay stable.

3-Thought freedom:

It means every human has the right to choose any idea, belief or religion that thinks is true and this is the right which lets the human select his religious beliefs. Islam respects the freedom verbally, in behavior and thinking and nobody has the right to enforce his thoughts to others.

4-Statement and written freedom:

Any one should be free in expressing his idea and thoughts in the society and can say or write his words lawfully. As these two are freedom of thinking complementary, social life necessities and a means for cultural heritage transmission and exchange. On the basis of freedom rule, humans are free in expressing their ideas and printing and their publication but abstaining from telling lies, null publication, improving prohibited actions, disdaining person or the society and whatever weakens Islamic system and people, is a necessity and doing that is prohibited. Therefore straying book and cultural products print and publication is not permitted and Islamic government can stop or collect them.

5-Press freedom:

In fact it is a part of statement freedom and writing. When we say that statement and writing is free and talk about their freedom, naturally it can be said about press and their freedom in printing and publication their issues freely and without censorship.

6-Gathering freedom:

It means that people in a country should be free to gather for consulting, exchanging ideas, expressing their ideas and telling what do they want, in condition of not disturbing social safety.

Statement freedom in religious jurisprudence:

The words and phrases which are used in religious jurisprudence for getting religious commandments are clearly showing thinking freedom necessity and its place, as without thinking freedom and being thoughtful, these words will be meaningless. The words are as follow:

1-Tafaghe: (religious jurisprudence):

It means knowledge and deep and careful understanding. Ragheb Esfahani refers to Feghh as understanding and having full knowledge of something (Ragheb Esfahani, p398) In holy Quran it has used as careful understanding and knowledge in religion : Why not a group of every tribe move to get knowledge and understanding if religion.(Tube/9,122)

The same meaning can be seen in narrations from holy prophet and Imams. Holy prophet has said: Whoever from my fellows memorizes 40 narrations, will be alive in revival day as a religious jurisprudence. (Koleyni, 1407 GH, s1, p31)

2.Divine law on theology and law matters: (striving hard):

Trying and working hard to find and pulling out the divine and religious laws from Quran verses and narrations and this is why commandments understanding from religious cases is called striving hard .Divine rules and commandments are based on a group of argumentative and thinking affairs that in most cases these rules and commandments cannot be educed from Quran verses look.

3. Perception:

Striving hard open doors means that thinking and going deep in religious subjects and commandment ramifications is free and anyone can do religious perception according to his(her) talent and taste without any limitation. So statement freedom in religious jurisprudence means talking about striving hard, religious jurisprudence and perception. Therefore freedom of thoughts and idea independence is of great importance in subsidiary affairs understanding and perception and of basic commodities of striving hard right meaning (which is a necessity and the secret of religious jurisprudence persistence and Islamic growth).

*B. Statement freedom in religious texts:**a-Holy Quran:*

In holy Quran there are some commands which doing each of them shows statement freedom for religion fellows and sign of Islam hew giving this right to Muslims:

1. Command to consult:

Consulting has the root in Quran and narrations and God has guided humans to consult for problem solving and finding the best and tells his prophet: (consult in all affairs) and Hazrat Ali says: (anyone who consults with the other, is like he has associated him in wisdom. (Nahj Albalaghe, Pishin, 697) Therefore, from verses and narrations which lead people to consult and advise it can be understood that Islam looks for a society in which people can freely express their ideas so by deciding on for and against ideas the best way can be chosen.

2.Prohibition of justice disclaim:

Another rule which stabilizes statement freedom necessity, is prohibition of justice denial and the necessity for telling people the whole truth. God has blamed people who goes to censure and justice disclaim because of their fear or desire. (Why deny the truth by the null and go to justice disclaim by knowledge.) (Ale Emran/71) Also has regarded to people who conceal the truth as the cruelest ones: (Baghare/140) (Therefor telling the truth is a necessity and its denial is prohibited).

