SHĪʿĪSM AND CONSTITUTIONALISM.

ABSTRACT

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Title: Shīʿīsm and Constitutionalism: A Study of the Life and Views of Mīrzā Muḥammad Ḥusayn Nāʾīnī, a Shīʿī Mujtahid of Iran.

The purpose of this study is to examine the position of the Persian ʿulamā toward the idea of constitutionalism and the Persian Constitutional Revolution of 1906, as exemplified in the life and political thought of Mīrzā Muḥammad Ḥusayn Nāʾīnī (1860-1936). By studying Nāʾīnī's discussion of tyranny and the principles of democracy, we learn to what extent the ʿulamā were aware of democracy and to what extent they were prepared to make concessions to modernity.

Basing our argument on the writings of the ʿulamā and the intellectuals of the Muslim world, we have concluded that democracy was confused with Islamic doctrines by the intellectuals, and their misinterpretation made democracy appeal to the Persian constitutionalist ʿulamā. The ʿulamā, therefore, did not aim at a democratic system.

However, the oppostion of the *ʿulamā* to foreign encroachments in Iran, their support of the Revolution and the concessions they made to constitutionalism, worked, to a degree, in favor of democracy, despite their intentions.

RÉSUMÉ

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Titre: Shīʿism and Constitutionalism: A Study of the Life and Views of Mīrzā Muḥammad Ḥusayn Nāʾīnī, a Shīʿī Mujtahid of Iran.

Le but de cet ouvrage est d'examiner la position du clergé Chīʿī vis-à-vis du concept de la constitution et la Révolution constitutionnelle persane de 1906, comme il est illustré dans la vis et la pensée politique de Mīrzā Muḥammad Ḥusayn Nāʾīnī (1860-1936).

Les discussions de Nāʾīnī de l'idée de tyrannie et des principes démocratiques, nous permettent de voire comment les ʿulamā ont compris la démocratie, et ainsi jusqu'à quel point ils étaient prêts à faire des concessions à la modernité.

Ayant basé notre discussion sur les écrits des ʿulamā et les intellectuels du monde Musulman, nous avons conclue que les intellectueles ont confondu la démocratie aux doctrines Islamiques. Nos conclusions

nous font comprendre aussi que leurs fausses interprétations de la démocratie l'ont rendue acceptable par les ʿulamā Iraniens. Par conséquent, les ʿulamā n'ont pas visé à un système démocratique, mais leur opposition aux empiétements étrangers en Iran, leur soutien à la Révolution et les concessions qu'ils ont faites à la constitution, ont fonctionné dans une certain mesure en faveur de la démocratie, malgré leurs intentions.

SHĪʿĪSM AND CONSTITUTIONALISM: A STUDY OF THE LIFE AND VIEWS OF MĪRZĀ MUḤAMMAD ḤUSAYN NĀʾĪNĪ, A SHĪʿĪ MUJTAHID OF IRAN

by

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A dissertation submitted to the Faculty of Graduate Studies and Research in partial fulfillment of the requirements for the degree of Doctor of Philosophy

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June, 1973

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Nā'īnī's brother, Ḥājī Mīrzā ʿAbd al-Raḥīm Nā'īnī of Karaj, and the youngest son of Nā'īnī, Ḥājī Āqā Mahdī Āyatullāh-Zādah-yi Nā'īnī, provided me with information as not yet mentioned by any

of Nā'īnī's previous biographers.

In Qum, I met two men who knew Nā'īnī very well: Shaykh Hāshim (Āyatullāh-i Āmulī), who was Nā'īnī's disciple in Najaf, Iraq, during the late 1920s, and Sayyid Shahāb al-Dīn Marʿashī (Āyatullāh Najafī), who had eyewitnessed Nā'īnī's participation in the Jihād movement during World War I in Iraq. Both of these men offered me important information. Āyatullāh Najafī, presently a leading clerical figure, was especially of great aid to me, because he kindly gave me access to his valuable book collection which soon will be converted into a public library. He also wrote to me recounting what he remembers of Nā'īnī during World War I. Mr. ʿAlī Davvānī also aided me by bringing to my notice several useful books. In Qum, I also had the opportunity to consult many sources available in Public Libraries such as the Fayzīyyah Library, Masjid-i Aʿẓam Library, and Dār al-Tablīgh-i Islamī Library. All the Qum librarians were particularly helpful to me.

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With regard to the problem of transliteration, I have followed the convention of transliteration adopted by the Institute of Islamic Studies, McGill University; a copy is attached. For the purpose of convenience, Arabic names are mentioned at times without al. Technical terms, except those generally known, are underlined. For famous names I have followed generally recognized spellings; I have used, for instance, "Vizier" and "Tehran" rather than "Wazīr" and "Tihrān". All the dates mentioned correspond to the Gregorian calendar unless otherwise specified.

Abdul-Hadi Hairi
Montréal, Canada
June, 1973

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TRANSLITERATION TABLE

Consonants: ʾ initial: unexpressed ʿ medial and final: ʿ

Arabic		Persian	Turkish	Urdu
ب	b	b	b	b
پ		p	p	p
ت	t	t	t	t
ٹ				ṭ
ث	th	s	s	s
ج	j	j	c	j
چ		ch	ç	ch
ح	ḥ	ḥ	ḥ	ḥ
خ	kh	kh	h	kh
د	d	d	d	d
ڈ				ḍ
ذ	dh	z	z	z
ر	r	r	r	r
ڑ				ṛ
ز	z	z	z	z
ژ		zh	zh	zh
س	s	s	s	s
ش	sh	sh	ş	sh

Arabic		Persian	Turkish	Urdu
ص	ṣ	ṣ	ṣ	ṣ
ض	ḍ	z̤	z̤	z̤
ط	ṭ	ṭ	ṭ	ṭ
ظ	ẓ	ẓ	ẓ	ẓ
ع	ʿ	ʿ	ʿ	ʿ
غ	gh	gh	ğ	gh
ف	f	f	f	f
ق	q	q	k	q
ك	k	k	k	k
گ		g	g	g
ڭ			ñ	
ل	l	l	l	l
م	m	m	m	m
ن	n	n	n	n
ں				ṉ
ه	h	h	h	h
و	v	v	v	v
ى	y	y	y	y

Vowels, diphthongs, etc. (For Ottoman Turkish vowels etc. see separate memorandum.)

short: ـَ a; ـِ i; ـُ u.

long: ا ā; و ū, and in Persian and Urdu also rendered ō; ي ī, and in Urdu also rendered by ō; ے (in Urdu) ē.

alif maqṣūrah: ى ā.

diphthongs: ـَي ay; ـَو aw.

long with tashdīd: ـِيّ īy; ـُوّ ūw.

hāʾ marbūṭah: ـَة ah; in iḍāfah: at.

ABBREVIATIONS

BSOAS = Bulletin of School of Oriental and African Studies.

BT = Barrasīhā-yi Tārīkhī

EI = Encyclopedia of Islam. First edition. Edited by M. Th. Houtsma et al. Leyden: E.J. Brill, 1913-38. 4 vols.

EI^2 = Encyclopedia of Islam. Second edition. Leiden: E.J. Brill, 1960-71. 3 vols (in progress).

F.O. = Great Britain. The Public Record Office's Documents.

HM = Habl al-Matīn.

IJMES = Internation Journal of Middle East Studies.

IS = Iranian Studies: Bulletin of The Society for Iranian Cultural and Social Studies.

IsS = Islamic Studies

JAOS = Journal of American Oriental Society.

JRAS = Journal of the Royal Asiatic Society.

JRCAS = Journal of the Royal Central Asian Society.

MEJ = The Middle East Journal.

MES = Middle East Studies.

MW = The Muslim World.

OM = Oriente Moderno

RK = Rāhnamā-yi Kitāb.

RMM = Revue du Monde Musulman.

SEI = Shorter Encyclopaedia of Islam. Edited by H.A.R. Gibb and J.H. Kramers. Leiden: E.J. Brill, 1961.

SI = Studia Islamica.

St.AP,MEA = St. Antony's Papers, Middle Eastern Affairs.

UW = Sayyid Jamāl al-Dīn Afghānī and Shaykh Muḥammad ʿAbduh. Al-ʿUrwah al-Wuthqā. Cairo: Dār al-Arab, 1957.

WI = Die Welt des Islams.

INTRODUCTION

The Scope

The purpose of this study is to examine the Persian clerical approach to the idea of constitutionalism as exemplified in the writings of Mīrzā Muḥammad Ḥusayn Nā'īnī (1860-1936). In 1906, the Persian Constitutional Revolution occurred under the impact of certain factors which originated both from within and from without Iran. From the external point of view, one may consider the Persian Revolution a continuation of the wide-ranging constitutional movements taking place in many parts of the world during the second half of the nineteenth century. These constitutional revolutions engaged the following European countries: Great Britain, 1867,1884; Italy, 1859-70; Denmark, 1864; Austria and Hungary,1869; Germany, 1871; France, 1875. Constitutional changes also involved Turkey in 1876 and 1908; Egypt and India, several times during the second half of the nineteenth century; Japan in 1889; Russia in 1905; and finally, China in the years 1905-1911. Directly or indirectly the Persians were influenced by those events.

From the internal point of view one may mention that arbitrary rule and corruption, on the part of the Persian government in Tehran

and the provinces, were such as to necessitate an abrupt change. Most of the people, including the ʿulamā and the merchants, were unhappy with the Qājār rulers. The interests of the "middle class", and particularly of the merchants, were threatened by foreign concessions which also threatened the ʿulamā because of the two groups' mutual interests.

On the other hand, the positions of the ʿulamā and the religious institutions were being called into question by the growth of foreign interventions as well as the force of Westernization. To these elements it is to be added that a number of intellectual Westernizers began to make their appearance in the then Persian society. They wrote against the tyrannical rule which existed in Iran. These Persian thinkers undertook their campaigns inside and outside Iran. Of such men, mention may be made of Ākhūud-Zādah, Majd al-Mulk, Sipahsālār, Mustashār al-Dawlah, Malkam Khān and Talibov. Alone, however, they did not enjoy a considerable following. They needed the support of the ʿulamā who were the only organ for the expression of public opinion.

There was needed a mediator to ally the two groups who, for different reasons, were both aiming at the downfall of the Iranian régime. Sayyid Jamāl al-Dīn Asadābādī, "Afghānī", proved to be the architect of this alliance. He had relations with both groups

and influenced both to a certain degree. As a result, constitutionalism, when it appeared in contemporary writings, was presented as an idea which was not in contrast with the traditional beliefs of the Shī'ah.

Following certain events in Tehran, three leading mujtahids, Nūrī, Bihbahānī, and Ṭabāṭabā'ī, openly rose against unjust government and demanded reforms in the administration of justice. They enjoyed a great following from among a variety of groups, including clerical students. This movement finally resulted in the declaration of the Persian Constitution of 1906.

Since the 'ulamā believed that constitutionalism was in conformity with Islam, they focused all their powers to support the new régime. In their speeches and writings they strongly advocated a constitutional form of government. They made an attempt to reconcile democratic constitutionalism with the Shī'ī system of government in order to put an end to tyranny and arbitrary rule which they considered to be un-Islamic. The 'ulamā's participation in the Revolution allowed it, from the outset, to enjoy nation-wide support. But when Shaykh Faẓl Allāh turned against the Revolution because of the latter's being un-Islamic, the clerical world was divided. This division gave rise to a vast polemical literature produced by the two opposing clerical groups. This literature comprises the 'ulamā's

viewpoints, their interpretations of the principles of democratic constitutionalism, and their arguments for the legitimacy of a constitutional régime.

What the ʿulamā said about constitutionalism and how they sought to legitimize it in a Muslim country, such as Iran, are problems that we shall deal with in this study. Since we have found Mīrzā Muḥammad Ḥusayn Nā'īnī's interpretation the most organized and coherent among all those produced by the ʿulamā, we shall give particular attention to a critical discussion of his views. Nā'īnī's account of constitutionalism is important also because it represents the views of the highest ranking clerical leaders involved in the Constitutional Revolution.

It is generally held, and rightly so, that the most influential force behind the Persian Revolution was the ʿulamā's support of the constitutionalists. Had the ʿulamā not sanctioned the Revolution, it would definitely have died still born. Despite the role of the ʿulamā in the Revolution and the influence of their writings and speeches, it seems that no critical examination of the ʿulamā's constitutional thought has yet been attempted. The Persian Constitutional Revolution has been studied to a degree, but until recently not much attention had been directed to the theoretical and intellectual basis of the Revolution. Among the few Persian

scholars who have noticed this shortcoming in the history of the Persian constitutional movement is Firīdūn Ādamīyyat, to whose works we shall make frequent references. But the constitutional thought expressed by the most powerful supporters of the Revolution, i.e. the constitutionalist ʿulamā, has remained rather untouched.

A number of scholars, such as Professors Ann K.S. Lambton, Nikki R. Keddie, Hamid Algar and F.R.C. Bageley, have examined the ʿulamā's role in the Constitutional Revolution. In their works, however helpful, informative, scholarly and critical, the authors have focused on aspects of the ʿulamā's part in the Revolution other than the ʿulamā's constitutional thought. This is an issue which invited Professor Shaul Bakhash's criticism of Professor Algar's views on the constitutionalist ʿulamā, as set out in Religion and State in Iran 1785-1906: The Role of the Ulama in the Qajar Period (Berkeley and London: University of California Press, 1969).[1]

Even the person of Nā'īnī, who was an active participant in Iraqī and Iranian politics as well as the Persian Revolution, and whose writings on constitutionalism exerted a considerable influence among his Persian audience, is hardly known in the West. Apparently, the first scholar to have mentioned Nā'īnī and his book in a passing remark is Professor Lambton.[2] Only recently has Nā'īnī's

political thought attracted the attention of Professor Algar who gives a summary of Nā'īnī's only book on constitutionalism, Tanbīh al-Ummah wa Tanzīh al-Millah (The Admonition and Refinement of the People).[3] We also learn from Algar's article that Algar has treated Nā'īnī's thought in a more detailed fashion, and that the published results will appear elsewhere.

Most of the works of the ʿulamā on constitutionalism, which appeared around the same time as Nā'īnī's book, have sunk into oblivion. Nā'īnī's book, however, proved to be important and influential, and it has become quite well-known among many groups in Iran.

A study of Nā'īnī's writings on constitutionalism will help us understand the ʿulamā's own justification for their participation in the Constitutional Revolution. We will find out in what ways they understood constitutionalism; what is the position of the Shīʿah in a democratic constitutional régime in the opinion of a number of the ʿulamā; and finally what was the ideological opposition of other ʿulamā to constitutionalism. By examining Nā'īnī's accounts of the principles of democratic constitutionalism, such as liberty, equality, the parliamentary system, and so on, we shall discover to what extent the ʿulamā were aware of democracy and to what extent they were prepared to make concessions to modernism in

general and to accommodate constitutionalism in particular. Without a critical study of the ʿulamā's constitutional thought, these important issues will remain unclear. Because it will answer such questions, a study of the type we are undertaking is justified.

The idea of constitutionalism, which the ʿulamā treated in their own style and terminology, originated, of course, basically from the West, but was transmitted through the writings of the modernists of the Muslim world, including the early Persian modern thinkers. Since the Persian thinkers as well as the constitutionalist ʿulamā addressed themselves to the problem of constitutionalism in Iran, it seems desirable to make a survey of the existing constitutional trends in Iran prior to the Constitutional Revolution. Therefore, an attempt will be made to provide a survey in our first chapter. Since Nā'īnī was also influenced by the writings of authors in other Muslim countries, we shall also deal with this matter in the fourth chapter of the study as we treat the origins of Nā'īnī's thought and the importance of his book on constitutionalism.

Nā'īnī and other constitutionalist ʿulamā of Iran spoke of constitutionalism within the framework of the Shīʿī system of government. In order to have a better understanding of the ʿulamā's argument and their attempts to legitimize a constitutional form of government, in the second chapter, we shall briefly touch upon the

Shī'ī theory of government, the institution of the marja'-i taqlīd (religious authority), and the evidence on which the 'ulamā's argument concerning rulership is based. This discussion will be followed, in the same chapter, by a brief account of some of the forces which appeared to threaten the institution of the marja'-i taqlīd and certain "modern" ideas which were expressed by a number of religious spokesmen. Then we shall deal with the 'ulamā's, particularly with Nā'īnī's, own reasoning in regard to their participation in the Constitutional Revolution and political circumstances under which they evolved their ideas. In dealing with the latter problem we shall underscore the 'ulamā's part in the restoration of a constitutional régime in Iran in 1909.

Nā'īnī himself is known as a great mujtahid of his time. Not only was he active in the Revolution and in the events following the Russian invasion of Iran in 1911, but he also played an effective role in Iraqī politics. While in Iran as an exile, Nā'īnī was involved in the republican movement of that country. One of the reasons for the popularity of his book on constitutionalism was the author's considerable reputation among several groups of people. In spite of his evident influence in the history of modern Iran and Iraq, Nā'īnī has not received the attention he deserves. This fact justifies our attempt at a biography of Nā'īnī in the third chapter

which, as a whole, indicates the role of the ʿulamā in power politics in the courses of the Persian Revolution, the Russian invasion of Iran, the Iraqī Revolution of 1920, and finally the republican movement of Iran.

The constitutional thought of the ʿulamā is expressed in their telegrams, public speeches, manifestoes, fatwās and treatises, most of which appeared during the first decade following the Revolution. Some of the relevant papers can be found scattered in books written on the history of the Persian Constitution, such as those of Nāẓim al-Islam Kirmānī, Kasravī and Malik-Zādah. A few other treatises, which are not well known, are also at our disposal. However, Nā'īnī's constitutional thought by itself provides a key through which one may become aware of the position of the whole body of constitutionalist ʿulamā with respect to their theories of constitutionalism as well as their participation in the Constitutional Revolution.

Nā'īnī compiled his book at a time when many other books and manifestoes had already been published, and many changes in the legislative process had developed. Nā'īnī's views appeared against the background of those developments. In addition, Nā'īnī was closely co-operating with the leading constitutionalist mujtahids in Najaf and undertook his constitutional activities at a high

level. He contacted some British authority at Baghdad on behalf of the leading mujtahids (see Chapter III). He also composed the telegrams and manifestoes issued by the ʿulamā. Therefore, the views expressed in Nā'īnī's book can be considered truly representative of the whole clerical body who supported the Constitutional Revolution. The best evidence which proves that Nā'īnī's views on constitutionalism corresponded with the opinions of the constitutionalist ʿulamā as a whole, is the panegyric letters of the two great mujtahids, Khurāsānī and Māzandarānī, praising Nā'īnī's book. These letters appear in the opening section of his book.

In the fifth chapter, Nā'īnī's general view of tyranny as well as his view of constitutionalism will be critically discussed. Finally, in the sixth chapter, the problems of writing a constitution, of parliamentary elections, of the legitimacy of parliament and its legislative power, of the concepts of liberty and equality, will be dealt with. In the latter two chapters, the views of the ʿulamā who opposed constitutionalism, and whom we call "absolutists" for the sake of convenience, will also be examined.

In our treatment of Nā'īnī's thought, an attempt will be made to examine Nā'īnī's basic argument, evidences presented to support it, the assumptions underlying it, and the audience to whom it was addressed. Through such an examination, we shall be able to point out the shortcomings as well as the significance of what Nā'īnī said.

To support our accounts we will at times refer to European thinkers, such as Montesquieu,, Rousseau, Alfieri, Tocqueville Max Weber, Dicey, and so on. The French and Italian thinkers are quoted because the Iranian constitutionalists were influenced, directly or otherwise, by them. References to Max Weber and Dicey are due to the fact that these men were Nā'īnī's contemporaries and wrote near to the period of the Persian Constitutional Revolution, and interpreted the principles of modern constitutionalism. On occasion also Nā'īnī's remarks are compared with those of Muslim thinkers, such as Ṭahṭāwī, Khayr al-Dīn, Kawākibī, and the early Persian modernists because of their more direct influence on Nā'īnī's thought.

We shall argue finally that the ʿulamā's participation in the Constitutional Revolution was a matter of expedience. The ʿulamā aimed at a constitutional form of government because they saw it, in the absence of the ideal rule of the Imām, as the best alternative. In the meantime, without a clear understanding of the idea of democratic constitutionalism, they made a determined effort to propose an Islamicized constitutionalism. The liberals,on the other hand, made use of the ʿulamā's influence in the process of the Revolution. At the same time when they were making large concessions to the ʿulamā in the Persian Constitution, the liberals also made a conscious effort to eliminate the ʿulamā's power over legislative matters as

well as the administration of justice (see Chapter VI).

The Sources

The only source for Nā'īnī's political thought is the book entitled Tanbīh al-Ummah which will be used in the present study. It is generally held that Nā'īnī was the author of all the communications which carried Khurāsānī's signature or that of other ʿulamā. But the basic points made in the surviving papers are included in Nā'īnī's Tanbīh.

Nā'īnī himself mentions that he had also written some chapters on the problem of rulership in Islam and that these pages were meant to be attached to his Tanbīh. But after a dream which inspired him to see that Islamic rule is different from a constitutional form of government, he decided to keep these papers on Islamic rulership separate from his writings on constitutionalism.[4] We failed in all our attempts to locate these pages, but in one of Nā'īnī's discourses, some pages are devoted to the problem of government among the Shīʿah; to this source we will refer on occasion.

A number of books and treatises written by Persian intellectuals of the early modern period, such as Talibov, Mustashār al-Dawlah and others, will also be employed in our survey of the origins of constitutionalism in Iran in Chapter I. In using literature of this

nature we shall limit ourselves to a number of works which appeared prior to the Persian Revolution. During the first decade after the Revolution many books were written by the ʿulamā of all ranks. Since in this study we are involved with the clerical attitude towards the Constitutional Revolution, we shall make use mainly of works which contain the ʿulamā's interpretation of constitutionalism. This sort of political literature has rarely attracted the attention of Western students of modern Iran.

Unfortunately, we do not know of many works of this nature and have no access to several of the books of which we know to exist. However, we have had the opportunity to consult a number of works such as those of Kāshmarī, Maḥallātī, and ʿImād al-ʿUlamā.

In spite of the fact that there was strong opposition to the Revolution on the part of considerable number of the ʿulamā, we do not know much of the latter's writings which must have formed a vast literature. The reason for our lack of information probably lies in the fact that after Muḥammad ʿAlī Shāh was dethroned and Shaykh Faẓl Allāh hanged, the Iranian régime remained, in theory, constitutional; and the revival of absolutist literature was not encouraged and gradually fell into oblivion. Only some of the writings of Shaykh Faẓl Allāh, the clerical leader of the opposition to the Revolution, can be found in general works on the Persian

Constitutional Revolution.

We have been able to gain access only to some of the absolutist literature. Of this, we may mention the work of Shaykh ʿAbd al-Nabī Nūrī and that of Ḥājī Shaykh Abū al-Ḥasan al-Najafī al-Marandī and some other papers which were published by Shaykh Faẓl Allāh's group during his period of refuge in Shāh ʿAbd al-ʿAẓīm, four miles to the south of Tehran.

Many of these works appeared before Nāʾīnī's Tanbīh, and Nāʾīnī might have used them in the compilation of his own book. Apart from the works done by clerics, there was also a large body of other literature on modern developments in Europe to which Nāʾīnī might have had access. Therefore, we shall turn our attention to these writings in a portion of the fourth chapter which deals with Nāʾīnī's works. Many writings which had great effects on their readers have rarely been referred to or explored. One cannot study constitutional thought in Iran without consulting these writings, the authors of many of which were involved in the Revolution.

There is still another type of work which was compiled by clerical figures prior to the Revolution and which is important for our purposes. The works referred to were not written specifically on constitutionalism, but they contributed a great deal to the Persian awakening. Shaykh Hādī Najmābādī's book can be mentioned

as an example. Although his book, Taḥrīr al-ʿUqalā' (The Liberation of Wisemen) (Tehran: Armaghān, 1933), appeared only some years after the Revolution, its contents were communicated to the people many years before by Shaykh Hādī himself, usually at the threshold of his house.

The author of the book, Shaykh Hādī, is well known among Persians as well as Western scholars. His role in awakening the people has been admitted by many students of Iran, but not much attention has been given to what he wrote in his book. In the second chapter, in our discussion of the forces threatening the authority of the Shīʿī ʿulamā, an attempt will be made to outline Shaykh Hādī's thought expressed in Taḥrīr al ʿUqalā.

For Nā'īnī's biography, we have consulted a number of available biographical dictionaries and other sources, most of which may be considered as primary. The most informative of all is Aghā Buzurg Ṭihrānī's Tabaqāt Aʿlām al-Shīʿah (Najaf: Al-Maṭbaʿah al-ʿIlmīyyah, 1959), Vol. I, Part ii, pp.593-96, whose author was Nā'īnī's contemporary and a resident of Najaf. Our information about Nā'īnī's life and activities, however, has been substantially increased by personal interviews with Nā'īnī's son, brother, disciples, and acquaintances, and by sporadic materials that we have come across in the course of our research. The latter materials include

documents in the British Public Records Office and such books as Shaykh Muḥammad Khāliṣī's Mazālim-i Ingilīs (The Inequities of the British) (Tehran: Majlis, n.d.) and Niẓām al-Dīn-Zādah's Hujūm-i Rūs bi Iran va Iqdāmāt-i Ru'asā-'i Dīn dar Ḥifẓ-i Iran (The Russian Invasion of Iran and the Measures Taken by the Religious Leaders for Its Protection) (Baghdad: Maṭba'ah al-Ādāb, 1912). The latter book is of paramount importance for its detailed documentary and accurate accounts of the rise of the Persian 'ulamā of Iraq against the Russian invasion of Iran in 1911. It also contains the texts of almost all the secret telegrams exchanged between the 'ulamā and the Persian and Turkish governments. Strangely enough, however, this book seems rarely to have been utilized.

General and standard works on the Persian Revolution, such as those of Browne, Kasravī, Malik-Zādah and Nāẓim al-Islam, will, of course, be consulted repeatedly. One of the exceptionally important sources for the study of the Revolution is the Persian press of the period of the Revolution. Although we have had access to a variety of Persian newspapers, our main reliance is on Ḥabl al-Matīn because of its being the most informative source for our purpose.

Among other useful sources consulted for our study, we may mention British and a few Persian official documents. The writings of contemporary authors and eyewitnesses will also be utilized.

One of the sources of information on the Persian Constitutional Revolution is the Arabic press as well as Arabic periodicals, neither of which has been sufficiently accessible to us. One of the Baghdad newspapers that an Iraqī author mentions is Al-Raqīb which was being published in 1909.[5] Of the journals which offer some accounts of the Revolution, mention may be made of Al-Muqtaṭaf (Cairo), Al-Hilāl (Cairo), Al-Manār (Cairo), Al-ʿIrfān (Sidon, Lebanon), and Al-ʿIlm (Najaf).[6]

The latter two journals are especially important for the study of the Constitutional Revolution. Because of the religious belief that their editors shared in common with the Persians, the journals were very much interested in the political activities of the Shīʿī ʿulamā and, thus, published many views and discussions concerning the Persian Revolution. Al-ʿIrfān even published an Arabic version of Kasravī's book on the history of the Constitutional Revolution in Āẕarbāyjān.[7] It also published an Arabic rendering by Ṣāliḥ Jaʿfarī of Nāʾīnī's book Tanbīh entitled, "Al-Istibdād wa al-Dīmuqrāṭīyyah" (Despotism and Democracy).[8]

With regard to the problem of languages, we have used mainly the sources available in Arabic, English, French, and Persian, though, on occasion, we have also consulted certain German, Italian, Turkish, and Urdu materials. It is to be admitted that a thorough-

going study of the Persian Constitutional Revolution requires the use of German, Italian, Russian, and Turkish archives. The Russian archives have very substantial material relevant to this field of study because of the Russians' deep involvement in Persian affairs, prior to, during, and after the Constitutional Revolution.

The reason for relying mainly on Arabic, English, French and Persian sources is our limited knowledge of the other languages and our absolute ignorance of Russian. This defect, however great, does not, we think, affect the central theme of our present study. The principal goal in this study is to present the views pronounced by the ʿulamā on constitutionalism and, needless to say, all the ʿulamā's works are written either in Arabic or Persian. Nāʾīnī's writings will be taken as the best representative expression of the opinions of the whole body of the ʿulamā involved in the Revolution and supported the constitutionalists.

Further, to the best of our knowledge, there has appeared no comprehensive study of Nāʾīnī's constitutional thought in the West, nor any systematic work in Arabic or Persian. On Nāʾīnī's political activities, there is only some sporadic information in the F.O. documents. The literature available on Nāʾīnī's academic and political career is also written in Arabic and Persian, the most important of which has been consulted by this writer.

Therefore, with the exception of Nā'īnī's own work and a few other writings of the Persian clerical figures on constitutionalism, and some of the biographical materials on Nā'īnī, all of the source materials we have consulted in this study are comparatively peripheral to our central problem. Despite this fact, however, we have not hesitated also to consult those Russian materials available in a Persian translation, such as Ivanow's work, or those books whose authors, such as Firooz Kazemzadeh and Ivor Spector, have used Russian sources.[9]

Notes to Introduction

1. See Shaul Bakhash's Book Review in MES, VIII (1972), 429-31.

2. Ann K.S. Lambton, "Dustūr", iv-Iran, EI^2, II, 657; idem, "Persian Political Societies 1906-11", StAP, no. 16, MEA, no. 3 (1963), p. 88.

3. Hamid Algar, "The Oppositional Role of the Ulama in Twentieth-Century Iran", in, Scholars, Saints and Sufis: Muslim Religious Institutions in the Middle East since 1500, ed. Nikki R. Keddie (Berkeley: University of California Press, 1972), pp. 231-55. The first edition of Nā'īnī's book was published in Baghdad, Wilāyat, 1909; the second was a lithographed edition which was published in Tehran, in the printing house of Mashhadī Khudādād Bāsmahchī, in 1910. The third edition was published with annotations and introduction by Sayyid Maḥmūd Ṭāliqānī in Tehran, Firdawsī, 1955. The first edition is more accurate than other editions, but since it is now out of print, it will be more convenient to make reference to the third edition which is readily available.

4. Nā'īnī, Tanbīh, pp. 48-49, 138-42.

5. ʿAbd Allāh al-Fayyāḍ, Al-Thawrah al-Iraqīyyah al-Kubrā Sanah 1920, (Baghdad: Al-Irshād, 1963), pp. 96-97.

6. Only a few examples are given here: Jurjī Zaydān, "Muẓaffar al-Dīn Shāh," Al-Hilāl, XV (1906-1907), 287-92; anonymous, "Muẓaffar al-Dīn Shāh", Al-Muqtaṭaf, XXXII (1907), 91-96; anonymous, "Bilād al-Furs wa Mustaqbaluhā", Al-Muqtaṭaf, XXXIV (1909), 527-28; Sayyid Muḥammad Rashīd Riḍā "Kitābān Sīyāsīyyān", Al-Manār, X (1907), 820-27; idem, "Fī Mustaqbal Iran", Al-Manār, XV (1912), 229-31.

7. Al-ʿIrfān, XXV, (Sic), passim.

8. See Al-ʿIrfān, XX (1930), 43-46, 172-80, 432-38, and XXI (1931), 45-52, 534-52.

9. For bibliographical information about the works of authors mentioned in this Introduction, consult the Bibliography.

CHAPTER I

THE INTELLECTUAL ORIGINS OF CONSTITUTIONALISM IN IRAN

Modernism and Constitutionalism

The first decade of the nineteenth century marks the beginning of modernization and Westernization in Iran. Modernization on the European model has been associated with the name of the distinguished Qājār Crown Prince, ʿAbbās Mīrzā (1788-1833) as its founder. The Napoleonic invasion of Egypt in 1798, and Napoleon's dream of making, with Russia, a joint overland invasion of India, made Iran a center of attention for the Powers, i.e., France, Great Britain and Russia. ʿAbbās Mīrzā, together with his assistant Mīrzā Abū al-Qāsim Qāʾimmaqām (murdered 1835),[1] well realized that the growth of modern technology in war and other aspects of life had made Europe superior to Iran, and that if Iran were to continue to exist, measures would have to be taken in line with modernization.[2] By modernization, therefore, we mean the introduction among the Persian people of a modern administration, a modern army, centralized government, a modern system of taxation, modern education, modern transportation, modern values, and so on. We have used the term "Westernization" because attempts were made

to introduce Iran to the modernism which originated from the West, i.e., Western Europe.[3]

To this end some measures were taken, e.g., dispatching students to Europe in 1811 and 1815,[4] hiring military advisors from France and England, establishing the nizām-i jadīd (modern army) and conscription, setting up the first modern printing press (in Tabriz in 1812), and so on. Mīrzā Ṣāliḥ Shīrāzī and Mīrzā Ja'far Khān Tabrīzī were two British educated graduates who afterwards played roles in the process of modernization and in the Iranian awakening. Mīrzā Ṣaliḥ, for example, set up a printing house in 1819, published the first newspaper in Tehran in 1836, and also undertook diplomatic missions.[5]

In his memoirs Mīrzā Ṣāliḥ talks, among other things, about the following subjects: British political institutions, the administration of justice in London, libraries, orphanages, schools of medicine, vaccination, the American War of Independence, the 1789 French Revolution, and so on. He gives an account of British history and some laws passed by Parliament. In talking about Magna Carta, he says that one of the provisions of this Charter was freedom for the people.[6] He calls England "city of freedom" vilāyat-i āzādī, the House of Commons mashvarat khānah (house for consultation), and its members vakīl al-riāyā (representative of the

subjects). He attributes great importance to the House of Commons and adds that every person may be eligible to be elected as a member of the House. The people have absolute freedom in electing their representative, and the latter has the full right to express his opinion in Parliament without being objected against by any authority. The representatives have also the right to suspend an order handed down by the King or the House of Lords if they think that the decision of the latter does not meet the people's interests. However, the King and the two Houses together form the three powers in the country.[7]

Mīrzā Ṣāliḥ, who studied French, Latin, natural philosophy, and printing in England, wrote his memoirs during the years 1815-19. Thus, as early as the second decade of the nineteenth century this young Persian brought home the idea of constitutionalism from the most prominent constitutional state in the world. His detailed accounts of freedom of speech, freedom of election, sovereignty of Parliament, and other aspects of the British constitutional system, were unparalleled in Iran at that time. It seems that his account is one of the earliest descriptions of the British constitutional régime penned by a Muslim writer. Mīrzā Ṣāliḥ's writing preceded the somewhat similar Arabic work of Ṭahṭāwī in 1826-31.[8]

The process of modernization was slow because of the unpro-

pitiousness of the existing conditions. Max Weber suggests a number of preconditions upon which the modern state is based:

> These preconditions are: (1) monopolization of the means of domination and administration based on: (a) the creation of a centrally directed and permanent system of taxation; (b) the creation of a centrally directed and permanent military force in the hand of a central governmental authority; (2) monopolization of legal enactments and the legitimate use of force by the central authority; and (3) the organization of a rationally organized officialdom, whose exercise of administrative functions is dependent upon the central authority.[9]

These preconditions did not exist in Iran at that time. The King was absolute; the lives of his officials and other people were at his mercy; government officials were corrupt. Administrative affairs were based on a medieval system but were not unified under a central power. The Provinces were virtually separate states, and the governors, due to their giving bribes to the Shāh and his courtiers, had a great amount of independence. The Khāns and chiefs of tribes hardly cared about the government agents, and had their own government and judicial officers. A dual judicial authority was at work: The ʿulamā (religious leaders) as well as secular court judges dealt with judicial affairs side by side and, at times, passing opposing judgements on the same case. There was no strong central and permanent army under the government's command.

At times of crisis, the tribal chiefs were mainly responsible for recruitment. The administration of taxation and Customs, to quote Annette Destrée:

> "....sont, comme les autres, entre les mains de fermier généraux qui achêtent très cher leur charge au Shah et entendent avant tout trouver dans la perception des taxes le moyen de rentrer dans lurs frais et de faire de substantiels bénéfices. De la sorte, seule une très petite partie des taxes perçues arrive jusque dans les caisses de État."[10]

Thus, there can be seen many differences between the pre-conditions that Max Weber suggests for modernization and the actual situation that then existed in Iran. Because of this unpropitiousness, the efforts toward modernization undertaken by ʿAbbās Mīrzā encountered many serious difficulties.

Religious opposition, for example, to modernization was very great and modern reforms were seen to be contrary to Islam. The ʿulamā thought that ʿAbbās Mīrzā's policy of conscription indicated a lack of religious faith on his part.[11]

But Iranian modernization, however slow, and though in a stage of infancy, was carried on by a number of personalities, such as Amīr Kabīr (murdered 1851), under whose supervision as Grand Vizier (1849-51) a large scale reformation was undertaken.[12] So too with Mīrzā Jaʿfar Khān Tabrīzī (d. 1862), who filled high offices in the

government; in 1858, he established for the first time the Council of State, Shūrā-yi Dawlat, a cabinet system roughly based on the European pattern with six ministries under his chairmanship.[13] This was the first step towards a modern form of government in Iran.

Malkam Khān, whose constitutional thought will be discussed shortly, addressed to Mīrzā Jaʿfar a long letter in which he suggested a constitutional monarchy and separation of powers. This Shurā, however, was short-lived because at the instigation of the Royalist fanatics at the Court, Nāṣir al-Dīn Shāh (reigned 1848-96), paralyzed it.[14] Despite the fact that Nāṣir al-Dīn Shāh proved to be a tyrannical monarch and hostile to modernization, at one time even he, being influenced by his competent Grand Vizier, Mīrzā Ḥusayn Khān Sipahsālār (see below), took some interest in modernization. The Grand Vizier encouraged the Shāh to visit Europe and see its progress at close quarters. Nāṣir al-Dīn himself admitted the necessity of applying some European innovations to Iran. To this effect, he wrote to the Ẓill al-Sulṭān in 1872 that, "Our interests necessitate our visit to Europe. Our principal goal in this trip is to learn about the basis of reform, developments, and the means of interests and progress. We would like to see in person, and choose those things which are instrumental for the welfare and progress of the people in other countries."[15] However,

since he was surrounded by quite a few conservative courtiers, reformation progressed slowly.

On the other hand, modernization was not held to a standstill, because political, economic and social movements had started in many parts of the world, and Iran, with its geographic situation, could no longer be isolated. Among other changes, constitutional, nationalist and independence movements, reached their heyday in Europe during the second half of the nineteenth century, engaging a considerable number of nations.

In Great Britain, a number of Reform Acts were made during this period, such as the Second Suffrage Act of 1867, and Manhood Suffrage for England in 1884, and other acts which provided for the franchise, the ballot, and the distribution of seats.[16] Italy, having been divided into seven states after a series of revolts during the years 1859-70, eventually formed one union to which one constitution was applied, and consequently, the kingdom of Italy came to be. As a result of three wars fought between the years 1864 and 1871, involving Germany, Denmark, France and Austria, four constitutional states came into being: Denmark in 1864, Austria and Hungary in 1869, Germany in 1871, and the Third Republic of France in 1875. During the following years, nationalist movements appeared in the Balkan states, and out of a war between the

Ottomans and the Russians in 1878, Serbia and Rumania were born.[17] In 1876, the Turkish liberal politician, Midhat Paşa, drafted a constitution and gained Abdül-Hamid II's approval. Although this constitution was soon abrogated by the Sultan, it was revived by the Young Turks in 1908.[18] We will briefly deal with the influence of the Turkish constitutional changes later in this discussion.

The constitutional development in Egypt also deserves brief consideration here. Throughout the nineteenth century, from the time of the Napoleonic invasion of Egypt, the constitutional changes in this country can be summarized as follows: 1. The Council, Dīwān, instituted by the Napoleonic administration in 1798. 2. The Consultative Assembly, Majlis al-Mashwarah, established by the Khedive, Muḥammad ʿAlī in 1829. 3. The Consultative Assembly of Representatives, Majlis Shūrā al-Nuwwāb, founded by the Khedive, Ismāʿīl, one in 1860 and another in 1866. 4. The Majlis al-Nuẓẓār, founded by Ismāʿīl in 1878. A constitutional law was written in 1882, after the ʿUrābī revolt, and abrogated the next year. In 1883, another constitution was made and functioned under British rule until World War I.[19]

During the above-mentioned developments many Persians were living in Egypt and witnessing the process of these modern changes. There were, especially from the 1890's onward, a number of Persian

intellectuals in Cairo where they were publishing Persian newspapers such as Hikmat (1892), Surayyā (1898), and Parvarish (1900). These papers were so popular and influential that their entry to Iran was prohibited by the Persian government.[20]

In India, there was a series of constitutional acts from the 1850's. These developments came mainly in the wake of the 1857 Indian Mutiny and began with the Act of 1858. This Act abolished the East India Company and set up British rule in India by a Secretary of State and Parliament. The Indian Council Act of 1861 established closer contact between government and the governed. In 1885, the Indian National Congress was established. In the first session of this Congress, which was held in Bombay, seventy-two Indians attended. It may be said that this incident marked the beginning of the history of Indian nationalism. The Congress came to form the germ of a Native Parliament. The next constitutional advance was the Council Act of 1892.[21]

The Persian residents of India bore witness also to these constitutional developments. One of the active leaders of the Persian Revolution of 1906 was Nasr Allāh Malik al-Mutakallimīn who had travelled to India in 1881 and wrote his critical study entitled Min al Khalq ila al-Haqq (From Creatures to God) on politics and society while there.[22] Another active leader of the Revolution

was Sayyid Jalāl al-Dīn Mu'ayyid al-Islam, who published his famous newspaper Ḥabl al-Matīn in Calcutta and Tehran for many years.[23]

Another constitutional change was that which occurred in Japan in 1889. This country gained its constitution rather peacefully, the process lasting about nine years. In 1881, the Emperor had announced its inception and finally on February 11, 1889, the constitution was granted.[24] This constitution was, in the words of a Japanese scholar, "...a gift from the throne." Although the powers were divided into three: legislative, executive and judicial, the fundamental principle, according to Dr. Hozumd, of the Japanese government, is a theocratic-patriarchal constitution.[25]

At this time Iran does not seem to have had any relationship with Japan. However, there are some sporadic materials which speak of some mutual contacts between the two countries. Muḥammad ʿAlī Sayyāḥ (known as Ḥāj Sayyāḥ) (d. 1925), who was an Iranian liberal and opposed to the rule of Nāṣir al-Dīn, tells us of his trip to China and Japan sometime before 1877.[26] He says that since Iran did not have any relations with China and Japan and had no diplomatic agent in these countries, he had, while visiting the United States, to obtain and carry an American passport. He goes on to say that,

> "I applied for an American passport only to facilitate my trip to Japan and China. Since I had done services to America, of which I have written in detail in my Memoirs Concerning Abroad, I obtained an [American] passport and a recommendation for the Chinese Plenipotentiary".[27]

This man, with such a great curiosity for visiting Japan, must have noticed the modernizing measures which had been undertaken in that country since 1850.[28] He may, in his Memoirs Concerning Abroad, have given details on the modern developments that he eyewitnessed while in Japan, but, unfortunately, we have no knowledge of Sayyāḥ's memoirs in relation to China and Japan; the editor of his published memoirs does not give us any information about that part of Sayyāḥ's experience.

A Persian official document reveals that the Ottoman Chargé d'Affaires in Petersburgh had talked with Mīrzā Ḥusayn Khān Sipahsālār concerning the visit of a number of Japanese officials to Iran. They arrived in Qum with 24 boxes of gifts which the Japanese Emperor had sent for Nāṣir al-Dīn Shāh. They had planned to stay in Iran for two months. Nāṣir al-Dīn Shāh ordered that accommodation should be provided for them since they were representing their government.[29] This event marks a beginning of the Japanese attempt to seek economic interests in Iran.

We also know that the Amīn al-Sulṭān, Mahdī Qulī Hidāyat,

Mīrzā Aḥmad Khān, and four other Persians, travelled to Japan on their way to Mecca in 1903-1904 and were received by the Japanese government and Emperor.[30] We also hear of a Saḥḥāf Bāshī who, prior to the Amīn al-Sulṭān's visit, went to Japan frequently and brought home examples of Japanese fine arts.[31] Nāẓim al-Islam records a telegram which was issued, on the eve of the Persian Revolution, to the Emperor of Japan by Sayyid Muḥammad Ṭabāṭabā'ī concerning the Muslim residents of that country.[32] Ṭabāṭabā'ī, on a certain occasion, expressed regrets that every country had sent envoys to Japan except Iran.[33]

Despite the lack of closer relationships with that country, Persians knew about Japan and, like other Asian countries, were very interested to witness the Japanese victory over Russia in the war of 1904:

> "Interest in Japan and in the secret of Japan's success was quickly awakened throughout Asia, and books and articles appeared in Persian...noting Japan's successful programme of industralization and modernization."[34]

One of the important constitutional revolutions to which we would like to make reference, is that of Russia in 1905. This revolution, which exerted a noticeable influence on several Asian countries,[35] had begun in the 1860's and 1870's. In 1903, two

revolutionary leaders, Lenin and Plekhanov, split because the former was in favor of a Marxist revolution, whereas, the latter believed in a milder democratic régime. Finally, after the Russian defeat in the Russo-Japanese War of 1904-1905, and the spread of internal disorder, the Emperor, Nicholas II, took sides with the Mensheviks in order to stop the Bolshevik movement, and issued a manifesto drafted by Witte in which, to quote George Vernadsky,

> "....[he] granted the Russian nation: 1) the fundamental principles of civil liberty - inviolability of person, and freedom of thought, speech, assembly and organization; 2) democratic franchise; 3) no law to be made henceforth without the consent of the Duma."[36]

The influence of the Russian Constitutional Revolution on Iran was so great that Ivar Spector points out that it was used as a model during different stages of the Persian Revolution.[37] There were long standing educational and economic ties between Iran and Russia. Many Iranian workers and businessmen had migrated to Russia to work in the oil centers in Baku; by 1910, the number of Iranian migratory workers in Russia reached almost two hundred thousand each year.[38] Spector writes that:

> "In 1905 an organization of Iranian revolutionaries was created in Tiflis. The result was that when these Iranian migratory laborers returned to their

> homeland, they took with them revolutionary ideas, printed propaganda and weapons to incite strikers and disturbances there. It should occasion no surprise, therefore, that the Revolution of 1905 in Iran followed also on the heels of that of Russia."[39]

On the influence of the Russian Revolution on Iran and its similarity to that of Iran, Spring-Rice, the then British Minister at Tehran also asserts that,

> "You will observe a strong family resemblance between the reform movements in Russia and Persia - the same absence of leaders, the same instinctive hatred of the Government, the same secrecy. The main difference between the countries is that the Persian Government has neither army nor money, and has no power of resistance.... You will also observe the determined attack made on the Russian Government here, on the Cossak brigade, on aggressive Russian Consuls, and also the cordial exchange of telegrams between the Russian Duma and the Persian Majlis, in the name of 'liberty, justice, and the fraternity of peoples'. The two peoples seem to have a common hatred and a common desire, and it is not to be wondered at if the two Governments should act in common against a common enemy."[40]

The constitutional measures adopted in China also must not be passed over in silence here. After the Opium War of 1839-42 with England and an increasing number of interventions by the British, French and Japanese, a number of individual Chinese scholars and officials started to introduce a series of reforms in China. They

realized that a number of fundamental changes were required in the organization of state and society. One of the famous Chinese reformers was Sun Yat-Sen who, in 1894, founded the Society for the Development of China. The first objective of this Society was to set up a constitutional monarchy. In 1905, Sun Yat-Sen headed the programme of the Revolutionary Alliance, aiming at the overthrow of the monarchy and the establishment of a republic. He announced four points, one of which reads:

> All inhabitants of China are to be considered equal and enjoy the same political rights. President and Parliament are to be elected by the whole nation.[41]

A number of newspapers such as Min-Pao and New Hunan were publishing articles on reforms.[42]

The Chinese defeat in the 1894-95 war with Japan accelerated the process of political, social, and economic reforms, because the humiliation that China suffered at the hands of the Japanese was a great blow to Chinese pride. Japan had been a cultural satellite of China, and her superiority over China was due to the modernizing measures along Western patterns that Japan had been taking.

The outset of the present century marked the beginning of the end for the Chinese ancien régime. Although the Dowager Empress,

Tzu Hsi, reigned for another few years, "she now accepted the inevitability of reforms, and entrusted her political henchman, Yuan Shih-K'ai with the task of putting them into effect."[43] Republican ideas, which had already become current among intellectuals and army officers, finally bore their fruit: in 1911, a Republican régime was proclaimed.[44]

Presently, there seems to be no recorded evidence of any influence of modern reforms in China on the Persians. Our sporadic information, however, does not rule out the probability of the Persians' awareness of modern developments in China. As mentioned earlier, Ḥāj Sayyāḥ went also to China (before 1877), but we do not know what he had learnt about that country, though at that time of the 19th century, nothing in the way of tangible modernization could be observed in China. In 1903, the Amīn al-Sulṭān and six other Persians visited China. Mahdi Qulī Hidāyat, accompanying the Amīn al-Sulṭān, narrated his encounter with a Muslim clergyman from Bukhārā called Sayyid Mullā Nūr al-Dīn, the author of a book on Persian grammar.[45] This man can be taken as an example of an alive Persian cultural connection with China in the early years of the 20th century. There were also, according to Hidāyat, a number of Persian tea merchants living in the city of Chang-hai.[46]

These Persian residents of China were literates and had access

to the press from which they had learned about the Amīn al-Sulṭān's trip.[47] The fact that they read newspapers indicates their interest in current happenings in China. These merchants no doubt had contacts with Iran and must have relayed information about what was going on in China.

The British Foreign Office documents indicate more direct commercial relationships between Iran and China. Spring-Rice writes that,

> "...if the export of opium from Persia to China is stopped, the loss to the Bushire customs revenue (in export duty) will be over £12,000 a year. The total yield of the Southern customs in 1905-1906... was about £125,000. The charge for interest and sinking fund secured on the Southern customs due on the 14th April, [1907] and still unpaid, was £23,547 and the yearly charge for interest on the loans of the Imperial Bank amount to about £50,000."[48]

Apart from the commercial relations, it is to be mentioned that Amīn al-Sulṭān's group came back from China with fresh news about modern developments in that Country. Hidāyat, for example, gave accounts about Chinese secret societies and freemasonary activities.[49] In addition, there were other channels through which information about China could reach Iran. For instance, Japan was at war with China in 1894-95 and with Russia in 1904-05, the latter fighting taking place mainly on Chinese soil.[50] The news of these wars,

together with other information about the countries involved, was followed with deep interest by all Asians.

