

## **Protection or Punishment: The two ambits of state**

The dichotomous concepts of protection and punishment is cast within the mould of state sovereignty and power. For citizens, the institutionalized framework of both protection and punishment that they are subjected to, is by default determined by the sovereign authority and power of respective nation-states. Their right to be protected by the state is equally juxtaposed to the monopoly of the state to punish them, if they digress from the established 'rule of law'. Punishment here, theoretically can be seen justified as retributive- that is to impose a deserved reciprocally sanctioned action or as preventive- so as to create a deterrence against such digressions (Cahill, 2010). Hence for citizens, while protection is embedded in their rights of citizenship, punishment signifies right of the sovereign, both though with qualifiers and conditions. For non-citizens like refugees and stateless, who sustain their "bare life" in the host-state, the dichotomy of protection and punishment manifests differently than for citizens. The causative factors that necessitated their exclusion and displacement from their country of origin more than often was for not fulfilling the criteria for inclusion in that state. Couched in the larger ambit of humanitarian protection, their subjectivity is reduced to that of 'humans' that mandate 'protection'. Here the limited protection accorded to them signify only their "residual rights as human" (Mamdani, 2010: 54) and not the full-fledged protection guaranteed to the citizen by virtue of their citizenship rights. Punishment for them is at once both metaphorical and literal. Refugees and such forced migrants are segregated from the host population and live in make-shift camps in deplorable conditions, such that the protection accorded to them on humanitarian grounds transmute to a sort of punishment for being the excluded 'other'. The crossing of geographical boundaries not just creates categories such as 'us' and 'other', but also have seen increasingly led to "criminology of mobility" (Aas and Bosworth, 2013 :9 ). Regulation and restriction of mobility hence produces novel forms of illegality and criminalization, apart from turning punishment and criminal justice structure as important apparatuses "guarding the gates of membership" (ibid.). The role of criminal law and policing has been to preserve the internal security, to establish the sovereign's supremacy and the moral order of the society, in short to create a well- ordered and disciplined society (Foucault 1977; Simon 2007). The paper intends to look at the binary of punishment and protection of refugees from the view point of sovereign power of the state.

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