3. *Command for good argument:*

It means having a good argument to find the truth and justice. Holy Quran has persuaded humans to it and has called it as the right way of confronting prophet opponents: (Invite them to God's way in a good manner and advice.) (Nahl/125) (Do not argue with readers but with the better way) (Ankabut/46)

In these verses, God has recalled best way in all words, intonation and actions to Muslims. Undoubtedly this persuasion is precious and meaningful if Holy Islamic religion has given the other person, statement freedom and expressing their against ideas right, Otherwise command to good arguing would be meaningless.

4. *Argumentation:*

Beside Quran has invited his followers to comply with reasoning, ask his opponents to bring reasons too. (Nahl/64) (Baghare/111)

The necessity for Quran argumentation and challenge is the opponent's statement freedom to express their ideas and beliefs with reasons. Otherwise argumentation and challenge would be meaningless.

B) *Narrations:*

There are too many narrations about statement freedom by Imams. Imam Ali recalls statement freedom in Nahj O AL Balaghe and orders to the Muslims: Do not talk to me in the way you talk to oppressors and if hesitate from telling the truth in presence of proud people because of fear, do not avoid telling the truth to me and do not feel that the truth is hard to me or want to honor me, as the person whose the truth and fairness is hard to him, following and doing it would be harder to him so do not hesitate from talking the truth and consult for justice to me. (Nahj OL Balaghe, pishin, p253)

D. *Statement freedom from Muslim scientists and religious jurisprudences:*

Quran and tradition, as two Islamic basic sources, invite people to use their mind and wisdom in religious and world affairs, statement and thoughts freedom. Prophet Mohammad (peace be upon him) insisted on making this important point permanent in new Islamic society and train Muslims with knowledge and doing consciously what has been defined to them in Islam as their life style. So he let his followers to argue and study about Quran verses and religious jurisprudence affairs. Abdolahebne masoud and Abdolahebne Abbas and Abiebne Kaab and others arguments about commandments and Quran review shows the truth. (Thoughts freedom, p102).

Muslims from the prophet Mohammad's era and later on, expressed their thought and ideas freely verbally or in writing. Striving hard leaders since the first eras have obeyed it. The greatest religious leaders like Abuhanife, Malek and Shafeyi never said anything as justice. Abuhanife said: Doing my dictum is prohibited for the person who does not know my reasons,

And always said: This is Abuhanife's idea and is the best I could do, if anyone brings a better one, that's preferable. (Shariati, p61)

Imam Shafeyi said: Dear Abu Eshagh, do not imitate whatever I say, think yourself, this is the religion. Imitation in idea and beliefs is not allowed and is prohibited.

These are all statement, thought and beliefs freedom demonstratives and examples of freedom of ideas. Disagreements in reviews, word, anecdotes and beliefs basics, religious arguments in Islamic government center and the talks which non Islamic tribes and nations had with Muslims and even Islamic leaders are the best reason for statement and thought freedom.

Imam Khomeini (RH) said: Islam before and more than any religion has given freedom to the minorities. They should also partake their natural rights which God has given to any human. We take care of it the best way. In Islamic Republic, communists have freedom in expressing their ideas. (Islamic revolution cultural papers center, p48).

Shahid Motahari says: Thinking should be free. Any ideology that believes on itself, necessarily is thought and idea freedom adherent. Any ideology which does not believe on itself, stops thought and idea freedom and wants to limit people and do not let them to think or express their thoughts. (Shahid Motahari, p123)

Statement freedom extents:

As Islam has a special view about life and the world, believes on absence, belief and divine day. So the freedoms should be defined accordingly. Islam doesn't promote freedom for freedom but believes that freedom should be used for improvement, change, invention and history movement. Therefore statement freedom should

be in this humanistic system direction. Regarding this humanity point of view, statement freedom is a basic value in humanity values but does not include all values and there are human greatness and respectability too.