Through the foregoing thumb-nail survey, we have tried to indicate, first of all, that the Persian Constitutional Revolution of 1906 was, from the external point of view, an extension of a widespread constitutional development then taking place in many parts of the world. Due particularly to Iran's propinquity to the two revolutionary nations, Russia and Ottoman Turkey, and the relations of the Iranians with Egypt and India, and awareness of happenings in Japan and China, the attempt to bring about a new régime in Iran was a logical event at that specific time. Secondly, because of their contacts with the West and Western constitutional changes, the Iranian intelligentsia felt that the existing system in Iran was no longer tolerable and came to believe that the country would enjoy security, welfare, reputation, and stability if tyrannical rule were eliminated and replaced with a constitutional form of government. These men believed the modern value system to be more realistic and more meaningful, and they knew about the world situation and the direction in which modernism was moving. They were also aware of the internal situation of Iran; they understood what was wrong with the system. They observed that the old régime was collapsing from within because of mismanagement,

and was being eroded from without by foreign encroachments and power struggles. The Persian thinkers felt that their fellow Iranians were tired of disorder and were discontent with the ruling classes. Therefore, they undertook a serious intellectual campaign, both from inside and outside the country.

Through their criticism of the existing régime and their proposals for reform, these men created a body of political literature which concerns, among other modern trends, constitutional developments. The literature also represents well the style of Persian writing, the problems in which Iran was involved, and the ways of thinking of the early Iranian reformers.

The period of their writings and that of their main concern spanned the second half of the 19th century and the first few years of the 20th, that is to say, the period of the reign of the two Qājār Monarchs, Nāṣir al-Dīn Shāh and his son Muẓaffar al-Dīn Shāh (reigned 1896-1906). All writers addressed themselves to the rule of one of these two Persian Monarchs. The modernists' criticism of the existing régime and their advocacy of modernization encountered not only the Persian government's opposition but also the condemnation of the ʿulamā.[51] The following is an attempt to outline only the constitutional theory of six prominent Persian reformers:[52]

Ākhūnd-Zādah[53]

The first man to be discussed is Fatḥ ʿAlī Ākhūnd-Zādah (1812-1878), who was born into a Persian family in Shakī, Caucasus. Ākhūnd-Zādah has given his life story in scattered fashion in his writings. He noted: "I moved with my mother to Ardabīl to live with her uncle, Ākhūnd Hājī ʿAlī Asghar, from whom I took my name.... At 22 years of age I went to Tiflis.... My ancestors were Persian."[54] "Although outwardly I am a Turk, ethnically I am Persian; my grandfather, Hājī Aḥmad, was from Rasht (northern Persia), and later had moved to Āẕarbāyjān, (Iran). It is my aspiration that the Iranians realize that we are children of the Persians and our home (vaṭan) is Iran...; I also belong to the Twelver Shīʿī sect."[55] "Our sense of honor and our ambition cause us to have an ardent zeal about our people, who like us, speak the same language and belong to the same vaṭan as we do."[56]

Ākhūnd-Zādah is credited with having introduced a number of innovations to the Muslim world. He wrote the first modern play in Turkish, in 1849, a few years before the first play written by Ibrahim Şinasi in Turkey.[57] His continued effort to change the Arabic alphabet is another innovation which is credited to him.[58] Apparently, he was also the first Muslim who recognized and clearly discussed the aspects of Islam conflicting with constitutionalism.

He was a determined secularist and a faithful advocate of Western civilization. He strongly recommended a constitutional régime, to originate not from reforming leaders, but rather made by the people themselves through a revolution.

Writing in 1863, he addressed his Iranian audience as follows: "Oh! Iranians! If you could realize the advantage of liberty and human rights, you would have never tolerated slavery and humility; you would have studied the sciences, have set up freemasonries and societies, have united your powers, and have decided to save yourself from the tyranny of the despot."[59] He held the people themselves responsible for being oppressed: "In the past all prophets, philosophers, and poets asked the oppressor not to oppress, but modern thinkers, such as Voltaire, Rousseau, Montesquieu and Mirabeau, realized that the oppressor should not be addressed any more but the oppressed should be encouraged to rebel and put an end to oppression."[60] Āqā Khān Kirmānī (1853-1896), another Persian reformer, related this idea to ʿAlī Ibn Abī Ṭālib, the fourth Caliph and the first Shīʿī Imām (d. 661) who wrote to the Egyptians not to tolerate oppression.[61] Ākhūnd-Zādah added: "When the people understood the significance of this idea, they revolted against the tyrants, and after taking power, they enacted laws which were suitable to their own interests. The constitutional

régimes which now exist in Europe are the results of the political thoughts of the above-mentioned philosophers."[62]

Concerning the relationship between the king and the people, he believed in the sovereignty of the latter: "The king should be in full agreement with the nation. He should consider himself a representative of the nation and, enact law in co-operation with the nation; therefore, the people will become patriotic and will defend their country fullheartedly. The kingship should be based on the law, and it is the parliament which makes the law. Parliament is formed of two assemblies, the House of Representatives and the Senate. All laws should be made by the two assemblies, giving the king power to ratify them without him having the right to take any measure against the passed laws."[63]

Here, Ākhūnd-Zādah particularly emphasized the role of the people in governing themselves. At that time there was no notion of this nature among the people ruled by Nāṣir al-Dīn Shāh. There was no popular participation in political affairs, nor a parliament to make law. The only ruler and law giver was Nāṣir al-Dīn Shāh of whom, Ākhūnd-Zādah urged, the Persians should dispose.

In describing the concepts of nation, nationalism and patriotism, Ākhūnd-Zādah had this to say: "A patriot is a person who offers his life for the sake of his nation and sacrifices to bring liberty.

and to otherwise benefit his fatherland and his nation."[64] "The time is passed for sacrificing one's life for religion. In order to gain a national power to protect our fatherland against the foreign yoke and to wipe out the great inferiority, it is necessary to educate all the people and teach them nationalism and patriotism (millat dūstī va vaṭan parastī)."[65]

In a critique that Ākhūnd-Zādah wrote in 1875 to Mustashār al-Dawlah, concerning the latter's book, Yak Kalimah, (One Word), he strongly criticised inequality between man and woman, Muslim and non-Muslim, slave and freeman, and also the penal law in Islam, because he saw these as opposing modern constitutionalism. He spoke highly of Yak Kalimah, which will be discussed below, but he also criticised Mustashar's attempt to reconcile Islam with modernism.[66]

We view Ākhūnd-Zādah as a liberal secularist in a modern sense, an advocate of Western civilization and constitutionalism. This Persian thinker, however, suffered from a strong prejudice in favor of his Iranian nation. He was anti-religious to the extent that he condemned all religions and sects, including Bābism. When he dealt with Zoroastrianism however, he admired it and wrote to his Zoroastrian friend that this religion should be preserved and protected, and conscious efforts should be made not to let any

Zoroastrian be converted to Islam.[67] This is not to say that he had religious sympathy for this religion, but it does indicate his nationalist bias. Since Zoroastrianism is a pre-Islamic Persian religion, his nationalistic prejudice caused him to worry about the decrease in the number of Zoroastrians. In his writings, there are also a number of harsh criticisms of Islam and the alleged dishonesty of Muḥammad. Needless to say, he was critical only of the Persian system while giving his admiration and loyal service to the Tsar's government whose aggression of long standing in Iran had cost a great many lives of Ākhūnd-Zādah's fellow citizens. However, these arguments are beyond the scope of this present study.

The principal point to be made here about Ākhūnd-Zādah is that since he severely attacked Islam and Persian ties to religion, he could not enjoy a large audience among the Persians. Even his book on constitutionalism was not published. Ākhūnd-Zādah, however, did influence many Persian intellectuals whose constitutional thought affected the Persian revolutionaries.

Majd al-Mulk[68]

The next man on whose constitutional thought we focus our attention is Muḥammad Khān Sīnakī Majd al-Mulk (1809-1880), a member of the ruling circle. He held several high offices between

the years 1851 and 1880, e.g., he was sent to Astrakhan, Russia, as a Consul in 1851, and to Ottoman Turkey for diplomatic negotiations in 1858. He was a well-read man of letters with a beautiful style of writing. His only book, Kashf al-Gharā'ib (The Disclosure of Marvels), better known as Risālah-yi Majdīyyah (The Majd Treatise), proved his mastery in politics and literature, and his lively interest in social and political reform. This book, written in 1870, contained strong criticism of the Iranian system of government and the consequences which followed misrule. He enumerated defects of the system; in doing so, he quoted newspapers in order to prove that he did not criticise the Shāh's rule out of any alleged personal purposes.[69]

Throughout the book he laid particular emphasis on the rule of law, which Iran lacked, and he called this defect the sole cause of the problems in Iran. He laid blame on the 'ulamā, who did not object to the oppression, passed contradictory judgements in judicial cases, and did not guide the people.[70]

His most serious criticism was directed to the Shāh's consultants and ministers who saw the rule of law as being against their personal prerogatives, and did their best to keep Iran free of the rule of law.[71] The only solution to the disorder, in his view, was to establish a Grand Assembly, Majlis-i Buzurg, in which wisdom and

zeal would rule. The result of such an assembly would be order and progress, nazm va taraqqī.[72] He also made a slight reference to the separation of powers without daring to expound the theory more clearly. He pointed out:

> In spite of the Shāh's insistence on law and willingness to follow the law, the ministers did not take into consideration the principles of the law and did not separate the power which made law and the power which executed it. They concentrated on subsidiary administrative matters. They paid no attention to the principles and confused them with subsidiary matters in order to make the Shāh believe that Iran was not capable by nature of following the law.[73]

The Risālah-yi Majdīyyah cannot be rated as an outstanding interpretation of modern constitutional theory. Nevertheless, it exerted a great influence on later Persian constitutionalists, because the author made a strong and sincere criticism of the Iranian political and social texture, and severely attacked misrule and arbitrariness. Before and during the Persian Revolution, it was passed to a reasonably large body of readers in the form of manuscripts. It used to be read aloud with enthusiasm and admiration by the Persian patriots.[74]

Sipahsālār[75]

A Western-oriented reformer who contributed to a large extent

to the development of constitutionalism in Iran was Mīrzā Ḥusayn Khān Sipahsālār Aʿẓam (1826-1881). His studies in France were followed by his first important diplomatic position as a Consul in Bombay, in 1849, when the Amīr Kabīr was in power. In 1852, he became the General Consul of Tiflis. From 1858 to 1870, he lived in Istanbul, first as a Plenipotentiary for ten years, and then as an Ambassador. In 1871, he became the Grand Vizier and later held other offices. He is noted for his reform of the judicial system and his effort in Westernizing Iran.

In his correspondence with the Royal Court and the Ministry of Foreign Affairs, Sipahsālār expressed a great amount of approval of the Ottoman reforms which were being undertaken during his stay in Istanbul. He explained the importance of Mustafa Fazil Paşa's letter about the establishment of parliament.[76] He was very impressed with the Ottoman reformation and the constitutional development in the Empire. He admired the law for its equal treatment of Ottoman subjects.[77] Aside from these reforms, he also admired the nationalistic movements in the Balkan States. He had friendly relations with the Turkish reformers, Ali Paşa, Fuad Paşa and Midhat Paşa, whose liberal activities deeply impressed him. His letters to the Persian authorities were full of discussions on political developments in Europe, establishment of a House of

Representatives, and the introduction of constitutionalism, mashrutīyyat, in Turkey. He encouraged the Persians to adopt the Turkish example.

Filling the office of Grand Vizier, he started a wide-ranging reform in Iran and established, in 1872, a new cabinet system, darbar-i aʿzam (greatest court) and majlis-i mashvarat, (consultative assembly), now having nine ministries in which all laws were to be passed.[78] This majlis-i mashvarat, though a short-lived and non-sovereign power, was another step toward constitutionalism in Iran.[79]

Mustashār al-Dawlah[80]

Writing in Paris in 1869-70, Yūsuf Mustashār al-Dawlah Tabrīzī (d. 1895), another Persian government official, contributed a great deal to the theory of the constitution in Iran. Concerning his biography and experience, he states: "Upon the order of Nāṣir al-Dīn Shāh, I went to Astrakhan, Russia, as a Consul in 1853, where I rendered my services in that office for 8 years. After a two-year interval, I travelled to Moscow, and then as a Chargé d'Affaires I arrived in Petersburgh. In 1863, I was appointed as the General Consul of Tiflis and stayed there for 4 years. I was very impressed by the progress that Russia had been making and I wished for my country to one day achieve such a stage. In 1866-67,

I became the Chargé d'Affaires of Paris for 3 years, within which I had the occasion to visit London 4 times. During this period I observed that progress in France and England was a hundred times more advanced than in Russia."[81] With amazement he questions: "What could have been the reason behind such an unbelievable achievement, justice?" Finally he comes to the conclusion that the secret lies in one word, Yak Kalimah, the law, which ruled those countries but did not exist in Iran.[82]

He sees several differences between the French law and that of Islam which was alleged to have been followed in Iran. He criticises Islamic jurisprudence. He points out that modern law can be found within Islamic law,[83] but he criticises the existing Islamic jurisprudence and practice, and gives preference to the French Code of law on the following grounds:

1. The French Code was written on the agreement of both the people and the government and not according to one's personal opinion. This statement concerning "one opinion" is rather vague; perhaps he had in mind the fatwā of a mujtahid or the decrees of the Caliph, Shāh or Sultan.

2. The French Code covered all the ordinarily practised law, and was devoid of any weak or questionable opinion; but the Islamic law books comprised conflicting theories which were very difficult

to use in comprehending the truth, even if one were a mujtahid.

3. Every ordinary Frenchman could understand his law, because it was written in a simple language.

4. The French Code dealt only with worldly affairs and applied to all the subjects from different faiths, but in Islamic books, religious and non-religious matters were mixed. Consequently, the non-Muslim subjects did not care about these law books. Since the subjects of all faiths in one country were to be treated equally, there should have been compiled a book on religious topics, such as prayer, fasting, etc., for Muslims, and a law book which dealt with worldly affairs for all citizens, Muslim or otherwise. In other words, Mustashār al-Dawlah believed that religion was to be handled within a limited framework quite outside the state. Besides, he was trying to assert that the principle of legal equality should prevail among the subjects, irrespective of their faith, status, color, and class. There was, of course, no caste system in Iran, or elsewhere in the Muslim world, but as far as religion was concerned, the Muslim citizen held a status different from that of the non-Muslim resident of Iran. In making the above-mentioned point, Mustashār al-Dawlah was addressing himself to the existing legal inequality.[84]

5. The French Code included all the ordinary and customary laws,

but among Muslims, customary laws were not compiled into a book; these laws were in the hearts of individuals. The result was that many crimes were committed in the name of customs.[85]

The Yak Kalimah is a commentary on the first French Constitution. In 1791, after two years of committee meetings and consultations in France, the Décret de l'Assemblée Nationale du Trois Septembre, 1791: La Constitution Française, to which was affixed the 1789 Declarations des Droits de l'Homme et du Citoyen, was declared.[86] Mustashār al-Dawlah took interest in studying that Constitution and outlined it with his own commentary in nineteen items which make up the main body of his book. The author, however, does not seem to have been standing on firm ground in his discussion. On the one hand, he sounded full of love and respect for the French constitutional form of government, and on the other hand, he attempted to find similarities between the French Law and Islam by quoting the ḥadīth and Qur'ānic verses. His presentation, accordingly, contained a number of constitutional remarks which he strongly stood for, as well as several misconceptions, misinterpretations, ill-founded comparisons, and unsuitable reconciliations.

In dealing with the role of the people, he made it clear that it was all the people who governed. He pointed out that; "In France, and other civilized countries, the citizens debate on justice

and injustice through their representatives, vukalā; there will thus be no opposition to the law, because it is they themselves who rule and have made the law."[87] He also dealt with the franchise by pointing out that, "It is definitely the right of the citizens to elect their representatives; this gives them opportunity to intervene, to discuss, and to watch the government's action. These representatives, according to the law, are to meet in the Corps Legislatif, that is, Majlis-i Qānūnguzār."[88] "The will of the people and their approval are the basis of all governmental policies; this comprehensive principle is of paramount importance, the truthfulness of which cannot be questioned by any wiseman."[89]

Mustashār also advocated the concept of separation of powers into two, the legislative and the executive. These powers should be separated and not be afraid of each other in order to facilitate liberty and independence.[90] This explanation is a constitutionalist one, but he weakened it by identifying it with the difference between hukm and fatwā, as explained by Shaykh ʿAlī Karakī. There is no doubt that these two concepts, hukm and fatwā, are different, and Karakī simply noted what they were; Karakī never said that these were separate powers administered by different authorities who were not to interfere in each other's duties.[91] Mustashār believed in the permanent membership of the Senators; this shows the influence

on him of British parliamentary procedures.[92]

The foregoing passages prove that Mustashār recognized the sovereignty of the people and the franchise, and recommended an elective legislature by which law should be made, government be checked, and state affairs be watched. This author, however, clouded his intelligent remarks by relating them, like contemporary reformers in other parts of the Islamic world, to the Islamic concept of mashvarah (consultation) ignoring the fact that, first of all, consultation was not necessarily applicable to the parliamentary system because it could be done under the supervision of an absolute ruler. Secondly, although consultation has an important place in Islam and was practised on occasion in early Islam, it was not exercised by an elective body representing the sovereignty of the nation, nor acting on its behalf. There is, of course, more to the parliamentary régime and more that might be said in discussion of the Islamic concept of mashvarat, and the applicability of one together with the other which Mustashār failed to note. This subject, however, is analytically treated by Nā'īnī.[93]

Concerning equality, he noted that every person, an emperor or any ordinary subject, should be judged equally before the court, and in this context he made reference to various Qur'ānic verses.[94] Although on another occasion, as was pointed out before, he made

allusion to the equality of the subjects belonging to various faiths, he did not here stress the fact that equality also meant that every citizen, irrespective of his faith, color, status and sex, be judged equally.

In discussing the question of property, honor and life, that are to be secured and respected, he made reference to a few Qur'ānic verses, such as those which set a physical punishment for the person who commits fornication (24:2), and the verse which orders the cutting off of the hands of thieves (5:38).[95] It is true that every person's life, honor and property, are respected in Islamic law as well as in the French Law, but there is no similarity between the Islamic physical punishment and the French penal system, and the nature of punishments that the French Law has ordered.

Mustashār appreciated the concept of liberty. His explanation about freedom of speech, freedom of the press and freedom of assembly, was modeled upon the Western democratic descriptions, except that he likened freedom of speech with the Islamic concept of al-amr bi al-maʿrūf wa al-nahy ʿan al-munkar (to enjoin right conduct and forbid indecency).[96] Since other reformers, such as Malkam Khān, also made the same remark,[97] we shall discuss this problem here in some detail. It is true that in Islam, a person who openly objects against those who do wrong will be supported by the law.

These two concepts, freedom of speech and al-amr bi al-maʿrūf wa al-nahyʿan al-munkar, therefore, resemble each other only outwardly and within the limit of "criticism of lawlessness" and "its being supported by the law". This is, of course, not enough to justify these Persian gentlemen in their likening, because in reality there are great differences between these two concepts on the following grounds:

1. The Islamic concept is applied within the framework of religion; in other words, the goal in "enjoining right conduct and forbidding indecency" is only to serve religious causes, not necessarily secular or national, and international interests. It commands, in the words of Professor Berkes, "...the execution of the maʿrūf and the persecution of the munkar on the basis of God's moral law";[98] whereas, by freedom of speech, one is given the right to express his opinion about anything concerning any department of life.

2. The Islamic concept does not go beyond the law; a Muslim criticises, objects, or forcibly prevents any violation against religious law, and his criterion for "enjoining and forbidding" is bound to be only the Islamic law. In brief, no Muslim has ever a right to criticise the law by saying that, for instance, such and

such verse of the Qur'ān, in his view, is impractical. But freedom of speech, according to article II of the Declaration des Droits de l'Homme et du Citoyen which reads "...tout citoyen peut ... parler, écrire, imprimer librement...",[99] gives the right to the citizen to express whatever he wants, e.g., criticising the law itself. There are, of course, certain limits to this freedom. A.V. Dicey, a British constitutional theorist and a contemporary of Mustashār and Malkam, noted that,

> "Any man may...say or write whatever he likes, subject to the risk of...severe punishment if he publishes any statement...which he is not legally entitled to make."[100]

The point we would like to draw from Dicey's statement is twofold. First, is the fact that a person can say or write whatever he likes, so that he can even criticise the law, but this is not the case with the Islamic concept in question. Second, is the fact that whatever he publishes should be legally allowed, that is to say, he is not permitted to make defamatory statements about individuals, or seditious statements against the government. However, a citizen is welcomed by the law (of England, for instance) to show publicly that the Crown and the government are in error, to pinpoint shortcomings of the constitution and to make any criticism which is

bona fide.[101]

3. The Islamic concept is addressed only to Muslim audiences and does not oblige non-Muslim subjects; whereas, in a constitutional régime every citizen, Muslim or otherwise, enjoys freedom of speech.

4. The amr bi al-maʿrūf wa al-nahyʿan al-munkar is obligatory in Islam; it is a duty of a Muslim to stand against irreligiousity in the community. This concept is discussed in Islamic jurisprudence under ḥisbah, with which the muḥtasib was effectively entrusted in a town.[102] Freedom of speech, on the contrary, is a right of a citizen to use or not.

In sum, Mustashār understood the meaning, importance and efficiency of the Western constitutional system, and on occasion, he openly admitted its superiority to the actual Islamic practice. This fact is also proved in the letter he wrote in 1891 to Muẓaffar al-Dīn Mīrzā, then governor of Āẕarbayjan.[103] He is to be credited for the effort he made to acquaint the Persian people, especially the ruling body, with modern government and state. We cannot, however, overlook his weak points, such as irrelevant comparisons between two opposite values. Quoting Qurʾānic verses on the wrong occasions clearly indicates the superficiality of his applications. Our understanding is that in his reconciliation, Mustashār was not serious and had realized that these two subjects, Islam and constitu-

tionalism, were different; but on the other hand, he also realized that his people were more receptive and responsive to ideas having Islamic colorings. Therefore, he tried to decorate modern thought with the Qur'ān and ḥadīth, in order that, (addressing Ākhūnd-Zādah in a letter in 1869), "may not anybody say that such and such is against Islam or Islam is against progress and civilization."[104] As a matter of fact, his book, as he expected, enjoyed a tremendous popularity, so much so that it was taken out of circulation by the government, and he was arrested.[105] A few decades later, Yak Kalimah was used as the Book of Principles of the Secret Society, anjuman-i makhfī, which played a considerable role in the Persian Constitutional Revolution.[106] The use of traditional Islamic idioms, no doubt, played a part in the popularity of the book.

Malkam Khān[107]

Another intellectual friend of Ākhūnd-Zādah who played a great role in the development of constitutional theory was Mīrzā Malkam Khān Nāẓim al-Dawlah (1833-1908). He was born into a family, Armenian by origin and Muslim by conversion.[108] He was sent to school in Paris from 1843-1851. Upon his return to Tehran, he was appointed as an interpreter and teacher in the Dār al-Funūn (House of Arts) which had just been established by the Amīr Kabīr. He was

in Iran from 1851-1863. In the meantime he was delegated to the Paris Conference of 1855. In 1858, when Ja'far Khān Mushīr al-Dawlah established a cabinet system, Malkam wrote for him his treatise, Daftar-i Tanẓīmāt (Book of Reforms), in which a wide-ranging reformation was urged. In 1858 he founded the Faramūshkhānah (House of Oblivion), a kind of secret society somehow based on the pattern of Western freemasonry. His political activities caused his banishment to Turkey in 1863. He stayed there until 1871, partly as an exile, and mainly as an advisor to the Iranian Ambassador, Ḥussayn Khān Siphsālār in Istanbul.

Malkam went back to Iran in 1871 and continued serving as an advisor to the Sipahsālār, the then Grand Vizier. In 1873, he was appointed as a Plenipotentiary to London. He held this title until 1878, and as a result of his service to Iran as a Persian delegate to the Congress of Berlin (1878), he was soon promoted to be Ambassador to Great Britain. He served the Iranian government in this position until 1888 when he fell from Nāṣir al-Dīn Shāh's favor on the question of the Lottery Concession.[109] Consequently, Malkam turned against the Shāh, founded the newspaper Qānūn in London in 1889, and sharpened his criticism of lawless government in Iran. He wrote the Qānūn irregularly for a few years and encouraged Iranian patriots to demand reforms. Malkam did not hold any

further government position until 1898 when the new Shāh, Muẓaffar al-Dīn (reigned 1896-1906), appointed him the Persian Ambassador to Rome, which he remained until the end of his life (1908).

As mentioned, this man spent most of his life in Europe, holding different diplomatic positions through which he had the opportunity to be informed and be an actual eyewitness of the political and social reforms in different countries. His stay in Istanbul (1863-1871) coincided with the second phase of the Turkish constitutional movement (1865, six years after that of 1859), following which, in 1867, Mustafa Fazil Paşa established the Jeunes Turcs in Paris. In the same year, Fazil wrote his open letter to Sultan Abdül-Aziz demanding a constitutional régime as the only legitimate form of government for Turkey. This movement finally resulted in the ill-fated constitution of 1876.[110] Malkam was exposed to these revolutionary events, and he also had contacts with some of the Turkish reformers, such as Kamil Paşa, Ali Paşa and Fuad Paşa.[111] His writings, altogether 200 treatises,[112] examine European progress and reforms. They reveal the great influence of philosophers, such as John Stuart Mill, upon his thought. He even translated parts of Mill's On Liberty into Persian.[113] He discussed many political, social and economic issues, and their relevance to Persia, such as law, taxation, monarchy, republicanism, separation of powers, moderate

and absolute monarchy, equality, cabinet system, provincial division of the Persian territory, judiciary, secular education, banking, the rule of law, modern army, irresponsibility of the king, responsibility of ministers to the Assembly, modern penal law, freedom of speech, national unity, consultative assembly of the state, national consultative assembly, the importance of the people in the state and the people as the real owners of the country, modern trade and industry, the people's competence for electing their own representatives, Western technology and civilization, the reform of the Arabic alphabet, superiority of language over religion in forming a national unity, inefficiency of the traditional way of life in the modern age, the rule of humanity, and so on.

Malkam was a strong advocate for the application of Western values to Persian society, and subscribed to a constitutional régime as the solution to Iran's problems. We are of the opinion that Malkam, like his friend, Ākhūnd-Zādah, realized that Western constitutional theory was at variance with Islam in several areas, especially the position of religion in the state; but unlike Akhūnd-Zādah, he never made this matter clear and, consequently, made contradictory remarks. His approach to constitutionalism was like that of Mustashār: to reconcile it with Islam.

On the one hand, he said that it was language which formed

national unity,[114] and that the ʿulamā and the mujtahids should have been under the custody of the Ministry of Science.[115] He supported secular education by suggesting three levels of shcools: primary, secondary and advanced, in none of which religion had any place. He also considered several schools of arts which included an army school, a religious school, and a school of mining.[116] On the other hand, he frequently spoke highly of religion and gave the ʿulamā and mujtahids particularly important places in the state, and pointed out that the modern system was not in contrast with Islam,[117] Islamic law being the most perfect law in the world.[118] In his view, Europeans did not understand the real significance of the Qurān;[119] the great mujtahids of every province should have been included in a consultative assembly;[120] the principles of modern law were very similar to Islam to the extent that one might think that it had been borrowed from Islam;[121] in making a national consultative assembly, one hundred people from amongst the mujtahids, scholars and wisemen, should have been granted full power,[122] and in every province people were to choose the mujtahid or the Imām of the district as their trustee in "the society of men."[123]

The reason for his contradictory statements about religion was perhaps that he did not think that the kind of religion which can survive within a constitutional régime would have been suitable

to Persian society where religious ties were so strong. Malkam himself noted that it was not possible to disregard religion: "One should make allowance for the fanatic people of the country; for success in reformation, the intelligent young men must learn religious science as well as the French Law."[124] In the process of clothing his secular reformation with the garb of religion, he, knowingly or unknowingly, at one time laid emphasis on religion and at another time focused his attention on the secular aspects.

Throughout his works Malkam gave thought-provoking criticisms of tyranny, lawlessness, inefficient administrative systems, incompetent political machinery, and of disorganization of governmental procedures. He talked about the power of the people[125] and limitation of the kingly power by establishing an assembly.[126] Gradually, he gained a considerable number of supporters from many regions in Iran, Iraq and Transoxiana, as reported in various issues of the Qānūn, and they shared his views, though it is possible that the reports in the Qānūn were forged.

Malkam, however intelligent and well-read, did not propose a well-founded modern constitutional form of government upon which his Persian audience could base their opinions. First of all, in all his writings, to which we have had access, he never employed the word mashrūṭiyyat, which was used in Turkey by Namik Kemal,[127]

and in Egypt by Ṭahṭāwī;[128] or constitution (in the French pronunciation), as other Persian reformers did. There is a report that in 1884, Malkam wrote about a saltanat-i mashrūṭah,[129] but this work does not seem to be available. Even if he did use this term in that portion of his writings, his conservatism is still apparent, because on very many other relevant occasions he failed to employ the specific word which clearly defined the conditional and limited power of the ruler and the ruling class. Secondly, he did not elaborate, in modern constitutional terms, on the concept of sovereignty of the people. At one point, Malkam said that power was derived from the people and supervised by the people. However, when he came to explain this, he interpreted it by saying that "...they supervise the execution of the law in the same way as the early Muslims did through their participation in public affairs and their being united."[130] The early Muslims were fighting for the faith, and their only common interest was religion; how can this sense of solidarity be identified with the sovereignty of the people in constitutional terms?

His reconciliation of Islam and constitutionalism made it difficult to understand the similarities and differences between the two. Later on the absolutist 'ulamā strongly challenged the constitutionalists' claim on the relations between these two concepts.[131]

In his Daftar-i Tanzīmat, (The Book of Reforms), written in 1858, Malkam noted that a state in which the people made law and the king executed it, was called a moderate kingship, saltanat-i mu-tadilah, as in England and France, but said that this was not suitable for Iran. He then suggested a constitution in which the law ruled and the powers were separated, but the king was placed above all and every power.[132] We must give him credit for being honestly outspoken in saying that the constitution he dealt with was not an ideal one, but that it suited Iran. We also make allowance for the fact that Malkam then was working for the government, and he could not possibly have proposed more liberal ideas. Malkam, however, never became outspoken enough to propose a clear-cut constitutional theory, even after several decades when he was outside the reach of the Persian absolute ruler, and in circumstances more conducive to a moderate constitution.

He kept on proposing a majlis-i idārah (administrative assembly), majlis-i shūrā-yi dawlat (council of the state), majlis-i shūrā-yi kubrā (grand consultative assembly), majlis-i kubrā-yi millī (grand national assembly) and majlis-i qavanin (legislative assembly), but none was an elective assembly or similar to a representative government. He empowered, of course, some of the above-mentioned assemblies to be the only rulers and made the ministers responsible

only to the majlis, not the king, but he did not say how these assemblies should have been chosen. These assemblies were suggested to consist of, at times, seventy [133] and at another time, of one hundred mujtahids, scholars and wisemen from the capital of Iran.[134] Why only from the capital? Should they be elected by the electorate or be selected by the sovereign? His works which we know of indicate that once, and only once, he proposed something similar to a parliamentary system by pointing out that two assemblies were required: majlis-i vukalā-yi millat (assembly of national representatives) and majlis-i aqṭāb (house of peers) from whose combination a congress, mala'-i aʿlā, would evolve.[135]

If he had remained with this idea and developed it subsequently, we could then argue that he had presented a strong constitutional framework; but in a later issue of his Qānūn, he again suggested an assembly named darbār-i aʿẓam (grand court) in which seventy members from amongst mujtahids, princes and wisemen, were to make law under the chairmanship of a person who was authorized by the king.[136]

Malkam Khān, in conclusion, did introduce Western constitutionalism sporadically in his various works. However, out of his overemphasis on the reconciliation of Islam with modernism on one hand, and his having been not liberal enough and outspoken enough to

suggest a more definite procedure for reform on the other, he produced a body of literature full of contradictory remarks and confusingly inconsistent views. These misled, to a degree, the later writers in their interpretation of constitutionalism and democracy. Despite the inconsistency in his argument, his writings played a considerable role among the Persian revolutionaries. Issues of the Qānūn were smuggled into Iran and passed privately to many interested readers. Also during the Revolution a collection of several essays written by Malkam were published in Tehran (see further above).

Talibov[137]

Consideration now should be given to a self-made Persian disciple of enlightenment, Abd al-Rahim Talibov (1834-1911), who, unlike Malkam and Mustashār, was not a government official, but rather a businessman. His contribution to the Persian awakening and the development of constitutional theory in Iran was equally as important as theirs, if not more so. Born in Tabrīz, he moved to Tiflis, Russia, when seventeen, where, spirited by ambition and adventure, he took work as an assistant contractor under another Persian immigrant to Tiflis. Later he established his own firm and became very rich. Since he had a lively interest in learning,

he spent much time studying a variety of modern subjects which became accessible to him, thanks to his acquisition of the Russian language. Though he lived in Russia for over half a century, there formulating his ideas and educating himself, he never really forgot his Persian identity and used to say: "First, I love the universe, then I love Iran, and finally I love the clean soil of Tabrīz."[138] His strong sense of nationalism caused him to criticise those Iranians who were not patriotic as the ancient Persians were, who had become Arabized by force and who were now becoming Europeanized by choice.[139] He laid heavy criticism on those who went to Europe and had learned only to drink alcohol and to eat pork.[140]

Through self-education and personal interest, he became not only a political and social enlightener, but he also produced works on physics and astronomy. In his writings, he made references to such European thinkers as Jean Jacques Rousseau, Ernest Renan, Voltaire, Bentham, and other liberal ḥukamā, to whose works he gained access in their Russian translations. Throughout his works Talibov admired the positive aspects of modernism, particularly Western constitutionalism. He spoke of vaṭan, millat and dawlat, in their modern senses, but occasionally he gave ill-founded explanations of some of these concepts.[141] His description of

vaṭan can be best understood from this statement: "The time is passed to say that our vaṭan is neither Egypt, nor Iraq, nor Syria. Our vaṭan for whose protection and progress we are responsible, and for which we should sacrifice our lives, is Iran whose famous cities are Shīrāz, Iṣfahān, Yazd, Kirmān, Kāshān, Tehran, Qazvīn, Rasht and Tabrīz...."[142] "Everyone who has human fervor and zeal should protect the vaṭan, its glory, its honor, its wealth, its children, its religion and its customs."[143] He considered the power of the government as originating from the nation, millat. For example, he mentioned Japan whose leaders, during the Russo-Japanese War, were empowered by their people. They performed proper service; otherwise, they would have been cursed by successive generations.[144]

As is readily apparent, Talibov used millat in the sense of nation and vaṭan to mean patri. This became clearer when he spoke of liberty, equality and the voice of the majority. He divided freedom into six types, as follows:[145]

1. Āzādī-yi huvīyyat, individual freedom. This concept means that every individual has the right to do anything he wishes so long as he does not violate others' rights. No one's privacy can be violated except according to the law.

2. Āzādī-yi ʿaqāʾid. While elaborating this concept, Talibov pointed out that everyone is free to hold any sort of opinion

whatsoever, and no authority can blame or punish him for a corrupt opinion; the right to personal opinion being equal to the right of possessing money. However, corrupt opinion should not be allowed to cause corruption of other people's opinions. Here, Talibov touches upon what is called liberty of thought, opinion and belief, which is limited only by the decencies of courtesy and consideration for others. When a conflict thus appears between two parts of the community, the state, in the words of Ernest Barker, "will act as an arbiter, and not as a party in the case."[146]

3. Āzādī-yi qawl, freedom of speech. This concept gives one the right to speak, to write and to invite people to listen to him. If his speech creates a disorder or contains libel and slander, he will be punished after an investigation.

4. Āzādī-yi maṭbūʿāt, freedom of the press. One is to be free, to publish his writings and is not to be prevented from doing so unless the publication creates impediments to freedom of speech, libel, or slander.

5. Āzādī-yi ijtimāʿ, freedom of assembly. Those who are of the same opinion can hold an open assembly and discuss political and state problems and, if necessary, criticise or oppose governmental actions. They are free to send copies of the proceedings to local and central governments if they deem necessary. If their demands

represent or include the votes of the people's majority, they should be immediately approved. In so describing freedom of assembly, Talibov laid emphasis on the vote of the people which meant their sovereignty in the state, though by combining freedom of assembly and the authority of majority will, he shows his relative misunderstanding of these two different concepts. Talibov again stressed the significance of the decision of the majority when discussing the following type of freedom:

6. Āzādī-yi intikhāb, the franchise. Every mature person is free to vote for the holders of public office. He may vote for anyone who is deserving and whom the law does not forbid. The only criterion for denial or approval of the election of an office holder is the majority of the votes.

Concerning the sovereignty of the people, Talibov, on a different occasion, noted that: "Rulership belongs to the people who endow it upon a family as kingship, and if a king does not deserve it the people can transfer the kingship to someone else."[147] He wrote this in 1901, as a memorandum on the absolute ruler and sent it to the Atabak, the Persian Grand Vizier, to remind him of the importance of the people.[148]

Talibov paid particular attention to the law, its maker, and its meaning. Generally speaking, he saw law as being of two sorts:

spiritual and material. Spiritual laws were brought forth by the prophets who received them through revelations. Material laws, e.g., civil and political laws, were made by wisemen to establish the rights and the interests of the people; these two kinds of laws were necessary for the people's benefit.[149] He clearly noted that law-making was the special privilege of the majority of the people for their own welfare.[150] Thus, Talibov did not dismiss religion and the laws of the prophets, but he kept them apart from the state and the material aspects of life. In other words, he suggested a secular law and a secular state, although he considered the secular and the spiritual laws interdependent. One should take into consideration the fact that he believed in God and practised Islam. In his writings he used dīn-i pāk (the pure religion) in reference to Islam.[151] He even performed the Islamic pilgrimage (hajj) in 1899.[152] Spiritual matters, however important in his view, formed a distinctive sphere, separated from politics and from the secular law which were under the jurisdiction of the wisemen in the state. Despite this fact, at one time he, like Mustashār and Malkam, found it expedient to remark that:

> "Whatever is against civilization is perpetually forbidden in our noble religion which will be the basis of the law in Iran. Any Muslim, including the writer of these lines, whose heart and tongue

> do not approve this fact is infidel. Also those who do not consider the law a supplement to religion and guardian for the enforcement of the religious law, Shar', are not Muslim."[153]

Remarks of this nature, however, are very rare in Talibov's writings. He seems to have made them on occasion simply to exert some influence on the Persian masses who had close ties to religion. In spite of this concession made to religious authority, his books were banned by Shaykh Fazl Allāh Nūrī, the clerical leader of the anti-constitutionalist groups, and he himself was declared to be an infidel.[154] This incident, however, speaks of the effect that his writings had among the Persian people during the Revolution.[155]

Talibov wrote about the fundamental law which, in his view, would establish the rights of the king and the citizens, and this law should be enacted in a parliament.[156] His brief remarks on parliament were not very well-founded, for he saw parliament as an organization in which laws were executed.[157] This is, of course, wrong because law, in a democratic constitutional régime, is executed not by parliament, but by the executive authority. However, from his words concerning the responsibility of the ministers to parliament, separation of executive and legislative powers can be understood as being implied. He pointed out that in several constitutional countries, if the ministers did not perform their duties, or if they enforced an unlawful order of

the king, they became responsible for their unconstitutional actions to the National Assembly. This very responsibility of the ministers caused the king not to issue illegal orders.[158] In other words, the king who is the head of the executive power is not to interfere with the legislative power by issuing decrees, because the powers are to be separated in a democratic régime.

He divided political régimes into three kinds:

1. An absolute régime in which the ministers were responsible to the absolute sovereign;[159] this régime was of two types; a) An absolute régime with a law made by the sovereign himself, irrespective of the interest of the people, e.g. Russia and the Ottoman Empire. b) An absolute régime without any law in which the will of the individuals ruled, e.g., Arabia, Iran, and Afghanistan.[160]

2. A constitutional monarchy which operated under a bicameral legislature.

3. A constitutional republic in which, as in France, for instance,[161] an elective president held office for a number of years.[162]

Throughout his writings, Talibov engaged in heavy criticism, direct or indirect, of the then absolute régime of Iran.[163] In his discussions he made references to several constitutional countries, such as England, France and Japan. He highly admired

the British constitution because "...it has priority, not only in time but in spirit too. In other countries, law is made for reservations of freedom and rights, but respect for the law was in the nature and spirit of every British citizen."[164]

He frequently mentioned the Japanese constitution of 1889.[165] He seems to have been impressed with the Japanese attitude toward the West, and especially with their constitutional changes. Their victory in the Russo-Japanese War influenced him to the point that he advised his people and other Asian countries to follow the Japanese example.[166] He even translated the constitution of Japan into Persian, and included it in his book, Masā'il al-Hayāt (Problems of Life).

This brief survey of the constitutional thought of a few important pioneer advocates of constitutionalism in Iran shows how constitutional theory was interpreted for a Persian audience prior to the Persian Revolution. Malkam and Mustashār, two important constitutional theorists, gave a detailed account of the various aspects of a constitutional form of government. They considered it an indispensable reform; but out of expediency, or occasion, they mixed into their theory religious elements. Majd al-Mulk and Sipahsālār did not leave us with full accounts. The little that we know is not enough to understand the exact

meaning they attached to the idea of constitutionalism.

The other two theorists, Ākhūnd-Zādah and Ṭalibov, seem to have given better descriptions, even though the former was anti-religion and the latter was a practicing Muslim believer. Ākhūnd-Zādah openly fought against Islam, but Talibov believed as an individual in Islam, but nevertheless, at times mixed religion with the state. The main difference between these two thinkers was that Talibov described constitutionalism almost in terms of Western standards, but without mentioning clearly the points of conflict between Islam and a constitutional system. Ākhūnd-Zādah, however, described constitutionalism quite correctly and, above all, did not hesitate to declare very boldly its conflicts with religion and to insist that these two elements should be separated. He was a whole-hearted secularist.

The writings of the above mentioned writers on constitutionalism did contribute to the Persian awakening and were influential, as mentioned in every individual case, in the process of the Revolution. Although they did not enjoy a great audience from among the masses, many of the writings of these men were circulated from hand to hand among the Persian intellectuals involved in the Revolution.

The Persian interpretations of constitutionalism were not,

of course, limited to the works of the above-discussed reformers. There were many other Iranian enlighteners who were fighting for political freedom while living in Iran, Cairo, Istanbul, the Caucasus, Europe and India, where they published books, treatises and newspapers in Persian. However, these intellectual activities, whatever their strengths and weaknesses, were not enough to bring a constitutional change to Iran.

A considerable number of external and internal factors have been suggested as having caused the Revolution. The following elements were also influential as some of the immediate external factors:

1. The defeat of an European non-constitutional power, Russia, by a constitutional Asian state, Japan. To this incident, as mentioned before, Talibov made frequent references, and in forming his constitutional theory he was profoundly inspired by the Japanese constitutional movement.

2. The brave resistance of the Boers in Transvaal, South Africa, against the British in the Boer Wars of 1899-1902.

3. The power struggles between the two Powers, the British and the Russians. The former, at first, supported the idea of changing the old régime of Persia to prevent the latter's easy exploitation and intervention in its internal affairs.

Among the internal factors, the following have been held to be important; the foundation of freemasonry, the foreign educational missionary, the cancellation of the Tobacco Concession, the assassination of Nāṣir al-Dīn Shāh by a revolutionary, Mīrzā Riẓā Kirmānī, the growing anti-governmental publications, including a critical Persian Press, and the widespread discontent of the people and the ʿulamā with the government. To these factors, one should add the existing economic situation. The merchants' interests were threatened by foreign concessions and foreign investments in Iran. They eagerly wanted to eliminate a régime which did not consider the merchants' interests. They grew unhappy and increased their support of the ʿulamā who were fighting the government.[167]

These and other factors gave rise to a nation-wide movement which had certain characteristics of nationalism. Overtime, a few incidents occurred so that the conflicts of the ʿulamā and nationalists with the government were intensified, finally resulting in the declaration of the new régime in 1906.[168] The force of nationalism was so strong and effective that it invited the admiration of British officials at Tehran. The British Minister, Sir Spring-Rice wrote the following, a few months after the grant of the Persian Constitution:

> "The sentiment of independence in the widest sense, of nationality, of the right to resist oppression and to manage their own affairs is rapidly growing among the people. It is strongest in Azarbaijan. It is very strong in the capital, and whatever befalls the existing assembly, which may very possibly lose its present power and prestige, it is difficult to believe that the newly acquired sentiment of liberty and patriotism can altogether disappear."[169]

About two months later, the official reporter of the British Legation at Tehran, Mr. Smart, wrote his account of the Persian Parliament and its deputies as follows:

> "...at present, the National Assembly is far from being the contemptible body which hostile foreign judgements might lead one to suppose. The tone of its debates has vastly improved: a certain newly-found sense of dignity of responsibility is to be remarked among the Deputies. As regards absence of disorder, it is superior to the majority of European Assemblies, and even compares favourably in this respect with the Mother of Parliaments [British Parliament]."[170]

These acknowledgements, on the part of responsible British officials, of the existence of a nationalist force and the relative propitiousness of a constitutional régime in Iran, prove the naïveté of David Fraser's judgement which suggests that, "Principally," it should be remembered that the Persians obtained their Constitution almost without effort on their part."[171]

So too, our thumb-nail survey perhaps justifies us in disagree-

ing with Professor Laurence Lockhart who calls the intellectual background of constitutionalism in Iran only "a development due to occurrences in Turkey..."[172]

Afghānī and Constitutionalism

Here, a few words should be allotted to an influential critic of the existing régime, Sayyid Jamāl al-Dīn Asadābādī, "Afghānī", (1838-1897).[173] We consider him as one of the influences upon the Persian awakening, not by his propagation of a constitutional régime, but because of his leading a serious campaign against the tyrannical rule of Nāṣir al-Dīn Shāh. He wrote articles in the press, sent letters to the ʿulamā and distributed leaflets.[174] Afghānī, however anti-tyranny and anti-oppressive rule he may have been, does not seem to have advocated Western constitutionalism. There are some undocumented reports suggesting that Afghānī had favored a parliamentary government. According to Makhzūmī, Afghānī, on the one hand, recommended to the Khedive of Egypt that he should have had the people share in the rule of his country by consultation and by calling a national election for law-making.[175] On the other hand, he told a number of Egyptian liberals that a representative assembly, made by a ruler or a foreign power, was not at all of any value.[176] Makhzūmī also reported that Afghānī

drafted a constitution for Iran which resulted in his banishment by Nāṣir al-Dīn Shāh.[177] A contemporary Persian historian also pointed out that Afghānī's goal was a constitutional and republican régime.[178] The same author quoted a letter from Afghānī in which he had encouraged Sayyid Muḥammad Ṭabāṭabā'ī, later on a leading religious constitutionalist, to further his campaign.[179] He added that Afghānī used to be called in Iran Sayyid Jamal-i Qānūnī (Sayyid Jamāl, the legist)[180] which can be associated with the report of Makhzūmī concerning Afghānī's draft of a constitution.

In spite of all these views, Professor Niyazi Berkes classifies Jamāl al-Dīn as an anti-constitutionalist, and notes that in the Turkish version of the Refutation of the Materialists, Afghānī called the Turkish constitutionalists, Midhat and Suleyman, traitors who deserved their punishment.[181] Besides, Afghānī's own works, to the best of our knowledge, are devoid of any constitutional theory.

In his writings, Afghānī is more concerned with discrediting despotism than with suggesting a constitutional form of government as an alternative. In his article on despotic rule, for example, he heavily attacks despotism and proposes that the people of opinion, ahl al-ra'y, (i.e., intellectuals) should uproot this malicious stock al-shajarah al-khabīthah, and establish a government of good origin,

al-shajarah al-ṭayyibah.[182] Thus, his proposal for changing a despotic régime is vague. He even declares clearly that the people of the East can not function with a constitutional government, muqayyadah. Having in mind, perhaps, Egyptian society in 1879, he suggests rather that a benevolent and enlightened ruler would be more appropriate because; 1) they have been ruled by despotic rulers for a long period of time; 2) they have been preoccupied in superstitions which result in a complete obliteration [of insight] and in animality; 3) they are strangers to the true sciences, al-ʿulūm al-ḥaqīqīyyah.[183]

While in Egypt, 1871-1879, Afghānī at one time advocated a parliamentary rule, but, as Keddie suggests, "there is no evidence that Afghānī...gave any particular attention to working out constitutional plans."[184]

Afghānī's works show that his principal goal was to unite and strengthen the Islamic peoples through religious ties against Western impact.[185] Afghānī's part in the Persian Constitutional Revolution may be thus described: The Western-oriented intellectuals who were advocating modernism and constitutionalism could not attract a large following. Through experiences, such as the Tobacco crisis, the ʿulamā were found the only medium by which the modernists' points might be communicated among the masses. An

alliance, therefore, between the intellectuals and the ʿulamā on their common goal, that is to say, the downfall of the existing tyrannical régime, was felt to be vital. Afghānī proved to be the most effective, in Keddie's words, "architect of religious - radical alliance",[186] because of his relations both with the ʿulamā and the modernists. Afghānī's encouragement of the ʿulamā was instrumental in gaining their support for the Constitutional Revolution.[187] Aiming at the downfall of the tyrannical régime, the ʿulamā emerged as strong ideological advocates of the application of Western constitutionalism in Iran. They gave their own interpretations in the forms of fatwās, manifestoes, treatises, and public speeches. This literature, especially the outstanding work of Mīrzā Muḥammad Ḥusayn Nā'īnī, comprises many works which are of paramount interest and which will engage us in the subsequent chapters.

Notes to Chapter I

1. On his life, activities and thought, see Mīr Ḥusayn Yakrangīyān; Sarnivisht-i Iran (Tehran: ʿIlmī, 1955) and Jahāngīr Qā'immaqāmī, Qā'immaqām dar Jahān-i Adab va Sīyasat (Tehran, 1941). With regard to his murder consult Firīdūn Ādamīyyat, "Sarnivisht-i Qā'immaqām", XVI (1966), 175-87.

2. Cf. Ann K.S. Lambton, "The Impact of the West on Persia", International Affairs, 33 (1957), 12-25. For a similar argument which applies to the Arab world, see Menahem Milson, "Medieval and Modern Intellectual Traditions in the Arab World", Daedalus, (Summer, 1972): Intellectuals and Changes, 22ff.

3. For a thought-provoking summary statement on the problem of modernization in the Middle East, consult William R. Polk and Richard L. Chambers, "Editors' Introduction", in, Beginnings of Modernization in the Middle East: The Nineteenth Century, ed. William R. Polk and Richard L. Chambers (Chicago and London: The University of Chicago Press, 1968), pp. 1-25.

4. On the question of the early Persian student missions abroad, passages are given in Muḥammad Taqī Bahār, Sabk Shināsī (Tehran: Amīr Kabīr, 1958), Vol. III, pp. 339-41; see also Ḥussayn Maḥbūbī Ardakānī, "Duvvumīn Kārvān-i Maʿrifat", Yaghmā, XVIII (1965), 592-98; Aḥmad Suhaylī Khwānsārī, "Sifārat-i Amīr Niẓām va Iʿẓām-i Dānishjūyān-i Iranī bi Urūpā barāyah Avvalīn Bār", Vaḥīd, I (1965), 18-20; Ismāʿīl Rā'īn's introduction to the Safar Nāmah-yi Mīrzā Ṣāliḥ-i Shīrāzī, by Mīrzā Ṣāliḥ (Tehran: Rawzan, 1968) pp. 1-39.

5. Apart from a number of books which have recently been published on modern Iran, all of which are of importance, the following latest articles are highly recommended: Hafez Farman Farmayan, "The Forces of Modernization in Nineteenth Century Iran: A Historical Survey", in, Beginnings of Modernization, ed. Polk & Chambers, pp. 119-51; A.K.S. Lambton, "Persia: The Breakdown of Society", in, The Cambridge History of Islam, ed. P.M. Holt, A.K.S. Lambton & Bernard Lewis (Cambridge: The University of Cambridge Press, 1970), Vol. I, pp. 430-67. On ʿAbbās Mīrzā, see

Nāṣir Najmī, Iran dar Mīyān-i Ṭūfān yā Sharḥ-i Zindigānī-yi ʿAbbās Mīrzā Nāyib al-Salṭanah va Janghā-yi Iran va Rūs (Tehran: Maʿrifat, 1957); Emineh Pakravan, Abbās Mīrzā: Un prince réformateur, (Tehran: Institut Franco - Iranian, 1958), 2 vols.

6. Mīrzā Ṣāliḥ, op.cit., p. 235. This is a popular and the only edition of Mīrzā Ṣāliḥ's memoirs. The review article of Muḥammad Asad-Zādah indicates very well the shortcomings of this edition; see "Safar Nāmah-yi Mīrzā Ṣāliḥ Shīrāzī", Rāhnamā-yi Kitāb, XIII (1970), 608-17.

7. Mīrzā Ṣāliḥ, op.cit., pp. 320-25.

8. Rifāʿah Rāfiʿ al-Ṭahṭāwī, Takhlīs al-Ibrīz ilā Talkhīs Bārīz (Cairo: Al-Bābi al-Ḥalabī, 1958). This book is the author's memoirs of his mission to France and offers a detailed treatment of the French political institution.

9. Reinhard Bendix, Max Weber: An Intellectual Portrait (Garden City, N.Y.: Anchor Books, 1962) p. 383. For a detailed account on the subject, consult Max Weber's own work entitled, From Max Weber: Essays in Sociology, translated, edited, and with an introduction by H.H. Gerth and C. Wright Mills (New York: Oxford University Press, 1958), p. 204ff.

10. Annette Destrée, "Assistance Technique on Perse 1898-1914", Actes de Ve Congrès International d'Arabisants et d'Islamisants, Bruxelles, 31 août - 6 septembre 1970 (Brussels: Centre pour l'Étude de Problèm du Monde Musulman Contemporain, 1971), pp. 158-70. In this article the Belgian official documents have been utilized, and it contains thought-provoking discussions on the problems of administration in Iran. For a Persian translation of the article, consult the following reference: Annette Destrée, "Kumakhā-yi Fannī dar Iran dar Sālhā-yi - 1898-1914", translated and with an introduction by Abdul-Hadi Hairi, RK, XV (1972), 645-52. For details on the subject consult the following sources: Sir John Malcolm, The History of Persia: from the Most Early Period to the Present Time (London: John Murray, 1815), II, pp. 427-503. A Persian rendering of this work is done by Mīrzā Ḥīrat, entitled Tārīkh-i Iran (Tehran: Saʿdī, 1884); the section referred to, in vol. II, p. 149ff; Robert Grant Watson, A History of Persia from the Beginning of the Nineteenth Century to the Year 1858 (London: Smith, 1866); George N. Curzon, Persia and the Persian Question

(London: Longmans, 1892), I and II; Ann K.S. Lambton, Landlord and Peasant in Persia: A Study of Land Revenue Administration (London: Oxford University Press, 1953), especially pp. 129-50; idem, "Persian Society Under the Qājārs", JRCAS, XLV III (1961), 123-39; E.G. Browne, "The Persian Constitutional Movement", in Proceedings of the British Academy 1917-1918, VIII (1918), p.320 ff; Shaul Bakhash, "The Evolution of Qajar Bureaucracy: 1779-1879", MES (May 1971), 139-68; Colin Meredith, "Early Qajar Administration: An Analysis of Its Development and Functions", IS, IV (1971), 59-84; A. Reza Sheikholeslami, "The Sale of Offices in Qajar Iran, 1858-1896", IS, IV (1971), 104-118.

11. Algar, Ulama, p. 79.

12. Among the studies on the Amīr Kabīr, the following sources contain the most informative accounts about him: Firīdūn Ādamīyyat, Amīr Kabīr va Iran, 3rd. ed. (Tehran: Khwārizmī, 1969); Ḥusayn Makkī, Zindigānī-yi Mīrzā Taqī Khān Amīr Kabīr, (Tehran: ʿIlmī, 1958); Akbar Hāshimī Rafsanjānī, Amīr Kabīr yā Qahrimān-i Mubārazah bā Istīmār (Tehran: Farāhānī, 1967); ʿAbbās Iqbāl, Mīrzā Taqī Khān Amīr Kabīr (Tehran: Dānishgāh, 1961); John H. Lorentz, "Iran's Great Reformer of the Nineteenth Century: An Analysis of Amīr Kabīr's Reforms", IS, IV (1971), 85-103.

13. Firīdūn Ādamīyyat, Fikr-i Āzādī va Muqaddimah-yi Nahzat-i Mashrūtīyyat (Tehran: Sukhan, 1961), p. 56; ʿAbbās Iqbāl, "Mīrzā Jaʿfar Khān-i Mushīr al-Dawlah", Yādigār, II, 6 (1945), 43-50.

14. Ādamīyyat, Āzādī, p. 57.

15. Kirāmat Rāná Ḥusaynī, "Kitābī dar Fann-i Tarassul", Yaghmā, XXI (1968), 211-12.

16. C.F. Strong, A History of Modern Political Constitutions (New York: Capricorn Books, 1964) p. 145. A brief constitutional development of Great Britain during the nineteenth century can be found in Robert Livingston Schuyler and Corine Comstock Weston, British Constitutional History Since 1832 (Princeton: Van Nostrand, 1957). On the role of people and public opinion in the British constitutional system, consult Cecil S. Emden, The People and the Constitution (London: Oxford University Press, 1962).

17. Strong, op.cit., pp. 42-43. The wide-ranging constitutional

developments in Europe are more comprehensively treated in H.L. McBain & L. Rogers, The New Constitutions of Europe (Garden City, N.Y.: 1922) and Carl J. Friedrich, Constitutional Government and Democracy: Theory and Practice in Europe (Waltham, Mass.: Blaisdell Publishing Company, 1968).

18. On constitutionalism in Turkey, cf. Niyazi Berkes, The Development of Secularism in Turkey (Montreal: McGill University Press, 1964), pp. 201-346; Bernard Lewis, The Emergence of Modern Turkey (London: Oxford University Press, 1968), pp.129-238; idem, "Dustūr", ii - Turkey, EI^2, II, 640-47; Robert Devereux, The First Ottoman Constitutional Period: A Study of the Midhat Constitution and Parliament (Baltimore: John Hopkins Press, 1963).

19. M. Khadduri, "Dustūr", iii-Egypt, EI^2, II, 647-49. For further details, cf. J.M. Landau, Parliaments and Parties in Egypt (Tel-Aviv: Israel Oriental Society, 1953), and ʿAbd al-Raḥmān Rāfiʿī, ʿAṣr Ismāʿīl (Cairo: Al-Nahḍah al-Miṣrīyyah, 1948), Vol. II, pp. 72-223.

20. E.G. Browne, The Press and Poetry of Modern Persia (Cambridge: The Cambridge University Press, 1914), pp. 58, 66, 78.

21. This brief note on India is extracted from R. Coupland, The Constitutional Problem in India (London: Oxford University Press, 1945) pp. 18-27. This work provides the reader with the constitutional changes in India during 1833-1935. For a more comprehensive study of constitutionalism in this country, consult Arthur Berriedale Keith, A Constitutional History of India 1600-1935 (New York: Barnes & Noble, Inc., 1969).

22. Dr. M. Malik-Zādah, Zindigānī-yi Malik al-Mutakallimīn (Tehran: ʿIlmī, 1946), pp. 11-21; idem, Tārīkh-i Inqilāb-i Mashrūṭīyyat-i Iran (Tehran: Suqrāt, 1949), Vol. I, pp. 68-80.

23. Aḥmad Kasravī, Tārīkh-i Mashrūṭah-yi Iran (Tehran: Amīr Kabīr, 1951), pp. 42-44.

24. Richard Storry, A History of Modern Japan (London: Penguin Books, 1963), pp. 115-16.

25. Cf. Dr. Matsunami, The Constitution of Japan (Tokyo: 1930), p. 20.

26. Muḥammad ʿAlī Sayyāḥ, Khāṭirāt-i Ḥāj Sayyāḥ yā Dawrah-yi Khawf va Vaḥshat, ed. Ḥamīd Sayyāḥ and Sayf Allāh Gulkār (Tehran: Ibn-i Sīnā, 1967), pp. 5-7. This book is an informative source for the period covered.

27. Ibid., p. 433.

28. On the development of political modernization in Japan, see William W. Lockwood, "Economic and Political Modernization: A. Japan", in Robert E. Ward and Dankwart A. Rustow, eds., Political Modernization in Japan and Turkey, Vol. III, Studies in Political Development, (Princeton: Princeton University Press, 1964), pp. 117-45. See also W.G. Beasley, The Modern History of Japan (London: Weidenfeld and Nicolson, 1963).

29. Ibrāhīm Ṣafā'ī, Asnād-i Naw Yāftah (Tehran: Sharq, 1970), p. 63; the document cannot be quite trustworthy because the compiler of the book does not mention from whence this document was obtained.

30. Mahdī Qulī Hidāyat, Safar Nāmah-yi Tasharruf bi Makkah-yi Muʿazzamah az Ṭarīq-i Chīn, Zhāpun, Āmrīkā (Tehran: Majlis, 1945), pp. 7, 92-140.

31. Ibid., pp. 114, 125.

32. Muḥammad Nāẓim al-Islam Kirmānī, Tārīkh-i Bīdārī-yi Iranīyān (Tehran: Ibn-i Sīnā, 1953), p. 392.

33. Ibid., p. 377.

34. Nikki R. Keddie, "Iranian Politics 1900-1905: Background to Revolution", MES V (1969), 236; Kasravī, Mashrūṭah, p. 44. It is to be noted that the Russians heavily propagated their "victory" over Japan through their Persian newspapers, such as Majmūʿah-yi Māvaraʾi Baḥr-i Khazar (The Trans-Caspian Review), published in Askabad in 1904-1905 by Fedoroff. E.G. Browne notes that, "This paper was the instrument of Russian policy and the vehicle of Russian political aims in Persia. It was founded during the Russo-Japanese War to proclaim the Russian advances and victories, and was distributed gratuitously throughout Persia by the Russian Consulates.": Press and Poetry, p. 134. Despite this kind of propaganda, however, the Persians intimately hailed and publicized

the Japanese victory over Russia. An example of Persian publications on Japan is the following book: Mīrzā Bāqir Khān Tabrīzī, Tārīkh-i Aqṣā-yi Sharq yā Muḥārabah-yi Rūs va Zhāpun (Tehran: Hājī Shaykh Aḥmad, 1913).

35. See Ivar Spector, The First Russian Revolution: Its Impact on Asia (Englewood Cliffs, N.J.: Prentice - Hall, Inc., 1962), in which the effect of the 1905 Revolution of Russia on Iran, the Ottoman Empire, China and India, has been discussed. On the influence of the Caucasian liberals and the 1905 Russian Revolution on Iran, see also Sayyid Ḥasan Taqī-Zādah, "Tahīyyah-yi Muqaddimat-i Mashrūṭīyyat dar Āẕarbāyjān", Yaghmā, XIII (1960), 178-86; for an English translation of this article, see Nikki R. Keddie, "The Background of the Constitutional Movement in Āzarbaijān", MEJ, XIV (1960), 456-65. Consult also the satirical poems of the contemporary Caucasian poet, Mīrzā ʿAlī Akbar Ṣābir, in his Hup Hup Nāmah; this collection is edited by Ḥamīd Muḥammad-Zādah, translated from Turkish into Persian by Aḥmad Shifāʾī and introduced by ʿAzīz Mīr Aḥmadov (Baku: Nashrīyyāt-i Dawlatī-yi Āẕarbāyjān, 1965).

36. George Vernadsky, A History of Russia (New York: Bantam Books, 1967), p. 279; for details see ibid., pp. 274-89, and Spector, op.cit., pp. 1-28.

37. On the extent of the Caucasian revolutionaries' close co-operation with the Persian constitutionalists a treatise was published both in Persian and Russian during the Persian Revolution. A French translation of, plus a short introduction to, that treatise can be found in M. Pavlovitch, "Le Caucase et la Révolution Persane", RMM, XIII (1911), 324-33; the French title of the treatise is "Les social-démocrates caucasiens dans la révolution Persane".

38. Spector, op.cit., pp. 38-50.

39. Ibid., p. 39.

40. F.O. 416/32, Spring-Rice's letter to Grey, Qulhak (Tehran), May 23, 1907, No. 220 (113).

41. Wolfgang Franke, A Century of Chinese Revolution 1851-1949, translated from German by Stanley Rudman (New York: Harper Torchbooks, 1971), p. 64. For details on the process of modern revolutionary and reform movements in China, see especially chapters

2-3 of this book.

42. Spector, op.cit., pp. 82-83.

43. Geoffrey Hudson, "China", in Asia Handbook, ed. Guy Wint (London: Penguin Books, 1969), p. 149.

44. Ibid., p. 149; for more details consult Roger Pelissier, The Awakening of China 1793-1949, ed. and trans. from French by Martin Kieffer (New York: Capricorn Books, 1970). This is the same book which was originally published in France in 1963 by René Julliard under the title La Chine entre en scène.

45. Hidayāt, Safar Nāmah, p. 47.

46. Ibid., pp. 65, 67-68.

47. Ibid., p. 65.

48. F.O. 416/33, Spring-Rice's letter to Grey, Qulhak, July 16, 1907, No. 148 (157). Attached to this letter there are three Enclosures in which details have been revealed on the above-quoted report.

49. Hidayāt, Safar Nāmah, pp. 83-85.

50. Spector, op.cit., p. 77.

51. On the ʿulamā's participation in the Persian constitutional movement, see the 2nd and 3rd chapters.

52. In our treatment of these persons, we tend to deal only with their contributions to the idea of constitutionalism in Iran. They can certainly be critically examined with regard to other aspects. Our judgment on them may be positive or negative. This judgment means neither that corruption on their part is forgivable, nor that other constructive contributions should be disregarded.

53. On Ākhūnd-Zādah's life and thought, there are a variety of studies in different languages, but as far as we know, no comprehensive work has yet been done in English. His important political writings, which are mainly in Persian, are still in the form of manuscripts which have been recently utilized in Fīrīdūn Ādamīyyat, Andīshahā-yi

Mīrzā Fatḥ ʿAlī Ākhūnd-Zādah (Tehran: Khwārizmī, 1970). For this section we have used this work as well as Ākhūnd-Zādah's Alifbā-yi Jadīd va Maktūbāt, ed. Ḥamīd Muḥammad-Zādah & Ḥāmid Arsālī (Baku: Farhangistan-i ʿUlūm, 1963). For more details, see the bibliographies given in Ādamīyyat's above-mentioned study and H.W. Brands, "Ākhūnd-Zāda", EI^2, I, 331-32.

54. Ākhūnd-Zādah, Alifbā, pp. 349-51.

55. Ibid., p. 104.

56. Ibid., p. 249.

57. Berkes, Secularism, p. 198. These plays were translated into Persian by Mīrzā Jaʿfar Qarājadāghī (Arasbārānī) and were published in Tehran in 1871; cf. Mahdī Bāmdād, Sharḥ-i Ḥāl-i Rijāl-i Iran dar Qarn-i 12 va 13 va 14 Hijrī (Tehran: Zavvār, 1968), Vol. III, pp. 55-58. The Persian translation entitled Tamāshā Khānah was again edited and with a French introduction and a long French-Persian Glossaire by C. Barbier de Meynard and S. Guyard (Paris, 1885).

58. See the first 58 pages of Ākhūnd-Zādah's Alifbā and his numerous correspondence on the subject in this collection. See also Hamid Algar, "Malkum Khān, Ākhūndzāda and the Proposed Reform of the Arabic Alphabet", MES, V (1969), 116-30.

59. Ādamīyyat, Fatḥ ʿAlī, pp. 148-49, quoted from Ākhūnd-Zādah's "Maktūbāt-i Kamāl al-Dawlah", folios 60-61. This unpublished work, which covers the main body of Ākhūnd-Zādah's political thought, was written in 1863.

60. Ākhūnd-Zādah, Alifbā, pp. 216-17.

61. Firīdun Ādamīyyat, Andīshahā-yi Mīrzā Āqā Khān Kirmānī (Tehran: Ṭahūrī, 1967), p. 246. For Kirmānī's view on constitutionalism, see Āqā Khān Kirmānī, Āīnah-yi Sikandarī (Tehran, 1906), pp. 626-38. A study of his life and thought was undertaken in 1970, as a Ph.D. dissertation for the University of California, Los Angeles, by Mangol Bayot-Philipp, entitled "Mīrzā Āgā Khān Kirmānī, a Nineteenth Century Persian Revolutionary: Study of His Life and Thought".

62. Ākhūnd-Zādah, Alifbā, pp. 216-17.

63. Ādamīyyat, Fatḥ ʿAlī, pp. 151-52.

64. Ibid., p. 117, quoted from "Kamāl", folio 7.

65. Ibid., p. 115.

66. Ibid., pp. 156-58.

67. Ibid., p. 128.

68. Not much work has been done on this man. Here we have made use of his own single book, Risālah-yi Majdīyyah (Tehran: Chāpkhānah-yi Bānk-i Millī, 1942), introduced and edited by Saʿīd Nafīsī, and his short biography in Bāmdād, Rijāl, vol. III, pp.286-89.

69. Majd al-Mulk, Risālah, p. 69.

70. Ibid., p. 7.

71. Ibid., pp. 50, 67-68.

72. Ibid., p. 37.

73. Ibid., p. 68.

74. Ghulām Ḥusayn Ṣadīqī, "Dah Risālah-yi Tablīghātī-yi Dīgar az Ṣadr-i Mashrūṭīyyat", Rāhnamā-yi Kitāb, XIII (1970), 17-24.

75. This Iranian reformer has been the subject of a two-volume work of Maḥmūd Farhād Muʿtamid, Sipahsālār-i Aʿẓam (Tehran: Ibn-i Sīnā, 1946, 1947). His thought on modernism and constitutionalism is discussed in Ādamīyyat, Āzādī, pp. 57-92. In English, a scholarly treatment has been devoted to Sipahsālār's reform and the religious opposition in Algar, Ulama, pp. 152-83. For his biography, see Bāmdād, Rijāl, Vol. I, pp. 406-26 as well as pages in Ibrāhīm Taymūrī, ʿAṣr-i Bīkhabarī yā Tārīkh-i Imtīyāzāt dar Iran (Tehran: Iqbāl, 1953); especially parts I-II are informative and thought-provoking.

76. See further below for reference to the Paşa and his letter.

77. Sipahsālār's reference is to the decrees issued in 1839 and 1856, upon which we will touch in our last chapter, the section on elections.

78. Ādamīyyat, Āzādī, pp. 57-92.

79. For this man's involvement in the Reuter Concession and bribery, cf. Firuz Kazemzadeh, Russia and Britain in Persia, 1864-1914 (New Haven: Yale University Press, 1968), pp. 100-147.

80. Our central source of information here is Mustashār al-Dawlah's Yak Kalimah (Paris, [?] 1870), a short but very interesting book that the author wrote on constitutionalism. In Western languages, to the best of our knowledge, there is no account of this reformer except short passages, e.g., Farman Farmayan's above-mentioned article. The Persian sources are: Ādamīyyat, Āzādī, pp. 182-98; Nāẓim al-Islam, Bīdārī, pp. 177-86; Ākhūnd-Zādah, Alifbā, passim; Ādamīyyat, Fatḥ ʿAlī, passim; Bāmdād, Rijāl, Vol.IV, pp. 490-93; Muḥammad Ismāʿīl Riẓvānī, "ʿIlal-i Mashrūṭīyyat-i Iran" (unpublished Ph.D. dissertation, University of Tehran, 1963), p. 135ff.

81. Mustashār al-Dawlah, Yak Kalimah, pp. 2-4.

82. Ibid., pp. 4-8.

83. Ibid., p. 15.

84. Cf. our last chapter for further details on the problem of equality in Iran, the section on equality.

85. Mustashār al-Dawlah, Yak Kalimah, pp. 8-11.

86. Since the French Revolution, France has experienced such a considerable number of constitutions that the French Constitution was called "a periodical literature"; cf. R.K. Gooch, "The Government and Politics of France", in, Governments of Constitutional Europe, ed. James T. Shotwell (New York: 1940), pp. 45-278. For a brief survey plus the texts of French Constitutions, see Jacques Godechot, Les Constitutions de la France depuis 1789 (Paris: Garnier-Flammarion, 1970). One of the earliest comprehensive accounts on the 1791 French Constitution, together with its full text, is given in the following six-volume work: Jacques Vincent de la Croit, Constitutions des Principaux Etats

de l'Europe et des États Unis de l'Amerique (Paris, 1793). For a comparison between the first French Constitution and Mustashār al-Dawlah's interpretation of it, this work will be of use.

87. Mustashār al-Dawlah, Yak Kalimah, p. 12.

88. Ibid., p. 39.

89. Ibid., p. 38.

90. Ibid, p. 48.

91. Concerning the problems of ḥukm and fatwā, and the difference between these two concepts, detailed and conflicting accounts have been given by the jurists of the various Islamic sects. Basically in the jurist terminology, ḥukm is a rule which one is supposed to follow, whereas, fatwā is the declaration of the unknown rule which is found by a mujtahid. For studying the subject, the following sources are recommended: Āyatullāh Rūh Allāh Khumaynī, Al-Rasā'il (Qum, Iran: Al-ʿIlmīyyah, 1965), Vol. II, p. 114ff; Muḥammad Kāẓim Khurāsānī, Kifāyah al-Uṣūl (Tehran: Islamīyyah, 1945), Vol. II, p. 273 ff.; Shihāb al-Dīn al-Qarāfī, Al-Aḥkām (Aleppo: Al-Maṭabūʿāt al-Islāmīyyah, 1967), pp. 20-24; idem, Al-Furūq (Cairo: Iḥyā' al-Kutub al-Arabī, 1927), Vol. IV, pp. 48-54.

92. Mustashār al-Dawlah, Yak Kalimah, pp. 50-51.

93. Cf. Nā'īnī, Tanbīh, pp. 53-55.

94. Mustashār al-Dawlah, Yak Kalimah, pp. 19-23.

95. Ibid., pp. 30-33.

96. Ibid., p. 35.

97. Malkam Khān, Majmūʿah-yi Asār-i Mīrzā Malkam Khān, ed. Muḥammad Muḥīṭ Ṭabāṭabā'ī (Tehran: Dānish, 1948), pp. 207-208.

98. Niyazi Berkes, "Ethics and Social Practice in Islam", Philosophy and Culture East and West, ed. Sarvepalli Radhakrishnan (?), pp. 448-75. The author's treatment of the Qur'ān, the Sharīʿah, the philosophers and mysticism in this work is exceptionally thought-

provoking.

99. De la Croit, op.cit., Vol. III, p. 345.

100. Albert Venn Dicey, Introduction to the Study of the Law of the Constitution, ed. and with a long introduction by E.C.S. Wade (London, 1959), p. 240. For a detailed and more recent treatment of the British constitution, consult E.C.S.Wade, Constitutional Law (London: Longmans, 1961), pp. 1-91.

101. Dicey, op.cit., pp. 241-44.

102. For a fuller account of the subject, consult C.L. Cahen, M. Talbi, R. Mantran, A.K.S. Lambton, and A.S. Bazmee Ansari, "Ḥisba", EI^2, III, 485-93.

103. Nāẓim al-Islam, Bīdārī, pp. 186-204.

104. Ākhūnd-Zādah, Alifbā, p. 372.

105. Malik-Zādah, Inqilāb, Vol. I, p. 222.

106. Nāẓim al-Islam, Bīdārī, pp. 162-77.

107. For studying Malkam, there are some sources for English reading students of modern Iran. Apart from E.G. Browne's and other previous orientalists' accounts, we are also provided with the works of Hamid Algar. Algar's article concerning the reform of the Arabic alphabet was mentioned earlier. On Malkam's free-masonry activities, see Algar's "An Introduction to the History of Freemasonry in Iran", MES, VI (1970), 276-96. A fuller treatment of Malkam will be found in Algar's forthcoming, Mīrzā Malkam Khān: A Biographical Essay in Nineteen Century Iranian History. In Persian there are a variety of works such as the biography of Malkam in Bāmdād, Rijāl, Vol. IV., pp. 139-54, Muḥit Ṭabāṭabā'i's introduction to Malkam's Āsār, and the section on Malkam in Ādamīyyat, Āzādī, pp. 93-181, from all of which we obtained the biographical notes given here. For Malkam's theory of the constitution his own works have been utilized as follows:
1. Malkam, Āsār which contains 13 authentic and two allegedly authentic treatises; to this collection a long introduction covering Malkam's biography is given by Ṭabāṭabā'ī.
2. There is also another collection of Malkam's works which comprises 12 Risālahs, two of which are reproduced in the Āsār.

This collection, which is headed by no proper title (hereafter Risālahā) was prefaced and edited by Hāshim Rabī'-Zādah in Tehran in 1907.

3. A microfilm of 42 issues of Malkam's newspaper, Qānūn, which was published mostly without dates beginning in 1889, in London. He, of course, has more writings in the form of official reports, personal letters, published or otherwise, to which we have not had access. However, the main structure of his thought can be reasonably studied from the above-mentioned sources.

108. Ṭabāṭabā'ī, in Malkam's Āsār, p. i.

109. Taymūrī, Imtiyazat, pp. 213-22; E.G. Browne, The Persian Revolution of 1905-1909 (Cambridge: The Cambridge University Press, 1910) pp. 31-42.

110. This open letter was written by Fazil Paşa in French and published in the French newspaper Liberté in Paris on March 24, 1867. It was published with introduction and annotation in Marcel Colombe, "Une Lettre d'un Prince Egyptian du XIX^{e} Siècle au Sultan Ottoman Abd al-Aziz", Orient, no. 5 (1958), 23-38. For more details on Fazil Paşa, see Şerif Mardin, Genesis of Young Ottoman Thought: A Study in Modernization of Turkish Political Ideas (Princeton, N.J.: Princeton University Press, 1962), pp. 276-82. See also Secularism, by Berkes, p. 202-209.

111. Muḥīt in Malkam's Asār, p. x.

112. Ibid., p. 2 (appendix).

113. Ibid., pp. 177-78.

114. Malkam, Risālahā, pp. 102-103.

115. Malkam, Asār, p. 84.

116. Ibid., p. 45-46.

117. Malkam, Risālahā, p. 56.

118. Ibid., p. 60.

119. Ibid., p. 64.

120. Qānūn, no. 3, p. 4.

121. Ibid., no. 5, p. 2.

122. Ibid., no. 6, pp. 1-2.

123. Ibid., no. 13, p. 4.

124. Malkam, Asār, p. 173 and W.S. Blunt, Secret History of the English Occupation of Egypt (London, 1907), p. 83, cited in Hamid Algar, "An Introduction to the History of Freemasonry in Iran", MES, VI (1970), 226-96.

125. Qānūn, no. 16, p. 1; no. 24, p. 2.

126. Ibid., no. 9, p. 2.

127. Namik Kemal, Kulliyyāt-i Kemal, Vol. III: Maqālāt-i Siyasiyyah ve Adabiyyah (Istanbul: Selanik, 1909), pp. 169, 178.

128. Rafā'ah Rāfi' al-Ṭahṭāwī, Manāhij al-Albāb al-Miṣrīyyah fī Mabāhij al-Ādāb al-'Aṣrīyyah (Cairo: Al-Amīrīyyah al-Kubrā, 1912), p. 352.

129. Ādamiyyat, Āzādī, p. 146. A discussion on this term will be given in the 5th Chapter of this study, section "The Term 'Mashrūṭah'".

130. Qānūn, no. 25, pp. 2-3.

131. See, for example, Shaykh Faẓl Allāh Nūrī's discussion reproduced in Kasravī, Mashrūṭah, pp. 415-23.

132. Malkam's, Asār, p. 18.

133. Qānūn, no. 18, pp. 2-3.

134. Ibid., no. 6, pp. 1-2.

135. Ibid., no. 26, p. 4.

136. Ibid., no. 35, pp. 2-3.

137. For Talibov's biography we have made use of the following

sources: Īraj Afshār, "Talibov", Yaghmā, IV (1951), 214-21; M.B. Mu'minī's introduction to the works of Talibov with the misleading title Kitāb-i Aḥmad (Tehran: Kitābhā-yi Jībī, 1967). Mu'minī edited a summary collection of most of Talibov's works which we have used here for Talibov's constitutional interpretation. The title of the collection only applies to one of Talibov's works and the edition is not scholarly; therefore, we make reference directly to the books covered in the collection with a mention of (Collection), but our page references will refer to the collection not the individual books. For a careful account of Talibov, consult Firīdūn Ādamīyyat, "Andīshahā-yi Talibov", Sukhan, XVI (1966), 454-64, 549-63, 691-701, 815-35.

138. Afshār, op.cit., 216.

139. Talibov, Masālik al Muḥsinīn (Tehran: Kitābhā-yi Jībī, 1968), p. 175; this book was first published in Cairo in 1905.

140. Ibid., pp. 160-61.

141. Talibov, Kitāb-i Aḥmad yā Safīnah-yi Ṭālibī, Vol. II (Collection), p. 127; this work was first published in 1894.

142. Ibid., Vol. II, p. 93.

143. Ibid., Vol. II, pp. 92-93.

144. Talibov, Masā'il al-Ḥayāt, (Collection), pp. 172-73 (written in 1906, shortly before the declaration of the Constitution in Iran).

145. For Talibov's fuller interpretation of the concept of liberty, see Ibid., pp. 184-89.

146. Ernest Barker, Principles of Social and Political Theory (London, 1961), p. 219.

147. Talibov, Masā'il (Collection), p. 199.

148. Ibid., p. 196.

149. Talibov, Aḥmad, Vol. II (Collection), p. 126.

150. Talibov, Masā'il, (Collection), p. 179.

151. Talibov, Masālik, p. 184.

152. Ibid., p. 176.

153. Talibov, Masā'il, (Collection), p. 209.

154. Kasravī, Mashrūtah, p. 45. Shaykh ʿAbd al-Nabī Nūrī attacked Talibov particularly on his Masālik; cf. Tadhkirah al-Ghāfil wa Irshād al-Jāhil (n.p. 1908), p. 14.

155. See an admiration of Talibov's book in the journal, Āl-ʿIlm, II (1911), 327-28.

156. Talibov, Masā'il, (Collection), pp. 191-92.

157, Ibid., p. 192.

158. Ibid., p. 193.

159. Talibov, Aḥmad, Vol. II (Collection), pp. 191-92.

160. Talibov, Masā'il, p. 195.

161. Ibid., p. 192.

162. Talibov, Aḥmad, Vol. II, (Collection), p. 129.

163. Eg., Ibid., Vol. II, pp. 129-30.

164. Talibov, Masā'il, (Collection), p. 191.

165. Ibid., p. 190.

166. Ibid., pp. 171-72.

167. The latter problem will be briefly discussed in the 2nd chapter, the last section.

168. Details on the preceeding events to the Constitutional Revolution is found in Keddie, "Politics", passim.

169. F.O. 416/32, Spring-Rice's letter to Grey, Qulhak, May 23, 1907, no. 220 (113).

170. F.O. 416/33, memorandum respecting debates in the Persian National Assembly by Smart, July 12, 1907, Inclosure in Spring-Rice's letter to Grey, Qulhak, July 16, 1907, no. 140 (147).

171. David Fraser, Persia and Turkey in Revolt (Edinburgh and London: William Blackwood and Sons, 1910), p. 16. The author of this book is the same man about whom Sayyid Ḥasan Taqī-Zādah pointed out that, "A meeting was organized [after the 1909 Revolution and the increase in the Russian aggression] by the Central Asiatic Society in London to hear our discussions on the existing situation in Iran. A most active hostile opponent of ours, David Fraser, was sent by our adversaries to create troubles. Fraser, who was then the political editor of The Times, later came to Tehran as a correspondent to that newspaper. While in Tehran he wrote as much as he could against the Iranian revolutionaries and in favor of Muḥammad ʿAlī Shāh and the Russians. In the meeting, Fraser made a few hostile remarks to which E.G. Browne and I answered." Cf. Khaṭābah Mushtamil bar Shammah-iaz Tārīkh-i Avā'il-i Inqilāb-va Mashrūṭīyyat-i Iran (Tehran: Bāshgāh-i Mihragān, 1959), pp. 102-103.

172. Laurence Lockhart, "The Constitutional Laws of Persia: An Outline of Their Origin and Development", The Middle East Journal, XIII (1959), 372-88. For more information on the effective factors which have been thought to have led to the Revolution, consult the following works: Taqī-Zādah, Khaṭābah; Malik-Zādah, Inqilāb, Vol. I, pp. 109-284; Browne, Revolution, pp. 1-132; Nikki R. Keddie, "Religion and Irreligion in Early Iranian Nationalism", Comparative Studies in Society and History, IV (1962), 265-95.

173. The key to the study of Afghānī is A. Albert Kudsi-Zadeh, Sayyid Jamāl al-Dīn al-Afghānī: An Annotated Bibliography (Leiden; E.J. Brill, 1970).

174. On Afghānī's thought and activities, consult Browne, Revolution, pp. 1-30; Nikki R. Keddie, An Islamic Response to Imperialism: Political and Religious Writings of Sayyid Jamāl al-Dīn "al-Afghānī" (Berkeley: University of California Press, 1968), pp. 1-97; Ṣifāt Allah Jamālī Asadābādī, Asnād va Madārik dar bārah-yi Iranī al-Aṣl Būdan-i Sayyid Jamāl al-Dīn Asadābādī

(Tehran: 1955), pp. 65-93. For a most comprehensive recent work on Afghānī's political life, see Nikkie R. Keddie, Sayyid Jamāl al-Dīn "al-Afghāni": A Political Biography (Berkeley: University of California Press, 1972).

175. Muḥammad Pāshā Makhzūmī, Khāṭirāt Jamāl al-Dīn al-Afghānī al-Ḥusaynī (Beirut: Dār al-Fikr al-Ḥadīth, 1931), p. 46.

176. Ibid., pp. 47-48.

177. Ibid., pp. 59-61. Our following account of Afghānī leads us to a conclusion which contrasts with that of Professor Majid Khadduri who, basing his argument only on Makhzūmī's inaccurate writings, calls Afghānī a supporter of representative institutions; see Khadduri, Political Trends in the Arab World: The Role of Ideas and Ideals in Politics (Baltimore: The Johns Hopkins Press, 1970), pp. 29-30.

178. Nāẓim al-Islam, Bīdārī, p. 64.

179. Ibid., pp. 49-50.

180. Ibid., p. 49.

181. Berkes, Secularism, p. 267.

182. Sayyid Jamāl al-Afghānī & Shaykh Muḥammad ʿAbduh, "Al-Ummah wa Sulṭah al-Ḥākim al-Mustabidd", Al-Urwah al-wuthqa (Cairo: Dār al-ʿArab li al-Bustānī, 1957), pp. 104-105.

183. Afghānī, "Al-Hukūmah al-Istibdādīyyah", "Al-Manār, III (1900), 577-82, 601-607, quoted from the journal Miṣr (February 15, 1879). This article is translated into English in L.M. Kenny, "Al-Afghānī on Types of Despotic Government", Journal of the American Oriental Society, 86 (1966), 19-27.

184. Keddie, Political Biography, pp. 110-112.

185. See, for example, Afghānī's following works: "al-Waḥdah al-Islāmīyyah", and "Al-Waḥdah wa al-Sīyadah", Al-ʿUrwah al-Wuthdā, pp. 67-79. These two articles are reproduced in a separate volume edited and introduced by Al-Shaykh Muṣṭafā ʿAbd al-Rāziq (Cairo: Al-Anwār, 1938). The second above-mentioned article is translated

into French by Marcel Colombe, entitled "Unité et Souveraineté ou Concorde et Victoire", Orient, VI, no. 24 (1962), 125-33. For more writings of Afghānī, consult Ibid., VI & VII (1962 & 1963), passim and Keddie, An Islamic Response, pp. 101-187.

186. Nikki R. Keddie, "The Origins of the Religious - Radical Alliance in Iran", Past and Present, 34 (July 1966), 70-80.

187. Afghānī's pious writings and religious thought, and their influence upon the constitutionalist ʿulamā, will be briefly discussed in our second chapter, section "'Liberal' Exponents of Islam in Iran."

CHAPTER II

THE SHĪ'Ī 'ULAMĀ VIS-À-VIS POLITICAL INSTITUTION

Preliminary Remarks

Since Nā'īnī dealt with the idea of constitutionalism as a mujtahid representing a group of the Shī'ī clerics, it is necessary to understand the 'ulamā's general theory of government as well as the institution of the 'ulamā itself. An examination of the 'ulamā's theory and of the institution, plus a note on certain anti-clerical movements from the 15th century onward, will provide us with a better understanding of the reasons behind the 'ulamā's support for the Persian Constitutional Revolution of 1906. It will also give us a more clear insight into the 'ulamā's treatment of the idea of constitutionalism. In the present chapter, therefore, we discuss:

1. The Shī'ī theory of government.
2. The actual institution of the 'ulamā.
3. The forces threatening the authority of the 'ulamā.
4. "Liberal" thought critical of the existing régime, as expressed by some exponents of Islam.
5. The 'ulamā's own reasoning about their participation in

the Revolution and the political circumstance under which they expressed their views.

Who Is the Legitimate Ruler?

According to Professor Gustave E. Von Grunebaum:

> "Islam is the Government of Allah. He is the living truth to which it owes its life. He is the center and the goal of its spiritual experience. But he is also the mundane head of his community which he not only rules but governs. He is the reason for the state's existence, he is the principle of unity.... What is more, it plans the life of the community in its entirety as well as the private lives of the individual members under his direct legislative and supervisory power."[1]

On the basis of the idea of God's rulership the Twelver Shī'ah (i.e., the Ithnā'asharīs, or the Imāmīyyah) formed the view of Imāmat as follows: Since Islam is described as a community ruled and governed by God, there must be an executive authority to represent Him on earth. Muḥammad was the best and the last of God's representatives. He was possessed of two substantial attributes: he was appointed by God to rule His community, and he was infallible. In order to continue the government of God on earth in proper fashion the successor to Muḥammad should also be characterized by these two attributes, except that it is enough that he be appointed by God's direct or indirect appointee. In other words, it is incumbent

upon God to appoint an infallible person as an Imām. The Imām should be appointed because, in the words of Ibn al-Muṭahhar Ḥillī (1250-1326):

> "...the Imāmate is a universal authority (riyāsa) in the things of religion and of the world belonging to some person and derived from (niyāba) the Prophet. And it is necessary (wājib) according to reason. For the Imāmate is a kindness (from Allāh) (luṭf), and we know absolutely that when men have a chief (ra'īs) and a guide (murshid) whom they obey, who avenges the oppressed of his oppressor and restrains the oppressor from his oppression, then they draw near to soundness (ṣalāḥ) and depart from corruption."[2]

He should also be infallible because:

> "It is necessary that the Imām be immune to sin (maʿṣūm), otherwise there would be an endless chain. For the need which demands the Imām is the restraining of the oppressor from his oppression and the avenging of the oppressed from his oppressor. Now if it were possible for him to be not immune to sin, then he would need another Imām, and there would be an endless chain, and that is impossible. And also because if he committed sin (maʿṣiya), and if it were incumbent upon men to disapprove of him, he would lose his place in men's hearts, and the value of his appointment would be nullified. And if it were not necessary (that he be immune to sin), the command to do what is approved by Allāh (al-maʿrūf) and the prohibition against what is disapproved (al-munkar) would cease to be incumbent, and that is impossible. And also because he is the guardian of the law, in which case he must be immune to sin in order that it be safe from addition or loss. And also because of the word of the most high, 'My covenant embraceth not the evildoers' (2:118)."[3]

The task of appointment was first fulfilled by Muḥammad on his return from his Farewell Pilgrimage at Ghadīr[4] where he appointed his immediate infallible successor, ʿAlī Ibn Abī Ṭālib.[5] Thus, the concept of the Twelver Shīʿah began to take form. All of the Imāms, who were descendants of the Prophet, from the line of ʿAlī and Fāṭimah, were appointed consecutively as the real representatives of God. The following are the Twelve Imāms who are considered by the Twelver Shīʿah as the lawful and infallible successors to the Prophet:

1. ʿAlī Ibn Abī Ṭālib, al-Murtaḍā (597-660)
2. Ḥasan Ibn ʿAlī, al Mujtabā (624-70)
3. Ḥusayn Ibn ʿAlī, Sayyid al-Shuhadā' (625-80)
4. ʿAlī Ibn al-Ḥusayn, Zayn al-ʿĀbidīn (656-713)
5. Muḥammad Ibn ʿAlī, al-Bāqir (676-732)
6. Jaʿfar Ibn Muḥammad, al-Ṣādiq (702-65)
7. Mūsā Ibn Jaʿfar, al-Kāẓim (745-99)
8. ʿAlī Ibn Mūsā, al-Riḍā (765-818)
9. Muḥammad Ibn ʿAlī, al-Taqī (810-35)
10. ʿAlī Ibn Muḥammad, al-Naqī (827 [sic] -68)
11. Ḥasan Ibn ʿAlī, al-ʿAskarī (837-73)
12. Muḥammad Ibn al-Ḥasan, al-Mahdī (868-?).[6]

Needless to say, this order of succession, as representing the only

universally recognized leaders of the Shīʿah in their lifetimes (vis à vis the Sunnīs) has been strongly questioned.[7]

The period of infallible rulers came to an end upon the death of the Eleventh Imām, Ḥasan al-ʿAskarī, in 873. The Twelfth Imām, Mahdī, remained alive but hidden; alive, because the universe could not survive without him as proof, ḥujjah; hidden, in order to secure his life from any unfavorable events. To continue the task of rulership, therefore, four consecutive Specified Agents were appointed by the Hidden Imām. Since the beginning of the Minor Occultation, Ghaybat-i Ṣughrā, in 873, of the Twelfth Imām, Muḥammad Mahdī, the following four men became known as the Specified Agents, Nuvvāb-i Khāṣ, of the Imām respectively:

1. Abū ʿAmr ʿUthmān Ibn Saʿīd al-ʿAmrī (d.?).
2. Abū Jaʿfar Muḥammad Ibn ʿUthmān Ibn Saʿīd al-ʿAmrī (d.305/917).
3. Abū al-Qāsim al-Ḥusayn Ibn Rūḥ Nawbakhtī (d. 326/937).
4. Abū al-Ḥasan ʿAlī Ibn Muḥammad al-Sāmarrī (d. 329/940).

According to the last dispatch handed down to Sāmarrī, no one after him was to become the Imam's Specified Agent; thus the period of the Minor Occultation (873-940) was over and the Greater Occultation began.[8] From then on the task of providing leadership for the people in temporal and religious affairs was left for the

qualified ʿulamā, and the greater amongst them gradually came to be called by the titles marjaʿi taqlīds (the authorities chosen to be followed) or muqallads (those who are followed) and their followers were called muqallids (see below).

The idea of rulership gradually came to hold an important place amongst jurisprudential circles, and from that time it has occupied a place in all Shīʿī sources on the ḥadīth, fiqh and kalām. In their argumentation designed to establish the right of rulership for themselves, the ʿulamā referred most often to the following ḥadīths:

1. The Prophet said: "May God be compassionate to my Caliphs..., those who will come after me and will deal with my ḥadīth and sunnah."[9]

2. When a believer dies, Islam suffers an irreparable loss because the believing jurists, al-mu'minīn al-fuqahā', are the protectors of Islam.[10]

3. The jurists are the authorized representatives of the Messengers on the stipulation that they do not follow secular rulers, the sulṭāns.[11]

4. The ʿulamā are the heirs of the prophets; the prophets bequeath only knowledge not money.[12]

5. The Hidden Imām, in answer to the questions which had

been handed to him through his second Specified Agent, Muḥammad Ibn ʿUthmān al-ʿAmrī, wrote the following: "As for handling new problems, you should refer to those who deal with our ḥadīths; they are my proofs (ḥujjah) for you, and I am God's proof for them."[13]

6. The sixth Imām, Jaʿfar al-Ṣādiq, said: "There is no permission for a plaintiff and a defendant to seek judgement from a secular ruler or judge because they are off the right path, ṭāqūt. Even if one receives back his own property through their judgements, he should not be allowed to use it. God has ordered His servants to rebel against these judges." This ḥadīth is called maqbūlah of ʿUmar Ibn Ḥanẓalah because of its being reported by him and was rated, according to the measures employed in the field of dirāyah al-ḥadīth, as maqbūlah (accepted).

7. The same Imām said that "when there is any enmity or a conflict amongst you, do not refer your case to any of these sinful people (fussāq) for judgement. Do seek judgement from a man who differentiates lawful and unlawful matters; a man whom I recognize as an authorized judge."[14]

This is, of course, not an exhaustive treatment of the basis of the political and legal claim of the ʿulamā; nor have all these ḥadīths been accepted by all the ʿulamā unquestionably. In other

words, the political authority of the ʿulamā is one of the subjects of polemics in clerical circles, and no final conclusion has yet been achieved. Concerning other matters, however, there is no disagreement amongst the ʿulamā. On this problem Shaykh Murtaẓā Anṣarī points out: "There are three offices: 1) The office which deals with religious matters; this office belongs to the faqīh without any question. 2) The administration of justice; this institution has been also unquestionably entrusted to the mujtahid. 3) The third office is that of politics, that is, rulership; the idea of its being under the authority of the ʿulamā is not accepted by all, and therefore it does require discussion.[15] One of the mujtahids who strongly refuted the ideas presented in some of the above-mentioned ḥadīths was Nā'īnī, although he finally came to the conclusion that the faqīh has the same ruling authority as the Imām.[16]

Thus, all the actual rulers, from the first Caliph, Abū Bakr (d. 634) onward, were but illegitimate rulers and usurpers. Co-operation with them has been legitimized by some of the ʿulamā simply because of their not being powerful enough to take over the government.

From the ninth century when Arab rule began to decline up until the establishment of the Ṣafavīd Empire in 1501, Iran, in part or as a whole, was ruled by local rulers or invaders. Within

this period,[17] Shīʿism developed, especially under the influence of local Shīʿī rulers, such as the Buwayhīds. The Shīʿī ʿulamā made strenuous efforts to influence even non-Muslim rulers, such as the Īlkhānīds. Although the ʿulamā did not actually attain the power and influence at which they were aiming, they succeeded in producing a tremendously vast literature on various Islamic subjects. They also developed the Shīʿī theory of government through which all actual Muslim rulers in every given period were strongly repudiated.

In the Ṣafavīd period (1501-1722), the Shīʿī ʿulamā enjoyed a great influence in the state.[18] Mullā Aḥmad Muqaddas Ardabīlī (d. 1585), interceding for a guilty officer of Shāh ʿAbbās, addressed the King in this manner:

> "Let ʿAbbās, the founder of a borrowed empire, know that this man, if he was originally an oppressor, now appears to be oppressed; so that if thou wilt pass over his fault, perhaps God... may pass over some of your faults."

And Shāh ʿAbbās answered:

> "ʿAbbās makes representation that he accepts as a spiritual favour and has fulfilled the services which you enjoined on him."[19]

Many of the ʿulamā co-operated closely with the Ṣafavīd rulers,

e.g., Muḥammad Bāqir Majlisī (d. 1700). Yet, several other ʿulamā strongly questioned the idea of co-operation with the ruler. Shaykh ʿAlī Karakī (d. 1533) was a great religious leader and a contemporary of the Ṣafavīd Shāh, Ṭahmāsb (reigned 1524-76). The Shāh made him the Shaykh al-Islam[20] and gave him the full power of a sovereign by declaring Karakī to be the real ruler and Ṭahmāsb himself to be his assistant.[21] Karakī wrote a book on taxation entitled Qāṭiʿah al-Lijāj fī Ḥall al-Kharāj. In this book, unlike many other ʿulamā, he declared it legal to spend money which was gained through taxation by an oppressive ruler. Later ʿulamā who supported the idea of co-operation with the secular ruler, e.g., Nāʾīnī, made reference to Karakī's theory of taxation.[22] Karakī's theory, however, created an intellectual controversy amongst his colleagues. Shaykh Ibrāhīm Qaṭīfī wrote a refutation of the theory; Muqaddas Ardabīlī supported Qaṭīfī in a treatise. Shaykh Majīd Shubbānī wrote an essay refuting both Qaṭīfī and Ardabīlī.[23]

The Institution of the Marjaʿ-i Taqlīd

As mentioned in the previous section, the mujtahid or muqallad was to rule the state and the people or muqallids. The concepts of ijtihād and taqlīd, therefore, held an important place in the

Shīʿī thought. The ʿulamā have based their argument on the premise that taqlīd is justified by reason and tradition. Reason commands that the ignornat, the muqallid, should learn from the learned; also traditional evidence proves that it is the duty of the ignorant to obtain guidance from the learned.[24] The most learned of all the ʿulamā was given the title of the marjaʿ-i taqlīd which means the locus of authority, the person with the right of command and rule. Above all else the marjaʿ is a qualified person to practice ijtihād. Ijtihād means the ability to make an independent decision based upon the Qur'ān and ḥadīth on the matters not in conflict with Islamic principles. This title, however, cannot be obtained by appointment, selection, or election. The authority of the marjaʿ will be centered on a person only by the universal recognition of the Shīʿī community.