If we infringe others greatness and respectability in the name of statement freedom, it is an unexplainable fault. In this regard, statement freedom limitation and conditionings is not unexpected for social and personal policy which are not something unbearable but the rules for better usage of freedom and with denying it, not only all people freedom will not be materialized, but also will change to a value proof issue and decline, social untrustworthiness and cultural anarchy will improve. So statement and thought freedom has limitations that are as follow:

1- Straying and deviating people prohibition:

As Islam pays special attention to human s guidance and growth, is not indifferent about society decline and straying. This does not mean that Islam stops statement and thought freedom, but making a healthy environment far from tumult. So statement freedom in Islamic society is acceptable when the speaker express his (her) ideas away from telling lies and tact and do not decline people. In an Islamic society no body is allowed to go away from moral society limits with statement freedom excuse and to decline young, kids and women in the society.

2. Sanctities disdaining prohibition:

The other point which is prohibited in Islam is sanctities disdaining reservation. Islam has informed Muslims from disdaining to Islamic sanctities and others and says: Thou believers, do not curse who believes on others than God, maybe they say bad words to God.(Annam/108)

In Islam there are hard punishments for disdaining to Islamic sanctities especially if the speaker is a Muslim.

3. Secretevealing prohibition:

Every system has its own secrets and tries to hide them from enemies and anyone who tries to reveal these secrets will be assumed as enemy and his statement freedom will be canceled. Holy Quran has called Islamic secrets revealing as disloyalty and has informed people of being aware of disloyalty toward God and Prophet Mohammad: Oh Thou believers, do not be disloyal to God and his prophet. (Tobe/285)

4. Conspiring prohibition:

Of other statement freedom conditions, is that no one has the right to provide declining political aims beside thoughts and system publicity and in these cases Islamic government has the right to stop and limit their statement freedom. (They build a mosque for Muslims unfortunate and infidelity improvement and believers division and a place for who were fighting God and his Prophet. They swear they had nothing in mind except goodness but God says they are liars.) (Tobe/107).

5. Infidelity expression abstaining:

One of Islam limitations for Muslims about statement freedom is a Muslim infidelity expression which is called apostasy and there are hard punishments for apostate person. But what is apostasy? What kinds of apostasy are there and what are their punishments? It is one of the important issues which should go through it separately but it is clear that Islam hesitates to force people accepting religion and insists on human beliefs based on knowledge .But after accepting Islam; followers are not allowed to change their minds and limits any idea and statement expression regarding this issue.

Conclusion:

From what is said, we come to conclusion that the basis of statement freedom and expressing it is acceptable in Islam. Muslims has the right for statement freedom and expressing their ideas in different political, ideal and social issues of course with obeying the limits specified to stop any aggression toward Islamic and human values and rights. Expressing thought and ideas by anybody, is appreciated and Muslims should collide correctly with against thoughts.

Freedom basis is of main religious jurisprudence basic and rules. Humans are free in expressing their thought and ideas and their printing and publication but abstaining of lies, null publication, vain publicity, society and people disdain and whatever weakens Islamic system, is prohibited.

Therefore straying books and cultural production s print and publication is not permitted and Islamic government can stop them working and collect them if published. What can be seen in this research is that in Islamic religious jurisprudence, printing and publication of straying books and media is prohibited. But about straying media there are some points as follow:

1-Straying media are the ones that are capable of deviating and straying ideas transmission.2- Straying books meaning is the one which has been changed greatly during the time and has got different evidences.3- In the past, the only way for destroying straying evidences have been tearing, burning and destroying but

nowadays these ways have been changed 4- Today, some movies, satellite, internet sites and even some mobile phones can be regarded as straying media. 5- The only proof of straying is that these media should have deviating effects in society otherwise, they are not straying and prohibited. 6- Straying media which cause society deviation, will be limited 7- Using straying media is prohibited except when using that straying media is for challenging in order to decline it or so on that makes people aware of that and will not deviated by that media. In these cases, straying media prevention is allowed. But not everyone is allowed to do mentioned actions unless is capable and has the ability from religious jurisprudence leaders and be certain he will not be deviated by the media.

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