The mujtahids have been of varying degrees; some with a broader and some with a more limited scope of thinking. Some authors have given the line of the marjaʿ-i taqlīds by introducing a certain number of names as the greatest mujtahids of their times, and they have traced the link as far back as the fourth century of the Islamic era. In a chronological series of the marjaʿ-i taqlīds, the name of Muḥammad Kulaynī (d. 329/940) appears as the first great mujtahid after the last Specified Agent of the Imām, and that

of Ḥājī Āqā Ḥusayn Ṭabāṭabā'ī Burūjirdī (d. 1961) as the last one.[25] The following is a brief statistical survey of the line of the marjaʿ-i taqlīds from 940 to 1961: altogether 58 mujtahids became recognized as great marjaʿ-i taqlīds, among whom there were 34 Persians and 24 Arabs; of the Arabs there were 16 from Iraq, 7 from Syria and one from ʿUmān. For their higher education, 40 of these persons studied in Iraq and 14 in Iran; the residences of the other 4 are not known. After being established as a marjaʿ, 18 of them lived in Iran, 6 in Syria and the rest in Iraq. Their biographies indicated that 31 of them belonged to clerical families, 48 of them came from cities and the rest from villages.[26]

The accuracy of these reports, of course, is open to doubt. In the past, due to the lack of rapid communications, it was often impossible to recognize a person as the best qualified mujtahid on whom to center all the power. During the Ṣafavīd era, Muḥaqqiq Karakī became so important and well-known that he used to go to the cities in Iran to appoint the local ʿulamā.[27] However, the institution of the marjaʿ-i taqlīd as such, seems to have started to become centralized not earlier than the time of Shaykh Muḥammad Ḥasan Iṣfahānī Najafī, known as Ṣāḥibal-Jawāhir (d. 1849).[28] His immediate successor, Shaykh Murtaẓā Anṣārī, became the most influential mujtahid of his time, whose "supremacy was acknowledged

also by Turkish, Arab, and Indian Shī'īs."[29]

The person most qualified to be marja' should be, among other things, the most learned person of his time. A person might have been called mujtahid or even marja'-i taqlīd, but if he were not as fully qualified as another, he would have less power and fewer followers. When a person was established as the marja', he was expected to announce his fatwās on the various matters in which the people were involved. He, therefore, wrote a book (or books) which dealt with the everyday problems of the muqallids; such a book generally was called risālah-yi 'amalīyyah (a treatise for practice). In the opening of the book, the mujtahid usually reminded the reader that every Shī'ī Muslim should be either a mujtahid or a muqallid or a muḥtāṭ (cautious man). The latter meant that a person had to make sure that whatever he might do was not against any of the 'ulamā's fatwās. All the above procedures have been maintained until the present time.

Since most of the 'ulamā who became recognized as sole marja'-i taqlīd, from the middle of the nineteenth century on, will be referred to in this discussion, on occasion, it is useful to list them chronologically as follows:

1. Ḥājī Shaykh Muḥammad Ḥasan Iṣfahānī Najafī, known as

Ṣāḥib al-Jawāhir (d. 1849).

2. Shaykh Murtaẓā Anṣārī (d. 1865).

3. Mīrzā Ḥasan Shīrāzī (d. 1894).

4. Ākhūnd Mullā Muḥammad Kāẓim Khurāsānī (d. 1911).

5. Ḥājī Sayyid Muḥammad Kāẓim Ṭabāṭabā'ī Yazdī (d.1919).

6. Mīrzā Muḥammad Taqī Hā'irī Shīrāzī (d. 1920).

7. Shaykh Fatḥ Allāh Sharī'at-i Iṣfahānī (d. 1920).

8. Ḥājī Sayyid Abū al-Ḥasan Mūsavī Iṣfahānī (d. 1945).

9. Ḥājī Āqā Ḥusayn Burūjirdī (d. 1961).

Although these *ʿulamā* mentioned were highly qualified for the position they held, one should not think that, from the middle of the nineteenth century there were no others as learned as those listed above. There were, no doubt, a good number of *mujtahids* whose qualifications were no less than those of the above-mentioned leaders, but the time was not favorable to them. Some of those whose authority was recognized enjoyed an exalted position for no reason other than that they lived long lives and had, thus, a greater opportunity to gain status and reputations in the eyes of their people. This was the case with Sayyid Abū al-Ḥasan and Burūjirdī. In contrast, if at a given time there existed several equally qualified *mujtahids*, none might be able to gain recognition as the absolute *marjaʿ*. Among individuals falling into this category

were: Mīrza Muḥammad Ḥusayn (Gharavī) Nā'īnī (d. 1936), Shaykh ʿAbd al-Karīm Ḥā'irī Yazdī (d. 1937) and Sayyid Abū al-Ḥasan Iṣfahānī before the deaths of Nā'īnī and Ḥā'irī.

These two mujtahids, Nā'īnī and Ḥā'irī, were sufficiently qualified to become the absolute marjaʿ of their generation, but since they, together with other highly learned colleagues, notably Iṣfahānī, lived at the same period, none was able to reach the highest position for several years. Nā'īnī and Iṣfahānī were living in Najaf, having a certain number of followers in both Iraq and Iran. Ḥā'irī became an important marjaʿ, but only in Iran, even though he also had some muqallids in Iraq and Lebanon. Their positions, of course, were lower than that of the greatest marjaʿ for the whole Shīʿī world. The course of events went in such a way that Iṣfahānī outlived his colleagues, and consequently, gained an absolute and unquestionably recognized leadership in the Shīʿī world.

With this general picture of the position of the marjaʿ-i taqlīd, Nā'īnī's position, we hope, has become more clear. He is not included in the list of the greatest clerical leaders. This exclusion, however, does not by any means disqualify him from having been an important mujtahid, a most widely recognized master in the Shīʿī thought and a distinguished authority in the fiqh and uṣūl.

We will learn more about Nā'īnī by directing our attention to his life and thought in the next chapter.[30]

Forces Threatening to the ʿUlamā's Position

The authority of the orthodox Shīʿī ʿulamā, however influential, had been threatened almost continuously. From the second half of the 15th century onward, several philosophical, religious and political-religious movements in Iran aimed directly or indirectly at shaking the position of the orthodox ʿulamā. One of the religious movements was that of the Ahl-i Ḥaqq (The People of Truth) whose bases go back to a medieval Islamic heresy. The movement did not constitute much of a direct threat because its followers, for the most part, lived in the mountains and villages. However, due to the fact that they did not follow the pattern of the orthodox Shīʿī ʿulamā, the movement can be taken as an indirect revolt against the ʿulamā's authority. During the second half of the 15th century when the Qaraquyūnlū rulers were in power, "the sect, or rather the religion, of the Ahl-i Ḥaqq (familiarly called ʿAlī-allāhī) was definitively formed."[31] This was a secret religion founded especially in Western Persia amongst the Lurs and the people of Āzarbāyjān. The spread of its doctrine started amongst the Turkoman tribes. The best known division of this group is the Ātash-bigī. In their

doctrine, the manifestations of God are compared to garments put on by the Divinity to become incarnate. They attach great importance to assemblies which are held regularly. Like the dervishes, every one of them has a spiritual master. They practice fasting but only for three days. They always speak of the 12 Imāms, but they have their own dogmas. This religion is adhered to by some lower classes, nomads, villagers, inhabitants of the poorer quarters, and dervishes.

The movements which appeared from the sixteenth century onward represented, more or less, new ideas which questioned or denied the claims of the ʿulamā. The denial of the ʿulamā's claims was, one may say, due mainly to the restrictions imposed by the religious institution as well as the corruption of the ruling authorities. Here, mention will be made of the following movements:

1. The Akhbārīs. Despite the assertion by Khwānsārī that Mullā Muḥammad Amīn Ibn Muḥammad Sharīf Astarābādī (d. 1623-4) was the founder of the Akhbārī school,[32] the latter's origin should be traced back at least to the 12th century A.D.[33] This school, however, was revived and intimately propagated by Muḥammad Amīn Shaykh ʿAbd Allāh Ḥājī Ṣāliḥ and Mīrza Muḥammad Akhbārī; and it gradually came to enjoy a large following among the distinguished Shīʿī ʿulamā. The Akhbārīs resided mainly in the shrine cities of

Iraq during the period between the Ṣafavīds and Qājārs. They seriously questioned the position of the ʿulamā as mujtahids or as marjaʿ-i taqlīd. The Akhbārīs rejected the concept of ijtihād and limited the sources of Islamic law only to Kitāb, i.e., the Qurʾān, and the sunnah of the Prophet, whereas the orthodox Shīʿah added to the above sources ijmāʿ and ʿaql. The Akhbārīs held that everyone is to follow the infallible Imām directly, not through the marjaʿ-i taqlīd. They also believed that all the ḥadīths which have been collected in the four famous collections of the ḥadīths are authentic and that conflicting ḥadīths are not to be judged so that one is preferred over another.[34]

Because of a threatening position that the Akhbārīs took vis à vis the Uṣūlīs (those who employ the uṣūl al-fiqh), i.e., the orthodox ʿulamā, they quite naturally invited the ʿulamā's serious opposition.

Many books were written in which Akhbārīsm was refuted. Muḥammad Bāqir Bihbahānī (ca. 1705-ca.1790) is known as the individual who put an end to the activities of the Akhbarīs, and his book Risālah-al-Ijtihād wa al-Akhbār is the most famous work on the Akhbāri-Uṣūlī polemics. We will see later in our 6th chapter how Nāʾīnī, in his argument against the absolutist ʿulamā, was influenced by Bihbahānī's argumentation

against the Akhbārīs.

2. The philosophical movement. Associated with this intellectual movement is always the name of the celebrated Persian philosopher, Ṣadr al-Dīn Shīrāzī, better known as Mullā Ṣadrā (1571-1640). This disciple of Mīr Dāmād, in the words of Comte de Gobineau,

> "...n'est pas un inventeur, ni un créateur, c'est un restaurateur seulement, mais restaurateur de la grande philosophie asiatique, et son originalité consiste à l'avoir habillée d'une telle sorte qu'elle fût acceptable et acceptée au temps où il florissait.... Moulla-Sadra...[a] ranimé, rajeuni, pour le temps où il vivait, la philosophie antique...."[35]

Mullā Ṣadrā, himself a Twelver Shīʿī, heavily attacked the position of the Shīʿī ʿulamā for their being devoid of reason, ʿaql, and for their ignorance of the sciences of free minded people; ʿulūm al-aḥrār.[36] In the introduction to his most famous work, Asfār, he complains about the ʿulamā's ignorance which caused him to live in isolation and anonymity.[37] He also devoted his only known Persian book mainly to criticism of the ʿulamā.[38] He says that the mujtahids' belief in Paradise and Hell is based on supposition, ẓann, and imitation, taqlīd, not on proof and certainty, burhān va yaqīn.[39] "You do not admit", writes Mullā Ṣadrā, addressing the ʿulamā, "your ignorance. You think that you have learnt

some sciences or arts because you have been, for sometime, busy writing and reading the lectures of professors. You just love to hear the admiration of the common people and of mentally deficient persons, nāqiṣān; I wish you had not studied anything."[40]

Mullā Ṣadrā wrote a commentary on the Uṣul al-Kāfī of Kulaynī, one of the four principal books of the Twelver Shīʿah:

> "La prophétologie de l'Islam, l'idée du prophète, la nécessité des prophètes, les catégories de prophètes, les modes et degrés de la connaissance prophétique...,tous cela doit être cherché à l'origine dans l'enseignement des Imâms du shî'isme. Mollâ Sadrâ à consacré à ces thèmes d'importantes pages de son commentaire de Kolaynî."[41]

His numerous and important disciples and successors,[42] though "éprouverent pas mal de difficultés de la part de 'clergé' officiel",[43] carried on his school of thought. The influence of Mullā Ṣadrā's thought gradually penetrated almost all clerical circles. It is held by several authors, among them, E.G. Browne,[44] S.G. Wilson,[45] Muḥammad Iqbāl,[46] and H.A.R. Gibb,[47] that Mullā Ṣadrā also influenced the doctrine of the Shaykhīs (see below) from the root of which the Bābī movement sprang. This theory however, has been questioned by recent research.[48]

Mullā Ṣadrā was a "person in whom the tendency to unify religious laws (sharʿ), intellectual evidence (ʿaql), and gnosis (ʿirfān),

reached its culmination...."[49] His mystical tendency and philosophical approach to religion made him different from the orthodox ʿulamā and they finally resulted in his isolation from the people, as well as the pronouncement of takfīr [50] against him. This serious conflict, however, seems to have had no substantial basis. It seems to have resulted from the misunderstanding of Mullā Ṣadrā's mystical and philosophical interpretations of religion. It is a mere misunderstanding because, in his other book, Al-Shawāhid al-Rubūbīyyah, Mullā Ṣadrā treats the position of the mujtahid in a way quite favorable to the ʿulamā. He points out: "The Prophet said: 'there is no prophet after me'; and then he preserved the rule of the infallible Imāms and that of the mujtahids. He ordered the ignorant to seek guidance from them. Therefore, the mujtahids gave their fatwās on the basis of their ijtihād. The mujtahids are, of course, of differing opinions, but they have to be conducted by the law in practicing ijtihād."[51]

3. The Shaykhīs. The founder of this Shīʿī school of thought was Shaykh Aḥmad Aḥsā'ī (1753-1826). He was from Baḥrayn and studied in Najaf. In 1807, he began to travel to several cities in Iran. He was charged with the denial of the resurrection of the material body, maʿād-i jismānī, and of the material nature of the Prophet's Ascension, miʿrāj. These were the doctrinal grounds

for the takfīr declared against him by the ʿulamā, but it is possible that,

> "...the constant devotion shown to him by the monarch [Fatḥ ʿAlī Shāh, d. 1834] and his family aroused the envy of some of the ulama and was instrumental in his takfir."[52]

The Shaykhīs denied the position of the mujtahid as the General Agent of the Hidden Imām. Rather, they believed in the authority of the Perfect Shīʿah, Shīʿah-yi Kāmil, each at one time:

> "...ce que les maîtres du shaykhisme ont affirme c'est que, par une disposition de l'Imâm, il y a un Salmân pour chaque époque'. Terminologiquement on l'appelle nâṭiq, et il est nâṭiq unique, wâḥid,.... Les shaykhs de la silsila shaykhîya ont donc affirmé l'existence, à chaque époque, de ce Nâṭiq wâḥid, Shîʿite parfait et Bâb suprême de l'Imâm; mais aucun d'eux n'a jamais prétendu que c'était lui-même, ni prétendu à être reconnu comme tel."[53]

The Shaykhīs became so numerous and influential, especially in Kirmān, that they instigated Ẓafar al-Salṭanah, the governor of Kirmān, to inflict the bastinado on Ḥājī Mīrzā Muḥammad Riẓā Mujtahid-i Kirmānī in public. This latter man was an important and popular mujtahid in Kirmān, and his punishment by bastinado caused a widespread fury amongst the people of that city. Needless to say, this event caused the governor's removal from office.

Malik-Zādah considers this event as one of the factors leading to the Constitutional Revolution.[54]

4. The revolt of Āqā Khān Maḥallātī. This movement was more political than religious, but since the Āqā Khān was the leader of the Ismā'īlīs in Iran and was working to improve the fortunes of his sect, his coming to power would have meant the primacy of the Ismā'īlī sect in the country and, consequently, the suppression of the Twelver Shī'ah.

After marrying Fatḥ 'Alī Shāh's daughter and settling in Maḥallāt, the Āqā Khān acquired something of an armed following. In 1834, he was appointed by Muḥammad Shāh (reigned 1834-48) as the governor of Kirmān. He aimed at an independent rule in Kirmān, and he enclosed himself in the citadel at Bam after his dismisal from the governorship of Kirmān. From here his revolt began, but his attempt to establish a legitimate worldly power for the Ismā'īlī Imāmate in Iran failed. After a long resistance to the government's forces, in 1845 he finally fled to India and stayed there under the protection of the British government.[55]

5. The Bābī movement. The founder of this sect was Sayyid 'Alī Muḥammad Shīrāzī (1819-50). He was respected by the then Shaykhī leader, Sayyid Kāẓim Rastī (d. 1848). Mullā Ḥusayn of Bushrūyah, a disciple of Sayyid Kāẓim, was the first to recognize

him as the gateway, Bāb, to the Truth. Sayyid ʿAlī began his drastic attacks on the Shīʿī ʿulamā in 1844, and quickly collected a great number of followers amongst the educated population. In the spring of 1845, the Bāb declared his mission and began to preach publicly. He claimed that the prophetic cycle of the Prophet Muḥammad had ended in 1844, and that he had established a new qiblah[56] toward the abode of the Bāb. Ritual purity and seclusion of women were declared to be abolished. This is one of the few proto-modern features of the Bābī movement. Sayyid ʿAlī Muḥammad faced a wide-ranging opposition on the part of the ʿulamā, resulting in his execution in Tabrīz in 1850. Some adherents to this religion, the Azalīs, later became well-known and militant intellectuals who undertook a serious campaign against the Qājār's tyrannical rule.

ʿAbd al-Bahā' (ʿAbbās Afandī), who was the leader of the Bahā'ī branch of the religion, wrote a letter in Arabic to the Queen of England in which he propagated the Bahā'ī rituals. Among other points made in the letter, he complimented the Queen on two matters. He wrote: "We have known that you have prohibited the selling of slave boys and girls; this is what God has commanded in this unique epiphany (al-ẓuhūr al- badīʿ).... We have [also] heard that you have placed the supervision of consultation into the hands of the general public; well done!"[57]

6. The last movement to which we would like to make reference is the revolt of Sayyid ʿĀlamgīr. As part of the general disturbances resulting from the Tobacco movement of 1890-92 in Iran,

> "...a Sayyid named Alamgir was preaching religion even against the religious authorities. He is already supported by about a thousand adherents who have fortified themselves...."[58]

ʿĀlamgīr preached in Māzandarān and declared himself to be the Twelfth Imām. He was finally brought to Tehran but it is not known whether he was executed or punished. According to a report, ʿĀlamgīr explained to the Shāh that he had never revolted and that the story about him was made up by the Saʿd al-Dawlah, a high court figure, because of the local power struggle in which he was involved.[59]

In spite of all these claims, criticisms, and threats which have been directed against the ʿulamā, the ʿulamā never gave up the idea of being the legitimate General Agent of the Twelfth Imām. They considered legitimate only their own authority, even if they had no actual power in the state.[60]

"Liberal" Exponents of Islam

During the latter quarter of the nineteenth century in reaction to the continued injustice and oppressive rule in Iran, a few spokes-

men of Islam, some of whom were well-known mujtahids, came into view. They were famed as 'liberals', enemies of arbitrary rule, and as advocates of law and order. Here, references will be made to three persons, with a brief examination of their thought:

1. Ḥājī Shaykh Hādī Najmābādī (1834-1902)
2. Sayyid Jamāl al-Dīn Asadābādī "Afghānī" (1838-97)
3. Sayyid Muḥammad Ṭabāṭabā'ī (1841-1920).

1. Najmābādī[61]

He was an enlightened and respected mujtahid, very humble and helpful to the poor. His house was always open to help the public without his expecting any material returns. Everyone, irrespective of his rank and wealth, was treated alike by Najmābādī. He used to instruct his visitors to be useful to their fellow human beings, to be humble, and to fight arrogance and tyranny. Most of the Iranian liberals and intellectuals, fighting for political freedom, used to frequent his domicile, paying him great respect while being deeply influenced by his thought. He "had ties to Malkam Khan's society of 'Men'".[62] After Afghānī had established his Pan-Islamism in Istanbul, a sister society was founded in Tehran to co-operate with Afghānī's circle. Most of the members of this society were Afghānī's friends; Shaykh Hādī was an active member of the group.[63]

In his association with all groups of people, Shaykh Hādī used to advise them to avoid superstition, blind imitation, and wicked thought. He says that superstition, fear of criticism, and acquisition of bad habits and customs are human diseases.[64] Reason, then, is the most important prophet for leading human beings to the right path.[65]

In spite of the fact that government officials, even Nāṣir al-Dīn Shāh himself, used to visit him out of respect,[66] Shaykh Hādī was still critical of them. One could see that he was not fighting misrule for the sake of preserving certain clerical privileges for himself. In his criticisms he aimed only at overcoming injustice and superstition, and at instituting social and political reforms.

Concerning the defects of the existing political and social institutions, Shaykh Hādī points out: "When a European entered into a discussion with me concerning the judiciary and rulership, I explained to him what is suggested in our Islamic sources. He was astonished, saying that 'your secular and religious judges and governors are not following this Islamic system'. Yes, we have refused to take the right path (<u>ṣirāṭ-i mustaqīm</u>) and have followed the satanic path (<u>rāh-i shayṭān</u>)."[67] "Now, that the infidels have gained superiority over Iran, the Iranian people are more inclined

to follow them and even to live in their countries. Our situation is thus, because the people of those countries enjoy more justice and more peace; their lives and properties are protected by their governments. The founder of Islam held two authorities, political, as well as religious. If you follow his political rule, your subjects, as well as foreigners, will have peace and wealth, and the élites will enjoy power, might, and eminence. If you become subject to the religious rules of the founder of Islam, Islam will be exalted and will attract other peoples."[68]

The Shaykh compares the Jews and the Persians, pointing out that the inferiority and ill-treatment, from which the Persians were suffering, have made their life conditions much worse than those of the Jews. This misery is the result of our turning away from the signs of God, āyāt Allāh, and interpreting the Divine Words according to our own imagination.[69] Addressing the Persian rulers, he notes: "The name of your country is being mentioned with abjectness by other nations; and it is not recognized as a country amongst other states. Whatever other states command, you obey; but if you ask them a favor, they will not pay any attention to you, except when it serves their interests.[70]

The Shaykh engaged himself in matters regarding rulers and judges, not only to criticise them but also to make slight suggestions

about the tasks that these authorities should undertake. He says that every judge, qāẓī, who looks for a post, pretends that he has no aim but to carry out justice and to help the oppressed; but as soon as he takes over his post, his goal is only to earn wealth and reputation. If two people, a plaintiff and an accused, go to any judge or governor, they do not receive justice. They gain nothing but disappointment and discouragement. Even the King sometimes appoints a governor to further his interests rather than to bring benefits to the people. It is forgotten that the position of the judge is crucial. He should be absolutely just in his judgements. As soon as he fails to pass a right judgement, he is liable to become a resident of Hell. The task of the ruler or his governor is to possess a knowledge of politics and of the law and order existing amongst his subjects. An ignorant ruler, though possessing good intentions, is guilty because, out of his ignorance, he brings more loss than benefits. The ruler should be careful not to appoint any oppressive agent to perform injustice amongst the people. He should know what is happening to his subjects; information should come to him through his honest and dependable officers.[71]

Although Shaykh Hādī himself was an established mujtahid, he did not pass in silence over the existing religious authorities; in fact, he directed a heavy attack against the ʿulamā. He pointed

out that, "One of the roads to polytheism is obedience to any of the wicked ʿulamā; these people are human devils. An irreligious person cannot lead the people astray, unless under the disguise of religion, asceticism, and piety. Therefore, these are human satans who appear as guides to the truth, but they do not have any relation with truth. Some people follow them not only because of ignorance and unawareness, but out of leniency (musāmahah) and carelessness. Most people know that these ʿulamā are sensual (havā parast), and the hadīth which reads: 'It is the duty of the common people to adhere to a person who obeys God, does not follow his passion, protects his religion, and preserves his soul (hāfiẓan li nafsih)', is not applicable to them. However, they follow these ʿulamā and make them the marjaʿs simply to fulfill sensual desires. They have mutual interests; the ʿulamā benefit from the people, and the people benefit from the ʿulamā. Should these words reach the ears of hypocritical people, they would brand me as a disbeliever (kāfir), because they believe that disrespect for the ʿulamā is equal to disrespect for God and His Prophet.[72] An ʿālim deserves appreciation if he gives currency to knowledge and not out of passion and love for being a leader. If his motive is wisdom and religion, he merits congratulations."[73] But unfortunately, "we are defective in our practice, morality, justice, and politics, to the extent that

even the savage people refuse to associate with us. We have not based our religion on reason; we have divorced reason and have obeyed our imagination and evil practices."[74] This attitude to the ʿulamā is one of the characteristics of the early phase of Islamic modernism generally.

The Shaykh does not confine his criticisms to his contemporary colleagues. He reviews the historical background of the Shīʿah noting that "the Shīʿah believe that faith in the Prophet depends on love for the Prophet's descendants and on recognizing their rule on earth. Even one's good deeds will be of no virtue if there is no mahabbat and vilāyat. The Shīʿah, therefore, have reported many ḥadīths in this connection and have continuously increased the number of these sorts of traditions. Any ḥadīth or reported dream which they found in support of their beliefs was well received by them without a critical examination of its sanad (the uninterrupted chain of authorities on which an ḥadīth is based). If they came across an obscure (mutashābih) ḥadīth, they interpreted it in a favorable way to support their views."[75]

As it is clearly shown, the Shaykh had a way of thinking different from the other Shīʿī mujtahids in Iran and elsewhere. For his liberal interpretations of religious matters and his criticisms of the so called orthodox Shīʿī ʿulamā, he suffered the

takfīr.[76] Referring to this matter, he says that "if someone speaks of truth and desires to awaken you, you will excommunicate him and will attempt to murder him simply because his statement is against your wish."[77] He was accused of being a Bābī,[78] whereas in his writings, the Shaykh devotes many pages to attacking the Bābīs' beliefs.[79]

In sum, because of his liberal attitudes toward religious problems, Shaykh Hādī did not favor any religious differences and heavily criticised all sectarian conflicts. His substantial principle was ʿaql on which he based all his arguments. This mujtahid, however critical toward and different from the ʿulamā, had a common cause with them on one point: the downfall of the oppressive rule of the Qājārs. Those who were unhappy with the régime, e.g., the assassin of Nāṣir al-Dīn Shāh, and many of the militant intellectuals who later participated in the Persian Constitutional Revolution, were inspired by his liberal thoughts. He was called by many, "the awakener of Iran".[80]

2. Afghānī[81]

Another Persian who must be mentioned in connection with liberal tendencies is Sayyid Jamāl al-Dīn "Afghānī". We do not imply that Afghānī belongs to the same category as Shaykh Hādī.

The latter was well recognized by the common people and the élite alike as a respected mujtahid in Tehran, whereas, the former had no such reputation. Even Afghānī's nationality and the religious sect into which he was born were not clear.[82] Nevertheless, these two men were friends, and in their social and political outlooks they had a great deal in common. Afghānī was accused in Iran of being a Bābī[83] and had been declared persona non grata in Turkey,[84] Afghanistan, and India,[85] but he, as Yaḥyā Dawlatābādī reports, "after the Tobacco movement in which he and the great mujtahid, Mīrzā-yi Shīrāzī were involved, enjoyed a friendly relation with Shīrāzī, and corresponded with him."[86] In his political campaigns, he largely focussed upon Islam and based his argumentation on religion, aiming mainly at the restoration of Islamic political strength vis à vis the West. He undertook a continued campaign against the despotic rulers of the Islamic countries. Apart from his political writings, Afghānī also produced some works which were entirely religious. One of the important works which establishes him as a staunch defender of Islam is his famous essay, Refutation of the Materialists.[87] Another example of Afghānī's pious writings is his treatise entitled, Why Did

Islam Become Weak? In this treatise, Afghānī appears exclusively as a pious Muslim who sees the decline of Islam as a result of the abandonment of the original path which the early Muslims had followed. For this decline he, of course, holds rulers, especially the Ottomans, responsible.[88] Afghānī's writings of this type, no doubt, had effects on the ʿulamā of Iran who were, at the same time, very unhappy with the tyrannical Persian government.

In addition to the publication of these essays, one of Afghānī's effective tactics was to encourage the ʿulamā to rise against tyranny and lawlessness, and to protect the Islamic territories from the infidels. Afghānī's several writings tell us that he was seriously working on the ʿulamā, urging them to take action for social and political reforms. He seems to have found the ʿulamā the most influential authority amongst the people, especially in Iran. The best example of Afghānī's appeal to the ʿulamā against foreign encroachments in Iran was his several letters concerning the Tobacco Concession.[89]

We mentioned briefly in our first chapter that Afghānī had correspondence with Sayyid Muḥammad Ṭabāṭabā'ī, later on an important clerical leader of the Persian Revolution. This is also another good example of the special tactics used by Afghānī. Afghānī seems to have seen Ṭabāṭabā'ī as a potential leader of a serious campaign

for political freedom, because, while in London, he wrote to Ṭabāṭabā'ī in Sāmarrā' as follows:

> "The ummah has fixed its eyes on the huge number of people whom you rose to help and secure from [their] critical conditions. Who is more deserving than you for this duty? You are a wise man, intelligent by nature, high-aspiring, and with high lineage. I would like to inform you that the stability of the ʿulamā in Iranian cities has exalted Islam, has strengthened its position, and has elucidated its proof. All the Europeans are standing in awe of such a great power which had often been thought to have completely vanished. They [now] have become certain that there is an effectiveness in this religion by which [the Muslims] do not fear the might of tyranny; may God give them the reward of Islam."[90]

In his treatise concerning the reason for the decline of Islam, Afghānī calls the attention of the ʿulamā to the fact that the time is ripe to perform their obligatory duties by giving exhortation and being benevolent: "If the ʿulamā follow this principle, truth will soon triumph and falsehood will fall."[91] Afghānī's treatise entitled, Chirā Islam Zaʿīf Shud? (to which we made reference earlier in this chapter as, "Why Did Islam Become Weak?") was published in Arabic in Al-ʿUrwah al-Wuthqā, edited by Afghānī and Shaykh Muḥammad ʿAbduh. The Arabic title is Sunan Allāh fī al-Umam wa Taṭbīquhā ʿala al-Muslimīn (The Rules of God among Peoples and Their Application to Muslims).[92] This was done in the year 1884.

About 23 years later, namely during the Constitutional Revolution in Iran, a Persian rendering of the treatise, which seems to be the original, was published in Tehran in the Ḥabl al-Matīn (May 16 and May 19, 1907). The fact that the ʿulamā had a leading part in the Revolution seems to have inspired the newspaper editor to publish Afghānī's treatise at that particular time because, as is apparent from the above-quoted sentence, Afghānī urges the ʿulamā to take steps toward the improvement of the Muslim's conditions. Afghānī considers the ʿulamā's participation in building a movement for reform to be the only solution to all the difficulties in which the Islamic peoples had been involved. Therefore, the editor of the Ḥabl al-Matīn ascribed the ʿulamā's success in the Revolution to Afghānī's exhortation.[93] The same point is also made by Rashīd Riḍā in connection with Afghānī's correspondence with Shīrāzī.[94]

To Afghānī the main obstacle to power and progress of the Muslims was their wicked rulers. He even openly declared, in an Arabic leaflet which he published in Istanbul, that "the Iranians will not disobey the command of their religious leader; then why does the great leader, Mīrzā-yi Shīrāzī, not order the people to bring down this atheist (zindīq) [Nāṣir al-Dīn Shāh] from his throne? I swear to God this action would not cause any bloodshed, even as little as a cupping glass (shākh-i ḥajāmat)."[95] Thus, Afghānī lays

upon the ʿulamā the responsibility of setting the masses in motion and building a reform movement.

Since his activities were carried out in different countries and his audiences were different peoples at different times, Afghānī's writings contain many contradictory statements. However, his ultimate goal was the strengthening of the Islamic ummah against Western impact; to this end he co-operated with the Ottoman Sultan, Abdūl-Hamid II, in his Pan-Islamic project. Pan-Islamism outlived its founders and received a fairly wide response from the Turks, Iranians and Indians.[96]

One of the active intellectual figures from the middle ranking ʿulamā, who joined Afghānī's Pan-Islamic movement in Istanbul, was Mīrzā Abū al-Ḥasan Shaykh al-Raʾīs Qājār.[97] He was a good writer who published writings on Pan-Islamic matters at the turn of the present century. He openly stated that it was the duty of all Muslims to look upon the Ottoman Caliph as the only center of the Muslim world.[98]

Pan-Islamism also influenced the high Shīʿī ʿulamā, including the two leading constitutionalists, Khurāsānī and Māzandarānī. In a communiqué, the latter, together with a number of other high ʿulamā residing in Iraq, declared that,

> "Nous avons vu que les divergences existant entre les cinq groupes islamiques ne provenaient pas des principes même de la religion et que les désaccords entre les diverses catégories de Musulmans sont la cause primordiale de la décadence des puissance de l'Islam.... Pour conserver la communauté religieuse et faire respecter la loi de Mohammed, des fetwas ont été rendues par grands Modjteheds, chefs des Chiites Djaʿfarites et les nobles Ulémas du peuple de la Sounna...s'accordent à dire qu'il est d'obligation de chercher refuge auprès de l'Islam.... L'union complète des Musulmans, la préservation du germe de l'Islam, la préservation des nations islamiques, ottomane et persane, contre les entreprises des nations étrangères et les attaques des puissances du dehors, voilà des points sur lesquels, tous, nous sommes tombés d'accord."[99]

Also a separate manifesto was issued by Sharīʿat Iṣfahānī and Sayyid Ismāʿīl Ṣadr supporting Pan-Islamism.[100]

Afghānī's activities thus exerted a great influence on the Persian clerical authorities who took a leading part in the downfall of the old régime in Iran.

3. Ṭabāṭabāʾī

The last person to be discussed in connection with liberal tendencies is Sayyid Muḥammad Ṭabāṭabāʾī. This active mujtahid, whom we mentioned earlier in connection with his friend, Afghānī, was, without doubt, under the intellectual influence of both Shaykh Ḥadī and Afghānī. He was, according to Nāẓim al-Islam Kirmānī,

a disciple of Shaykh Hādī and studied ethics under him.[101] There can be mentioned several factors in his life which were instrumental in his acquaintance with liberal thought and Western ideas. His contacts with freemasonry,[102] his travels in Russia, the Arab world, and Turkey, his personal meetings with leaders and statesmen,[103] and his association with Persian secret societies,[104] made him well informed about modernism. As mentioned above, while studying under Mīrzā Muḥammad Ḥasan Shīrāzī in Sāmarrā', Ṭabāṭabā'ī had corresponded with Sayyid Jamāl al-Dīn Afghānī, obtaining instructions from the Sayyid for rising against misgovernment. Upon his arrival in Tehran in 1894, he began his campaign against the tyrannical rule of the Qājār Shāh.

Ṭabāṭabā'ī himself tells us about his coming to Tehran as follows:

> "In 1894, I came to Tehran, from Sāmarrā'. Nāṣir al-Dīn Shāh had thought that Mīrzā-yi Shīrāzī, may God's forgiveness be his place of return (ghufrān ma'āb)...had sent me to Tehran to change the existing situation. As soon as Nāṣir al-Dīn Shāh heard of my arrival in Kirmānshāh he said to the government officials that they should make me return at any price. But, I did not pay attention to [the Shāh's desires] and moved to Tehran. When I arrived at Ḥaẓrat-i 'Abd al-'Aẓīm the Nāyib al-Salṭanah said to the Shāh that since I would arrive in Tehran there would be need for a ceremonial reception on the part of government, but the Shāh said that there would be no need for that."[105]

Ṭabāṭabā'ī's real challenge to the ruling authorities started effectively when he allied himself with another militant clerical notable, Sayyid ʿAbd Allāh Bihbahānī.[106] Ṭabāṭabā'ī asked the Shāh and his Ṣadr-i Aʿẓam for the establishment of an assembly, (majlis) in which the affairs of the people might be settled.[107] The conservative Shīʿī ʿulamā were also engulfed in a long-lived hostility against the Qājār rulers. There have been many reasons given for the continued conflicts between religious authorities and the state in the history of Qājār Iran. Of these, the following may be suggested as substantial:

1. The rise of secular administration.
2. Trends toward Westernization.
3. The beginning of Western education.
4. Legal reforms lessening the judicial power of the ʿulamā.
5. Danger of foreign rule due to the concessions granted by the Shāh; thus, the diminution of the realm of Islam.
6. Tyranny and injustice.
7. Response to the masses who hated the Qājār dynasty.
8. Use of foreign goods.
9. Anglo-Russian rivalry and power struggles, and the continued agitation, instigation, and conspiracy of the two powers.[108]

The hostility of the ʿulamā toward the Shāh, Muẓaffar al-Dīn,

went to such an extent that Sharabyānī, a distinguished mujtahid of Najaf, called him a dog.[109] The telegrams of the four high ranking ʿulamā of Najaf to Muẓaffar al-Dīn Shāh and the ʿAyn al-Dawlah, the Ṣadr-i-Aʿẓam, well indicate the degree of their unhappiness with the Persian ruling authority.[110] The most interesting among those telegrams is that which was sent in early 1902, in which the ʿulamā demanded the establishment of a chamber of representatives.[111]

All of this hostility on the part of the ʿulamā and their demands for reform in government show clearly that the ʿulamā did not approve of the existing régime which was based on tyranny, injustice, and oppression. This fact, however, does not mean that the alternative for the ʿulamā was an European-model constitutional government. Even their demand for the establishment of a chamber of representatives does not necessarily imply that this chamber should be a sovereign legislative body operating on the Western pattern. On the other hand, the constitutional history of Iran tells us that the ʿulamā, allied themselves with the intelligentsia and other groups of people, and actively participated in the Constitutional Revolution, thus gaining a constitution and parliamentary system for the Persians.

At first glance, it seems paradoxical that the ʿulamā should

advocate the idea of constitutionalism, which is a Western innovation and which, like other Western phenomena, should be contrary to their thought. But the unparalleled situation in Iran created such a crisis that the ʿulamā felt compelled to take an effective part in the constitutional movement. Their involvement, therefore, has given rise to a variety of interpretations expressed by Persian and non-Persian observers since 1906. Here, the reasons the ʿulamā themselves gave to justify their participation in the Constitutional Revolution will be examined. This, of course, does not preclude us from making, on occasion, references to other views for the purpose of comparison or further observation.

Ṭabāṭabā'ī on the Revolution

In his activities against the government of the ʿAyn al-Dawlah, Ṭabāṭabā'ī determinedly pursued his demand for the establishment of a house of justice and an assembly to serve the people's needs. The following is a paraphrase of parts of his statements pronounced on different occasions: "Iran is our country where our aspirations come true. We must work toward its progress and make every effort to save it from dangers. Reason does not allow us to pass in silence over these dangers and to wish the extinction of the state. All the corruptions which we presently encounter will be remedied

if we establish an assembly of justice and a council (anjuman) formed of different groups of people. In this council, justice will be given to all the people, and the king and the poor may be treated equally."[112] "The removal of these corruptions depends on the foundation of an assembly and the union of the government with the people and the ʿulamā. Reform will soon take place, but we want our King and Chief Minister to carry them out, not the Russians, the British, or the Ottomans. With some slight carelessness and delay, we will lose Iran. Iran is my country; whatever reputation I have belongs to this country; my service to Islam is in this place; the respect I enjoy depends on the existence of this state. But unfortunately, I see it falling into the hands of the foreigners. Therefore, as long as I am alive I will make my efforts to protect it and, if necessary, I will sacrifice my life for it."[113] "We have not demanded anything from government but justice. Our aim is to establish an assembly by which we may find out how much our helpless people suffer from the oppressive provincial governments. We want justice, the execution of Islamic law, and an assembly in which the king and the poor may be treated according to the law. We do not talk about constitutionalism and republicanism."[114]

The above paraphrases indicate why Ṭabāṭabā'ī rose against

the existing régime. He even clearly mentions that he is not fighting for constitutionalism. He announces that a constitutional régime would not fit the Persian society of that age, because constitutionalism can operate only amongst a people who understand nationalism and are literate and knowledgeable.[115]

The basis of this statement is perhaps what Kasravī suggests. He holds that Ṭabāṭabā'ī, together with his fellow mujtahid, Bihbahānī, understood well and genuinely aimed at a constitutional form of government. But they hid their real intention in the beginning in order to habituate their unprepared audiences to this Western idea.[116] Kasravī's view, though contradicted by another of his opinions given elsewhere,[117] is acceptable, because first of all, the attitude of hiding the real intention for tactical reasons was suggested to Ṭabāṭabā'ī by Afghānī in one of his letters.[118]

Secondly, Ṭabāṭabā'ī himself testified that his real intention in his campaign against the Qājār rulers was to support the formation of a constitutional government in Iran. In his diary, in 1911, Ṭabāṭabā'ī wrote that,

> "I arrived in Tehran in 1894. Right from my arrival in Tehran I had planned to establish constitutionalism (mashrūṭah) and a national consultative assembly in Iran. From pulpits I used to talk about these two. Nāṣir al-Dīn Shāh often complained about me and sent me messages saying that Iran was not yet prepared for

constitutionalism."[119]

Ṭabāṭabā'ī's awareness of the idea of constitutionalism is also evidenced in passages included in his scattered speeches.

By making a comparison between Ṭabāṭabā'ī's views given above and those of other Shī'ī 'ulamā of his time in Iran (see below), it seems that Ṭabāṭabā'ī was the only distinguished mujtahid to pronounce statements bearing a nationalistic sense. He frequently mentioned that he was devoted to his country, Iran, and that his service to Islam lay within that country. Moreover, the fact that he deemed literacy necessary for a constitutional régime proves that he knew well what constitutionalism was all about.[120] He even knew that the new system he was fighting for would not bring him any worldly profits. He had said once to the 'Ayn al-Dawlah that "By the establishment of the majlis (parliament) and adāretkhānah, we 'ulamā would lose our prestige, but we both are old; do establish a good name by establishing a majlis."[121]

A British official document shows that,

> "On the occasion of the discussion of the Courts of Justice he [Ṭabāṭabā'ī] expressed some doubt, perhaps not without a touch of grim humour, as to whether there would be anything left for the Mollahs to do after the institution of these Courts."[122]

Unlike many of his colleagues, Ṭabāṭabā'ī advocated the idea of modern education. He notes: "It is necessary to study modern sciences. We should study international law, mathematics and foreign languages. Why should not even one of the ʿulamā know any foreign language? If we had any connection with modern sciences and if we knew history and the science of law, we would have understood the real meaning of monarchy."[123] On the latter subject he points out: "People should choose a person as the king to protect their rights and defend their interests; hence, the king is the people's representative. He should remain king as long as he gives his service to the people. If the king turns careless and lascivious, the people should remove him from the throne and appoint another one."[124]

By making the latter statement, Ṭabāṭabā'ī strongly rejected the Persian traditional concept of kingship which gave sanction to the king's claim to be God's shadow on earth. In addition, Ṭabāṭabā'ī, unlike the orthodox Shīʿī ʿulamā, did not refute the idea of kingship on the grounds that it was a usurpation of the authority of the ʿulamā. He sanctioned a sort of secular monarchy by considering the Shāh an authority who may be recognized as long as he serves his people.

This attitude toward modernism still does not establish

Ṭabāṭabā'ī as a fully fledged secularist. In the same speech in which he attempted to refute traditional systems, he also said, as noted above, that he was fighting for Islamic law side by side with justice and a national assembly. He even protested in a parliamentary session against "...a clause having been read relating to charitable bequests [awqāf] stating that the Government had the right to supervise the administration of such a bequest,..."[125] However, Ṭabāṭabā'ī was very realistic and knew the needs of the time. He found it expedient to give large concessions (very much more than his colleagues) to modernism. His discerning remarks concerning nationalism, constitutionalism and modern education, plus his associations with a number of international figures in Russia, in Turkey, and in the Arab world,[126] indicate that Ṭabāṭabā'ī, in contrast with what is implied in Professor Algar's view,[127] was not confused about the meaning of the mashrūṭah (constitutionalism); nor does Algar's view, which holds that "the ʿulamā saw in the constitution a means of applying the sharīʿah in its entirety "[128] entirely apply to Ṭabāṭabā'ī.

The Persian ʿUlama of Iraq and the Revolution

Before we discuss the views of the Persian ʿulamā of Iraq, we should examine the circumstances under which the leading ʿulamā,

i.e., Ṭihrānī, Khurāsānī, and Māzandarānī and their assistants and co-thinkers, such as Nā'īnī and Maḥallātī, expressed their motives for participation in the Persian Constitutional Revolution. Right from the beginning of the Persian Revolution, the three high ranking ʿulamā were on the side of the constitutionalists. When Shaykh Faẓl Allāh rose against the Constitution, these ʿulamā continued their support to Ṭabāṭabā'ī, Bihbahānī and other constitutionalists in Iran, and openly condemned Shaykh Faẓl Allāh.[129]

To this point, not many effective measures had been taken by these clerical residents of Najaf. But the combined Shāh-Russian aggression in Iran led the ʿulamā to take a series of serious actions. To suppress the Revolution, Muḥammad ʿAlī Shāh, with the help of the Russians, bombarded the Persian Parliament and executed a great many liberals. Vladimir Ilich Lenin, on August 5, 1908, thus describes the situation:

> "There has been a counter-revolution in Persia - a curious combination of the dissolution of the first Duma in Russia and of the revolt at the close of 1905. Shamefully defeated by the Japanese, the armies of the Russian Tsar are taking revenge by zealously serving the counter-revolution. The Cossacks, who took part in the mass shootings, primitive expeditions, manhandling and robbery in Russia, are performing new exploits in Persia where they are suppressing the revolution."[130]

The ʿulamā rose against the Shāh and Russians because the latter were considered enemies of Islam and murderers of the Iranian Muslims. The violation of democratic principles was not a matter of substantial concern for the ʿulamā. What concerned them rather was the need to overthrow an un-Islamic ruler and to expel the infidels from Iran. With this motivation the ʿulamā intensified their campaign against the tyrannical rule of Muḥammad ʿAlī Shāh and their support to the constitutionalists.

As mentioned earlier in this chapter, the ʿulamā of Iraq, i.e., Najaf, Karbalā, Kāẓimayn, and Sāmarrā', gave a favorable response to the Pan-Islamic appeal of the Ottomans. The reason for the ʿulamā's response seems to have been twofold. First, the revolutionary government of the Young Turks (from 1908) became rather friendly with the Iranian constitutionalists because of the common cause agitating the two nations (constitutionalism).[131] Second, since the Pan-Islamic interests of the Ottoman Empire survived the 1908 Revolution, the Young Turks welcomed any support on the part of the Shīʿī leaders residing in Iraq. Therefore, when the ʿulamā saw Muḥammad ʿAlī Shāh in alliance with the Russians, murdering Iranian Muslims, they found it expedient to appeal to the Ottoman Sultan and to demand his intervention as the Caliph of Muslims. Needless to say, it was very incongruous for the

Shīʿī ʿulamā to appeal to a Sunnī Caliph - and one who was the traditional enemy of Iran in addition.

Both for the Ottomans and the Persian ʿulamā, it was found useful to co-operate in the name of Pan-Islamism. Cooperation appealed to the Ottomans because the ʿulamā were instrumental in the Pan-Islamic propaganda; it attracted the ʿulamā because they wanted, with the help of the Ottomans, to remove the Russian infidels from the Muslim territory of Iran. Therefore, Khurāsānī and Māzandarānī declared that, "Now it is the most important duty of Muslims to remove this blood-shedding man [Muḥammad ʿAlī Shāh] and not to pay taxes to his government."[132]

To help overthrow the Persian King, the two clerical leaders sent a telegram to the Ottoman Sultan explaining that,

> "We suppliants of high Government and beseechers of the Sultan's compassion, after fulfilling our duties of prayer and expressing the praises due by us to the Amir-el-Muminin, the Shadow of God on the People and the Protector of the Islamic World...beg to state that we are companions and servants of the sublime religious law sheltered by the protection of the illustrious Government.... [The Shāh] brought about disturbances between the Government and the subjects which resulted in fear and dispersion from what the hands of bad people committed and from what the hands of tyrants gained; so much so that the Moslem women and their children were bought by misbelievers.... The people applied to us asking for our intercession because they supposed that the Sharaa [Sharīʿah] was to be obeyed and the word of its people ought to be listened to. We did our best to

> preserve the nation and begged for obedience from the Government by sufficient advice and eloquent and ample preachings.... A few days passed by, and he started this tyranny, withdrawing his firm promises, destroying the kind respect of the subjects, putting behind his back the Book of God, and ill-treating its prescriptions which are not hidden to you. We complain to God of this serious calamity and beg for the compassion of the Sultan of Islam in this desperate misfortune, which has no equal.... In that we pray for the putting out of the flame, the stamping out of the prevailing discard and the removal of the grievances from this nation, the claim of Moslems' rights, and their safety from the victory of the infidels.... Among the facts that our belief gathered is the ambition of the compassionate Sultan for conciliation. We beg from the compassion of that sublime spot and the pity of the high Government to exercise kindness before the intervention of foreigners and the lopping off of the nation and the country from every side...."[133]

The British Consul-General in Baghdad writes that "...the Shiahs are indignant at this appeal to the Sunni Sultan, and I hear that objection is particularly taken to the use of the term 'Amir-el-Muminin'...."[134] Using this kind of expression for the Sultan on the part of the Shī'ī 'ulamā is, of course, very strange. Despite the above report, however, there is an Arabic version of the telegram whose wording is different from that which is found in the British official documents. According to the Arabic text, the Sultan is called Khalīfatunā (our Caliph) not Amīr al-Mu'minīn (the Commander of the Faithful), a term which exclusively applies,

among the Shīʿah, to ʿAlī Ibn Abī Ṭālib. Neither of the two versions shows that the telegram was preceeded by another one. It seems that the ʿulamā, out of expediency, did not publish the exact version of the telegram which was sent to Constantinople.[135]

On August 4, 1908, Shaykh Ismāʿīl, a son of Mīrzā Ḥabīb Allāh Rashtī went to J. Ramsay, the British Consul-General at Baghdad, and asked him, on behalf of the leading mujtahids of Najaf, if the British will continue to support the Persian constitutionalists, and if so, whether or not the Consul-General would give the mujtahids his advice as to their best line of conduct. He did not give the envoy of the mujtahids any firm answer and commented regarding the envoy's question:

> "...it seems fairly clear that the Mujtaheds of Nedjef have only turned to the British Representative because they find themselves helpless..."[136]

He also adds that the ʿulamā probably doubt the wisdom of their authorizing the Sultan to interfere in Iranian internal affairs which meant an encouragement of the Turks to occupy Āzarbāyjān.[137]

The co-operation of Muḥammad ʿAlī Shāh with Russian troops in abrogating the Persian constitution put the ʿulamā in an uncomfortable position. They thought of the Shāh as an infidel who was

in the service of other infidels, i.e., Russians. Since they measured all current events in an Islamic framework, they thought it expedient to take their grievances to a ruler who was supporting Pan-Islamic ideas.

As the Russian troops continued to stay in Iran and Muḥammad ʿAlī Shāh executed the Persian liberals,[138] the ʿulamā of Iraq, especially those of Najaf, pursued their attacks against the Shāh and the foreign troops. The Persian liberals residing in Istanbul recommended that Khurāsānī should set out for Iran in protest.[139] In a letter dispatched to his friend, Taqī-Zādah writes that, "The Shāh wants to bring the Russian troops to Āẕarbāyjān in order to have a basis for his tyrannical rule even at the price of granting Āẕarbāyjān to Russia. The only solution to this problem is that the Najaf ʿulamā should move to Iran to oppose the Shāh."[140] It was in this connection that Khurāsānī sent his envoy, Shaykh Asad Allāh Mamaqānī to Istanbul to contact the liberals.[141]

Opposition to Muḥammad ʿAlī Shāh's rule was not limited to the constitutionalist ʿulamā. Since the problem was to remove a murderous ruler and foreign troops from a Muslim land, other ʿulamā also participated in the campaign. Clerical figures such as Sayyid Ismāʿīl Ṣadr and Mīrzā Muḥammad Taqī Shīrazī who had not

previously joined with their constitutionalist colleagues, now began fighting against Muḥammad ʿAlī Shāh and his policy.[142] Even Sayyid Kāẓim Yazdī who had resented politics but was genuinely in favor of Shaykh Faẓl Allāh, took steps against the continued stay of the Russians in Iran. Lowther writes that;

> "I hear that Sayid Kadham Yazdi, who has till now had nothing to do with politics, and who, my Russian colleague informs me, possesses considerable influence in the Caucasus, has addressed a telegram to the Shah deploring the occupation of Persian territory by foreign troops."[143]

The British, of course, were not happy with the presence of the Russian troops in Iranian cities, and it was especially irritating to the British Legation during the Majlis bombardment. Since unrest among the people in Iran, especially in Tabrīz and Tehran, was very great and, above all, since the Persian ʿulamā of Iraq had risen against Muḥammad ʿAlī Shāh and his Russian allies, both the British and the Russians were threatened and anticipated more confusion and disturbance in Iran. They were both afraid of a revolution. The British also wanted to suppress the Persian Revolution because of its possible impact on India.[144] In the beginning days of the Revolution, the British supported a constitutional form of government in order to weaken the Russian economic

and political influence in Iran. However, after the 1907 Anglo-Russian Convention which divided Iran into two spheres of influence,[145] the two Powers became co-operative with each other to a large extent.

In an Appeal presented to the International Congress of Socialists, at Stockholm in 1917, Taqī-Zādah and Vaḥid al-Mulk argued that England had made common cause with Russia in the events in Iran, even the bombardment of Parliament. They said that,

> "Russia and England choked the efforts of the Persian people for freedom through their systematic employment of all kinds of intrigue, of threats, of ultimatums, of punitive expeditions, of imposings of capital punishment and persecutions, as well as by preventing the financial measures which Persia could have taken. At last they gradually robbed the Persian people of the most of their liberties and of their most important rights.
>
> In a note dated June 3rd, 1908, Russia and England threatened the Persian people, who were just preparing to resist the Shah,... and intimated to them that they would employ military force if the people should undertake any step whatsoever against the government.
>
> Since the Persian people wished to avoid the interference of foreign states which could have endangered the independence of their country, they submitted to the arbitrary commands of England and Russia. The consequence of this was that the popular party was weakened, and the new parliament was bombarded on June 23rd by Liakhoff, a Russian officer in the service of the Shah, and the constitution, the fruit of so much sacrifice, was set aside."[146]

On the basis of their common cause, the two Powers saw it expedient to undertake joint measures for the settlement of Persian affairs. Among the steps that the Anglo-Russian Ministers at Tehran took, both met with Muḥammad ʿAlī Shāh on April 22, 1909, when they read a joint statement to the Shāh concerning the re-establishment of a constitutional régime and some other reforms. In the same communiqué the Shāh was promised that,

> "As soon as the measures...have been taken by the Shah, the Russian Government may, if it think necessary, make an advance to the Persian Government for the urgent expenses necessitated by the introduction of reforms, £100,000. The British Government will, if it considers it necessary, make a similar advance to the Persian Government, as soon as the elected Assembly has adopted this advance."[147]

Muḥammad ʿAlī Shāh promised to restore the constitution[148] and sent a telegram to the ʿulamā of Najaf and Karbalā informing them of the re-establishment of a constitutional régime and trying to obtain their support. The ʿulamā refused to believe the Shāh and wrote to the Persian Vice-Consul that,

> "The telegram you brought notifies the introduction of constitutional law, and it has already been published; still the fact remains that the best of words are those which are endorsed by acts. Promises which have repeatedly been broken have shaken the faith of the nation. Those who stir up strife are

> still in Tehran; royalist troops are at Tabreez; Russian and English troops are on Persian soil; the military stores, revenue, telegraphs, and other departments of Government have not been handed over to responsible Ministers; there is a censorship on telegrams, and there are other matters which we have discussed with you verbally. All this is opposed to the statements contained in the telegram. You should report exactly to the Shah what we have said. All this should be altered, and the constitutional law should be introduced in letter and in spirit.... The nation requires some assurance that promises will not again be broken. How can we give effect to the telegram until we hear from the provinces that the constitution is a reality?"[149]

Along with Muḥammad ʿAlī Shāh's attempt to win the favor of the ʿulamā, M. Tcharykow in St. Petersburgh suggested to the British Ambassador that an instruction should be given to the Consuls-General of Russia and Great Britain at Baghdad to induce the ʿulamā of Najaf "to advise the people of Persia to exhibit a spirit of reciprocity in their reception of the Shāh's promises of a constitution."[150]

After a series of correspondence between the Russian and British authorities in London, St. Petersburgh, and Tehran, and the proposal of different draft communications, the two Powers finally agreed upon an identical communication to be separately handed to the ʿulamā of Najaf and Karbalā by the Consuls-General of the Powers at Baghdad.[151] In the communication they reminded the

ʿulamā of the Shāh's re-establishment of a constitutional régime, and suggested that the ʿulamā should advise the Persian Parties to exercise moderation. By doing so, "...les vénérables moudjtéhids contribueront puissanmant au bonheur de leur belle partie...."[152]

To this communication the ʿulamā do not seem to have paid any attention, and they continued their campaign against Muḥammad ʿAlī Shāh's rule and the Russians' stay in Iran. At the same time rumors were widespread concerning the ʿulamā's expedition to Iran to offer resistance to Russian troops.[153] The Powers made an attempt to "impress the ulama that the Russian troops were not sent to Persia for the purpose of intervention,"[154] but simply to "ensure that the lives and property of foreigners may be protected, and to keep open the communication between Tehran and the outside."[155] The Russians were particularly anxious about the ʿulamā's bitter campaign:

> "M. Maschkow [the Russian officer at Baghdad]...informed me that Mullah Mohammad Kadhem Khorassani had great influence in Baku, which he described as a most turbulent place, and a centre for revolutionary propaganda. He said that outside Baku the man who had the most influence with the Mohammadans of the Caucasus was Seyyid Kadhem Yezdi, and it is therefore important, I think, to note that up to the present time, Seyyid Kadhem Yazdi has held aloof from politics, but that now he is inclined to use his influence to get the Russians out of Persia. Seyyid Kadhem Yezdi

> is very much respected, and he must be a man of great strength of character to have resisted all the pressure that has been applied to make him join the nationalist movement. If, therefore, he should think it right to take a share in political affairs, he may be able to cause the Russian Government considerable embarrassment by stirring up trouble in the Caucasus."[156]

In their campaign against the Russians, Khurāsānī and other ʿulamā at times made attempts to persuade the British to use their influence in favor of Iran and to advise the Russians to remove their troops from Persian territory.[157] Once again, Khurāsānī and other mujtahids of Najaf appealed to the British authority in Baghdad. They appointed four men to meet the British Consul-General at Baghdad and to negotiate the problem of the Russian aggression, and to make a private and friendly request for advice. These men were:

1. Mīrzā Mahdī Āqā, a son of Khurāsānī.
2. Mīrzā Muḥsin, the son-in-law of Sayyid ʿAbd Allāh Bihbahānī.
3. Mīrzā Ibrāhīm, late dragoman of the Persian Consulate-General.
4. Mīrzā Muḥammad [Ḥusayn Nā'īnī], clerk to Khurāsānī.[158]

These envoys of the ʿulamā complained about the presence of the Russian troops in Iran. They admitted the help given by the British early in the constitutional movement, but puzzled over her

then "passive" attitude. They stressed that as long as the Russian troops remained in various cities of Iran, no peace could be expected. The ʿulamā were asked for advice and assistance by the people; in reply, the ʿulamā said that they were striving to have the Russian troops withdrawn; otherwise, they were ready to sacrifice their lives for their religion and nation.[159]

The strong and uncompromising opposition expressed by the ʿulamā to the current developments seriously threatened the two Powers with regrettable consequences. Their worries were perhaps increased when, in July, 1909, Khurāsānī, leading almost all the ʿulamā of Najaf, including the Arabs among them, moved to Karbalā in protest.[160] However, the pressure from the ʿulamā abated temporarily and they returned to Najaf when the constitutionalist troops from Iṣfahān and Gīlān arrived victorious in Tehran, and Muḥammad ʿAlī Shāh fled to the Russian Embassy (15th July, 1909).

The Anglo-Russian attempt to suppress the Revolution by establishing a restricted and controlled constitutionalism under Muḥammad ʿAlī Shāh failed. The ʿulamā were not prepared to modify their demands which were the withdrawal of Russian troops and the deposition of Muḥammad ʿAlī Shāh. At the same time the nationalists and the political societies, anjumans, were not at all in a compromising mood, but were vigorously active in several major cities in

Iran. Besides, the Shāh was reluctant even to permit a Parliament, though he finally agreed to do so under pressure. In these circumstances it seemed that the nationalists' occupation of Tehran under the leadership of the Sardār As'ad and Sipahdār, and the Shāh's deposition, were the best possible solutions to the problems and in the interests of both Russia and Britain. Although the two Powers' representatives made an attempt to prevent the nationalists' march to Tehran,[161] the march could not by any means have been a cause of great harm to them.

As far as the British interests were concerned, one must not lose sight of the fact that one of the strong camps of the constitutionalists was led by the Bakhtīyārīs, whose friendly relations with the British was of a long standing nature. Only one year before marching to Tehran the Bakhtīyārī chief, Sardār As'ad, together with his younger brother and his uncle, had met with Hardinge in the British Foreign Office in London to discuss their income from the Oil Concessions Syndicate. In the course of their conversation with Hardinge, the latter pointed out that he had always regarded the Bakhtīyārī chiefs "as England's best and most loyal friends in Persia."[162] In late spring 1909, a treaty was concluded between them in anticipation of the Bakhtīyārīs' success in the Revolution.[163] The success of the constitutionalists,

therefore, gave the British the upper hand in the country.

The Russians, on the other hand, upon the constitutionalists' march toward the Capital, threatened that they would occupy Tehran.[164] "Within a few days Russian troops began to arrive in Qazvin."[165] Despite these actions, however, they allowed the constitutionalists to win because:

1. The nationalist leader appointed to command the Gīlān troops, Muḥammad Valī Khān Sipahdār, was no constitutionalist. "Until the spring of 1909 he had been a faithful servant of Muhammad Ali...he was intimidated by the nationalists into joining their cause."[166] He even was, according to a British document, a "secret collaborator with the Russians."[167]

2. The constitutionalists' victory under such circumstances was not going to put an end to Russian influence in Iran. The Russians already had troops in several Iranian cities, and according to the Anglo-Russian Convention of 1907, a great part of Iran was considered as the Russian sphere of influence. They could formally announce their occupation of the designated zone at any time. Even after the constitutionalists' victory, the Persian Cossack Brigade remained under the command of Colonel Liakhov, the Russian officer who bombarded Parliament. This was done at the insistence of the Russian Legation's dragoman, Baranovskii

upon Sipahdār.[168]

3. The last, but not the least, important reason was that the Russians wanted to avert the serious difficulties which could have been created by the Persian ʿulamā of Iraq among the people, especially the Muslim subjects of Russia (see further above).

It seems that had the ʿulamā not risen against Muḥammad ʿAlī Shāh and his Russian allies, Muḥammad ʿAlī Shāh would have continued his reign. He would not have declared the re-establishment of a constitutional régime; the nationalists' forces would not have arrived in Tehran so victoriously, and the Persian Constitution would not have been restored in July 1909. This restoration, however, was not of paramount effect, because Iran's independence and national integrity were to be violated in 1911 by the Russian invasion, an event upon which we will touch in the following chapter.

The course of events indicates that the main target of the ʿulamā's attacks was the irreligiosity of Muḥammad ʿAlī Shāh. Since the Shāh allied himself with Russian infidels and opened fire upon and killed numerous Muslims, the ʿulamā invited the people to disobey him and his government. At the same time the ʿulamā attacked tyranny, not because it was against democracy, but simply because

the tyranny found in Iran worked against Islam. The nationalistic attitude in the ʿulamā's resistance was almost nil; for this reason we see them authorizing the Ottoman Sultan to interfere in Persian affairs.

The Three High Ranking Mujtahids' Views

Many writings of the ʿulamā of Iraq on constitutionalism in the forms of manifestoes, fatwās, letters and treatises, appeared in the course of events described above, that is to say, in the period of istibdād-i saghīr (minor autocracy): June 23, 1908 - July 17, 1909. In these writings, the high and middle ranking ʿulamā explained, among other things, the motives for their participation in the Persian Revolution. There was not, however, much written by the three leading clerical constitutionalists, i.e. Ṭihrānī, Khurāsānī and Māzandarānī, on the idea of constitutionalism. What is presented below is taken from scattered statements released on different occasions. These statements were made against the background of the above-described events and indicate the reasons behind their involvement in the Revolution.

In a letter, Khurāsānī points out: "Our aim in taking such trouble is to bring a comfortable life for the people, to remove oppression, to support the oppressed, and to give aid to troubled

persons. We would also like to carry out God's laws and to protect the Islamic land from the infidels' attacks. We intend to practice the Islamic concept of amr-ibi ma'rūf va nahy-i az munkar (to enjoin right conduct and forbid indecency) and other Islamic laws which are in the interest of the people."[169]

In a joint declaration signed by Khurāsānī and Māzandarānī, they said: "What we ordered to be established and strengthened is considered by us compulsory, as a Holy War under the command of the Hidden Imām."[170] "The troubles that the 'ulamā took and the endeavors they made," write Khurāsānī and Māzandarānī, "for the establishment of the Constitution was to protect religion, to revive the Islamic homeland (vaṭan), and to improve the condition of the country. We aimed at the progress of the people and the enforcing of religious laws; we wanted to put an end to embezzlement and to improve financially the army and other state affairs; we attempted to terminate aggression and impositions of a few selfish and stubborn persons."[171]

In a letter that Māzandarānī wrote to a merchant, he stated that: "We participated in the movement to protect the territory of Islam and to remove aggression and tyranny, and to apply religious laws."[172] In other telegrams sent to Iran by Ṭihrānī, Khurāsānī, and Māzandarānī, it is noted that: "It is evident that

in the measures we have taken, we have these purposes:

1. The protection of religion;

2. the strength and might of the government;

3. the progress and comforts of the people;

4. the protection of life and honor of the Muslims."[173]

"Any effort for the establishment of the constitution is like a Holy War under the command of the Hidden Imām. If any person shows any opposition or carelessness, it will be regarded as fighting a war against the Imām."[174] The ʿulamā's frequent equation of heedlessness to the call for constitutionalism and support given to tyranny with a war against the Hidden Imām, obviously, applies to a jihād against the Russians and Muhammad ʿAlī Shāh.

These three leading mujtahids repeatedly noted two substantial points in their communications: 1) the protection of religion; 2) the removal of tyranny and oppressive rule. These points are, to an extent, relevant to Professor Algar's view, that in the mind of the ʿulamā, the mashrūṭah and the Islamic law were identical.[175] They also support another account which holds that "these three ʿulamā loved their country and did not want its people to suffer under the dictatorship of the Qājārs; hence, they approved of the mashrūṭah and a consultative assembly, though they did not know the meaning of a mashrūṭah regime and its consequences."[176]

Muḥallātī's Explanation

Another mujtahid, who then belonged to the middle ranking ʿulamā and who participated in the constitutional movement, was Shaykh Ismāʿīl Maḥallātī whose book will be briefly described in the fourth chapter. He explains clearly why the ʿulamā involved themselves in the Revolution: "Since I noticed that there existed some evil thoughts about constitutionalism, I felt that it was perhaps an obligatory duty for every person (vājib-i ʿaynī) to prove how those thoughts were corrupt."[177]

There can be considered to be three kinds of governments:

1. The rule of the Imām;

2. an absolute monarchy;

3. a limited and constitutional form of government. The first type is presently impossible. The choice, therefore, would be between the other two and, of course, every person of intelligence would choose the third type of government system.[178] A constitutional régime has double benefits: first, it puts an end to oppressive rule over the people; second, it protects the territory of Islam against the infidels. Thus, involvement in this movement falls into the category of the amr-i bi maʿrūf va nahy-i az munkar in its first aspect, and into the category of the defense of Islam against the infidels in its second aspect. Consequently, any

opposition to the establishment of the National Consultative Assembly would be like fighting a war against the Hidden Imām.[179] The ʿulamā have noticed that this sort of assembly is based on the limitation of oppression and protection of the Islamic territory. Hence, they have declared obligatory the support of such an assembly, and unlawful any action which might result in its weakness or extinction."[180] Maḥallātī, at another point, clearly states that "If the ʿulamā do not participate in the constitutional movement, the politics of this Islamic country will follow the European model. Therefore it is compulsory for them to lend a hand to the politicians to establish laws which are in accordance with Islam."[181]

Nā'īnī Offers Reasons for the ʿUlamā's Participation

The last mujtahid to whose explanation we would like to refer is Mīrzā Muḥammad Ḥusayn Nā'īnī. Referring to the absolutist ʿulamā and their supporters, he writes that "A group of people, in the name of religion, arose against God-given freedom, equality, and other national and religious rights, and supported the tyrannical régime. They co-operated with the oppressive Iranian rulers and repeated the deeds of Ẓaḥḥāk and Chingīz Khān, calling their actions 'religiosity'. They contaminated Islam and performed injustice to

God and to His Prophet. Being inspired by the hadīth which reads, 'When innovation appears, it is the duty of the ʿālim to manifest his knowledge, or God's curse may be upon Him', I believed that my silence on the heresy and failure to defend religion would be, in fact, an assistance to injustice and heresy. To perform my religious duty, therefore, I have decided to throw light on this heresy's contrast with Islam."[182]

As Nā'īnī claimed, his only motive for writing on the idea of constitutionalism was religion. That is to say, the appearance of heresy and the commission of injustice to God, to the Prophet, and to religion in the society, created a religious responsibility for him. Thus, he challenged the position of the absolutist ʿulamā in order to fulfill his religious task.

As mentioned earlier in this chapter, Nā'īnī was involved in the ʿulamā's campaign against Muḥammad ʿAlī Shah. Nā'īnī was supporting the ʿulamā's policy, and his motives for participation in the campaign were, to a great extent, identical with those of the three leading ʿulamā. In order to understand Nā'īnī's justification of the involvement of the ʿulamā, we should like to limit ourselves to what he says in the book which he wrote during the istibdād-i saghīr.

Nā'īnī divides rulership into two categories:

1. Tyrannical, based on the unlimited power of the ruler;

2. conditional, limited, and constitutional. The latter is, of course, based on law, justice and the responsibility of the ruler; therefore, to prevent any inclination to tyranny, the holder of power should be limited and should be kept under a close watch. The best means, Nā'īnī continues, to avoid any change from a constitutional system to tyranny, lies in the infallibility with which the Twelver Shī'ah qualify their lawful rulers. But since at the present time there is no possibility of enjoying such an ideal government, a constitutional régime that corresponds with religion and limits the king's dictatorship should be established.[183] "Freedom and equality which are preserved in the new system, were two of the principal aims of the prophets. Our Prophet never lost sight of the fact that all people are free and equal."[184] "It is to this end, that at this period of time, the leaders of the Twelver Shī'ah, following the prophets, have taken serious steps. They want to free the Muslims from slavery and return to them their usurped rights. They want to overthrow the tyrannical rule, which not only has given rise to all sorts of corruption, but which also has led our Islamic country toward extinction. The leading 'ulamā also aim at establishing a constitutional form of government which protects cities from the domination of infidels and puts an end to

corruption. In taking such measures, the ʿulamā, of course, are mainly inspired and motivated by the zealous Muslims who have decided to release themselves and have become aware of the fact that they are equal to the usurpers in all public affairs. The principal motive of the ʿulamā was the understanding that the people have recognized the menace resulting from tyranny and the absolute rule of oppressive men."[185]

The latter part of Nā'īnī's statement corresponds with, and very well justifies, Sayyid Ḥasan Taqī-Zādah's opinion concerning the reason for the ʿulamā's participation in the Revolution. Taqī-Zādah notes: "Apart from their corruption and wickedness, the ʿulamā were a support for the people against tyranny and the unchecked oppression of the government. The people considered the ʿulamā as representatives of public opinion. Therefore, when a continued heavy criticism was directed by the people against the government, they needed an inviolable authority under whose protection they could enjoy security. The ʿulamā were a natural choice for that purpose. On the other hand, since the ʿulamā needed the people for reaching their own goals, they co-operated with the people in the process of the Revolution."[186] One of Professor Nikki R. Keddie's suggestions about the reasons behind the ʿulamā's participation is in agreement with the above-mentioned theory.[187]

Nā'īnī, on another occasion, discusses the problem of the ʿulamā's involvement, and, through his reasonings, shows how it becomes an obligatory duty to overthrow the old régime and change it into a constitutional form. He says that tyrannical rule consists of three kinds of injustices:

1. Injustice to God;

2. injustice to the Imām;

3. injustice to the people. But a constitutional régime consists only of one sort of injustice: that which applies to the Imām, and it is devoid of the other two.[188] Nā'īnī goes on to argue that the reason for the necessity of changing tyrannical rule is to avoid these two kinds of injustice, not simply to appoint a ruler slightly more moderate than the tyrant. It goes without saying that the ʿulamā are lawfully the custodians of justice. Besides, since preventing any disorder in the community is of paramount importance, it becomes the responsibility of the ʿulamā also to hold the ruling power during the Greater Occultation. In a constitutional régime, therefore, the ʿulamā supervise the process of law-making in order to make it in harmony with Islam, and consequently, to avoid the injustice which may have been done to the Imām. In other words, the régime in which one person holds the absolute power should be terminated, and another régime, which

aims at law and order and whose lawfulness is also recognized and approved by religious authorities, should be assembled. Consequently, there should remain no room for doubting the necessity of changing the old régime to a constitutional form of government.[189]

Thus was the ʿulamā's justification of their alliance with the people in fighting for a constitution. It is worth mentioning that, although some of the later observations about the ʿulamā's participation are in accordance with the ʿulamā's own accounts, it is still impossible to make a general statement on the matter. It may not be simply taken for granted that the ʿulamā can be lumped together and judged as a whole, disregarding their divergencies of opinion and differing motivations. Professor Keddie does make such generalized judgements,[190] but it can be argued against this tendency to reduce the ʿulamā to monolithic uniformity that each of the clerical leaders seems to have had different motives for his participation in the constitutional activities. Professor Keddie's account even gives the impression that the ʿulamā were living only off religion,[191] losing sight of the fact that at least a number of the Najaf ʿulamā were also living for religion.

All the constitutionalist ʿulamā, it is true, based their argument concerning reform in government on Islamic law. They

justified their position in the Revolution as taking a stand against the then ruler's irreligiosity and the tyranny which was the result of that irreligiosity. The ʿulamā's religious justification for the Revolution, however, seems to have originated mainly from their relationships with the merchant classes.

The leading clerical circles involved in the Revolution had close contacts with most groups but especially the merchants.[192] From several decades before the constitutionalist movement began many concessions had been made to foreigners, and European products were finding their way into Iranian markets. Local Persian trade and industry were being threatened by bankruptcy. The merchants naturally were opposed to the concessions and to foreign investments. Their grievances were taken to the ʿulamā. The ʿulamā were encouraged to fight for a strong and well organized government under the protection of which the merchants and craft guilds could run their business in peace, domestic industry and trade be encouraged, and foreign penetration be terminated.

These two groups, the ʿulamā and merchants, had had mutual interests of long standing. The ʿulamā needed the merchants because they received from the merchants an alms tax in the form of zakāt (alms) and khums va sahm-i Imam (one fifth of yearly cash incomes, half of which goes to support poor descendants of the

Prophet and the rest of which is the share of the Imām to be spent at the mujtahid's own discretion). The merchants, on the other hand, depended upon the ʿulamā as their most influential supporters over government. Besides, in the words of Professor Lambton:

> "Matters of personal law were decided by them [ʿulamā], title deeds were written by them, and attested before them; disputes were often settled by them; commercial affairs which required the witnessing of documents were referred to them; and education was largely in their hands. Functions connected with birth, marriage, and death all required the assistance of the ʿulamā."[193]

The ʿulamā naturally considered the demands of merchants quite legitimate and in accordance with Islam. They also found the demands of merchants in the interest of the Muslim people whose support of the clerical groups meant the strength of religion. Therefore, the ʿulamā felt religiously obliged to fight for a constitutional form of government.

It was on the same basis that the Shirkat-i Islāmīyyah (The Islamic Company) was established in 1898. On that occasion several speeches were delivered by religious preachers, such as Malik al-Mutakallimīn, calling for public support of the company.[194] In an essay written by Sayyid Jamāl al-Dīn Iṣfahānī, there is a strong argument against the idea of wearing foreign-made materials. In the opening section of that essay, there are 8 eulogies written by

8 leading ʿulamā concerning the necessity for the encouragement of the Shirkat-i Islāmīyyah, which was to put an end to the Iranians' need of foreign goods.[195] Nā'īnī's remark concerning the ʿulamā's being "inspired and motivated by the zealous Muslims" is an allusion to the mutual interests of the ʿulamā and the merchants.[196]

Therefore, as far as personal motives are concerned one may argue that the three top mujtahids of Najaf, that is, Ṭihrānī, Khurāsānī, and Māzandarānī, together with their assistants and co-thinkers, such as Nā'īnī and Maḥallātī, were very concerned with the welfare of the people and their being treated with justice. During the period of Qājār rule, justice did not exist, and the people's lives were at the governors' mercy; therefore, these ʿulamā felt religiously responsible to support the movement which aimed at the removal of such a rule. For this reason, supporting the movement was considered equivalent to fighting a Holy War under the command of the Hidden Imām and any opposition to it was as waging a war against him.

Professor Keddie argues that the ʿulamā's reaction to the West "appeared 'reactionary' when it was directed against modernization..., and 'progressive' when directed against imperialist controls, but in both cases the ulama were acting constantly with [for] the preservation of their own power."[197] But on the other hand, the

writings of the ʿulamā and those of their biographers plus some official reports indicate that the leading clerics involved in the Revolution, men such as Khurāsānī, Ṭihrānī, Māzandarānī and Ṭabāṭabāʾī, were pious individuals and were motivated mainly by factors of geniune religious devotion and patriotic idealism. As an alternative interpretation, therefore, one may suggest that these ʿulamā participated in the Revolution not only to preserve their power, but also to save the Muslim people from oppression and arbitrary rule and to protect their country and its economic interests from foreign aggression. Since they were also devoted to religion, their sense of religious responsibility was also, at least partially, the cause for their rising against tyranny and advocating a form of parliamentary system which would be in the interest of Muslims. These Persian ʿulamā, however, did not know the real meaning and consequences of democratic constitutionalism.[198]

Another group of the ʿulamā, the most prominent of whom were Ṭabāṭabāʾī and Bihbahānī, were leading the movement in Tehran. Although they allied to work closely together, they also had different aims in their activities. Ṭabāṭabāʾī was enlightened, well informed, and as we have said above, well aware of such modern trends as nationalism and constitutionalism. He was eagerly working toward reforms and had none, or not much, in the way of personal

purposes. He had even realized that by establishing a house of justice and an assembly, he would lose his clerical privileges.[199] On the other hand, his close clerical colleague, Bihbahānī, though more militant and braver, was very much motivated by personal goals, and perhaps even by venality. His activities were, at least in part, in the nature of a power struggle.[200]

There were also other types of ʿulamā of whom Kasravī speaks, calling them pīshnamāzān (those who lead prayers in congregation). He says: "This group was supporting the constitutionalists in Tabrīz, and together with other people, were demanding a constitutional law, but they did not know the meaning of the mashrūṭah. At that time, as a result of the death of Ḥājī Mīrzā Ḥasan Shīrāzī and some other mujtahids, an opportunity had come to establish themselves as popular mujtahids. Therefore, as soon as the constitutionalists turned toward them asking their support, they happily responded. They moved along with the wishes of the people and signed all the telegrams that the liberals used to send without knowing anything about the idea of constitutionalism. They did so because they wanted to be considered as the ʿulamā.[201] Needless to say, they were also unhappy with the government and concerned about the people.

This observation seems quite justified, because had there been

no question of a constitution, there would perhaps have been no followers around those pīshnamāzān, and in consequence, no chance for them to increase their importance amongst other mujtahids. Thus, their aim in the movement was different from that of some other ʿulamā we have described. All the ʿulamā, however, no matter what their real motives may have been, were against the existing régime which was based on tyranny and oppression. Needless to say, the ʿulamā, on the basis of their claim to be the legitimate rulers and General Agents of the Twelfth Imām, were always in a position legitimately to disapprove and to work for the downfall of even a just ruler, let alone an unjust one. They were in close association with the people and were, as E.G. Browne puts it: "like the Irish priests...essentially a national class, sprung from the people, knowing the people..."[202] They whole-heartedly supported the people and the intellectuals in the effort to put an end to the government of terror and to establish the mashrūṭah as the best possible alternative.

This has been a brief examination of the ʿulamā's motives for participation in the Constitutional Revolution. The ʿulamā, perhaps with the exception of Ṭabāṭabā'ī, did not know the meaning of the idea of constitutionalism although they were its supporters. Their own explanations, so far, only indicate why they took part

in the movement. Motives alone, of course, are not sufficient for understanding what they said about different aspects of democratic constitutionalism, such as the concepts of parliament, liberty, equality, election, in relation to Islam. They fought against tyranny but not for the sake of democracy. These problems require an examination which will be attempted in the later chapters. Nā'īnī's theory, of course, will be taken as the focus of description. Before turning our attention to Nā'īnī's constitutional theory we should attempt to gain an insight into Nā'īnī's life and his political and academic activities. The following two chapters, therefore, are devoted to Nā'īni's life and works.

Notes to Chapter II

1. Gustave E. Von Grunebaum, Medieval Islam (Chicago: The University of Chicago Press, 1961), p. 142.

2. Ḥasan Ibn al-Muṭahhar al-Ḥillī, Al-Babu l-Ḥādī ʿAshar: A Treatise on the Principles of Shīʿite Theology, with commentary by Miqdād-i Fāḍil al-Ḥillī, trans. William McElwee Miller (London: Luzac and Co. Ltd., 1958), p. 62.

3. Ibid., pp. 64-65.

4. Muḥammad's Farewell Pilgrimage has since been associated with the story of Ghadīr Khumm where ʿAlī is believed by the Shīʿah to have been appointed as the successor of Muḥammad. A considerable amount of literature has been since produced on the subject. The best key to the Ghadīr literature is Shaykh ʿAbd al-Ḥusayn Amīnī's many volume-study entitled Al-Ghadīr fī al-Kitāb wa al-Sunnah wa al-Adab (Tehran: Al-Islāmīyyah, 1952). See also Professor L. Veccia Vaglieri, "Ghadir Khumm", EI^2, II, 993-94 and "ʿAlī B. Abī Ṭālib", EI^2, I, 381-86. The author of these articles, in her treatment of the problem, seems to have underestimated the importance of the Ghadīr incident in Islamic history. She seems to have passed in silence over the numerous historical facts and reports attached to this incident since the second century of the Islamic era. The first volume of Amīnī's Al-Ghadīr very well demonstrates the importance of this event. Nevertheless, it should be admitted that Professor Vaglieri has made a thought-provoking contribution to the study of ʿAlī Ibn Abī Ṭālib. See her article on ʿAlī's conflicts with Muʿāwīyah entitled, "Il conflitto Ali-Muʿāwīya ela secessione kharigita riesaminati alla luce di fonti ibaditto", appeared in Analli, IV, (1952), 1-94; the article is preceded by an English summary on the pages vii-ix.

5. Accounts on the problem of infallibility, ʿiṣmah, are given in Muḥammad Ibn Babuwayh, Maʿānī al-Akhbār (Tehran: Ṣadūq, 1959), pp. 132-36. A detailed treatment of the subject in connection particularly with the infallibility of ʿAlī can be found in Muḥammad Ibn al-Ḥasan al-Ṭūsī, Talkhīṣ al-Shāfī (Najaf; Al-Ādāb,, 1963), II, pp. 257-89.

6. ʿAlī Aṣghar Ḥikmat, "Maẕhab", in Irānshahr, (Tehran: Yunisku, 1963), I, pp. 573-619; the list given on page 589 and in Syed Ameer Ali, The Spirit of Islam: A History of the Evolution and Ideal of Islam with a Life of the Prophet (London: Methuen & Co.Ltd., 1965), pp. 344-46. One of the best sources in which there is a comprehensive discussion of the problem of Imāmah and ʿiṣmah of the Twelve Imāms is Ṭūsī's two volume-work, Talkhīṣ al-Shāfī. On the authority of the Imām and its delegation, consult Josef Eliash, "The Ithnāʿasharī-Shīʿī Jurist Theory of Political and Legal Authority", SI, XXIX (1969), 17-30. See also Dwight M. Donaldson, The Shiʿite Religion: A History of Islam in Persia and Iraq (London: Luzac, 1933). For the origins and the development of the Twelver Shīʿah consult Nabīlah ʿAbd al-Munʿim Dāʾūd, Nashʾah al-Shīʿah al-Imāmīyyah (Baghdad: Al-Irshad, 1968) and Kāmil Muṣṭafā al-Shaybī, Al-Fikr al-Shīʿī wa al-Nazaʿāt al-Ṣufīyyah Ḥattā Maṭlaʿ al-Qarn al-Thānī ʿAshar al-Hijrī (Baghdad: Maktabah al-Nahḍah, 1966). Both of these recent works provide the reader with ample references.

7. Cf. W. Montgomery Watt, "The Reappraisal of Abbasid Shiʿism", in, Arabic and Islamic Studies in Honor of Hamilton A.R. Gibb, ed. George Makdisi (Cambridge, Mass.: Harvard University Press, 1965), pp. 638-54, in which the author mentions more than ten different Shīʿah sects only upon the death of the Eleventh Imām; idem, "Shiʿism under the Umayyads", JRAS (1960), 158-72; Marshal G.S. Hodgson, "How Did the Early Shīʿa Become Sectarian?", JAOS, 75 (1955), 1-13.

8. Muḥammad Ibn al-Ḥasan Ṭūsī, Kitāb al-Ghaybah (Najaf: Al-Ṣādiq, 1965), pp. 214-43. For more information concerning the Twelfth Imām and his four Specified Agents, cf. Muḥammad Ibn Muḥammad Mufīd, Al-Irshād (Najaf: Al-Ḥaydarīyyah, 1962), p. 346ff. and Muḥammad Ibn Yaʿqūb Kulaynī, Al-Uṣūl al-Kāfī (Tehran: Al-Islamīyyah, 1956), I, p. 328ff. Among Muḥammad Bāqir Majlisī's works, the thirteenth volume of his Al-Biḥār al-Anwār is entirely devoted to this subject. The best guide to facts and sources on the problem is Donaldson, The Shiʿite, pp. 226-57.

9. Ibn Babuwayh, Maʿānī, pp. 374-75.

10. Kulaynī, Kāfī, I, p. 38.

11. Ibid., I, p. 46.

12. Ibid., p. 34.

13. Ibn Bābuwayh, Ikmāl al-Dīn wa Itmām al-Niʿmah fī Ithbāt al-Rijʿah (Najaf: Al-Ḥaydarīyyah, 1970), p. 451.

14. The last two ḥadīths are recorded in Shaykh Ḥurr al-ʿĀmilī's Al-Wasāʾil al-Shīʿah wa Mustadrakātuhā, XVIII, pp. 98-100, cited in Āyatullāh Ḥājī Āqā Rūḥ Allāh Khumaynī, Ḥukūmat-i Islamī yā Vilāyat-i Faqīh (Najaf: Ādāb, 1970), V, pp. 14-25. The latter is a collection of a series of Khumaynī's speeches on the Shīʿī theory of government delivered in Najaf in the early 1970, during his banishment from Iran. In a detailed critical discussion, Khumaynī, by referring to several ḥadīths such as those quoted above, came to the conclusion that the task of rulership belongs to the ʿulamā. On Khumaynī see Algar, "Opposition", pp. 245ff.; Richard W. Cottam, Nationalism In Iran (Pittsburgh: University of Pittsburgh Press, 1964), p. 308.

15. Shaykh Murtaẓā Anṣārī Al-Makāsib (Tabrīz: Iṭṭilāʿāt, 1955), p. 153.

16. Shaykh Mūsā Najafī al-Khwānsārī, Munyah al-Ṭālib fī Ḥāshīyah al-Makāsib (Qum: Muḥammadī, 1953), I, pp. 325-29.

17. For what follows in this paragraph, inter allia, these references are recommended: on the Buwayhīds, cf. Cl. Cahen, "Buwayhids", EI^2, I, 1350-57 and the bibliography cited there. Concerning the intellectual contribution of the Shīʿī ʿulamā, see Shaykh ʿAbd al-Jalīl Rāzī Qazvīnī, Kitāb al-Naqḍ (written ca. A.D. 1164), edited and annotated by Sayyid Jalāl al-Dīn Ḥusaynī Urmavī (Muḥaddiṯ) (Tehran: Sipihr, 1952); Sayyid Muḥsin Amīn, Aʿyān al-Shīʿah (Beirut: Maṭbaʿah al-Inṣāf, 1960), in many volumes; Muḥammad Muḥsin Shaykh Āghā Buzurg Ṭihrānī, Al-Dharīʿah ilā Taṣānīf al-Shīʿah (Tehran & Najaf, 1936-70), 20 volumes. The Shīʿah under the Saljuqs and Mongols is treated in A. Bausani, "Religion in the Saljuq Period" and "Religion under the Mongols", in The Saljuq and Mongol Periods, Vol.V of The Cambridge History of Iran (Cambridge: The Cambridge University Press, 1968), pp. 290-96, 538-49. Concerning Ṭūsī's relation with the Mongols, cf. Abdul-Hadi Hairi, "Naṣīr al-Dīn Ṭūsī: His Alleged Role in the Fall of Baghdad", in Actes du V^e Congrès International d'Arabisants et d'Islamsants, Bruxelles, 31 août - 6 septembre 1970 (Brussels: Centre pour

l'Étude des Problèms du Monde Musulman Contemporain, 1971), pp. 255-66. See also Dr. Manūchihr Murtaẓavī, Taḥqīq dar bārah-yi Dawrah-yi Ilkhānān-i Iran (Tehran: Kitābfurūshī-yi Tehran, 1962), pp. 32-67. For the Shīʿah during the Mongol period to the rise of the Ṣafavīds, see Michel Munʿim Mazzaoi, Shīʿīsm and the Rise of the Ṣafavīds (Wiesbaden, Steiner: Freiburger Islamstudian, 1972). On the Shīʿī theory of government, see Ḥillī, Kashf al-Murād fī Sharḥ Tajrīd al-Iʿtiqād (Qum: Al-Muṣṭafawī, n.d.) pp. 284-315. Consult also the bibliography given farther above in the present chapter.

18. Concerning the ʿulamā's relations with the Ṣafavīd rulers, see Ann K.S. Lambton, "Quis Custodiet Custodes: Some Reflections on the Persian Theory of Government", SI, VI (1957), 129-42.

19. Edward G. Browne, A Literary History of Persia (Cambridge: The Cambridge University Press, 1953), IV, p. 369.

20. On the office of the Shaykh al-Islam, see ibid., IV, passim, and Lambton, "Quis Custodiet Custodes", SI, VI (1957), 139-41 and bibliography cited there.

21. Muḥammad ʿAlī Mudarris Khīyābānī Tabrīzī, Rayḥānah al-Adab fī Tarājim al-Maʿrūfīn bi al-Kunyah aw al-Laqab (Tehran: ʿIlmī, 1949), III, pp. 489-92.

22. Khwānsarī, Munyah, I, p. 29.

23. All these writings together with a few other treatises of the same polemic nature and partly by the same authors, but on the subject of riḍāʿ (foster relationship), are published in a collection entitled Al-Riḍāʿīyyāt wa al-Kharājīyyat (Tehran, 1897?). Karakī is presently being studied by Professor Martin Dickson of Princeton University.

24. For instance, the Qurʾānic verses which read: "-Ask the followers of the Rememberance if ye know not!" (16:43), and "...Of every troop of them [believers], a party only should go forth, that they (who are left behind) may gain sound knowledge in religion, and that they may warn their folk when they return to them, so that they may beware." (9:122)

25. ʿAlī Davvanī, Zindigānī-yi Zaʿīm-i Buzurg-i ʿĀlam-i Tashayyuʿ ʿAllāmah-yi ʿĀliqadr Ḥazrat-i Āyah Allāh Burūjirdī Quddisa Sirruh (Qum: Ḥikmat, 1961), pp. 18-34.

26. Figures are taken from Abū Muḥammad Vakīlī Qummī, "Tashkīlāt-i Mazhab-i Shīʿah", a mimeographed research distributed by Danishkadah-yi Adabīyyāt-i Dānishgāh-i Tehran, 1966, p. 122.

27. Khīyābānī, Rayḥānah, III, p. 490.

28. Ibid., II, p. 419. For a study of the Ṣāḥib al-Jawāhir's life, consult ibid., II, pp. 419-20 and Shaykh Muḥammad Riḍā Āl Muẓaffar, "Tarjumah al-Muʾallif", in, Shaykh Muḥammad Ḥasan al-Najafī, Jawāhir al-Kalām fī Sharḥ Sharāʾiʿ al-Islam, ed. and annotated by Shaykh ʿAbbās al-Qūchānī (Najaf: Al-Islamīyyah, 1958), I, pp. 2-24.

29. Algar, Ulama, p. 163. A detailed study of Anṣārī's life can be found in Murtazā Anṣārī, Zindihgānī va Shakhṣīyyat-i Shaykh-i Anṣārī Quddisah Sirruh (Tehran: Iṭṭiḥād, 1960).

30. For more information on the institution of the Shīʿī ʿulamā and marjaʿ-i taqlīd, consult the following sources: Sayyid Muḥammad Ḥusayn Ṭabāṭabāʾī and others, Baḥsī dar bārah-yi Marjaʿīyyat va Ruḥānīyyat (Tehran: Intishār, 1962); an examination of the contents of the book is undertaken by Ann K.S. Lambton, "A Reconsideration of the Position of the Marjaʿ al-Taqlīd on the Religious Institution", SI, XX (1964), 115-35. Davvānī, Burūjirdī, pp. 1-34; Leonard Binder, "The Proofs of Islam: Religion and Politics in Iran", in Gibb, ed. Makdisi, pp. 118-40; Algar, Ulama, pp. 1-25; Nikki R. Keddie, "The Roots of the Ulamā's Power in Iran", SI, XXIX (1969), 31-53; the latter article is more readily available in Nikki R. Keddie, ed., Scholars, Saints, and Sufis: Muslim Religious Institutions since 1500 (Berkeley: University of California Press, 1972), pp. 211-29. idem, "Alliance", 70-80; F.R.C. Bagley, "Religion and the State in Iran", IsS, X (1971), 1-22; idem, "Religion and the State in Modern Iran", in Actes du Ve Congrès International, pp. 75-88. Charles F. Gallagher, "Contemporary Islam: The Plateau of Particularism: Problems of Religion and Nationalism in Iran", American Universities Field Staff Report Service (July 1966); Ann K.S. Lambton, "The Persian ʿUlamā and Constitutional Reform", in Tawfiq Fahd, ed., Le Shiʿisme Imamite: Colloque de Strasbourg, 6-9 mai 1968 (Paris, 1970), pp. 245-69. Algar, "Opposition", pp. 231-55. The latter article is particularly useful for the study of the present state of the position of the marjaʿ-i taqlīd.

31. Vladimir Minorsky, "Iran: Opposition, Martyrdom and Revolt", in Gustave E. Von Grunebaum, ed., Unity and Variety in Muslim Civilization (Chicago: The University of Chicago Press, 1955), p. 193. The information given here is also drawn from V. Minorsky, "Ahl-i Ḥakk", SEI, 17-20. For a more detailed treatment, consult the following works done by Vladimir Minorsky: "Notes sur la sect de Ahl-é Haqq", RMM, XL-XLI (1920), 19-97 and XLIV-XLV (1921), 205-263. See also Dr. Ḥishmat Allāh Ṭabībī, "Ahl-i Ḥaqq", Vaḥīd, VII (1970), 1126-31, 1207-1222, 1411-22, 1543-51. For a brief survey of the Shīʿah in Iran and its various divisions, such as the Persian Ismāʿīlīs, the Dervishes, the Ghulāt and other religious movements, see Richard N. Frye, "Islam in Iran", MW, XLVI (1956), 5-12.

32. al-Sayyid Muḥammad Bāqir al-Mūsawī al-Khwānsārī, Rawḍāt al-Jannāt fī Aḥwāl al-ʿUlamāʾ wa al-Sādāt (n.p. 1889), p. 168 (Section devoted to the biography of al-Ḥasan Ibn ʿAlī Ibn Abī ʿAqīl).

33. Qazvīnī Rāzī, Kitāb al-Naqḍ, p. 301.

34. For details on the subject, consult Aqā Muḥammad Bāqir Bihbahānī, Risālah al-Ijtihād wa al-Akhbār (n.p. 1896). Detailed accounts on the Akhbarīs, their thought, and activities in the Western languages are found in Gianroberto Scarcia, "Introno alle Controvarsi tra Aḥbārī e Uṣūlī Presso Gli Imāmiti di Persia", Rivista degli Studi Orientali, XXXIII (1959), 211-50; Comte de Gobineau, Les Religions et les Philosophies dans l'Asie Centrale (Paris: Les Editions G. Crés, 1928), p. 23ff.; Browne, Literary History, IV, pp. 374-76, 402-403; Algar, Ulama, pp. 7, 33-36, 64-66. For a full account of Āqā Muḥammad Bāqir's life, thought, and especially his contribution to the Akhbārī-Uṣūlī controversey, consult, ʿAlī-Davvānī, Ustād-i Kull Āqā Muḥammad Bāqir Ibn Muḥammad Akmal Maʿrūf bi Vaḥīd-i Bihbahānī (Qum: Dār al-ʿIlm, 1958). Ameer Ali's accounts of the Uṣūlīs and Akhbārīs are not accurate. In the first paragraph he confuses very much the characteristics of the two schools; cf. Ameer Ali, The Spirit of Islam, p. 346 ff.

35. Gobineau, Les Religions, pp. 72-73.

36. Ṣadr al-Dīn Muḥammad Shīrāzī, Mullā Ṣadrā, Al-Ḥikmah al-Mutaʿālīyah fī al-Asfār al-Aqlīyyah al-Arbaʿah (Najaf: Al-ʿIlamiyyah, 1967), I, p. 6.

37. Ibid., p. 6.

38. Mullā Ṣadrā, Risālh-yi Si Aṣl, ed., Seyyed Hossein Nasr (Tehran: Dānishgāh, 1961).

39. See ibid., p. 42 as an example.

40. Ibid., p. 62.

41. Henry Corbin, in his introduction to Mulla Ṣadrā's Kitāb al-Mashā'ir, ed., and translated into French by Henry Corbin (Tehran: L'Institut Franco-Iranien, 1964), p. 13. This book includes the original Arabic text and a Persian translation rendered by Badī' al-Mulk Mīrzā 'Imād al-Dawlah. The long introduction of the editor conveys much valuable information and research on Mullā Ṣadrā's life, activities, and thought. For more details on Mullā Ṣadrā see also the following works of Professor Corbin, "La Place de Mollâ Sadrâ Shîrazî dans la Philosophie Iranienne", SI, XVIII (1963), 81-113. Consult also Seyyed Hossein Nasr, "Ṣadr al-Dīn Shīrāzī (Mulla Ṣadra)" in A History of Muslim Philosophy with Short Accounts of Other Disciplines and the Modern Renaissance in Muslim Lands, ed., M.M. Sharif, (Kempten, Germany: Allgäuer Heimatvarlag Gmb H., 1966), II, pp. 932-61.

42. Mullā Ṣadrā, Mashā'ir, pp. 19-20; here, mention is made of several important authorities in the field by Corbin.

43. Henry Corbin, "L'École Shaykhie en Théologie Shi'ite", L'Annuaire de l'École Pratique des Hautes Études: Section des Sciences Religieuses, 1960-1961, with a Persian translation by Firīdūn Bahmanyār (Tehran: Tābān, 1967), p. 4.

44. Browne, Literary History, IV, p. 430.

45. Samuel Graham Wilson, Modern Movements Among Moslems (New York: Revell Company, 1916), 155.

46. Sir Muḥammad Iqbāl, The Development of Metaphysics in Persia (Lahore: Bazm-i-Iqbāl, n.d.) p. 143.

47. H.A.R. Gibb, Mohammedanism (New York: Oxford University Press, 1962), p. 164.

48. Sayyid Jalāl al-Dīn Āshtīyānī, Sharḥ-i Ḥāl va Āsār-i Falsafī-yi Mullā Ṣadrā (Mashhad: Zavvār, 1961), pp. 4-5; Corbin, "Shaykhie", pp. 5, 8, 56.

49. Mullā Ṣadrā, Si Aṣl, page 1 of the editor's English introduction.

50. Āshtīyānī, op.cit., p. 6.

51. Mullā Ṣadrā, Al-Shawāhid al-Rubūbīyyah, commented by Ḥājī Mullā Hādī Sabzavārī and ed. and with a long introduction by Sayyid Jalāl al-Dīn Āshtīyānī (Mashhad: Dānishgāh, 1967), p. 377-78.

52. Algar, Ulama, p. 68.

53. Corbin, "Shaykhie", p. 56.

54. Malik-Zādah Inqilāb, I, pp. 176-77. For further details, consult Cl. Huart, "Shaikhī", EI, IV, 279-80, and the sources cited there.

55. Hamid Algar, "The Revolt of Āghā Khān Maḥallātī and the Transference of the Ismā'īlī Imamate to India", SI, XXIX (1969), 55-81. See also Ādamīyyat, Amīr Kabīr, pp. 250-58.

56. This term refers to the direction of Mecca; see A.J. Wensinck, "Ḳibla", SEI, 260-61.

57. 'Abd al-Bahā's letter to the Queen of England, p. 1, in E.G. Browne Papers, folder 2, no. 43, kept in the University Library, Cambridge University. The letter does not carry any date, but it must have been written in 1911, when 'Abd al-Bahā' visited London and Paris; cf. J.R. Richards, The Religion of the Bahāīs (London: Society for Promoting Christian Knowledge, 1932), p. 102. For a study of the Bābīs and Bahā'īs, consult Edward G. Browne, Materials for the Study of the Bābī Religion (Cambridge: The Cambridge University Press, 1918). An outline of the development of the movement can also be found in A. Bausani, "Bāb", EI^2, I, 833-35; idem, "Bābīs", EI^2, I, 846-47; idem, "Bahā'īs", EI^2, I, 915-18; idem, "Bahā'Allāh", EI^2, I, 911-12. Concerning the Bābīs' involvement in the Iranian politics and the Constitutional Revolution, see Keddie, "Nationalism"; idem, "Alliance".

58. Nikki R. Keddie, Religion and Rebellion in Iran: The Tobacco Protest of 1891-1892 (London: Frank Cass and Co.Ltd., 1966) p. 136.

59. Ibid., pp. 139-40.

60. On the idea of a true kingship and the notion that it can exist without an actual power, Naṣīr al-Dīn Ṭūsī points out that "...the sense of the term 'king'...is one truly deserving of kingship, even though outwardly no one pays him any attention." Cf. Ṭūsī, The Nasirean Ethics, translated and annotated by G.M. Wickens (London: George Allen & Unwin Ltd., 1964), p. 192.

61. Although Shaykh Hādī's teachings and behavior had a great effect on modern movements in Iran, there seem to be only scattered accounts of his life and thought. The sources which provide us with some information about the Shaykh are as follows: Nāẓim al-Islam, Bīdārī, pp. 74-98, and Browne, Revolution, pp. 63-97. In these references which cover the interrogation of Mīrzā Riẓā Kirmānī, the assassin of Nāṣir al-Dīn Shāh, Shaykh Hādī's close relation with Mīrzā Riẓā is revealed. See also Browne, Revolution, pp. 406-408; Malik-Zādah, Inqilāb, I, pp. 215-16; I'timād al-Salṭanah, Ma'āthir, p. 149; Wilson, Movements, p. 157; Mīrzā Abū al-Ḥasan Khān Furūghī's long biographical introduction to Shaykh Hādī's own book entitled Taḥrīr al-'Uqalā', pp i-xxxvi. This book, which includes an interesting discussion on the problems of nineteenth century Iran, does not seem to have received the attention it deserves. The following references are also of importance for the study of Shaykh Hādī: 'Abd Allāh Rāzī, "'Ulamā-yi Ḥaqīqī-yi Islam: Ḥājī Shaykh Hādī Najmābādī A'lā Allāh Maqāmah", Rustākhīz, I, nos. 8-9 (1914), 399-403; Keddie, "Politics", 153, 165; Bāmdād, Rijāl, IV, pp. 408-410. Unfortunately, Shaykh Hādī is not known to have left much written work. The only book of which we know is his Taḥrīr which is the basis of our treatment of his thought.

62. Keddie, "Politics", 153.

63. Yaḥyā Dawlatābādī, Tārīkh-i Mu'āṣir yā Ḥayāt-i Yaḥyā (Tehran: Ibn-i Sīnā, 1957), I, pp. 123-24.

64. Najmābādī, Taḥrīr, pp. 15-22.

65. Ibid., p. 93.

66. Browne, Revolution, p. 406.

67. Najmābādī, Tabrīr, p. 124.

68. Ibid., pp. 125-26.

69. Ibid., p. 129.

70. Ibid., p. 130.

71. Ibid., pp. 137-42.

72. Ibid., p. 88.

73. Ibid., pp. 141-42.

74. Ibid., pp. 121-22.

75. Ibid., p. 50.

76. Keddie, "Politics", 153; Browne, Revolution, p. 406: "Sayyid Muḥammad Ṭabāṭabā'ī was originally his disciple, but afterwards denounced his opinions as heretical to his father, Sayyid Ṣādiq, who publicly banned him as an infidel."

77. Najmābādī, Tabrīr, p. 130.

78. Malik-Zādah, Inqilāb, I, p. 215.

79. Najmābādī, Tabrīr, p. 54 ff.

80. Ibid., p. xxxvi.

81. Cf. the last portion of the first chapter of this study.

82. For a well documented analysis of the problem of Afghānī's nationality and the overwhelming evidence which proves that he was a Persian from Asadābād of Hamadān, consult ʿAbd Allāh Kudsi-Zadeh, "Sayyid Jamāl al-Dīn Asadābādī: Ikhtilāf-i Naẓar dar bārah-yi Ḥasab va Nasab va Manshā'-i'ū", RK, XIII (1970), 357-66.

83. Keddie, Political Biography, p. 54; Ibrāhīm Ṣafā'ī, Asnād-i Sīyāsī-yi Dawrān-i Qājārīyyah (Tehran: Sharq, 1967), p. 318.

84. Berkes, Secularism, pp. 180-88, and Sylvia Haim, ed., Arab Nationalism: An Anthology (Berkeley: University of California Press, 1962), p. 10; Keddie, Political Biography, p. 58 ff.

85. A. Albert Kudsi-Zadeh, "Islamic Reform in Egypt: Some Observations on the role of Afghānī", MW, LXI (1971), 4.

86. Dawlatābādī, Ḥayāt, I, p. 131.

87. For information on this book, see Kudsi-Zadeh, Bibliography, pp. 3-5.

88. Afghānī, "Chirā Islām Ẓa'īf Shud?", ḤM, May 19, 1907.

89. On this movement, see Keddie, Tobacco, and references to be given in our 3rd chapter, no. 8.

90. Nāẓim al-Islam, Bīdārī, pp. 49-50.

91. Afghānī, "Chirā?", ḤM, May 19, 1907.

92. UW, pp. 128-34.

93. An incomplete form of this essay was reproduced in a Tehran journal, Tazakkur (1922), 76-79, 105-107, 138-40; from this journal, it was again reproduced in Afghānī's Maqālāt-i Jamālīyyah, ed. Luṭf Allāh Khān Asadābādī and Ṣifāt Allāh Khān Jamālī Asadābādī (Tehran: Khāvar, 1933), pp. 164-70. Later reproducers, investigators, and translators used the version given in Maqālāt; see for instance Afghānī, Islam va 'Ilm bi Zamīmah-yi Risālah-yi Qaẓā va Qadar, ed. Sayyid Hādī Khusraw Shāhī (Tabrīz: Sa'dī, 1969), pp. 157-70. For a French translation, consult Homa Pakdaman, Djamal-Ed-Din Assad Abadi dit Afghani (Paris: G.P. Maisonneuve et Larose, 1969), pp. 268-74, and for an English rendering, see Abdul-Hadi Hairi, "Afghānī on the Decline of Islam", WI, XIII (1971), 121-25. Our recent findings show that Ḥabl al-Matīn had published in 1907 the complete form of the essay, an Arabic version of which had appeared in Al-'Urwah al-Wuthqā. In other words, the second part of the essay seems to have remained unknown, nor was its identity with the Arabic version noticed. The question of whether this essay

was originally written in Persian or Arabic, and the nature of the co-operation of Afghānī and ʿAbduh in editing Al-ʿUrwah al-Wuthqā plus the Persian text and an English translation of the unknown portion of Afghānī's essay can be found in this forthcoming article: Abdul-Hadi Hairi, "Afghānī on the Decline of Islam: A Postscript", Die Welt des Islam, XIV.

94. Al-Manār, X (1908), 826-27.

95. Dawlatābādī, Ḥayāt, I, p. 131.

96. Ibid., I, pp. 123-24; Keddie, "Nationalism", 277 ff. On Pan-Islamism, consult Keddie, Political Biography, pp. 129-42; Hans Kohn, A History of Nationalism in the East, trans. Margaret M. Green (New York: Harcourt, Brace and Company, 1929), pp. 38-54. On Pan-Islamism in India, see Aziz Ahmad, Studies in Islamic Culture in the Indian Environment (London: Oxford University Press, 1966), pp. 55-70, and Wilfred Cantwell Smith, Modern Islam in India: A Social Analysis (London: Victor Gollancz Ltd., 1946), p. 195 ff.

97. Dawlatābādī, Ḥayāt, I, pp. 98-99.

98. Abū al-Ḥasan Shaykh al-Raʾīs Qājār, Ittiḥād-i Islam (Bombay: Gulzār Hasanī Press, 1894), p. 71. For the study of his thought, consult: Ibid.; Shaykh al-Raʾīs, Nāfiʿ al-Afhām, Rāfiʿ al-Awhām (Tehran: ʿAbd al-Raḥīm, 1916); idem, Muntakhab-i Nafīs az Āsār-i Ḥazrat-i Shaykh al-Raʾīs (Tehran: Nāṣirī, 1894). These three sources on the Shaykh are also worth reading: Maḥmūd Farhād Muʿtamid, "Nāṣir al-Dīn Shāh va Shaykh al-Raʾīs", Yaghmā, III (1950), 343-44; Javāhir Kalām, "Ḥujjah al-Islam-i Vālā Shāh-Zādāh Abū al-Ḥasan Mīrzā Shaykh al-Raʾīs Qājār", Iran-i Ābād, I, no. 11, (1959), 27-29; Muḥammad Nāṣir Mīrzā Furṣat, Kitāb-i Āsār-i ʿAjam (Bombay, 1933), p. 529 ff.

99. L.B., "Press Persane", RMM, XIII (1911), 384-91. This manifesto was published in Arabic and was translated into Persian; for the Persian rendering, see the newspaper, Iran-i Naw, September 15, 1910; for a complete French text of the ʿulamā's Pan-Islamic fatwā cf. the Appendices.

100. Al-manār, XIV (1911), 77. More details on the ʿulamā's Pan-Islam will be given in our 3rd chapter, section "The Coincidence of Two Invasions".

101. Nāẓim al-Islam, Bīdārī, p. 48; see also the earlier part of the present chapter.

102. Malik-Zādah, Inqilāb, I, p. 217.

103. Nāẓim al-Islam, Bīdārī, pp. 48-50.

104. Ibid, p. 161.

105. Islam Kāẓimīyyah, "Yāddāshthā-yi Sayyid Muḥammad Ṭabāṭabā'ī", RK, XIV (1971), 474. The story narrated by Ṭabāṭabā'ī himself stands in sharp contrast with Nāẓim al-Islam's account of Ṭabāṭabā'ī. Nāẓim al-Islam holds that Nāṣir al-Dīn Shāh initiated a plan to bring Ṭabāṭabā'ī from Sāmarrā' to Tehran in order to create a strong rival against Mīrzā Ḥasan Āshtīyānī (Bīdārī, p. 48). Both Kāẓimīyyah ("Yāddāshthā", p. 467) and Algar (Ulama, p. 254) mention Ibrāhīm Ṣafā'ī's book (Rahbarān-i Mushrūṭah (Tehran: Intishārāt-i Jāvīdān-i 'Ilmī, 1965), p. 208) as the source of this account. It seems that Ṣafā'ī, without acknowledging his source of information, summarized what had been given in Bīdārī.

106. Kasravī, Mashrūṭah, pp. 48-49.

107. Ibid., pp. 85-86; Nāẓim al-Islam, Bīdārī, p. 381.

108. Keddie, "Nationalism". For a comprehensive and careful study of the development of the relations between religious authorities and state in Iran plus a precise examination of the reasons behind the continued hostility between the 'ulamā and the Qājār rulers since 1785, consult Algar, Ulama.

109. Keddie, "Politics", 159.

110. Ibid., 159-60.

111. Ibid., 22.

112. Kasravī, Mashrūṭah, pp. 85-86; Nāẓim al-Islam, Bīdārī, p. 339.

113. Kasravī, Mashrūṭah, pp. 81-82.

114. Nāẓim al-Islam, Bīdārī, p. 381.

115. Ibid., pp. 161, 378.

116. Kasravī, Mashrūṭah, p. 49.

117. Ibid., p. 259.

118. Nāẓim al-Islam, Bīdārī, p. 64.

119. Kāẓimīyyah, "Yāddāshthā", 473.

120. Nāẓim al-Islam, Bīdārī, p. 378.

121. Kasravī, Mashrūṭah, p. 76.

122. F.O. 416/33, Memorandum respecting debate in the Persian National Assembly, Qulhak, July 12, 1907, Inclosure in Spring-Rice's letter to Grey, Qulhak, July 16, 1907, No. 140 (147).

123. Nāẓim al-Islam, Bīdārī, p. 377.

124. Ibid., p. 378.

125. F.O. 416/33, Proceedings of Persian National Assembly, August 15 to September 12, 1907 by Churchill, Inclosure no. 2 in Spring-Rice's letter to Grey, Qulhak, July 16, 1907, no. 149 (158).

126. Nāẓim al-Islam, Bīdārī, pp. 49-50.

127. Algar, Ulama, p. 253.

128. Ibid., pp. 253-54.

129. Kasravī, Mashrūṭah, p. 528. Compare what follows with the accounts given by Lambton ("Societies", p. 75 ff.) and Kazemzadeh (Russia and Britain, p. 510 ff.). Neither of the two authors paid attention to the ʿulamā's part in the restoration of the Persian parliamentary régime; they only focused on the activities of the nationalists. In this section of the chapter, an attempt will be made to show the ʿulamā's effective influence on the events.

130. V.I. Lenin, The National-Liberation Movement in the East, prefaced and compiled by C. Leiteisen, and translated by M. Levin (Moscow: Foreign Languages Publishing House, 1962), p. 12.

131. See our 5th chapter, section "Evidence used in Nā'īnī's Argument".

132. Kasravī, Mashrūṭah, p. 730.

133. F.O. 416/37, Najaf Mujtahids to Ḥājī ʿĀlī Pāshā, First Chamberlain of Sultan, undated, Inclosure no. 3 in Lowther's letter to Grey, Constantinople, September 16, 1908, no. 548 (580).

134. F.O. 416/37, a letter of Major Ramsay to Government of India, Baghdad, August 17, 1908, Inclosure 2 in Lowther's letter to Grey, Constantinople, September 16, 1908, No. 548 (580).

135. Al-ʿIrfān, I (1909), 240-41. For the Arabic text of the ʿulamā's telegram to the Ottoman Sultan, see Appendices.

136. F.O. 416/37, confidential letter of Ramsay to Government of India, Baghdad, August 7, 1908, Inclosure 1 in Lowther's letter to Grey, Constantinople, September 16, 1908, No. 548 (580).

137. F.O. 416/37, Ramsay to Marling, Baghdad, August 4, 1908, Inclosure 1 in Marling's letter to Grey, Qulhak, August 13, 1908, No. 401 (210).

138. Kasravī, Mashrūṭah, pp. 637-66.

139. F.O. 416/37, Ramsay to Government of India, Baghdad, August 17, 1908, Inclosure 2 in Lowther's letter to Grey, Constantinople, September 16, 1908, No. 548 (580).

140. ḤM, October 3, 1910.

141. For a full account given by Mamaqānī, cf. Malik-Zādah, Inqilāb, V, pp. 105-109.

142. Al-ʿIrfān, I (1909), 240.

143. F.O. 416/41, Lowther to Grey, Constantinople, July 2, 1909, no. 22 (221).

144. M.S. Ivanow, Inqilāb-i Mashrūṭah, Qismatī az Tārīkh-i Iran (n.p., n.d.), pp. 37-39.

145. On the Anglo-Russian Convention of 1907, cf. Rogers Platt

Churchill, Anglo-Russian Convention of 1907 (Cedar Rapid, Iowa: The Torch Press, 1939), especially pp. 1-176, 212-68; Browne, Revolution, pp. 172-95; Vaḥīd Māzandarānī, Qarārdād-i 1907 Rūs va Inglīs Rājiʿ bi Iran (Tehran: Suqrāṭ, 1949).

146. Taqizadeh and Wahid-ul-Mulk, "Appeal of the Persian People to the International Congress of Socialists Held at Stockholm in Summer 1917", reserved in the collection "Majmūʿah-yi Shab-Nāmahā" donated by Taqī-Zādah to the Majlis Library. German and French versions of the Appeal are also found there.

147. F.O. 416/40, note read (in translation) to Shāh of Persia, Inclosure in Barclay's letter to Grey, Tehran, April 22, 1909, No. 399 (87).

148. Aḥmad Kasravī, Tārīkh-i Hījdah Sālah-yi Āzarbāyjān: Bāzmāndah-yi Tārīkh-i Mashrūṭah-yi Iran (Tehran: Amīr Kabīr, 1954) pp. 15-21.

149. F.O. 416/41, Ramsay to Barclay, Baghdād, May 31, 1909, Inclosure in Barclay's letter to Grey, Qulhak, June 16, 1909, No. 53 (123).

150. F.O. 416/40, Nicolson to Grey, St. Petersburgh, May 14, 1909, No. 443 (255).

151. F.O. 416/40, Nicolson to Grey, St. Petersburgh, May 23, 1909, no. 496 (270); F.O. 416/40, Draft Anglo-Russian Identic Communication, Inclosure in Nicolson's letter to Grey, St. Petersburgh, May 23, 1909, No. 529 (326).

152. Ibid.; for a full text of the communication, see our Appendices.

153. F.O. 416/41, Barclay to Grey, Qulhak, July 10, 1909, no. 120 (557).

154. F.O. 416/41, Barclay to Grey, Qulhak, July 16, 1909, no. 195 (589).

155. F.O. 416/41, Lowther to Ramsay, Constantinople, July 16, 1909, Inclosure in Lowther's letter to Grey, Therapia,

July 21, 1909, No. 303 (579).

156. F.O. 416/41, Memorandum by Ramsay respecting foreign troops in Persia (Confidential, no. 21), Inclosure in Lowther's letter to Grey, Constantinople, August 4, 1909, no. 387 (626 Confidential).

157. F.O. 416/41, Mujtahids of Karbalā and Najaf to Ramsay, July 6, 1909, Inclosure 2 in Lowther's letter to Grey, Constantinople, August 8, 1909, No. 431 (633).

158. This man was most likely Nā'īnī because he was a clerk of Khurāsānī and was in charge of preparing the fatwās and telegrams issued by Khurāsānī and other leading constitutionalists ʿulamā in Najaf; cf. our 3rd chapter, passim.

159. F.O. 416/41, Memorandum by Ramsay, Baghdad, Inclosure no. 2 in Lowther's letter to Grey, Constantinople, August 17, 1909, no. 464 (670). For the full text of the report, consult our Appendices.

160. Al-ʿIrfān, I (1909), 200-201.

161. Lambton, "Societies", pp. 82-83.

162. F.O. 416/36, Grey to Marling, Foreign Office, June 10,1908, no. 269 (94).

163. Gene R. Garthwaite, "The Bakhtiyari Khans, the Government of Iran, and the British, 1846-1915", IJMES, III (1972), 24-44.

164. Malik-Zādah, Inqilāb, V, p. 108.

165. Kazemzadeh, Russia and Britain, p. 543.

166. Ibid., p. 541.

167. Ibid., p. 576.

168. Ibid., p. 545.

169. Nāẓim al-Islam, Bīdārī, p. 264.

170. Ibid., p. 267.

171. From a telegram kept in the collection called "Majmūʿah-yi Shab-Nāmahā" donated by Sayyid Ḥasan Taqī-Zādah to the Majlis Library.

172. ḤM, October 3, 1910.

173. Kasravī, Mashrūṭah, p. 617.

174. Ibid., p. 730.

175. Algar, Ulama, p. 253.

176. Kasravī, Mashrūṭah, p. 259. We will examine the ʿulamā's misunderstanding of constitutionalism in our last two chapters.

177. Shaykh Muḥammad Ismāʿīl Gharavī Maḥallātī, Al-La'ālī al-Marbūṭah fī Wujūb al-Mashrūṭah (Būshihr: Muẓaffarī, 1909), pp.2-3.

178. Ibid., pp. 3-5.

179. Ibid., p. 19.

180. Ibid., p. 30.

181. Ibid., pp. 39-40.

182. Nā'īnī, Tanbīh, pp. 4-5.

183. Ibid., pp 8-14.

184. Ibid., pp. 27-35.

185. Ibid., pp. 35-36.

186. Sayyid Ḥasan Taqī-Zādah, Tārīkh-i Inqilāb-i Iran (Tehran: Yaghmā, 1961), p. 10; this essay is attached to volume 14 of the journal, Yaghmā, 1961.

187. Keddie, "Nationalism", 291-92.

188. More discussion on what follows in this paragraph is found in our 5th chapter, section "Nā'īnī and Constitutionalism".

189. Nā'īnī, Tanbīh, pp. 44-47. For an elaboration of this argument, see chapter 6, section "Legitimacy of Parliament".

190. Keddie, "Roots", 50.

191. Keddie, "Nationalism", 289-91; idem, "Roots", 50.

192. On the influence of the ʿulamā among various groups in Iran, consult Lambton, "Constitutional Reform", passim.

193. Ibid., 249. Concerning social and economic factors involved in the Persian Revolution, see Algar, "Oppostion", p. 236; Bāqir Muʾminī, Iran dar Āstānah-yi Inqilāb-i Mashrūṭīyyat (Tehran: Amīr Kabīr, 1966); Zahrā Shajīʿī, Namāyandigān-i Majlis-i Shūrā-yi Millī dar Bīst-o-Yak Dawrah-yi Qānūnguzārī: Muṭālaʿah az Nazar-i Jāmiʿah Shināsī-yi Sīyāsī (Tehran: Dānishgāh-i Tehran, 1965), pp. 3-28; 96-132; Dārīyūsh Āshūrī and Raḥīm Raʾīsnīya, Zamīnah-yi Iqtiṣādī va Ijtimāʿī-yi Inqilāb-i Mashrūṭīyyat-i Iran (Tabrīz: Ibn-i Sīnā, 1952). A very important study of this problem was done by M. Pavlovitch in Russian; it was translated by Hūshyār M. into Persian entitled Inqilāb-i Mashrūṭīyyat-i Iran va Rishahā-yi Ijtimāʿī va Iqtiṣādi-yi Ān (Tehran: Amīr Kabīr, 1950). Unfortunately, we have not been able to consult the Persian translation of this book. A persian description of this translation can be found in Hafez Farman-Farmaian, An Annotated Bibliography of Persian Printed Materials on Constitutional History of Iran (Tehran: Amīr Kabīr, 1966), p. 9.

194. Malik-Zādah. Inqilāb, I, pp. 173-76.

195. Sayyid Jamāl al-Dīn Iṣfahānī, Libās al-Taqwā (Shīrāz: Muḥammadī, 1900). These ʿulamā wrote panegyrics to the book: Sayyid Ismāʿīl Ṣadr, Ḥāj Mīrzā Ḥusayn (Ṭihrānī), Sayyid Muḥammad Kāzim Yazdī, Muḥammad al-Gharavī al-Sharabyānī, Mullā Muḥammad Kāẓim Khurāsānī, Muḥammad Ḥasan al-Mamaqānī, Ḥāj Mīrzā Ḥusayn Nūrī, and Mīrzā Fatḥ Allāh Sharīʿat Iṣfahānī.

196. On the economic history of Iran and the role of the two Great Powers, England and Russia, consult Julian Bharier, Economic Development in Iran 1900-1970 (London: Oxford University Press, 1971); Marvin Entner, Russo-Persian Commercial Relations, 1828-1914 (Gaineville, Florida: University of Florida Press, 1965); Charles Issawi, ed., The Economic History of Iran 1800-1914 (Chicago and London: The University of Chicago Press, 1971); Shajīʿī, Namāyandigān, pp. 3-28. Silbermann, "The British Economic Policy in Iran 1907" a dissertation being written for University of London.

197. Keddie, "Roots", 50.

198. On the ʿulamāʾ's unawareness of constitutionalism, see chapters 5-6. For a biography of Khurāsānī, see Sayyid Hibah al-Dīn al-Ḥusaynī al-Shahristānī, "Aʿẓam al-Ḥawādith wa Ashhar al-Rijāl", Al-ʿIlm, II (1911), 290-98; idem, "Āyah Allāh al-Khurāsānī Akbar ʿUlamāʾ al-Dīn wa Raʾīs al Mujtahidīn", Al-ʿIlm, II (1911), 338-42. Muḥsin Amīn al-Ḥusaynī, "Tarjamah al-Marḥūm al-Muqaddas Ḥujjah al-Islam al-Shaykh Mullā Kāẓim al-Khurāsānī Quddisa Sirruh", Al-ʿIrfān, IV (1912), 36-40; Bāmdād, Rijāl, IV, p. 1. Consult also the bibliography to be given on Nāʾīnī's biography in our 3rd chapter. On Maḥallātī, see Āghā Buzurg al-Ṭihrānī, Ṭabaqāt Aʿlām al-Shīʿah (Najaf: Al-ʿIlmīyyah, 1954), I, pp. 163-164. For Maḥallātī's autobiography, see Muḥammad Ismāʿīl Maḥallātī, Anwār al-ʿIlm wa al-Maʿrifah (Najaf: Murtaḍawīyyah, 1923), pp. 150-53.

199. Kasravī, Mashrūṭah, p. 76.

200. Elaborations of these ideas are given in Keddie, "Politics", 24; Kasravī, Mashrūṭah, p. 48-49. Sayyid Ḥasan Taqī-Zādah, "Ashkhāṣī ki dar Mashrūṭīyyat Sahmī Dāshtand". Yaghmā, XXIV (1971), 65-70.

201. Kasravī, Mashrūṭah, pp. 309-310.

202. Browne, Revolution, pp. 146-47.

CHAPTER III

A BIOGRAPHY OF NĀ'ĪNĪ: THE ʿULAMĀ'S ROLE IN POWER POLITICS

A Constructive Period in Iṣfahān

The principal figure in our study is Mīrzā Muḥammad Ḥusayn Nā'īnī (1860-1936), an active but little acknowledged supporter of the Persian Constitutional Revolution. He was born into a well-famed and respected family of Nā'īn.[1] His father, Ḥājī Mīrzā ʿAbd al-Raḥīm and his grandfather, Ḥājī Mīrzā Muḥammad Saʿīd, were both in turn the Shaykh al-Islam of Nā'īn. He did his primary studies in Nā'īn and then at 17 years of age, in 1877, he moved to Iṣfahān, then still a distinguished place for religious studies. In Iṣfahān, he lived with Ḥājī Shaykh Muḥammad Bāqir Iṣfahānī (d. 1883) for seven years. The latter belonged to a distinguished clerical family of Iṣfahān and was himself the most powerful mujtahid of that city. He used to carry out the Islamic penal law, and he executed a number of people who were Babīs.[2] His familial and personal power allowed him to operate relatively independent of the central government. He has been heavily attacked by Malik al-Mutakallimīn (murdered 1908) in the Ruʾyā-yi Ṣādiqah (The True Dream) for his involvement in a rebillion that took

place in 1878. This rebellion was conducted by Muḥammad Bāqir against those who wanted to raise grain prices. But while having a certain agreement with Ẓill al-Sulṭān, the then governor of Iṣfahān, he refused to back the people whom he had instigated, and difficulties resulted.[3] This disturbance took place when Nā'īnī had just come to Iṣfahān, and thus he must have witnessed the situation. Muḥammad Bāqir's son, Shaykh Muḥammad Taqī, known as Āqā Najafī (d. 1913), was also a tyrannical wealth-loving mujtahid. Because of his arrogant disobedience to the government, as well as his tyranny in murdering people accused of being Bābīs, he was taken to Tehran once in 1889[4] and another time in 1905.[5] Because of the friendly connections that Nā'īnī had with this family he lived with them while in Iṣfahān. Nā'īnī's arrival in Iṣfahān occurred a few years after the famine during which Āqā Najafī is believed to have hoarded a great amount of grain. He is also believed to have accused the mayor of Iṣfahān, Ḥājī Muḥammad Ja'far, who had criticised Āqā Najafī's grain hoarding and had expressed sympathy for the poor, of being a Bābī and had had the mayor publicly executed.[6]

This Iṣfahānī family with which Nā'īnī lived has been described in order to present a picture of the first environment in which Nā'īnī lived after his departure from his home town. Nā'īnī

studied the usul under Mīrzā Abū al-Maʿālī al-Kalbāsī, and philosophy and theology under Shaykh Jahāngīr Khān Qashqā'ī and Shaykh Muḥammad Ḥasan Hizār Jaribī. One of Nā'īnī's professors of philosophy and theology was also Āqā Najafī, and one of his teachers of fiqh was Āqā Najafī's father, Muḥammad Bāqir. The fact that Nā'īnī lived with these Iṣfahānī mujtahids, studied under them, and witnessed at least a number of their oppressive actions, developed in him, one may suggest, a revulsion and led him to adopt his position against the absolutism of the ʿulamā and that of the government.

Nā'īnī in Iraq

To continue his education, Nā'īnī migrated to Iraq in 1885. After a short stay in Najaf he went to Sāmarrā'. Sāmarrā', beside its important past, was then becoming the most distinguished center of Shīʿī learning and soon enjoyed attention from all over the Shīʿī world because of the residence of the then greatest Shīʿī religious leader, Mīrzā Muḥammad Ḥasan Shīrāzī.[7] In Sāmarrā' Nā'īnī continued his studies under Shīrāzī and other mujtahids, such as Sayyid Ismāʿīl Ṣadr and Sayyid Muḥammad Fishārakī Iṣfahānī, until 1896.

For every student of modern Iran, Shīrāzī's name has been particularly associated with the crisis that followed the Tobacco

Concession of 1890.[8] In Sāmarrā', Nā'īnī was associated with Shīrāzī as a disciple; toward the end of his stay he became a secretary to Shīrāzī.[9] Therefore, he must have been deeply involved in the Tobacco campaign which was brought to an end by the famous fatwā that Shīrāzī declared against the Concession. Due to his secretarial function in the office of Shīrāzī, Nā'īnī must also have come across Afghānī's political thought and particularly his heavy criticism of the tyrannical rule of Nāṣir al-Dīn Shāh. This is likely because there are recorded letters that Afghānī wrote to Shīrāzī in which Afghānī urged Shīrāzī to rise against the oppressive government of Iran and against the Tobacco Concession.[10] There is even an argument, though it has been questioned, that Afghānī went to Sāmarrā' to see Shīrāzī in person.[11] Whether Nā'īnī met Afghānī or not, one cannot be certain, but because of the availability of Afghānī's Al-Urwah al-Wuthqā in Iraq,[12] as well as the position Nā'īnī then held in the office of Shīrāzī, there is every likelihood he became acquainted with Afghānī's thought and was influenced by it.

After the death of Shīrāzī (1895), Nā'īnī continued to study under Ṣadr in Sāmarrā'. In 1896 when Ṣadr moved to Karbalā, Nā'īnī accompanied him and stayed in Karbalā until 1898 when he moved to Najaf. Here, Nā'īnī became one of the very special companions of

Ākhūnd Mullā Muḥammad Kāzim Khurāsānī (d. 1911) who was then becoming a great marja'-i taqlīd and the leading figure in the Constitutional Revolution of Iran.

Constitutionalist Activities in Iraq

As noted in the previous chapter, the three clerical leaders, especially Khurāsānī, were the most influential supporters of the constitutionalists of Iran. Āghā Buzurg Ṭihrānī wrote that Nā'īnī was the closest consultant of Khurāsānī in his constitutional activities.[13] The "Mīrzā Muḥammad", whom Ramsay referred to as the clerk of Khurāsānī, was most likely Nā'īnī who, together with a few other envoys from the 'ulamā, consulted with the British Consul-General at Baghdad on current events in Iran.[14] It is generally held and confirmed by Nā'īnī's associates that Nā'īnī even composed all the telegrams and public declarations of Khurāsānī, Ṭihrānī and Māzandarānī concerning the Constitutional Revolution.[15] He was appointed to this task because "he was well aware of the course of history and current trends."[16] Apart from his probable acquaintance with Afghānī's thought, Nā'īnī was exposed to other enlightening elements in his environment also.[17] Nā'īnī enjoyed the full confidence of the three religious leaders. Because of his closeness to those 'ulamā, he also shared their popularity amongst the

constitutionalists and received criticism and animosity from the opposing groups.

At the same time when a great many Iranians were fighting for a constitutional form of government there were also a great number of people, clergy and others, who were doing their best to paralyze the movement by a series of different measures, e.g., establishing secret societies in Iran and Iraq.[18] Māzandarānī's remarks indicated that Nā'īnī's activities were not overlooked and that he himself was not safe from the idle talk and slanders spread by those societies.

In a letter, dated September 6, 1910, published in Ḥabl al-Matīn, Māzandarānī complained about the hostile actions of two groups in Najaf, the secret society which was staffed by heretics and enemies, mulḥidān va muʿānidān, and the foreign elements, that is, Russians. Māzandarānī went on to say that: "It is necessary to announce that all the hostilities shown by these two groups, who are enemies of our religion and our country, aim at ruining Islam and the independence of Iran. These people who have centers in Najaf have directed their enmities, first toward us two, Khurāsanī and myself, and then towards Nā'īnī. They are exceptionally hostile to and jealous of him for several reasons."[19]

The editor of the above-quoted newspaper, Mu'ayyid al-Islam,

added that, "We invite the attention of the Iranians to the point made by Māzandarānī about Nā'īnī. We also remind them that these slanders should not cloud people's minds about Nā'īnī whose service to the constitution and Islam, according to our great mujtahids, are not forgettable."[20] Nā'īnī himself also made a reference to the secret societies, anjumans, which were based on personal aims, tyranny, adventure, dishonest intentions with regard to people's property and so on.[21]

It is normal to face slander and libels in such a situation as that of Nā'īnī. As a religious scholar he was so distinguished that he did not need to attend Khurāsānī's general daily lectures. He was privileged to be one of the few special companions of Khurāsānī for highly-esteemed academic discussions.[22] From the political points of view, Nā'īnī, as stated above, was appointed as the composer of all constitutional communications of the three religious leaders. These factors, as admitted by Nā'īnī's brother, created a great amount of animosity amongst his intellectual rivals as well as his political adversaries. These events, however, were not to have any immediate effects on his advocacy of the constitutional movement nor on the leading ʿulamā's full support of Nā'īnī. In fact, in the course of these events, Nā'īnī wrote his important book on constitutionalism, and the leading ʿulamā gave their full

approval to his proposal for a constitutional form of government.[23]

Nā'īnī in the Aftermath of the Revolution

The period of the istibdād-i ṣaghīr (from the bombardment of Parliament to the downfall of Muḥammad ʿAlī Shāh) came to an end on July 17, 1909, and the constitutionalists again took power and then Parliament was re-established. During the istibdād-i ṣaghīr, many liberals were executed by Muḥammad ʿAlī Shāh, but now it was the time to give punishments to the absolutists.

The new constitutional régime tried and hanged Shaykh Faẓl Allāh Nūrī.[24] It was, of course, a dangerous risk on the part of the ʿulamā to sanction this act. Nūrī, a reputedly pious and knowledgeable mujtahid, had advocated an Islamic constitution and had held that the Persian Constitution was not Islamic. Although the constitutionalist ʿulamā openly called Nūrī a troublemaker and strongly condemned his position,[25] his execution was perhaps beyond their expectation.[26] This event created great fear among the ʿulamā and brought about a deep hatred for the constitutionalists on the part of the advocates of the traditional régime.

The execution of Nūrī was one of the first effective results of serious conflict among the constitutionalists, i.e., between the ʿulamā and the secularists among them. Cleric-secularist conflict

had already started among the supporters of a constitutional régime in Iran. An important example of such conflict was shown in the First Parliament upon the presentation of article 8 of the Constitution which commands equal treatment of all subjects.[27] During the discussion on the articles of the Constitution the revolutionaries at Tabrīz openly expressed that they wanted a constitution not based upon the Sharī'ah.[28] In Parliament, during the debate on the problem of one person holding two government offices, one of the deputies suggested following European patterns. This suggestion invited the opposition of Ḥājī Sayyid 'Abd Allāh Bihbahānī, who pointed out that the Qur'ān was sufficient for them:

> "Some of the Deputies observed that they were not discussing religious, but political matters, and if the Koran were in reality sufficient, how was it that Moslem countries were so far behind Europe?"[29]

Another unhappy event which indicated the struggle between the two factions was the assassination of Ḥājī Sayyid 'Abd Allāh Bihbahānī in 1910.[30] This man was one of the active clerical leaders whose alliance with Sayyid Muḥammad Ṭabāṭabā'ī was a very important factor in the Revolution. Sayyid Ḥasan Taqī-Zādah (d. 1969), a militant and liberal member of Parliament, was accused of having a leading role in the conspiracy. Because of this assassination and

because he was known to have had an anti-clerical attitude, Taqī-Zādah was obliged, at the recommendation of Khurāsānī and Māzandarānī, to leave the country.[31]

The constitutionalist ʿulamā did not find the new régime up to their expectation in a variety of respects. A telegram that Khurāsānī and Māzandarānī had sent to Nāṣir al-Mulk (who was to become the Regent), in June, 1910, well explained how dissatisfied the ʿulamā were with the constitutionalists and the functioning of the existing Parliament. Making reference to freedom of the press, the ʿulamā complained about the absence of clerical censorship on the publications dealing with religion. They also complained about the irreligiosity of the political authorities, heavy taxation, detention of political prisoners, etc.[32]

In the meantime the Second Parliament and the Persian government became involved with a disastrous problem: the Russian ultimatum and the immediately following invasion of several Iranian cities in 1911.[33] This event gave the Persian ʿulamā of Iraq another opportunity to raise an outcry against the Russian aggression in Iran. This time, of course, was different from the Russian interference in 1909, because, at that time the Russians were allied with the Shāh of Iran, and their presence in the country was not considered an invasion. This time, however, the Russian action was clearly a

military invasion, and it was justified by the Russians, on the basis of the Anglo-Russian Convention of 1907 and in the name of protection of Russian interests in Iran.

In spite of their disillusionment with the Constitutional Revolution, the ʿulamā again felt a responsibility to take action because the Islamic territory of Iran was occupied by a non-Muslim army. Upon the receipt of a telegram concerning events in Iran and upon hearing the news of the ex-Shāh's return from Russia to Astarābād, the Persian ʿulamā of Iraq decided to set out for Kāẓimayn, on their way to Iran, to organize a nation-wide campaign against the Russians.[34] Khurāsānī sent a long letter to the ʿulamā of Tabrīz in which he instructed them to perform their religious duties by rising against infidels, by boycotting Russian goods, and by learning and teaching war techniques.[34a]

A number of middle ranking ʿulamā made an attempt to reconcile the two great clerical leaders, Khurāsānī and Sayyid Kāẓim Yazdī. Their attempts, of course, failed first, because Yazdī did not want to participate in politics and second, because he was reluctant to cooperate with the constitutionalist ʿulamā. A son of Yazdī has said that Khurāsānī and his followers would not stop supporting the Majlis (parliament) and that Yazdī would not stop his support of the ex-Shāh.[35] This statement indicates that Yazdī had hoped

to see Muḥammad ʿAlī Shāh come back to the throne.

After their disappointment with Yazdī, the great ʿulamā of Najaf and Karbalā, together with a big number of middle ranking ʿulamā, such as Nā'īnī, decided to move to Kāẓimayn. However, on the night preceding the ʿulamā's departure Khurāsānī suddenly died. At the time there was a rumour that Khurāsānī was poisoned.[36] According to Sayyid Hibah al-Dīn Shahristānī, Khurāsānī had set out for Iran in order to help protect Iran from the military attacks of the Russians.[37] Nā'īnī, on the other hand, believed that Khurāsānī, together with Nā'īnī and others, was going to Iran to reorganize the constitutional régime which was moving toward tyranny. Nā'īnī, however, had said that Khurāsānī died a natural death.[38] Shahristānī also believed that Khurāsānī simply had had a heart attack because the foreign military expedition to Iran so upset him.[39]

Either of the above-mentioned accounts, that is to say, Khurāsānī's aim at a reorganization of the new régime, or his plan to fight against the foreigners, is enough to create a strong suspicion in almost any observer about the suddeness of Khurāsānī's death. This suspicion gains some justification if it is taken into consideration that Māzandarānī had clearly indicated that both his life and that of Khurāsānī had been threatened.[40]

Khurāsānī's death, of course, postponed the ʿulamā's departure, but did not cancel it. About three weeks later, that is, on the 11th of Muḥarram, 1330 A.H. (January 1, 1912), the ʿulamā set out for Kāẓimayn. In Kāẓimayn, the ʿulamā selected 13 of their colleagues to form the Executive Board and to undertake all the necessary actions. The members of the Board, one of whom was Nā'īnī, took an oath to be trustworthy and loyal to the ʿulamā's cause in their campaign against foreigners. The Board was responsible for handling and keeping secret all telegrams and other communications.[41]

The unhappy news from Tabrīz concerning the execution of Thiqhah al-Islam Tabrīzī and 7 other constitutionalists disturbed the ʿulamā very much. They became particularly angry and restless when they heard that the Russians had opened fire on the dome of the tomb of the 8th Shīʿī Imām in Mashhad. Even Yazdī, who had kept himself aloof from state affairs, announced that he would rise against the Russians and would join the ʿulamā in Kāẓimayn. Yazdī did not move from Najaf "because Abū al-Qāsim Shīrvānī, the Russian officer in Najaf, made him change his mind."[42] However, he issued a fatwā which reads that, "Today, the Europeans are attacking the Muslim countries. Italy has invaded Tripoli, and the Russians and British have occupied the North and South of Iran

respectively. Islam is vanishing; therefore, it is obligatory for all Muslims, the Arabs and the ʿAjam (non-Arabs), to be prepared to defend the Muslim lands from the infidels. Muslims should not hesitate to sacrifice their lives and wealth in order to expel the Italian troops from Tripoli and the Anglo-Russian troops from Iran. This is the most important duty of Muslims to protect Iran and the Ottomans from the invading Crusaders."[43]

The ʿulamā's Executive Board sent many telegrams to the Persian government to urge the Russians' departure; they threatened that they would otherwise move to Iran. The government was afraid of the consequences of the ʿulamā's proposed expedition to Iran. It, therefore, repeatedly asked the ʿulamā to stay in Iraq and promised to settle the problem with the Russians. Many of the telegrams which came on behalf of the government were signed by Mīrzā Muḥsin al-Ḥusaynī, a cleric residing in Tehran. According to Kasravī, a number of resisting ʿulamā went to Iran to offer their services to the Persian government.[44] In one of his telegrams in which he sent his regards to Nā'īnī, Mīrzā Muḥsin wrote that, "Attempts have been made by the government to create peace in Iran. Problems in Māzandarān will be settled by Ismāʿīl Khān Amīr Tūmān, and Shāhrūd is under the control of the government. Therefore, there is no need for the ʿulamā's coming to Iran. Rather it is

desirable that the ʿulamā telegraph the southern tribes not to create any troubles."[45]

Another clerical figure who cooperated with the government in eliminating the ʿulamā's opposition was Ḥājī Mīrzā Aḥmad, a son of Khurāsānī. He once wrote to Nāʾīnī and another member of the Executive Board, Shaykh al-ʿIrāqayn, that, "The situation is very delicate. A minor excuse given to the opponent (i.e., the Russians) might lead our country to extinction. Be cautious that your agitations not be the cause of that excuse. The government is working hard for a settlement. Do send a telegram to Iran announcing your obedience to the Persian government."[46]

In Tehran the Russian ultimatum was met: Morgan Shuster, the American financial advisor, was fired; the promise was given not to hire any foreign advisor without Anglo-Russian approval, and to pay the Russians the expense of their invasion.[47] The ex-Shāh who was attempting to regain his lost throne created a great deal of disturbance in Iran. Sālār al-Dawlah plundered and occupied Kirmānshāh.[48] In Tabrīz, at the instigation of Ṣamad Khān, a number of ʿulamā appealed to the King of England and the Russian Emperor to help Muḥammad ʿAlī return to his throne.[49] In the meantime, the ʿulamā from Kāẓimayn repeatedly telegraphed the chiefs of tribes in Iran inviting them to unite[50] against the foreigners and encouraging them to

prevent the government from concluding a humiliating agreement with the Russians.[51] Finally, the ʿulamā received a telegram from the Tehran ʿulamā concerning the relative peace in Iran and a telegram from Vusūq al-Dawlah regarding the departure of Muḥammad ʿAlī Shāh from Iran. In those telegrams the ʿulamā of Iraq were requested to return from Kāẓimayn to their original cities.[52]

It seems due, at least in part, to the ʿulamā's opposition that Muḥammad ʿAlī Shāh could not regain the throne. His attempt proved unsuccessful, otherwise, he would have carried out the plan of which he thus told Ivanov, the Russian Consul in Astarabad:

> "that he had long ago arrived at the conviction of the necessity for Persia of a Russian protectorate and was therefore willing to give the Russian Government a written obligation concerning his acceptance for Persia of a Russian protectorate in any form."[52a]

The Coincidence of Two Invasions: Iran and Libya

The Russian occupation of Iran coincided with the Italian invasion of Tripolitania. The latter incident created a massive storm of opposition in the Muslim world. The invasion of Tripolitania intensified the Ottoman Pan-Islamic propaganda for which the Ottomans now received a great amount of favorable response from Indians and Iranians. The Russian invasion of Iran, however, did

not create such a violent reaction, though scattered sympathetic expressions can be found in the periodicals.[53] Ameer Ali, the famous Indian reformist, wrote to The Times (September 28, 1911), saying: "I appeal to every lover of peace and good will on earth to protest with all his power, before it is too late, against this flagrant breach of all canons of international morality...."[54] In November of the same year, Ameer Ali again wrote to The Times, "Will not the Christian men and women of England, who cherish the noble ideals of their Faith, raise their voice against this reversion to the barbarism of bygone days?"[55] In an elegy, Muḥammad Iqbāl lamented the martyrdom of an heroic Fāṭimah Bint ʿAbd Allāh who was serving the Tripolitanian warriors as a water carrier.[56] On another occasion, addressing the Prophet Muḥammad, Iqbāl thus expressed his feelings: "See here, oh Lord, the honour of your people brimming up! The martyred blood of Tripoli, oh Lord, is in this cup."[57]

The reaction to this war in the Arab world was widespread. Many articles, public speeches and elegies appeared in the then Arabic publications reflecting intense opposition on the part of Muslims.[58] Side by side with their campaign against tyranny in Iran, the Persian ʿulamā of Iraq expressed strong protests against the Italian invasion, and their sympathy for the Libyans and the

Ottomans.

Prior to the ʿulamāʾs departure for Kāẓimayn, certain of them, including Khurāsānī, Māzandarānī, and Sharīʿat Iṣfahānī issued a statement proclaiming: "O Muslims! You should know that a Holy War against infidels is obligatory according both to the consensus of Muslims and religious necessity. Now, the Italian army has invaded Tripolitania, destroyed its populated area, murdered its men, women, and children. Embark upon your duty of jihād in the path of God and be united and generous in spending your wealth, and become well-equipped for the defense before it is too late."[59]

During their stay in Kāẓimayn, the ʿulamā identified their campaign against the Russians with that of the people of Tripolitania and the Ottomans against the Italians and called for Muslim unity.[60] They telegraphed the Ottoman Sultan, Muḥammad V, and again called him the Caliph.[61] The ʿulamā also sent telegrams to Lucknow, Calcutta, Lahore, Tibet (to an Āqā Sayyid ʿAbbās), and Bombay to attract the peoples' sympathy and cooperation.[62] In most of their communications they condemned the Russian invasion of Iran and the Italian invasion of Libya equally. In this campaign they did not engage themselves in the problem of constitutionalism in Iran. They even repeatedly mentioned that their concern was not constitutionalism or despotism, ishtirat va istibdad,[63] though the active

comstitutionalists such as Māzandarānī and Nā'īnī were involved in the campaign. Since the ʿulamā acquitted themselves of any further involvement in the Constitutional Revolution they enjoyed support from a larger body of distinguished ʿulamā. As examples of the latter type of the ʿulamā we may mention Mīrzā Muḥammad Taqī Shīrāzī,[64] Sayyid Ismāʿīl Ṣadr, and Sharīʿat Iṣfahānī who, together with Māzandarānī, signed most of the communications and fatwās in the current resistance movement. An apolitical mujtahid, Yazdī, who did not wish to cooperate with the migrating ʿulamā, issued his fatwā against the infidels separately.[65]

On the problem of the expedition of the ʿulamā to Kāẓimayn and their involvement in the then current political events in Iran and Libya, quite a few scattered statements were released by the ʿulamā themselves while in Kāẓimayn. However, the most systematic statement from which one can gain a better insight into the ʿulamā's cause in their 1911-12 political campaign is that which was issued by Sharīʿat Iṣfahānī. He was a mujtahid of great weight, who was to play a considerable role in the Iraqis' struggles for independence during and after World War I.

Addressing the ʿulamā, commanders, tribal leaders, chief merchants and all the Muslims, Sharīʿat expresses his complaints against foreigners on the following ten issues:

"1. With leniency and a friendly attitude the foreigners attracted the heart of a number of ignorant and mean people.

2. By introduction of their products, the foreigners made Muslims in need of these products in every sector of life.

3. Under the pretext of education and medical service they propagated their own heresy and led many people astray.

4. They sent their missionaries among Muslims to encourage them to hate the ʿulamā.

5. They published heretical books and distributed them among Muslims, either free or at a low price.

6. The foreigners took gold, silver, and precious stones and gave Muslims some paper money and luxurious objects in return.

7. They made Muslims addicted to unnecessary things such as sugar, tea, cigarettes and liquor.

8. They employed the political maxim, divide et impera, so that they have conquered many of Muslim lands.

9. There are some individuals who claim to be of the rank of the ʿulamā, and they appear as ʿulamā, while in truth they do not belong to this group. The foreigners judge all the ʿulamā as they judge these individuals and relate the latter's corruption to religion itself. By thus acting, they persuade the people to disfavor the real ʿulamā.

10. By gaining concessions and granting loans and concluding treaties, the foreigners increase their influence in Muslim lands.

Although Russia and Italy fit into the categories of foreigners described above, they still were not satisfied with the privileges they enjoyed, and, consequently, they invaded Iran and Libya respectively.

Therefore, upon the request of many Muslims and even non-Muslims, the ʿulamā of Najaf, Karbalā, Sāmarrā', and Kāẓimayn have now gathered in the latter city to call for Muslim unity. They only want to protect Islam and secure it from foreign intrusion."

Sharīʿat Iṣfahānī concludes his statement with these remarks: "Let us not talk about constitutionalism and despotism. Let us put aside all domestic enmity. Is it not a shame to be under the rule of the Russians who have been famed as savages?"[66]

The foregoing treatment of foreign encroachments indicates the general attitude of all the ʿulamā at that time. They formed their combined and collective campaign with more unity and more strength when the problem of Muslim unity and the necessity for an all-embracing opposition to foreign encroachments arose. The idea of constitutionalism was almost divorced from their thought at that time. Even so ardent a constitutionalist as Māzandarānī clearly announced that he was not then concerned with constitutionalism. Nā'īnī, an active participant in this resistance movement,

was the actual composer of the ulama's fatwās and manifestoes (see further above).

It is true that the invasion of Iran and the Russian massacre of Iranian civilians gave a great shock to all Iranians, and the ʿulamā's primary concern was only to clear Iran from the foreign element. However, the ʿulamā's frequent mention of their not being concerned with constitutionalism speaks of the ʿulamā's disillusionment with the Constitutional Revolution generally. It seems that they insisted on this issue in order to have more supporters for their campaign. They were under attack by a vast number of the advocates of the old régime, especially Yazdī's camp.[67] These events plus the continued attacks of the absolutist ʿulamā on the constitutionalists isolated the remaining "liberal" ʿulamā from a great number of the common people as well as many of their fellow ʿulamā. At this point the great leader of the opposition, Yazdī, appeared as the sole religious leader in the whole Shīʿī world. Nā'īnī, of course, was also one of the victims of these events. He not only isolated himself from constitutionalist activities, but he did not even mention the word mashrūṭah any longer, refusing to listen to any discussion leading to this topic.[68] Nā'īnī also asked Mīrzā Maḥmūd Yazdī, who was his brother-in-law and the publisher of his book, Tanbīh, to collect all copies of the work and

to throw them in the Tigris River.[69] This matter is, of course, controversial.[70]

Nā'īnī in Iraqī Politics

After his isolation from political activities, Nā'īnī continued his academic life in Najaf rather independently, and gradually his mastery in Islamic jurisprudence attracted a tremendous number of advanced students of the subject. Nā'īnī's isolation from politics, however, did not last long; he became involved in Iraqī politics upon the outbreak of the War in 1914. The Ottomans, who were in alliance with Germany against the Allies, intensified their Pan-Islamic propaganda during the War. They called upon all the Muslims to wage Holy War and issued on the 23rd of November, 1914, a manifesto carrying "...the signatures of the Shaikh al-Islam and of twenty-eight other religious dignitaries."[71]

At this point, the Shī'ī 'ulamā of Iraq declared jihād, not simply because the Ottoman Shaykh al-Islam called for it, but for the simple reason that a non-Muslim army, the British, had occupied Islamic territory, and the 'ulamā saw it as obligatory to rise against the infidels. They rose against the British, not to take power and to establish an independant Shī'ī state, as Elie Kedourie and some others hold,[72] but in cooperation with other groups, i.e.,

tribal, nationalist, the Sunnīs and the Shīʿah, to establish an Arab rule in an independent Iraq.[73]

It is true that the Persian ʿulamā repeatedly appealed to the Ottoman Sultan and even called him the Caliph. This appeal, however, did not mean that they genuinely believed in the Sultan's religious authority. In the ʿulamā's concept of rulership, the Ottoman sultans could at their best be considered no more than the early Caliphs who were called usurpers.

After the Shāh-Russian massacre of Iranian Muslims and in the absence of any other relatively powerful Muslim ruler in the Muslim world, the ʿulamā found it expedient to invite Ottoman intervention. They preferred Muslim rule to non-Muslim domination at any price and under any circumstance. The ʿulamā's goal in Iraq, however, was different. After the outbreak of the War when the nationalistic sense in Iraq appeared very strong and aimed at the independence of Iraq both from the Turks and the British, the Persian ʿulamā strongly supported the movement.[74]

It should be remembered that the ʿulamā's campaign to reestablish a constitutional régime in Iran was all conducted from Iraq. These political activities plus the ʿulamā's support of modern education and the establishment of modern schools[75] contributed enormously to the Iraqī awakening. The reflection of the ʿulamā's movement was

not limited to the shrine cities of Iraq. ʿAbd Allāh Fayyāḍ makes reference to a Baghdad newspaper called Al-Raqīb (The Rival) which repeatedly published news concerning the Persian Constitutional Revolution.[76] Also the journal Al-ʿIlm (The Science), from which we have quoted frequently, continuously published the ʿulamā's statements and other materials related to the Persian Revolution. In fact, the Constitutional Revolutions, both of Iran and Turkey, exerted a considerable role in arousing political consciousness among the Iraqī population. These two Revolutions have been treated as the background to the Iraqī Revolution of 1920.[77] Now in the Iraqī struggles for independence, the ʿulamā advocated an Arab rule for which they called upon all Iraqī subjects, irrespective of their religious convictions.[78]

Nā'īnī also participated in the jihād activities, though he does not seem to have had an outstanding role. However, Sayyid Shahāb al-Dīn Najafī, himself a participant in the jihād, writes that, "I was appointed as a water carrier around the tents; the bulk of the Shīʿī mujtahids were present at the different war fronts. Nā'īnī was also among the ʿulamā. Although Nā'īnī was not a center of attention among distinguished mujtahids such as Mīrzā Muḥammad Taqī Shīrāzī, he, together with a few other ʿulamā, such as Sayyid Abū al-Qāsim Kāshānī[79] and Mīrzā Riẓā Īravānī,[80] were very active in the

campaign. Even the leading ʿulamāʾs actions in the jihād campaign were based on the encouragement of Nāʾīnī and his colleagues."[81] This attempt of the ʿulamā and other groups in Iraq, of course, proved abortive, and Nāʾīnī returned to his circle of teaching. Nāʾīnī's circle gained increasing importance after the death of Sayyid Kāẓim in 1919, and the deaths of Mīrzā Muḥammad Taqī Shīrāzī and Sharīʿat Iṣfahānī in 1920. This was also the time when groups of people from different regions started to contact Nāʾīnī and to request fatwās from him.[82] Nāʾīnī's unhappy experience in political activities and constitutional propagation made him concentrate on his scholarly research and lecturing, but events did not allow him to remain confined only to academic work; he again became involved in the Iraq independence movement, but this time as a leading figure.

Nāʾīnī and the British Mandatory Rule in Iraq

After the agreement made between the British and Ḥusayn, the Sharīf of Mecca, in 1915, concerning Arab independence, the British announced, in 1917, that Iraq would become independent and that the people could choose a non-Turkish head for their country. On the other hand, attempts were made to make Sir Percy Cox the governor of Iraq.[83] This matter irritated the Iraqīs, and Mīrzā Muḥammad Taqī

Hā'irī Shīrāzī, the then greatest Shī'ī mujtahid, declared that "No Muslim should elect or choose any non-Muslim as his ruler."[84]

The Iraqīs continued their campaign for political freedom, mainly under the leadership of the Shī'ī mujtahids of Najaf, Karbalā and Kāẓimayn. The 'ulamā gave their full support to the tribes and other groups in fighting against the British. Mīrzā Muḥammad Taqī in one of his manifestoes invited all people, Jews, Christians, Shī'ah and Sunnīs, of Iraq to be united against the common enemy.[85] One of the results of these struggles was the revolt of the Iraqīs in 1920 in which some 20,000 people were massacred.[86]

No revolt, however genuine and of however wide-ranging nature it might be, could have any effect on the British mandatory policy. In October, 1921, the Council of the League of Nations had invited Britain to apply her mandatory rule in Iraq. In the British view,

> "...immediately the decision of His Majesty's Government to retire became known, 90 percent [of the Iraqī population] would probably throw in their lot with the Turks, and the remaining 10 percent would withdraw from Irak into other Arab countries and would regard Great Britain as their betrayer."[87]

The British also decided to stay in Iraq because they believed that their withdrawal from Iraq would have undesirable consequences in the following countries:

"1. Syria. British withdrawal would divert Turkish attention from Syria, but the French hold on Syria would be weakened by the impulse given to all those elements which are hostile to the French occupation. Once the Turks have absorbed Iraq, they will turn their attention to Syria and will double the pressure upon the French. Sentiment would play also a considerable part.

2. Palestine. The British withdrawal from Iraq would inevitably involve her withdrawal also from Transjordania. Therefore, direct Turkish action against Palestine would be easier and considerably costly for the French.

3. Arabia. It would antagonize Arab opinion in the Ḥijāz and might cause Ibn Sa'ūd and the Idrisīs, to conciliate the Turks as a kind of reinsurance. The British influence would then be reduced and conditions would become more chaotic.

4. Egypt. The British withdrawal would result in the Egyptian realization of the inability of the British government to retain its hold on Iraq. This fact would definitely encourage Egyptians to uproot British influence in Egypt.

5. Sudan. Although the Sudanese do not like the Egyptians, because of British withdrawal from Mesopotamia, the Sudanese would try to reinsure themselves against British withdrawal from the Sudan by paying lip-service to Egyptian nationalism.

6. Iran. On the effect of the British withdrawal from Iraq on Iran it is reported that,

> 'There is a mass of absolutely trustworthy evidence to prove that the Russians are spending large sums of money in Persia in order to inflame public opinion against Great Britain and to bring about a form of Communist Government, entirely subservient to them, as they have already done in Caucasus States. The latest information on the subject...is that the Russians have offered to make a secret military agreement with the Persian Government by which Russia will be allowed to send military expeditions through Persia into Mesopotamia.
>
> If His Majesty's Government were to withdraw from Mesopotamia, the Russians would undoubtedly at once redouble their efforts in Persia and have a far better chance of succeeding.'"[88]

The above conclusions were, of course, reached behind closed doors and, in any event, could not have any effect on the demand of all Iraqis, nationalists, the tribes, and the Sunnī and Shīʿī ʿulamā for independence. Although the Shīʿī ʿulamā were actively working for the establishment of an independent Iraq, up to this point, one can hardly see any symptom of political activities on the part of Nāʾīnī. The reason is simple. When the chief ʿulamā lead the people, other ʿulamā have to retire into the background. Until 1920 Mīrzā Muḥammad Taqī, the head of the ʿulamā led the campaign; but after his death in that year, Sharīʿat Iṣfahānī replaced him. In his first declaration, Sharīʿat said that Shīrāzī's death

would not bring any laxity in the ʿulamāʾs opposition to foreign rule.[89] The period of Sharīʿat's leadership, however, did not last long; he died later in 1920.

At this point no sole marjaʿ-i taqlīd made an appearance; there were a number of mujtahids, more or less of the same reputation and importance, who continued the movement, and Nāʾīnī entered the picture as one of the leading mujtahids. It is worth mentioning that during the short period of Sharīʿat's leadership, Nāʾīnī closely cooperated with him in the movement; before issuing any fatwā, Sharīʿat used to consult with Nāʾīnī.[90]

When the Wahhābīs began to attack Southern Iraq a widespread fear and anxiety welled up amongst the people.[91] Nāʾīnī and Sayyid Abū al-Ḥasan sent a joint telegram to Shaykh Muḥammad Mahdī Khāliṣī, another notable mujtahid residing in Kāẓimayn, inviting him and his followers to Karbalā for negotiation. All the ʿulamā, together with some 300,000 people and more than 2,500 tribal chiefs and notables assembled in Karbalā. In that city they made a covenant to stand strongly against any sort of foreign aggression and instigation.[92]

Since the resistance against the mandatory rule was quite genuine in Iraq, the British decided to nominate Fayṣal as the King of Iraq and to sign a treaty of alliance to replace the mandate;

Faysal thus became the King in 1921, and the Treaty was signed and published in 1922. This Treaty, of course, virtually did not touch Iraq's mandatory status; therefore, it created a nationwide agitation.[93]

The British tried their best to suppress the movement. They even bombarded several places in which mourning was being held,[94] and, in the words of a British official reporter,

> "Aerial action alone had, in a fortnight, restored the tribal situation, compelled the Turks to withdraw from Koi Sanjak and rendered possible the reoccupation of that place by Police escorts and political officers."[95]

At the same time Faysal formed his cabinet and called for a general election to create a Constituent Assembly by which the Treaty was to be finalized. The nationalists, the tribal chiefs, and the *'ulamā* were, of course, wholeheartedly opposed to this.

Ḥajjī Kāẓim Abū Timman and Mahdī al-Khayyāṭ, representing the *Shī'ah* of Baghdad, made a visit in Kāẓimayn to Shaykh Mahdī al-Khāliṣī and Sayyid Ḥasan al-Ṣadr. They asked the two *mujtahids* to reject the Treaty signed between the British and King Faysal, to refuse to recognise the King, and to issue *fatwās* in this respect. Khāliṣī agreed to the proposal, but Ṣadr did not agree. Khāliṣī thereupon agreed on the condition that the Najaf *'ulamā*, namely,

Nā'īnī and Iṣfahānī should also sign the fatwās.[96] The matter was taken to the ʿulamā of Karbalā and Najaf. An official British report on the question reads that,

> "For some time past communications have been passing between the Ulama especially between Shaikh Mahdi al-Khalisi of Kadhimain and Shaikh [?] [Sayyid] Abul Hasan al-Isfahani and Mirza Husain al-Naini of Najaf, regarding the advisability of issuing a 'Fatwah' against participation in the elections.... Shaikh Mahdi has consistently advocated the issue of such a 'Fatwah', but the other two divines above mentioned were opposed to it. Their opposition has, however, been overcome and on November 8th [1922] the Mutasarrif [of] Karbala telegraphed that Abul Hasan al-Isfahani had signed a 'Fatwah' interdicting participation in the elections and that Mirza al-Naini has followed his example.... The above mentioned 'Fatwah' was sent to Shaikh Mahdi al-Khalisi, who affixed his seal thereto and later the remaining ulama of Kadhimain also affixed their seals, including Saiyid Hasan al Sadr...."[97]

A question was put to the ʿulamā as to whether they had really prohibited participation in the Iraqī election. The chief mujtahids, Nā'īnī, Iṣfahānī, and Khāliṣī, jointly issued fatwās in reply. Nā'īnī wrote that,

> "Yes, we have ordered the prohibition of elections and participation in them by the whole Iraqi nation.
>
> That whoever participates in them or gives the slightest assistance will disobey God and His Prophet and saints."[98]

Despite the fact that Faysal at first did not attach much importance to the fatwās,[99] they had a tremendous effect on the masses. Reports from Najaf and Kufah stated that the inhabitants of those cities had represented to their Qā'immaqāms the impossibility of their taking part in the elections in face of the prohibition issued by their religious leaders.[100] Another report says that propaganda was so strong that even the Shī'ah of Basrah, who were not keen to pay much heed to the pronouncements of the 'ulamā, were likely to evade participation in the elections.[101]

The British authorities and King Faysal were both agreed that the opposition of the 'ulamā must be taken with full seriousness. The King and his Ministers, while fully prepared to do battle with the mujtahids, were eager to leave no avenue of honorable compromise unexplored. But the 'ulamā were not prepared for any compromise, and they simply wanted the British out of the country. The 'ulamā even reissued fatwās to confirm their previous decision regarding the unlawfulness of the election lest the deferment of the general election should weaken their previous fatwās. Mā'inī again declared that, "It is still forbidden to take part in the election for any person who believes in God and the Day of Judgement."[102]

Nā'īnī in "Exile"

The ʿulamā's insistence on their demand caused the authorities to employ force. One of the preliminary actions of the authorities was to banish to Iran two clerical agitators, Shaykh Muḥammad Khāliṣī (Khāliṣī-Zādah), a son of Mahdī Khāliṣī, and Sayyid Muḥammad Ṣadr, a son of Sayyid Ḥasan Ṣadr.[103] In June 1923, Mahdī Khāliṣī was deported to the Ḥijāz. As protest against Khāliṣī's deportation, Nā'īnī, Iṣfahānī and several other leading ʿulamā of Karbalā and Najaf left Iraq for Persia.[104] Also a great number of militant patriots moved to Tehran and established committees in the name of which they corresponded with heads of states and parliaments complaining about British terrorism in Iraq.[105] A serious newspaper campaign began to assert that the ʿulamā who went to Iran had been expelled by the British and that the latter had declared war on Islam.[106] In a meeting held by the ʿulamā of Tehran, the following resolutions were passed:

> "a. Arrangements to be made for the cordial reception of the mujtahids from Irak, accompanied by suitable demonstrations in their honor.
> b. To close the bazaar in Tehran and in the provinces as a protest on dates to be decided later.
> c. To boycott all British goods."[107]

The ʿulamā of exodus were also well received by the Iranian

government. Aḥmad Shāh and Muṣaddiq al-Salṭannah (later Dr. Muṣaddiq), Minister of Foreign Affairs, sent the ʿulama telegrams welcoming them to Kirmānshāh. In return, Nā'īnī and Iṣfahānī expressed their gratitude to the Shāh and Muṣaddiq by telegrams.[107a]

The problem of the exodus of the ʿulamā created a serious disagreement between British authorities in Iran and Iraq. The then Acting High Commissioner for Iraq had claimed that the question, which "threatened originally to be between the Shiah and Sunnis has now become definitely one between Persian and Arab, and intense Arab national feelings have been aroused."[108] He also reported that King Faysal and his Prime Minister were of the opinion that,

> "...present is unique opportunity through which the Shiah Holy Cities can be purged of predominance of Persian influence, which has been exercised for years to detriment of true Arab interests with the object of prolonging anarchy amongst propaganda tribes."[109]

The British authorities in Iraq feared another national anti-British revolt if they had allowed the "recalcitrant ulama" to return to Iraq.[110] They wanted only to stress that Nā'īnī and other leading ʿulamā left Iraq at their own will.[111] In reality, however, the ʿulamā were expelled, as one may understand from the

letter of the British Minister at Tehran:

> "A party of them [ulamā] ...left Najaf, declaring their intention of repairing to Persia as a protest against the deportation of Sheikh Mehdi-al-Khalesi. The Arab Government, being aware that their real intention was to proceed to Kadhimain and thence to organise demonstrations against the Government in Baghdad, was naturally desirous of preventing any such manifestations and, therefore, took them at their word, placing at their disposal a fleet of motor-cars to convey them from Karbala to Baghdad and a special train to conduct them to the Persian frontier. The Arab Government had thus, if it not actually expelled the ulama, at all events precipitated their departure from Irak and thereby gave some handle for the assertion made by the ulama themselves, and generally believed by the Persian public, that the ulama did not leave Irak of their own free will but rather under some form of compulsion."[112]

On the other hand, the presence of the ʿulamā in Iran was not desirable as far as the British interests were concerned. Upon the exodus of the ʿulamā, anti-British agitation soon reached its zenith. Khāliṣī-Zādah, for example, was now in Iran, actively involved in many mass demonstrations against the British mandatory rule in Iraq and the British role in the exodus of the ʿulamā.[113] Khāliṣī-Zādah's hostile attitude toward the British had invited the latter's suspicion of his being fostered by the Russians.[114] The British Minister at Tehran, Loraine, complained to London about the uncompromising attitude of his Baghdad colleague in the question of the

ulama. Loraine once wrote that "British interests in Mesopotamia and Persia are utterly incompatible and that we must choose one and sacrifice the other."[115]

Much correspondence on the exodus of the ʿulamā was exchanged by the British authorities, originating both from Baghdad and Tehran, and addressed to the Secretary of State in London. Several trips were made by the British Minister at Tehran to Baghdad in connection with the matter.[116] The Iranian government promised Loraine to do everything they could to keep the ʿulamā in Iran until after the elections in Iraq if the Iraqī government would declare that the ʿulamā were free to return.[117] The Baghdad High Commissioner replied that the ʿulamā, preliminary to return, should promise not to interfere in politics and to recant from the fatwās they had previously issued.[118] Finally, after long discussions at Baghdad among Faysal, the Prime Minister of Iraq, the British Minister at Tehran and the British High Commissioner for Iraq, the following decision was reached which was conveyed to Aḥmad Shāh by the British Minister:

> "His Majesty King Feisal is sure that His Imperial Majesty the Shah will agree with him that, since the question to be solved is that of the future honourable treatment and satisfaction of their Holinesses, certain of the ulama attached to the Holy Places of Irak, who

have voluntarily removed themselves to the soil of Persia, it is fitting and necessary from the Islamic point of view that this question shall be discussed direct between the two Islamic Governments without the intervention of any third party. His Majesty King Feisal hopes that His Imperial Majesty the Shah will be able to see his way to write privately to King Feisal signifying His Imperial Majesty's concurrence in this point of view and enquiring from King Feisal what action the Government of Irak are prepared to take with regard to the ulama, having regard to the troublesome situation which has arisen in Persia owing to their voluntary departure from Irak. On receipt of such a letter from His Imperial Majesty the Shah, His Majesty King Feisal would prepare to reply that the Government of Irak, having acted towards the ulama in question with moderation, in spite of their interference in politics and prolonged and factious opposition to the policy of the Irak Government, cannot accept any responsibility for the difficulties arising in Persia from their voluntary departure from Irak. Nevertheless, owing to its goodwill towards the Persian Government, the Government of Irak regrets that such difficulties have arisen and would be glad to do anything within its power to mitigate them in so far as is consistent with the interests of Irak. The Government of Irak respects the religious position of the ulama and it will be prepared to consider favorably the question of their return to Irak, when it is assured of the attainment of the internal political objects to which the ulama have offered opposition, that is to say, when the Constituent Assembly of Irak has sat and completed all the work for which it is to be called together. Naturally, the attitude during this interval of the ulama who have left Irak will largely influence the Government of Irak in coming to a decision....

If such correspondence could be exchanged between His Imperial Majesty the Shah and His Majesty King Feisal it would be open to the Persian Government to publish in Persia, for the satisfaction of their ulama and people, the fact that correspondence was in progress and also to publish the expression of the intentions

of the Irak Government after its receipt by His Imperial Majesty the Shah from His Majesty King Feisal."[119]

Nā'īnī in Qum

Nā'īnī and other ʿulamā, after about a 45 day trip, arrived in Qum, 90 miles to the south of Tehran, on August 17, 1923. Qum is a religious city which was just becoming an important clerical center under Shaykh ʿAbd al-Karīm Ḥā'irī's leadership. The ʿulamā were very warmly received by Ḥā'irī, and out of respect for his colleagues, Ḥā'irī encouraged his disciples to attend Nā'īnī's and Iṣfahānī's lectures. This warm reception on the part of Ḥā'irī, however, was not sufficient to solve the problem that Nā'inī and the other expellees faced. Ḥā'irī also encountered difficulties in his position. A few words about him will perhaps shed a newer light on the situation, and the contrast between Nā'īnī and Ḥā'irī highlights the political activities of Nā'īnī and shows why the Sardār Sipah later looked to Nā'īnī.

Being a non-militant and apolitical person by nature, Ḥā'irī does not seem ever to have wished to take part in any political activities in his lifetime. Like Nā'īnī, he had studied under Mīrzā Ḥasan Shīrāzī, Fishārakī, and Khurāsānī in Sāmarrā' and Najaf; but unlike Nā'īnī, Ḥā'irī made a conscious effort not to become involved in politics. In 1900 he left Najaf for Arāk, Iran,

and established a circle for religious studies there. But after a few years the Constitutional Revolution began and the notables and the ʿulamā of that city, such as Ḥājī Āqā Muḥsin ʿIrāqī the well-famed absolutist,[120] became involved. These happenings, of course, did not meet Ḥā'irī's taste; he left Arāk for Najaf in 1906 in order to avoid involvement in the Revolution. This migration, however, did not save Ḥā'irī from the Revolution because the Najaf Circle was becoming overwhelmingly involved in it; therefore, Ḥā'irī moved again to Karbalā.[121] The ʿulamā's migration from all the Shrine Cities to Kāẓimayn coincided with Ḥā'irī's stay in Karbalā. Niẓāmal-Dīn-Zādah gives a list comprising the names of 29 mujtahids who participated in the migration. However, despite the fact that a number of Ḥā'irī's former fellow-students, such as Nā'īnī, Sayyid Abū al-Ḥasan Iṣfahānī, and Āqā Ẓiyā' ʿIrāqī, were among the migrating ʿulamā, Ḥā'irī's name does not appear in that list.[121a] In 1913, Ḥā'irī moved back to Arāk and in 1921 to Qum.

Ḥā'irī's personality forced him to attempt to stay outside politics to the extent that he has caused wonderment in some observers,[122] but the existing political situation in Iran, as we will see later, did not leave him untouched. His biographers hold that he was a very far-sighted person who was aware of the strong tendency against religion; therefore, he protected religion in the

light of his patience, prudence and wisdom.[123] This policy, however did not preclude him from undertaking other social activities, such as establishing a library, hospital, public cemetery, housing for the poor, and so on. Ḥā'irī soon became extremely popular with the common people, religious students and the government: with the people, because of his interest in their welfare; with the religious students, because of his mastery in the fiqh and uṣūl, as well as his particular care of their affairs; with the government, because he did not interfere in governmental affairs.

This attitude, whether Ḥā'irī liked it or not, was helpful to the government because it saved the government from a variety of headaches and difficulties. That is probably the reason why Ḥā'irī was welcomed by the political authorities when he moved to Qum. Even the Monarch, Aḥmad Shāh (reigned 1909-1925), went to Qum, in 1921, to congratulate Ḥā'irī for the reestablishment of the Circle for [Religious] Studies, ḥawza-yi ʿilmīyyah-yi Qum.[124]

Perhaps Nā'inī and other ʿulamā moved to Qum in order to avail themselves of Ḥā'irī's popularity and influence. "They expected Aḥmad Shāh to declare a nation-wide strike and sever diplomatic relations with the British because of the trouble they had given the ʿulamā."[125] But the Shāh, himself in a shaky position and unable to satisfy them, was prepared to depart for Europe never to return.

The expellees perhaps expected that Ḥā'irī, who was thought to have contacts with the Sardār Sipah, would use his influence in their favor.[126]

There are two differing accounts concerning Ḥā'irī's attitude toward the expelled ʿulamā. Ṭihrānī and Rāzī hold that Ḥā'irī paid them a warm welcome.[127] Ṭihrānī even says that the ʿulamā arrived at Qum as Ḥā'irī's guests.[128] On the other hand, Dawlatābādī, a contemporary writer, has recorded that Ḥā'irī, in contrast with the ʿulamā's expectation, did not involve himself in their problem and took the event with tranquility; he limited himself only to a formal visit to the ʿulamā.[129] It seems that Ṭihrānī and Rāzī both overlooked certain realities and that Dawlatābādī's account is one of understatement. Each account, however, explains parts of the truth. There is no doubt that Ḥā'irī, out of respect for his colleagues and personal friends, such as Nā'īnī and Iṣfahānī, received them warmly and sympathized with them whole-heartedly; but he did not fully identify his position with that of the ʿulamā in taking prompt action to fulfill their expectations. His position seemed to be rather like that of a third party between the ʿulamā of exodus and the Persian government, with full sympathy, of course, toward the ʿulamā. In other words, Ḥā'irī did not lead a mass uprising, as he was perhaps expected to do, in favor of the expelled colleagues.

Nā'īnī's Role in the Republican Movement in Iran

Whatever attitude Ḥā'irī had in dealing with the problem, the course of events turned to a degree in favor of Nā'īnī and the others. The interests of the Sardār Sipah to have the Persian ʿulamā on his side for carrying out his future plans, brought a partial solution to the ʿulamā's problem. During Nā'īnī's stay in Qum, the Persian internal situation underwent rapid change. On October 27, 1923, the Sardār Sipah was appointed as Prime Minister and President of the Council. Aḥmad Shāh had determined to leave Iran for Europe as quickly as possible because of "his difficulties and apprehensions". Despite his inflexible decision to depart, the Shāh was afraid of encountering difficulties created by the Sardār Sipah. Therefore, the Shah appointed the British Minister, Loraine, to be witness and to provide him protection from the Sardār Sipah. Two communications were addressed to the Shāh by Loraine and one letter of assurance was dispatched by the Sardār Sipah to Loraine. Through those communications the Premiership and the Presidency of the Council were arranged to be granted to the Sardār Sipah. In return, the Sardār Sipah gave this written promise:

> "I undertake to provide all facilities for the immediate departure of His Imperial Majesty towards Europe, and to ensure that no delay occurs in the measures to be taken for the fulfillment of this purpose. Moreover, I will prevent any opposition to...the journey of His Imperial Majesty.... In addition...I will accompany

> His...Majesty to the frontier...to ensure His Majesty's safety..., all due respect and homage will be paid to the Crown Prince's position...."[130]

Thus the Shāh decided to go to Europe in order to escape from all kinds of agitations against him in the country. Before his departure on November 1, 1923, the Shāh paid a flying visit to Qum to bid the ʿulamā farewell. He was accompanied by the Sardār Sipah and Vusūq al-Dawlah. The Shāh presented an inlaid walking stick to Shaykh ʿAbd al-Karīm Ḥā'irī and a valuable diamond ring to Shaykh Mahdī Khāliṣī who had just joined Nā'inī and other ʿulamā in Qum.[131]

In the absence of Aḥmad Shāh, the Sardār Sipah began to work for the creation of a republican régime in Iran. To fulfill this purpose he needed the co-operation of the clerical leaders, even of an apolitical mujtahid such as Ḥā'irī. The Sardār Sipah's tendency towards a republican régime puzzled the British Minister at Tehran, who attributed the idea to Russian influence. He said: "It is... ludicrous to imagine that Persia is ripe for a republican régime, whether morally, mentally or materially."[132] Since Loraine saw that the idea of a republic did not in the beginning encounter any opposition, he sent a "very confidential" telegram to London pointing out that,

> "In my opinion, present Shah will be deposed or compelled to abdicate. Alternatives therefore are:
> 1. Regency.
> 2. Change of dynasty.
> 3. Republic."[133]

In another telegram Loraine wrote to Secretary of State, London:

> "I am seeing Prime Minister privately, early morning of 1st March [1924] and must seek information regarding his projects. Most important to know your views before then.... Mine are to discourage republic and to recommend retention of monarchy and present Constitution owing to incalculable risk at home and abroad of a violent change of Government and adoption of a form for which country is not ripe...."[134]

In reply to the Minister's request the following telegram arrived in Tehran three days later:

> "If the Persians wish to introduce a republican régime, it is entirely their own concern, and you should not intervene in the matter or offer any advice to the Persian Prime Minister, either for or against the project."[135]

It is true that the British Minister had already highly recommended any support that might be given to the Sardār Sipah, because he had been found the most competent person to carry out a centralizing policy and to protect British interests in the oil field.[136] Nevertheless, the above-mentioned document indicates that in his republican movement, the Sardār Sipah was not influenced by

the British, as is suggested by Dawlatābādī.[137] It seems that the Sardār Sipah, aiming at the downfall of the Qājār dynasty, thought that the best way to put an end to Qājār rule was to advocate republican ideas. Prior to that time, from 1918 onward, several Republican Régimes had appeared in the Muslim world, such as the Republics within the Russian Empire. Several other Islamic countries, i.e., Syria and Lebanon, had republican movements. In the north of Iran, Kūchik Khān had established his short-lived Republic of Gīlān in 1920.[138] Only a few months before the Sardār Sipah started the movement in Iran, Mustafa Kemal of Turkey, in November 1923, had proclaimed the Turkish Republic.[139] The Sardār Sipah wanted to adopt a similar expedient putting an end to the old dynasty; but he encountered a whole series of difficulties which aborted his attempt.

Contemporary historians, such as Mustawfi and Dawlatābādī, hold that the Sardār Sipah thought of a republic as a means to achieve the throne.[140] They also argue that mass demonstrations held in the streets of Tehran, and other republican activities were planned directly by the Sardār Sipah and army men whom he had under his command.[141] In addition, there were a number of newspapers such as Safaq-i Surkh which were propagating the Sardār Sipah's policy.[142]

On the other hand, there were also some ideological activities in favor of a republic. A long article signed by a M. Muḥammad, dispatched from Marseilles and published in Ḥabl al-Matīn, contains a rather sophisticated interpretation of a republican régime and how it might function in Iranian society.[143] At that time the learned Persian journal Irānshahr, edited by H. Kāẓim-Zādah Irānshahr, repeatedly published articles and epical poems advocating the establishment of a republican form of government in Iran.[144] On March 31, 1924, a meeting was organized by the Iranian residents of Berlin in which they expressed their hatred of the Qājār dynasty and demanded republicanism from the Persian government and Parliament.[145] The republican movement, however, met very serious opposition on the part of the Bazaar people, the ʿulamā, and the remarkably influential and popular member of Parliament, Sayyid Ḥasan Mudarris (mysteriously died 1934), resulting in its defeat. Mudarris was a nationalistic mujtahid who had a number of the Members of Parliament on his side. During the Persian New Year's Holiday of 1303 (March 21, 1924), he seriously agitated the people of Tehran, who visited him, against the Sardār Sipah's republican policy. Aḥmad Shāh and his supporters, of course, did not remain inactive during this period. They attempted to agitate the ʿulamā against the Sardār Sipah. A British Intelligence Report reveals that,

> "The Shah is attempting to organise opposition to the republican movement through the mullahs. On the 4th March he telegraphed instructions on these lines through the Valiahd [Muḥammad Ḥasan Mīrzā], and said that he would take measures to get the ulama [of exodus] returned to Irak. On the same day the Valiahd summoned Khalissi Zadeh and asked him to wire to his father in Meshed. On the 5th he wrote to Naini and Isfahani in Kum. On the 5th Khalissi Zadeh held a street meeting in favor of the Shah."[146]

In order to enjoy the support of the ʿulamā, the Shāh also informed them through the Persian Minister in Paris that the question of the ʿulamā's return to Iraq would soon be settled with the British government.[147]

On the problem of the change of the existing régime into a republic, the ʿulamā in Qum repeatedly held meetings. A British Intelligence document refers to one of the ʿulamā's meetings as follows:

> "There is to be a religious conference at Kum this week to decide the attitude of the Mullahs on the republican question. The President will be Aga Shaikh Abdul Kerim...[Ḥā'irī], and secret agents from the Tehran Mullahs and the Valiahd will be present."[148]

According to Shaykh ʿAbd al-Karīm Ḥā'irī in one of those meetings, which was held behind closed doors by Nā'inī, Iṣfahānī and Ḥā'irī, these three mujtahids discussed their position vis à vis republicanism. They decided to convince the Sardār Sipah that there

was no danger from the side of Aḥmad Shāh because, according to the Persian Constitution, the Shāh is free from responsibility and does not have any absolute power.[149]

The course of events became so unfavorable for the Sardār Sipah that not only did the ʿulamā not have to convince the Sardār Sipah not to establish a republic, but in the end, the Sardār Sipah himself was forced to appeal to the ʿulamā to help him put an end to the republican movement. On the same day that the issue of a republic was to be discussed in a parliamentary session, an unbelievably huge and ungovernable number of people demonstrated in front of the Majlis against the idea of a republic.

On the order of the Sardār Sipah the army dispersed the demonstrators. This action made the Chairman of the House, Mu'tamin al-Mulk, so angry that he tried to call for a special session in order to dismiss the Sardār Sipah. At this point the Sárdār Sípah felt desperate and he immediately left the Majlís. This was the point at which he called upon the ʿulamā and sought to benefit from his friendly relationships with them. Therefore, in the name of bidding farewell to the expelled ʿulamā who wished to go back to Iraq, he went to Qum and visited Nā'īnī, Iṣfahānī and Ḥā'irī on March 26, 1924. The fruit of this visit was the following telegram which was dispatched to the ʿulamā of Tehran by

Iṣfahānī, Nā'īnī and Ḥā'irī:

"There have been expressed certain ideas concerning a republican form of government that do not please the public and do not suit this country. We, therefore, asked the Prime Minister to put an end to this issue, while he came to Qum to bid farewell to the ʿulamā, by announcing the matter all over the country. He accepted our request. All the people should be grateful and should appreciate this solicitude."[150] On the same day the Sardār Sipah himself issued a manifesto making the same point: "The will of the people, public opinion, and respect for religion and the religious feelings of my fellow-citizens, are of primary importance for me in running the government. To these ends I have given a favorable response to the request of the religious leaders in Qum. From now on, accordingly, the abandonment of the idea of a republic is highly recommended."[151]

The telegram of Nā'īnī and the other two men gave the Sardār Sipah a reasonable excuse to end the republican movement, the opposition to which had seriously threatened his position. In fact, he took refuge with the religious authorities when he was helpless. The ʿulamā's telegram saved him from the dangers to which he had been exposed.

This story indicates that in Iran it was not the wish of the ʿulamā alone to intervene in governmental affairs; rather the politicians at times also urged their intervention. Ḥā'irī's attitude in this crisis particularly proved this fact; although he was reluctant to participate in any political matters, he seems to have taken the above-described position simply because of the pressure that the Sardār Sipah had placed on him.

Issuing the telegram, of course, was not all that the Sardār Sipah expected from the ʿulamā. He still needed Nā'īnī for the future. The ʿulamā were most disrespectfully treated by the tough policy of the British politicians of Iraq. The Sardār Sipah appeared sympathetic to them and arranged certain compensations for the insult that the British mandatory government of Iraq had given them. Therefore, on the basis of the previous arrangement made in Baghdad (see further above) the time was ripe to meet the demand of Nā'īnī and other expelled ʿulamā, that is to say, to invite them back to Iraq. A representative of Fayṣal had already gone to Qum to invite the ʿulamā to Iraq,[152] and the Sardār Sipah appointed one of the high-ranking Persian army officials, Sardār Rafʿat, to accompany the ʿulamā as far as Iraq. Fayṣal, of course, had set a stipulation on the ʿulamā's return according to which they had to give a written promise not to take part in Iraqi politics

any longer.[153]

The Sardār Sipah had found the Persian ʿulamā of Iraq more useful than those of Qum for his plans because Ḥā'irī was not interested in politics, but some of the Najaf ʿulamā were. Besides, Ḥā'irī had just reestablished organized circles for religious studies in Qum. Hence, Qum had not yet enjoyed its revived reputation as a center for religious learnings, whereas, the other ʿulamā were residing in Najaf, the most important Shīʿī center. After the death of Mīrzā Ḥasan Shīrāzī, Najaf had regained its particular significance, not only as a shrine center, but also as the most famous city for religious studies. The Sardār Sipah had also understood that some of the clerical authorities in Najaf, especially Nā'īnī, were more agreeable to him than was Ḥā'irī. It was Nā'īnī who promised the Sardār Sipah in Qum,

> "...to summon Mudarris to Kum with the object of trying to persuade him to lessen his opposition to Reza Khan on the subject of the republic."[154]

The telegram that Ḥā'irī, Nā'īnī and Iṣfahānī signed shows the authors' reluctance to provide the praise and support that a person like Sardār Sipah usually received. Our understanding is that this peculiarity of the text of the telegram was due only to Ḥā'irī's share in it, and that Ḥā'irī did not wish to release any

statement concerning politics, whether for or against the power holder. Should the telegram have been issued only by Nā'īnī and Iṣfahānī, it would have comprised more strongly supporting statements. This is likely because, apart from Ḥā'irī's general attitude toward politics, the statements released by Nā'īnī and Iṣfahānī, when back in Najaf, contained much stronger supporting expressions.

When Nā'īnī and his friends arrived in Iraq (April 22, 1924) and received a fairly warm welcome from Fayṣal, Nā'īnī sent a letter of thanks, by the Sardār Rafʿat, to the Sardār Sipah. The following is a paraphrase of Nā'īnī's letter: "Now that we have arrived safely at Najaf, the most important prayer that can be offered in the holy shrine [of ʿAlī Ibn Abī Ṭālib] is to wish the continuation of Your Highness's strength for the exaltation of religion and state. To protect that most honorable personage and to enjoy the perfect form of auspiciousness, a sacred portrait [of ʿAlī Ibn Abī Ṭālib] which was taken from the holy shrine is now presented to Your Highness. Thanks to God that the solicitude of Your Highness (Hazrat-i Ashraf) has been continuous in our journey and during our stay in Qum. Your Highness' concern, especially the appointment of the Sardār Rafʿat to accompany us to Najaf, deserves the deepest gratitude. Since the good services the Sardār Rafʿat

offered us are favorably considered [by ʿAlī Ibn Abī Ṭālib], his service would also enjoy the particular consideration of Your Highness."[155]

The letter has no date, but the contents indicate that it was written shortly after Nā'īnī's arrival in Najaf. When the portrait arrived, the press supporting the Sardār Sipah made wide-ranging propaganda about him and his being honored by such a "blessed" portrait. The portrait was respectfully welcomed in a particular celebration in Shāh ʿAbd al-ʿAẓīm. It was also received warmly in a great function given on that occasion in the Bāgh-i Shāh, Tehran.[156] Dawlatābādī suggests that the Sardār Rafʿat's accompanying the ʿulamā was planned by the Sardār Sipah in order to create an excuse for religious propaganda for himself.[157] But unlike Makkī and Mustawfī,[158] Dawlatābādī adds that a sword which was ascribed to ʿAbbās Ibn ʿAlī was brought for the Sardār Sipah and that he girded on the sword.[159]

Nā'īnī's letter and gift to the Sardār Sipah created a negative reaction on the part of the ʿulamā of Tehran:

> "The portrait of Alī, sent to the Prime Minister by the mullahs of Najaf...was presented with due ceremony in the Bagh-i-Shah on the 6th June [1924]. The proceedings were boycotted by the Tehran clergy."[160]

> "Khalisizadeh and some few other rampant preachers had assured the people that the portrait did not emanate from the returned ulama, but from the English..."[161]

By writing this supporting letter and sending the "blessed" portrait, Nā'īnī contributed a great deal to the Sardār Sipah's power. Later events proved that Nā'īnī's actions supporting the Sardār Sipah continued. When the Sardār Sipah's attempt to set up a republic failed, he aimed at founding a new dynasty with himself as the Shāh of Iran. He needed, of course, among other elements, the support of the religious authorities; therefore, he turned to the Iranian mujtahids of Iraq rather than to those of Iran itself.

Not more than one year after the publication of Nā'īnī's letter and the story of the "blessed" portrait or sword, a joint manifesto was published by Nā'īnī and Iṣfahānī in which those disobedient to the Sardār Sipah's rule were branded as enemies of Islam. The manifesto says: "It should be specified for all the Muslims that those who revolt against the Islamic Government of Iran are equal to those who fought against the Prophet during the battles of Badr and Hunayn.[162] Such people are those to whom the Qur'ānic verse [which concerns polytheists] is applicable. The punishment for polytheists is death [in this world] and torture in the world to come; therfore it is obligatory for us to inform

the people not to deviate from this Muhammadan Circle [the Sardār Sipah's Government] which gives currency to Islam. Those who oppose this command will be considered as infidels who are willing to destroy this religion and consequently, it is necessary to excommunicate (takfīr) them according to the Qur'ānic rules and proofs."[163]

Enjoying the support and cooperation of Nā'īnī and perhaps Iṣfahānī, the Sardār Sipah took serious actions to depose the Qājār Shāh. Among other things he did, was to visit Nā'īnī and a few other ʿulamā in Najaf after he had put an end to Shaykh Khazʿal's rebellion.[164] The following item appeared in Ḥabl al-Matīn concerning that visit: "The Prime Minister and the Commander-in-Chief, (the Sardār Sipah) went to Najaf and met with the ʿulamā, such as Nā'īnī and Iṣfahānī, in the holy shrine. We do not exactly know the theme of their negotiation, but it is believed that they dealt with Aḥmad Shāh's return."[165] The probability expressed in the above quotation seems reasonable because Aḥmad Shāh's absence from Iran was not based on personal free choice; he always intended to come back as soon as the situation permitted. At various times he made attempts to return but was discouraged by the Sardār Sipah.[166] Almost at the same time as the Sardār Sipah's visit to the ʿulamā in Najaf to discuss, as it

was held, the problem of the Shāh's return, Aḥmad Shāh sent a telegram to Nā'īnī and Iṣfahānī: "...the contents of which were not announced but it became known that it had concerned his return to Iran."[167] Aḥmad Shāh's attempt, of course, proved unsuccessful; and the Sardār Sipah, after putting an end to the one and a half century—old Qājār dynasty, ascended the Persian throne and established himself as the founder of the Pahlavī dynasty.[168] On this occasion, of course, Riza Shāh Pahlavī received a telegram of congratulations from Nā'īnī.[169]

Three Phases in Nā'īnī's Life

By taking a brief look at the course of Nā'īnī's life, three main phases become apparent. First, he wrote and acted against tyranny and undertook an active intellectual cooperation with the Persian constitutionalists. In this campaign he was moving along with the interests of the common people, but as a result of events which followed the Persian Revolution, Nā'īnī was temporarily bypassed. He then emerged as a distinguished lecturer in fiqh and usūl, and one of the most important mujtahids of his time. Second, leading the nationalists of Iraq, he stood out against the mandatory rule of the British and fought, along with other Shī'ah 'ulamā and Iraqī tribal shaykhs for the independence of Iraq. For his part in this

movement Nā'īnī was badly treated by the British; their reaction was the cause of his expulsion from Iraq and his subsequent homelessness.

These two sets of events, especially the consequences of his involvement in Iraqī politics, seem to have affected Nā'īnī to such a degree that he modified the line of activities he had been pursuing in the past. The fact that Nā'īni's campaign in Iraq proved abortive and that he was seriously insulted by the British and the Faysal Government, perhaps discouraged him from taking further actions against holders of power. While in exile from Iraq, he was treated respectfully by the Sardār Sipah. Although there is no direct evidence, the following phase of Nā'īnī's life leads to the speculation that he may have concluded that cooperation with the holders of power, especially with the Persian ruler, was potentially more productive than fighting with them. It is also possible that, in the light of his friendly relations with the rulers, he thought it feasible to achieve absolute leadership in the Shī'ī world, and consequently to come to a position where he might take wide-ranging measures for the welfare of the Shī'ah of Iran and elsewhere.

From that point, the third major phase of Nā'īnī's life began. His attitudes toward the governments of Iran and Iraq became favorable no matter how un-Islamic and tyrannical those governments may have been. After his return to Iraq no political activities

were again heard of on the part of Nā'īnī against Faysal, Ghāzī in Iraq, or Riẓā Shāh in Iran. Very many non-religious measures were taken in Iran to which Nā'īnī is not known to have objected. Rather, he had friendly relations with the Persian and Iraqī rulers. In 1927, when Nā'īnī became seriously ill, he was taken to Karrādah to the East of Baghdad, where Faysal paid him a visit. In 1928-29 Faysal went to Najaf and met with Nā'īnī, Iṣfahānī and other ʿulamā, and discussed matters with them. Nā'īnī's relationship with the next King of Iraq, Ghāzī (reigned 1933-39) was also on a friendly basis. During the latter's reign, Nā'īnī again fell ill; this time he was taken to Baghdad as Ghāzī's special guest, and he resided in a royal palace prepared for him.[170]

Nā'īnī also had contacts with Riẓā Shāh even though the latter did not pay much respect to the ʿulamā after he ascended the throne, rather, he enforced restrictions on them. On one occasion, Nā'īnī's elder son, Ḥājī Mīrzā ʿAlī Nā'īnī, met with Riẓā Shāh and gave him from Nā'īnī a letter and gifts which consisted of a ring and some blessed soil from Karbalā. On the occasion of religious feasts, Nā'īnī usually sent telegrams of good wishes to Riẓa Shāh.[171]

Nā'īnī's Personal Character and His Death

Nā'īnī was very pious; he practiced tahajjud (night prayers)

almost every night.[172] He was also an academically-minded person who created hierarchy of merit in his circle. He possessed such an attitude, perhaps because the opportunity did not come for him to become an absolute leader; and consequently, his attention was drawn to academic life. Each one of his disciples had, according to his knowledge and academic record, a certain salary as well as a particular place in Nā'īnī's presence. For instance, Āqā Sayyid Jamāl Gulpāygānī, on the basis of his high academic standing, held an important place in Nā'īnī's esteem and used to sit next to him on his right side. Nā'īnī, on occasion, showed more respect to a poor but knowledgeable student or lecturer than to a wealthy merchant.

Sometimes he used to appear somewhat dictatorial while lecturing. This was due to the deafness from which he suffered for many years. Because he did not hear well he was rarely prepared to entertain comments or criticism as was the usual custom in academic religious circles. It thus became known of Nā'īnī that one could arouse his temper if any question were raised. On the other hand, because of this auditory problem, Nā'īnī prepared his lectures very intensively and clearly to stave off any possible questions or misunderstandings. He used to conduct two lectures every day, one on the fiqh in the morning and another on the usūl

in the evening.

His attitude toward his old friends who had been involved in the Constitutional Revolution had changed so much, that he preferred not to see them. He did not, as a result, pay a visit to one of Khurāsānī's assistants, Āqā Shaykh Ḥusayn Yazdī who was a respected mujtahid. Nā'īnī was asked about this failure of courtesy; he said that were he to visit Yazdī, again the theme of conversation would have been politics and the Revolution.[173] Perhaps for this reason none of the poets writing elegies on Nā'īnī's death, to the best of our knowledge, made any references to his constitutional activities.

When he died in 1936 at the age of 76, a great number of mourning ceremonies were held, and many poems were recited for this occasion in Iraq. Among the mourning odes we consulted, are some of those which were published in Arabic by the following poets: Shaykh Ibrāhīm Wā'ilī, Shaykh Muḥammad Riḍā Muẓaffar, Shaykh ʿAbd al-Ḥusayn Ḥillī, Sayyid Maḥmūd Ḥabbūbī, Shaykh ʿAlī Aṣghar Ṣaghīr, Shaykh Mūsā Baḥr al-ʿUlūm, ʿAbd al-Munʿim Farṭūsī,[174] Sayyid Muḥammad Saʿīd Āl Ṣāḥib al-ʿAbaqāt and some anonymous poets.[175] On Nā'īnī's death, Shaykh Muḥammad Ḥusayn Āl Kāshif al-Ghiṭā', an eloquent colleague of his, delivered an interesting funeral oration which was published in a special issue of the Arabic newspaper Karkh.[176]

Thus, respectfully, Nā'īnī's death was mourned in Iraq, because in comparison with Iran, the religious situation was rather relaxed. However, not much was done for him in Iran. There appeared only a short note in the newspapers, Ittilā'āt and Iran, announcing a funeral ceremony which was to be held by the government.[177] Nā'īnī died when Riẓā Shāh had been absolute ruler of Iran for 11 years and had been undertaking certain secular plans for which Nā'īnī, Ḥā'irī or other ʿulamā were not of any use. Therefore, soon after ascending the throne Riẓā Shāh turned against the clerical authorities by establishing certain restrictions upon them.

This was the life and death of Nā'īnī, an analysis of whose constitutional theory will further engage us in the following chapters of our study.

NOTES TO CHAPTER III

1. Our information concerning Nā'īnī's biography is based on the available written sources plus the interviews this writer had with Nā'īnī's close associates, particularly his son, Mahdī Āyatullāh-Zādah Nā'īnī and his brother Mīrzā ʿAbd al-Raḥīm Nā'īnī. Among the source materials, the following have been consulted: Sayyid Muḥammad Mahdī al-Mūsawī Iṣfahānī al-Kāẓimī, Aḥsan al-Wadīʿah fī Tarājim Mashāhir Mujtahidī al-Shīʿah (Najaf: Al-Ḥaydarīyyah, 1968), p. 254; ʿĀmilī, Aʿyān al-Shīʿah, XLIV, p. 258 (no. 2012); Sayyid ʿAbd al-Ḥujjah Balāghī, Tārīkh-i Nā'īn (Tehran: Maẓāhirī, 1949), pp. 188-89; idem, Kitāb-i Farhang-i Nā'īn (Tehran: Maẓāhirī, 1949), pp. 101-104; idem, Ansāb-i Khāndānhā -yi Mardum-i Nā'īn "Madīnah al-ʿUrafā" va Kitāb-i Shaṭranj al-ʿUrafā' (Tehran: Sipihr, 1949), pp. 51-53; Ṭihrānī, Ṭabaqāt, I, pp. 593-96; ʿAlī Naqī al-Naqawī, "Āyah Allāh al-Nā'īnī wa Mawqifuhū al-ʿIlmī bayn al-Ṭā'ifah", Al-Ridwān, II, no. 8 (1936), 18-20; Mahdī Nā'īnī, "Sharḥ-i Zindigānī-yi Marḥūm-i Āyah Allāh Nā'īnī Aʿlā Allāh Maqāmahū", Nā'īn-i Bīdār, April 29, 1955, pp. 1-2; Dr. Manūchihr Khudāyār Muḥibbī, "Pīshvāyān-i Mazhab-i Shīʿah", Vaḥid, IV, no. 11 (1967), 994-95; Muḥammad Hādī Amīnī, Muʿjam Rijāl al-Fikr wa al-Adab fī al-Najaf Khilāl Alf ʿĀm (Najaf: Al-Ādāb, 1964), p. 435. In the latter reference some other sources are also given. Nā'īnī's date of birth is recorded differently. Fortunately, we have been able to locate a photocopy of Nā'īnī's birth certificate written by Nā'īnī's father by courtesy of Mīrzā Mahdī Nā'īnī.

2. Khīyābānī, Raybānah, I, p. 450.

3. [Ḥājī Mīrzā Naṣr Allāh Malik al-Mutakallimīn] (Sic), Ru'yā-yi Ṣādiqah (Tehran: n.p., n.d.), pp. 5-10. The authentic author of this book is difficult to identify; the editor of the journal Armaghān, XIV (1933), 17, ascribes it to Sayyid Jamāl al-Dīn Iṣfahānī, a leading figure in the Persian Revolution. On the other hand, Malik-Zādah claims that it was written by his father, Malik al-Mutakallimīn, another constitutionalist (Inqilāb, I, p. 68). See also Algar, Ulama, pp. 254-55 for the accounts of Sayyid Muḥammad ʿAlī Jamāl-Zādah, Sayyid Jamāl al-Dīn's son, concerning his father's co-authorship with Malik-Zādah's father in writing the book.

4. Muḥammad Ḥasan Khān Iʿtimād al-Salṭanah, Rūz Nāmah-yi Khāṭirāt, ed. Īraj Afshār (Tehran, Amīr Kabīr, 1966), pp. 783, 796 (under the events of 1307 Hijrī Qamarī).

5. Mahdī Qulī Hidāyat, Khāṭirāt va Khaṭarāt (Tehran: Zavvār, 1965), p. 141; for more information about Āqā Najafī, his father, and his important clerical family consult the following sources: Ṭihrānī, Ṭabaqāt, I, pp. 198-99, 247-48, 539-40; Malik-Zādah, Inqilāb, I, pp. 165-68; Khīyābānī, Rayḥānah, I, p. 26; II, pp.449-50; Dr. Nūr Allāh Dānishvar ʿAlavī, Tārīkh-i Mashrūṭah-yi Iran va Junbish-i Vaṭanparastān-i Iṣfahān va Bakhtīyārī, with a preface and lengthy notes by Ḥusayn Saʿādat Nūrī (Tehran: Saʿdī, 1956), pp. 188-90; Dawlatābādī, Ḥayāt, I, pp. 37-38 and passim; Bāmdād, Rijāl, III, pp. 326-27.

6. Malik-Zādah, Inqilāb, I, p. 166.

7. The reason that Shīrāzī left Najaf, the clerical center of attention for centuries, and chose Sāmarrā', is spelled out in Ṭihrānī, Ṭabaqāt, I, p. 439.

8. On the Tobacco Concession read Keddie, Tobacco; Ann K.S. Lambton, "The Tobacco Regie: Prelude to Revolution", SI, XXII (1965), 119-57, and XXIII (1966), 71-90; Ibrāhīm Taymūrī, Qarārdād-i 1890 Régie: Taḥrīm-i Tanbākū: Avvalīn Muqāvamat-i Manfī dar Iran (Tehran: Sūqrāt, 1949); Muḥammad Ḥasan Khān Iʿtimād al-Salṭanah, Khalsah, Mashhūr bi Khwāb Nāmah, ed. Maḥmūd Katīrā'ī (Tehran: Ṭahūrī, 1969), Passim; Kazemzadeh, Russia and Britain, pp. 241-301.

9. Ṭihrānī, Ṭabaqāt, I, p. 593.

10. Jamālī Asadābādī, Asnād va Madārik, pp. 65-93; Afghānī's letters to Shīrāzī and the ʿulamā of Iran are also reproduced in Sayyid Muḥammad Rashīd Riḍā, Taʾrīkh al-Ustādh al-Imām al-Shaykh Muḥammad ʿAbduh (Cairo: Al-Mānār, 1948), I, pp. 56-69.

11. Algar, Ulama, p. 201.

12. Rashīd Riḍā al Ustādh, I, p. 304.

13. Ṭihrānī, Ṭabaqāt, I, p. 594.

14. Cf. our 2nd chapter, no. 158.

15. Personal interview with Nā'īnī's son and brother.

16. Personal interview with one of Nā'īnī's desciples, Āqā Shaykh Ḥāshim Āmulī.

17. Cf. our 4th chapter, section "The Origins of Nā'īnī's Political Thought".

18. For informative and critical details on the secret societies in Iran during the period under discussion consult Ann K.S. Lambton, "Secret Societies and the Persian Revolution of 1905-6", St.AP, no. 4, MEA, I, (1958), 34-60; idem, "Societies", 41-89; see also Ismā'īl Rā'īn, Anjumanhā-yi Sirrī-yi Mashrūṭīyyat (Tehran: Tehran Muṣavvar, 1966).

19. HM, September 26, 1910, p. 20.

20. Ibid., p. 24

21. Nā'īnī, Tanbīh, pp. 134-35.

22. Ṭihrānī, Ṭabaqāt, I, p. 594.

23. Cf. our 4th chapter.

24. Malik-Zādah, Inqilāb, VI, pp. 114-33.

25. Khurāsānī, Ṭihrānī and Māzandarānī pointed out in a telegram: "Since Nūrī disturbs the peace and conducts sabotage operations, his intervention in the affairs is forbidden;" Cf. HM, January 1, 1907; Kasravī, Mashrūṭah, p. 528.

26. "Nā'īnī anxiously said to Khurāsānī: 'The unfavorable news about Nūrī indicates that his life is seriously threatened; if the constitutionalists kill him, there would remain no reputation for us 'ulamā.' Khurāsānī then sent a telegram to Tehran to save Nūrī's life, but it was too late and he was already hanged."; taken from an interview with Nā'īnī's brother.

27. On the problem of equality consult our 6th chapter, section, "The Principles of Equality".

28. Kasravī, Mashrūṭah, pp. 321-22.

29. F.O. 416/32, Summary of Proceedings of the Persian National Assembly from March 30 to April 23, 1907 by Churchill, Enclosure in Spring-Rice's letter to Grey, Tehran, April 26, 1907, no. 131 (82).

30. ḤM, August 7, 1910; Malik-Zādah, Inqilāb, VI, pp. 212-19.

31. Ibid., VI, p. 218. One time Taqī-Zādah was known to have been excommunicated by Khurāsānī and Māzandarānī, but Māzandarānī, in a letter, clearly pointed out that he and Khurāsānī did not declare takfīr on him, but announced that Taqī-Zādah's political principle was corrupt and against Islam; see the ʿulamā's letter of recommendation in Ismā'īl Rā'īn, Ḥuqūq Bigīrān-i Inglīs dar Iran (Tehran: Muṣavvar, 1968), pp. 439-40, and Māzandarānī's explanatory letter in ḤM, October 3, 1910. Following the latter's letter in the same issue of ḤM, there are further interesting accounts on the issue.

32. From a printed copy of the telegram kept in a collection, entitled "Majmūʿah-yi Shab-Nāmahā" donated by Taqī-Zādah to the Majlis Library, Tehran; the telegram was published in Najaf in 1910.

33. On the Russian invasion of Iran consult Morgan Shuster, The Strangling of Persia: Story of the European Diplomacy and Oriental Intrigue that Resulted in the Denationalization of Twelve Million Mohammedans: A Personal Narrative (New York: The Century Company, 1912); Kasravī, Āzarbāyjān, p. 221, ff; Kazemzadeh, Russia and Britain, pp. 581-679; Ḥusayn Samīʿī (Adīb al-Mamālik) and Amān Allāh Ardalān Ḥāj ʿIzz al-Mamālik, Avvalīn Qīyām-i Muqaddas-i Millī dar Jang-i bayn al-Milalī-yi Avval (Tehran: Ibn-i Sina, 1953); Niẓām al-Dīn-Zādah, Hujūm-i Rūs.

34. Ibid., pp. 1-44.

34a. Manūchihr Ṣadūqī (Suhā), "Āqā Mīrzā ʿAlī Akbar Āqā-yi Ardabīlī va Khāndān-i Ū" Vaḥīd, X (1972), 445-50.

35. Niẓām al-Dīn-Zādah, Hujūm-i Rūs, p. 31. On the opposing attitude of Yazdī toward the Constitutional Revolution, Sayyid Mahdī Mūsawī, a disciple of Yazdī and Nā'īnī, writes that, "An attempt was made by the constitutionalists to involve Yazdī in the Revolution and to enjoy his support. The constitutionalists wanted to lead Yazdī astray, but Yazdī made a

secret investigation about constitutionalism in Tehran, Iṣfahān, Tabrīz and Hamadān. Since he found out that the consitutionalists' call was false, he isolated himself from the constitutionalists, and consequently he lived in a state of fear and anxiety." Cf. the author's Al-Wadīʿah, pp. 153-54.

36. Shahristānī, "Ashhar al-Rijāl", 296.

37. Ibid., 294.

38. Personal interview with Nā'īnī's brother.

39. Shahristānī, "Ashhar al-Rijāl", 297.

40. ḤM, October 3, 1910, p. 20.

41. Niẓām al-Dīn-Zādah, Hujūm-i Rūs, pp. 116-21.

42. Ibid., pp. 128-35.

43. Al-ʿIlm, II (1911), 284-85; for further action of the ʿulamā on the Italian invasion of Libya see further below in the present chapter.

44. Kasravī, Āẕarbāyjān, p. 502.

45. Niẓām al-Dīn-Zādah, Hujūm-i Rūs, pp. 234-36.

46. Ibid., pp. 269-70.

47. Kasravī, Āẕarbāyjān, pp. 234-60.

48. Ibid., p. 402.

49. Ibid., pp. 403-404.

50. Niẓām al-Dīn-Zādah, Hujūm-i Rūs, pp. 200-203, 257 ff.

51. Ibid., p. 228.

52. Ibid., pp. 270-75.

52a. Kazemzadeh, Russia and Britain, p. 661.

53. See for instance Al-ʿIlm, II (1911), Passim; Al-Manār, XIV (1911), 751-52; XIII (1010), 876-77; XV (1912), 229-31.

54. K.K. Aziz, Ameer Ali: His Life and Work (Lahore: Publishers United Ltd., 1968), pp. 352-53.

55. Ibid., p. 357.

56. Muḥammad Iqbāl, Bāng-i Darā (Lahore: Muḥammad Ḥusayn, 1949), pp. 239-40.

57. Muḥammad Iqbāl, Poems from Iqbāl, translated by V.G. Kiernan (London: Butler & Tanner Ltd., 1955), p. 16; the original Urdu text of this elegy is found in Iqbāl, Bāng-i Darā, pp. 218-19.

58. Cf. Al-ʿIlm, II (1911), passim; Al-Manār, XIV (1911), passim.

59. Al-ʿIlm, II (1911), 246-47.

60. Niẓām al-Dīn Zādah, Hujūm-i Rūs, pp. 144-45, 223-25.

61. Ibid., pp. 45-46.

62. Ibid., pp. 204-205, 221-26.

63. Ibid.,pp. 219, 225; for the terms sharṭ, ishtirāṭ, and mashrūṭah see chapter 5 of the present study, section "The Term Mashrūṭah".

64. This mujtahid issued a separate manifesto in which he stressed his aloofness from the Constitutional Revolution. Cf. HM April 1 (?), 1912 (no. 36).

65. See further above in the present chapter.

66. Arabic text of this manifesto is attached to the journal, Al-ʿIlm, II (1911). For a Persian version consult HM, April 1, (Sic) 1912 (no. 36).

67. Malik-Zādah, Inqilāb, IV, pp. 221-78. The author records

a great number of telegrams in which many of the ʿulamā favor the old régime.

68. Personal interview with Nā'īnī's brother.

69. Personal interview with Nā'īnī's son.

70. See our 4th chapter, section "Nā'īnī's Part in the Ideological Campaign".

71. George Antonious, The Arab Awakening: The Story of the Arab National Movement (New York: Capricorn Books, 1965), p. 141. For the ʿulamā's rising during the War consult Fayyāḍ, Thawrah, p. 101 ff.

72. Kedouri writes that, "...les prêtres Chī'ites n'incitèrent pas le peuple à la révolte pour favoriser Fayçal et ses officiers sunnites ex-ottomans, et être sous sa férule. Le départ des Ottomans et la désorganisation de la Mésopotamie leur apparut comme le moyen d'obtenir le pouvoir et la prépondérance après tant d'années passées sous la domination sunnite." Cf. Élie Kedourie, "Réflexions sur l'Histoire du Royaume d'Irak 1921-1958", Orient, Trimestre 3, no. 11 (1959), 55-77; the quotation given on page 61.

73. Amal Vinogradov, "The 1920 Revolt in Iraq Reconsidered: The Role of Tribes in National Politics", IJMES, III (1972), 123-39; Anīs Saydāwī, "Ta'rīkh al-Thawrah al-Iraqīyyah wa Aḥwāl al-Iraq baʿd al-Iḥtilāl al-Ingilīzī", Al-Hilāl, XXX (1922), 513-19, 641-47.

74. Fayyāḍ, Al-Thawrah, p. 101 ff.

75. Ibid., p. 82 ff.

76. Ibid., pp. 96-97.

77. Ibid., pp. 40-100.

78. See our references to be given further below in the present chapter.

79. This man later became a national leader during Dr. Muḥammad Musaddiq's campaign against the Anglo-Iranian Oil Company in Iran in the early 1950's. On Kāshānī cf. Algar, "Opposition", pp. 241-42;

Cottam, Nationalism in Iran, passim.

80. Īravānī wrote his detailed memoirs of the ʿulamā's participation in the War, but they have not yet appeared in any form of publication.

81. Extracted from Āyatullāh Najafī's undated personal letter sent from Qum to this writer (received in Montreal, 15 March, 1972).

82. Ṭihrānī, Ṭabaqāt, I, p. 594.

83. Philip Willard Ireland, Iraq: A Study in Political Development (New York: The MacMillan Company, 1938), p. 167; this book covers a comprehensive study of the Iraqī independence movement, supplying ample references. For detailed treatment of the Arab revolt and Iraqī politics during World War I note also Antonious, Awakening; A.W. Lawrence, Seven Pillars of Wisdom (London: Penguin Books, 1969; P.M. Holt, Egypt and the Fertile Crescent 1516-1922 (Ithaca, New York: Cornell University Press, 1969), p. 278 ff.

84. Farīq Muẓhir Āl Firʿawan, Al-Ḥaqā'iq al-Nāṣiʿah fī al-Thawrah al-Iraqīyyah Sanah 1920 (Baghdad: Al-Najah, 1952), I, p. 81; the author and his family were involved in the anti-British campaign and the work covers many detailed important facts concerning the ʿulamā's role in the movement.

85. [Khāliṣī], Maẓālim, p. 20; this book, though concise, is very informative and accurate. It is the only known study which comprises, in part, the continuation of the account of clerical resistance in Iran.

86. Ibid., p. 24.

87. F.O. 371/7772, Memorandum on the Political Consequences of a British Withdrawal from Iraq, Foreign Office, December 15, 1922 (Confidential), p. 2.

88. Ibid., pp. 2-4.

89. Āl Firʿawn, op. cit., pp. 352-53.

90. Mīrzā ʿAbd al-Raḥīm, Nā'īnī's brother was the reliable

messenger between Sharīʿat and Nāʾīnī regarding this matter. (Personal interview with Nāʾīnī's brother.)

91. Jaʿfar Khalīlī, Mawsūʿah al-ʿAtabāt al-Muqaddasah, Qism al-Karbalā (Baghdad: Al-Taʿāruf, 1966), I, pp. 355-56.

92. [Khāliṣī] , Muẓālim, pp. 31-32.

93. For details on the people's campaign and the texts of the official communication concerning the Treaty, consult ʿAbd al-Razzāq al-Ḥasanī, Taʾrīkh al-Wizārah al-Iraqīyyah (Sidon: Al-ʿIrfān, 1953).

94. Elizabeth Burgoyne, Gertrude Bell From Personal Papers 1914-1926 (London: Ernest Benn Limited, 1961), p. 295; [Khāliṣī], Mazālim, p. 45.

95. F.O. 371/7772, Decipher telegram from A.O.C. Iraq to Air Ministry, October 30, 1922.

96. F.O. 371/7772, Intelligence Report by Secretariat of the High Commissioner for Iraq, Baghdad, November 1, 1922, p. 6.

97. Ibid., November 15, 1922, p. 7.

98. Ibid., December 1, 1922, p. 8; [Khāliṣī], Mazālim, p. 47.

99. F.O. 371/7772, Intelligence Report by Secretariat of the High Commissioner for Iraq, Baghdad, November 15, 1922, p. 8.

100. Ibid., p. 7.

101. Ibid., December 1, 1922, p. 9.

102. [Khāliṣī] , Mazālim, p. 67.

103. F.O. 416/72, Loraine to the Marquess Curzon of Kedleston, Tehran, January 14, 1923, No. 35 (27) and an Enclosure sent by Consul-General of Mashhad, Prideaux, to Loraine, December 26, 1922.

104. F.O. 416/73, Acting High Commissioner of Iraq to the Secretary of State for the Colonies, Baghdad, July 2, 1923, No. 6; ibid., July 16, 1923, no. 46.

105. F.O. 416/73, Loraine to the Marquess Curzon of Kedleston, Tehran, August 20, 1923, no. 67 (268); [Khālişī] , Mazālim, p. 62 ff.

106. F.O. 416/73, Loraine to the Marquess Curzon of Kedleston, Tehran, July 8, 1923, no. 14 (224). The ʿulamā's exodus from Iraq to Iran was likened to the Prophet's Migration, Hijrah, from Mecca to Madinah by a journalist; cf. Faẓl Allāh Āl-i Dāyūd Badāʾiʿ Nigār, "Tajdīd-i Hijrat, Tārīkh-i Ẓajrat", Al-Kamāl, III, nos. 2-3 (1923), 67-70.

107. F.O. 416/73, Intelligence Summary No. 27 for Week Ending July 8, 1923, Enclosure in Loraine's letter to the Marquess of Kedleston, Tehran, July 16, 1923, no. 63 (Secret, 327).

107a. For the text of the telegrams sent by Nāʾīnī and Işfahānī see Ḥusayn Makkī, Muqaddimāt-i Taghyīr-i Salṭanat, Vol. 2 of Tārīkh-i Bīst Sālah-yi Iran (Tehran: ʿIlmī, 1945) pp. 253-55.

108. F.O. 416/73, Acting High Commissioner for Iraq to the Secretary of State for the Colonies, Baghdad, July 11, 1923, no. 32.

109. Ibid.

110. Ibid., July 16, 1923, no. 46.

111. F.O. 416/73, The Marquess Curzon of Kedleston to Loraine, Foreign Office, July 14, 1923, no. 35 (143).

112. F.O. 416/73, Loraine to the Marquess Curzon of Kedleston, Tehran, August 30, 1923, no. 102 (389).

113. F.O. 416/73, Report Respecting Russian Propaganda in Persia sent by Saunders, Tehran, August 23, 1923 (no. 32/6 Secret). Enclosure in Loraine's letter to the Marquess Curzon of Kedleston, Tehran, September 13, 1923, no. 126 (214, very secret).

114. Ibid.; Shaykh Muḥammad Khālişī (Khālişī-Zādah) is the famous son of Shaykh Mahdī Khālişī both of whom were actively involved in Iraqī politics during and after World War I and in the course of Iraq's resistance against the British mandatory rule. The British officers' reports that we are now dealing with are not in favor of Shaykh Muḥammad Khālişī. On the latter's biography there are some books such as ʿAlī Akbar ʿĀlam, Mazhar-i Dīyanat va

Āzādī Hazrat-i Āyah Allāh Āqā-yi Khālisī-Zādah (Tehran, 1944). Also there are many fragmentary accounts of Khālisī's political activities, but no comprehensive and critical work is known to have appeared on this interesting and militant mujtahid. Khālisī himself has written numerous books and treatises on social, political and religious problems. We have frequently quoted his Mazālim in the present study. A collection of his public speeches which were delivered in Iran during his campaign against the British appeared in Persian entitled Mava'iz-i Islamī (Mashhad: Khurāsān, 1922). On Iraqī and Persian politics he has written two books which are of paramount importance: his memoirs entitled "Fī Sabīl Allāh" and his father's biography named Batal al-Islam. Fortunately a son of Shaykh Muhammad Khālisī, Mr. Muhammad Mahdī Khālisī, is presently involved both in writing a critical biography of his father and in publishing the two above-mentioned books.

115. F.O. 416/73, Loraine to Marquess Curzon of Kedleston, Tehran, July 31, 1923, No. 34 (239).

116. F.O. 416/73, Intelligence Summary No. 29 for Week Ending July 21, 1923, Enclosure 2 in Monson's letter to the Marquess Curzon of Kedleston, Tehran, July 28, 1923, no. 75 (342).

117. F.O. 416/73, Loraine to the Marquess Curzon of Kedleston, Tehran, July 15, 1923, no. 40 (244).

118. F.O. 416/73, Acting High Commissioner for Iraq to the Secretary of State for the Colonies, Baghdad, July 17, 1923, no. 47.

119. F.O. 416/73, Aide-mémoire, enclosure in Loraine's letter to the Marquess Curzon of Kedleston, Tehran, August 30, 1923, no. 102 (389).

120. The disturbing steps that Ḥājī Āqā Muḥsin took and his opposition to the movement are spelled out in Kasravī, Mashrūṭah, pp. 281-82, 284-85, 409.

121. Ḥājī Sayyid Aḥmad Shubayrī Zanjānī, Al-Kalām Yajur al-Kalām (Qum: Chapkhānah-yi Qum, 1951), I, p. 105.

121a. Niẓām al-Dīn-Zādah, Hujūm-i Rūs, pp. 285-87.

122. Muḥammad Rāzī, Āthār al-Ḥujjah yā Tārīkh va Dā'irah al-

Ma'ārif-i Ḥawza-yi 'Ilmīyyah-yi Qum (Qum: Burqa'ī, 1959), I, p. 51; this two volume work and Ṭihrānī's Ṭabaqāt, I, pp. 1158-67, are the most informative available sources on Hā'irī. See also Sayyid 'Alī Riẓā Rayḥān Allāh Yazdī, Āyīnah-yi Dānishvarān yā Dānishmandān-i Gumnām (Tehran: Nashr-i Kitāb, 1958), pp. 7-23 and passim.

123. Ṭihrānī, Ṭabaqāt, I, pp. 1161-64.

124. Ibid., I, p. 1160; Rāẓī, op.cit., I, p. 85.

125. Dawlatābādī, Ḥayāt, IV, p. 289.

126. Ibid., IV, p. 290.

127. Rāzī, op.cit., I, pp. 24-25; Ṭihrānī, Ṭabaqāt, I, pp. 1160-61.

128. Ibid., I, p. 1160.

129. Dawlatābādī, Ḥayāt, IV, p. 290.

130. F.O. 416/73, Sardār Sipah to Loraine, October 27, 1923, Enclosure 3 in Loraine's letter to the Marquess of Curzon of Kedleston, Tehran, October 31, 1923, no. 179 (485 Most Confidential). For the full text of the Sardār Sipah's communication together with the two communications which Loraine addressed to Aḥmad Shāh concerning the Sardār Sipah, consult our Appendices.

131. F.O. 416/74, Intelligence Summary no. 44 for Week Ending November 3, 1923 (Secret), Enclosure in Loraine's letter to the Marquess Curzon of Kedleston, Tehran, November 17, 1923, no. 5 (532, secret).

132. F.O. 416/74, Loraine to MacDonald, Tehran, January 31, 1924, no. 40 (35. Very Confidential).

133. F.O. 416/74, Loraine to MacDonald, Tehran, February 26, 1924, no. 79 (75).

134. F.O. 416/74, Loraine to MacDonald, Tehran, February 26, 1924, no. 80 (76).

135. F.O. 416/74, MacDonald to Loraine, Foreign Office, February 29, 1924, no. 82 (53).

136. F.O. 416/72, Loraine to the Marquess Curzon of Kedleston, Tehran, May 21, 1923, no. 171 (221 Confidential).

137. Dawlatābādī, Ḥayāt, IV, pp. 345-46.

138. On Kūchik Khān and the Jangal movement consult Sepehr Zabih, The Communist Movement in Iran (Berkeley and Los Angeles: University of California Press, 1966), p. 1 ff; Ibrāhīm Fakhrā'ī, Mīrzā Kūchik Khān Sardār-i Jangal (Tehran, 1965); Martchenko, "Kutchuk Khan", RMM, XL-XLI (1920), 98-116; R.M. Savory, "Djangalī", EI^2, II, 445-46.

139. B. Lewis, "Djumhūrīyya", EI^2, II, 594-95. Strangely enough Professor Lewis does not make any mention of the similar movement in Iran.

140. Dawlatābādī, Ḥayāt, IV, p. 345; ʿAbd Allāh Mustawfī, Sharh-i Zindigānī-yi Man yā Tārīkh-i Ijtimāʿī va Idārī-yi Dawrah-yi Qājārīyyah (Tehran: Zavvār, 1964), III, p. 584.

141. Dawlatābādī, Ḥayāt, IV, p. 351, Mustawfī, Zindigānī, III, p. 587 ff.

142. For an example of these propagations cf. an English translation of a Shafaq-i Surkh article which is recorded in F.O. 416/74, as an enclosure in Loraine's letter to MacDonald, Tehran, February 2, 1924, no. 92 (75 Confidential).

143. M. Muḥammad, "Luzūm-i Jumhūrīyyat va Tafkīk-i Quvā-yi Rūḥānī dar Iran", ḤM, October 6, 13, 27 and November 3, 1924.

144. See for instance H. Kāẓim-Zādah Irānshahr, "Jumhūrīyyat va Inqilāb-i Ijtimāʿī" Irānshahr, II, nos. 5-6 (1924), 274-77; Mīrzā Ḥusayn Khān Dānish Iṣfahānī, "Dar Tabrīk-i Jumhūrīyyat va Bahār", Irānshahr, II, no. 7 (1924), 372-74.

145. Irānshahr, II, no. 7 (1924), 432.

146. F.O. 416/74, Intelligence Summary no. 10 for Week Ending March 8, 1924 (Secret). Enclosure in Morson's letter to MacDonald, Tehran, March 26, 1924, no. 124 (159 Secret).

147. F.O. 416/74, Intelligence Summary no. 11 for Week Ending

March 15, 1924 (Secret). Enclosure in Morson's letter to MacDonald, Tehran, March 26, 1924, no. 126 (165 Secret).

148. Ibid., report given under "Kum".

149. Personal interview with a son of Shaykh ʿAbd al-Karīm Hāʾirī.

150. ḤM, June 23, 1924; Mustawfī, Zindigānī, III, pp. 601-602. For a full text of this telegram consult the Appendices.

151. Mustawfī, Zindigānī, III, p. 601; ḤM, June 23, 1924; Makkī, Bīst Salah, pp. 343-44. An English translation of the Sardār Sipah's manifesto is given in F.O. 416/74, Enclosure in Ovey's letter to MacDonald, Tehran, April 7, 1924, no. 132 (179 Confidential). See the Appendices for the translation.

152. F.O. 416/73, Loraine to the Marquess Curzon of Kedleston, Tehran, August 30, 1923, no. 102 (389).

153. Ḥasanī, op.cit., I, p. 118.

154. F.O. 416/74, Intelligence Summary no. 13 for the Week Ending March 29, 1924, Enclosure 2 in Ovey's letter to MacDonald, Tehran, April 5, 1924, no. 131 (177 Secret). The report further reads that "Mudarris went to Kum on the 27th March returning late on the 28th. The attitude of Nāʾīnī and Iṣfahānī towards the republic is doubtful."

155. Makkī, Bīst Sālah, III, pp. 24-25. See our Appendices for the Persian text of Nāʾīnī's letter.

156. Ibid., III, pp. 24-30.

157. Dawlatābādī, Ḥayāt, IV, p. 292.

158. Mustawfī, Zindigānī, III, p. 614.

159. Dawlatābādī, Ḥayāt, IV, p. 292.

160. F.O. 416/75, Intelligence Summary no. 23 for Week Ending June 7, 1924 (Secret). Enclosure in Ovey's letter to MacDonald, Tehran, June 20, 1924, no. 20 (299 Secret).

161. F.O. 416/75, Ovey to MacDonald, Tehran, June 17, 1924, no. 13 (293).

162. These are the names of two famour battles fought by early Muslims; cf. H. Lammens, "Hunayn", EI^2, III, 578, and W. Montgomery Watt, "Badr", EI^2, I, 867-68.

163. This manifesto was published in both Arabic and Persian in Ḥabl al-Matīn, October 27, 1924. We cannot help expressing some doubts on the authenticity of at least some part of this manifesto, because first of all, there are two verses in the Qur'ān on this topic which have similar wordings. One of them is 9:32, and the other is 61:8; but in neither of them is the word mushrikūn used. The verse quoted in the manifesto is a combination of the two above-mentioned verses but includes the word mushrikūn instead of kāfirūn. Secondly, on the same word, mushrikūn, Nā'īnī and Iṣfahānī based their reasoning. We think it improbable that two such persons, highly learned on Islam and the Qur'ān, would have made such a mistake. Yet we have to add that since Nā'īnī (and most probably Iṣfahānī also) was a supporter of the Sardār Sipah, this kind of supporting statement, though it may have been partly forged, would have suited their policy. That is perhaps why there was not any known denial on the part of Nā'īnī or Iṣfahānī; cf Appendices.

164. ḤM, January 19, 1925. For the story of Shaykh Khaz'al see Mustawfī, Zindigānī, III, pp. 633-48.

165. ḤM, January 19, 1925.

166. Mustawfī, Zindigānī, III, p. 656. See also farther above in the present chapter.

167. ḤM, January 19, 1925.

168. Concerning the rise and reign of Riẓā Shāh, many works have appeared; the following are mentioned only as examples: Cottam, Nationalism in Iran, pp. 181-95; Joseph M. Upton, The History of Modern Iran: An Interpretation (Cambridge, Mass.: Harvard University Press, 1965), pp. 36-80; Amin Banani, The Modernization of Iran 1921-41 (Stanford: Stanford University Press, 1961); Rouhollah K. Ramazani, The Foreign Policy of Iran: A Developing Nation in World Affairs 1500-1941 (Charlottes Ville: The University Press of Virginia, 1966); L.P. Elwell-Sutton, Modern

Iran (London: George Routledge and Sons Ltd., 1941), p. 68 ff. Among Persian works, the following may be suggested: Mustawfī, Zindigānī, III; Dawlatābādī, Ḥayāt, IV; Makkī, Bīst Sālah, 3 vols. However, to gain a clearer insight into the subject, Persian materials produced within the years 1941-53 remain to be vastly and critically examined.

169. Personal interview with Nā'īnī's brother.

170. Personal interview with Nā'īnī's son. Reference to Nā'īnī's relationships with the government of Iraq is also made in Ṭihrānī, Ṭabaqāt, I, p. 595.

171. Taken from a personal letter of Nā'īnī's son to this writer.

172. For details on this subject consult A.J. Wensinck, "Tahadjdjud", SEI, 559.

173. Personal interview with Nā'īnī's brother.

174. From a collection in the possession of Mahdī Nā'īnī.

175. Al-Ridwān, II, no. 8 (1936), 41-44.

176. Ṭihrānī, Ṭabaqāt, I, p. 595.

177. Iṭṭilā'āt, August 17, 1936; Iran, August 18, 1936.

CHAPTER IV

NĀ'ĪNĪ'S WORKS

The Rise of Ideological Conflicts

As mentioned in the previous chapter, during his constitutional campaign in Najaf, Nā'īnī wrote an important book on the application of a constitutional form of government in Iran. He also wrote and discoursed on a variety of subjects relating to Shī'ī jurisprudence in various periods of his life. Here, we would like to look into the origins of Nā'īnī's political writings and the circumstances under which Nā'īnī formulated his thought in his Tanbīh. An attempt will also be made to give a brief introduction of his other works.

Discontent with the tyrannical régime in Iran was overwhelmingly expressed by all groups of people, the most effective of whom was the clergy. However, after the declaration of the Constitution on August 5, 1906, opposition gradually appeared on the part of the new Shāh, Muḥammad ʿAlī, and amongst a number of the respected ʿulamā. Opposition was initiated mainly by Shaykh Faẓl Allāh Nūrī (hanged 1909) as soon as he came to understand that a constitutional régime was not necessarily in accordance with Islam. Shaykh Faẓl Allāh, who had been among the leaders of the movement in co-operation with

Sayyid Muḥammad Ṭabāṭabā'ī and Sayyid ʿAbd Allāh Bihbahānī, turned against the constitutionalists. He declared that the Islamicized constitution, mashrūṭah-yi mashrūʿah, for which he had been fighting was different from that which came out of the Revolution. Nūrī's opposition caused a number of the ʿulamā in Iran and in Najaf, the most influential amongst them Ḥājī Sayyid Muḥammad Kāẓim Ṭabāṭabā'ī Yazdī, to give him support.[1] This conflict, which led to a split amongst the leading ʿulamā, and strengthened the tyrannical tendencies of the existing royal circle, can be rated as the first effective drawback the young Persian constitutional régime suffered.

The writers on modern Iran present various reasons for the division among the ʿulamā; interested students of the subject can find the authors' viewpoints in their works. It seems, however, that the most important reason for the conflict was ideological. In other words, the constitutionalists thought that democratic constitutionalism could be in agreement with Islam, while the opposition considered constitutionalism to be against Islam.[2]

This ideological conflict gave rise, among other things, to a considerable volume of political literature, both for and against constitutionalism. This literature appeared mainly within the first decade after the declaration of the Constitution in Iran. Nā'īnī

in his contributions to this literature, appeared as the most scholarly and eloquent among its various authors. Among the various books, papers, and leaflets, with titles such as ʿIbrat-Nāmah (The book of Warning), Ghayrat-Nāmah (The Book of Zeal), Shab-Nāmah (Night Paper), Subḥ-Nāmah (Morning Paper), Rūz-Nāmah (Newspaper) and so on, which were being published during that period by the Persian Secret Societies, there appeared a number of publications written by the ʿulamā and the Persian religious students of Iran and Iraq. It is difficult to determine how many works were written on this subject by the clergy because many of them are hardly known. The following is a brief introduction of some of the ʿulamā's works which we have consulted or of which we have some knowledge:

1. There is a treatise which comprises the questions that a certain Ḥājī Yūsuf Tabrīzī had put to a "Fakhr al-ʿUlamā Shaykh Mahdī" concerning the meaning of absolutism, constitution, the law, the function and use of parliament, and the reason for the ideological disputes amongst the ʿulamā. This treatise does not bear any title, or date, or place of publication, but it seems to have been published sometime in 1906.

2. The treatise Maslak al-ʿImām fī Salāmah al-Islam (The Method of the Imām for the Security of Islam) was published in Istanbul in

1910, and in Tabriz in 1911, and contained a 63 page-discussion on the duties of a real mujtahid toward the people of the Persian Revolutionary period. This work is held to have been written by Ḥājī Shaykh Asad Allāh Mamaqānī.[3]

3. Another anonymous writer wrote, in 1909, a play called Ḥājī-yi Muqīm va Ḥājī-yi Musāfir (The Resident Ḥājī and the Travelling Ḥājī). In this play, conversation was carried on between a resident Ḥājī, who expressed dissatisfaction about the constitutional movement, and a travelling Ḥājī, who defended the cause of the Iranians in fighting for a constitution.[4] On the last page of the book the writer is mentioned as being "one of the ʿulamā".[5]

4. Another treatise on constitutional theory worth mentioning, is that of Mīrzā Yūsuf Shams al-Afāḍil-i Turshīzī, known as Shams-i Kāshmarī. It is entitled Kalimah-yi Jāmiʿah-i Shams-i Kāshmarī dar Maʿnā-yi Shūrā va Mashrūṭah va Majlis-i Shūrā-yi Millī va Tavāfuq-i Mashrūṭīyyat bā Qānūn-i Islamī (A Comprehensive Statement by Shams-i Kāshmarī on the Meaning of Consultation, Constitutionalism, the National Consultative Assembly, and the Agreement of Constitutionalism with Islamic Law) published in Tehran in 1911. This book of 109 pages, aimed at, as the title indicates, proving the compatibility of Islam with a constitutional form of government. The author talked

about the Qur'ān, ḥadīth, philosophy and Kalām, trying to rationalize the idea of duality: the harmony between Islam and democratic constitutionalism.

5. Shaykh Muḥammad Ismā'īl Gharavī Maḥallātī, who was a well-versed mujtahid of his time, also wrote an interesting and fairly well organized book on the subject entitled Al-La'ālī al-Marbūṭah fī Wujūb al-Mashrūṭah. In this book, which is called "Livre des perles suspendus sur la nécessité de la constitution" and rated an "oeuvre remarquable" by Revue du Monde Musulman,[6] the author dealt with the urgent need for a constitutional régime in Iran. His refutation of the argument of the absolutist 'ulamā is so clear that one can understand their viewpoints through this polemical work. The book was written in 1908, but supplemented in 1909 because the author had come across another book published by the opposition. Thus, he decided to include the latest view expressed by anti-constitutionalists.[7] Al-La'ālī was written before Nā'īnī's book and in our understanding it is, after Nā'īnī's book, the best piece of work produced by the 'ulamā on the subject.

6. The writings of the leading mujtahids, Khurāsānī, Māzandarānī, Ṭihrānī, and a number of the 'ulamā of Tabrīz are also good sources from which the 'ulamā's constitutional thought can be studied; some are in the forms of telegrams and fatwās, although they may

be scattered in various books and references.[8]

7. The speeches given by the famous preacher, Sayyid Jamāl al-Dīn Iṣfahānī, also contain views on constitutionalism and its "harmony" with Islam. His speeches were published in a newspaper called Al-Jamāl; a French translation of one of them was published in the Revue du Monde Musulman.[9]

8. Many articles and manifestoes were published by the Clerical Board, Hay'at-i ʿIlmīyyah, of Najaf in which the position of the absolutists was strongly challenged.[10]

9. In 1907, a clergyman called Ḥājī Sayyid ʿAbd al-ʿAẓīm ʿImād al-ʿUlamā Khalkhālī wrote a book entitled Maʿnī-yi Salṭanat-i Mashrūṭah (The Meaning of Constitutional Monarchy). Because he had noted that many people belonging to different groups had been condemning the mashrūṭah and its advocates, simply for the lack of knowledge about the whole idea, ʿImād al-ʿUlamā had felt himself responsible to enlighten his fellow Iranians.[11] This author's argumentation, though immature like that of many others, contributed partly to the general thesis of the ʿulamā concerning constitutionalism.

10. The journal Al-ʿIlm describes a book written by another cleric on constitutionalism. The book was called Al-Inṣāfīyyah fī Luzūm al-Mashrūṭah (Equity on the Necessity of Constitutionalism)

written by Shaykh ʿAbd al-Rasūl al-Kāshānī.[12]

11. During Shaykh Faẓl Allāh's refuge in Shāh ʿAbd al-ʿAẓīm, some newspapers appeared to attack the Shaykh's actions. In an issue of a newspaper called Īqāẓ (Awakening) it is written that "this newspaper publishes many important subjects which other newspapers fail to publish."[13]

Among the works written by religious authorities on the subject, there were of course many writings which strongly condemned the new régime and categorically opposed it on the grounds of its un-Islamic nature. Literature of this sort was of considerable quantity but because of the victory of the constitutionalists, though it was mainly a victory in theory only, fewer numbers of the anti-constitutional works have been known to observers. The following are representative examples:

1. A handsomely printed little book entitled Tadhkirah al-Ghāfil wa Irshād al-Jāhil (A Reminder for the Negligent and a Guide for the Ignorant) was written sometime after the bombardment of Parliament by Muḥammad ʿAlī Shāh in 1908. The author praises the Shāh because he demolished the Majlis which the author called "the house of infidelity" (Khānah-yi Kufr).[14] The book does not bear any author's name, but we accept the words of Sayyid Shahāb al-Dīn

Najafī Marʿashī who belives that its author was Shaykh ʿAbd al-Nabī Nūrī (d. 1925).[15] The book itself indicates that it was written by one of the ʿulamā, because at its opening the following ḥadīth is mentioned as a motive for writing the book: "When innovations appear in the world, it is the duty of the savant (ʿālim) to manifest his knowledge; otherwise, the curse of God will be upon him." It is interesting to note that the two opposing parties based their argumentations on the same ḥadīth. The absolutists called the constitutional régime an innovation and fought against it; but the constitutionalists, Nāʾīnī for instance, saw an innovation and betrayal of Islam in the position that the absolutists upheld in favor of tyrannical governments.[16] In his discussion this supporter of the old régime took liberty, equality, and representative government as heresies, and accused the advocates of a constitutional régime of having been led astray.

2. Another clerical writer who condemned constitutionalism was Shaykh Abū al-Ḥasan al-Najafī al-Marandī whose treatise is called Barahīn al-Furqān fī Buṭlān Qawanīn Nawasikh Muḥkamāt al-Qurʾān (The Theorems of the Qurʾān on the Falsity of the Laws which Abrogate the Well-Established [Verses] of the Qurʾān). On the title page the author also made reference to the above-quoted ḥadīth as his motive for undertaking his work. Basing his argument on certain

other ḥadiths, he described shūrā, majlis, and mashrūṭah as detrimental to Islam. This book was written in (ca.) 1921.

3. The writings of Shaykh Faẓl Allāh Nūrī and his assistants in the form of leaflets, treatises, and manifestoes, are good sources in which the position of the supporters of the old régime is very well expressed. A long fatwā of Nūrī is reproduced by Malik-Zādah,[17] and a few of the declarations, lā'iḥahs, are recorded by Kasravī.[18] Nūrī's views are stated in a number of publications issued during Nūrī's stay in Shāh ʿAbd al-Aẓīm. The followers of Nūrī published a newspaper called Al-Daʿwah al-Islamīyyah (The Islamic Call), and another one entitled Tanbīh va Īqāẓ (Admonition and Awakening).[19] Apart from these papers which appeared on a regular basis, an important declaration was also issued on July 28, 1907. This declaration, lā'iḥah, is of special interest, because it explained very specifically what were the conflicting points between the two opposing groups.[20]

4. There are recorded a considerable number of istiftā's (a request for a formal legal opinion), which had been sent to several different ʿulamā during the period when the Persian Constitution was abrogated by the Shāh, requesting an opinion on lawfulness of a constitutional régime. In reply, the ʿulamā had declared fatwās against constitutionalism. There are also many

supporting telegrams which the ʿulamā sent to the Shāh and other ruling authorities during the same period, expressing their opposition to constitutionalism.[21]

Nā'īnī's Part in the Ideological Campaign

When Nā'īnī decided to write a book to confirm the parliamentary system, the tyrannical régime of Muḥammad ʿAlī Shāh was still in power and the publication campaign against a modern form of government had reached its peak. The shuʿba-yi istibdād-i dīnī (religious branch of tyranny), i.e., the absolutist ʿulamā, were frequently sending manifestoes and treatises in condemnation of mashrūṭah to Najaf.[22] Nā'īnī felt that there was an urgent need for writing a book on a constitutional form of government in a simple language readable by the general public. This need was felt to be urgent because at that time the parliament of Iran had been bombarded, the short-lived Constitution had been abrogated by the Shāh, and the absolutist ʿulamā were carrying on their most effective propaganda against liberty, equality, and a representative form of government. The absolutists, Nā'īnī argues, in the name of religion were contributing to tyrannical rule and were misinterpreting all facts and realities.[23] Therefore, referring to the same ḥadīth which was used by the opposition, Nā'īnī undertook his important

work which may be considered the best account given by a Shīʿī mujtahid in favor of constitutionalism and which was to invite appreciation from various groups of observers.[24]

The book in question, that is, Tanbīh al-Ummah wa Tanzīh al-Millah (The Admonition and Refinement of the People), was written in the month of Rabīʿ al-ūlā, 1327 (March-April 1909), approximately 10 months after the abrogation (June 23, 1908) and 4 months before the restoration (July 17, 1909) of the Constitution. Since the content of this book will be the central subject of our study, it will be of interest here to give a few words on the history of the book.

Although Tanbīh was meant to be written for the public reader, in fact it proved very difficult to understand, not only for the layman, but also for the student of the subject. In the book, after a short preface, there is an introduction in which two sorts of governments, tyrannical and constitutional, are discussed. In addition, the meaning of the concepts liberty, equality, constitution and parliament, is touched upon. The first chapter is devoted to proving that both in Islam and in other faiths, even according to philosophers and irreligious men, tyranny has been condemned and a moderate, limited, and constitutional form of government has been advocated.

In the second chapter, it is argued that since during the Greater Occultation of the Twelfth Imām, it is impossible to have an ideal form of government. The people should therefore, choose a non-absolute system of rulership and abandon tyranny. The third chapter is devoted to the question of Western constitutionalism which is considered the best possible system of government.

As mentioned earlier in this chapter, Nā'īnī had come across many works written by the ʿulamā who were supporting absolutism. This fact became an important motive for him to undertake the writing of his book. On various occasions he made reference to the absolutist ʿulamā and their "deceptive" writings, and he devoted the whole fourth chapter to refuting their "wicked thought and sophistry". Nā'īnī in the fifth chapter of Tanbīh has explained the conditions under which the representatives of the people can take on responsibilities and take over the duties of government. A conclusion is also added to the book in which the author has given more explanation about tyranny and about how to cure this dangerous disease in society.

Generally speaking, all the constitutionalist writers from among the ʿulamā attempted to find Islamic elements relevant to democratic constitutionalism and to construct a constitution compatible with Islam. Nā'īnī, of course, was not an exception.

However, what made his book sui generis is that the discussion is very precise, systematic, coherent and fairly comprehensive, based on a certain logic and the science of usūl. He founded his argument both on reason, ʿaql, and tradition, naql. These particular qualities of the book also made it difficult and unfamiliar to the common reader. But in spite of the complexity of the language used in the book as well as the author's conscious effort to take it out of circulation (see below), it received warm attention and particular interest from the Persian liberals, to the extent that Tanbīh appears to be the only book of this sort to have remained in circulation and to have become an important source on the problem of harmony between Islam and constitutional theory.

What made this book particularly important and influential were the letters of praise that the two leading mujtahids, Khurāsānī and Māzandarānī, wrote about it. In these letters, which appeared in the opening of the book, the two mujtahids confirmed whole-heartedly what Nā'īnī had to say about constitutionalism. This meant that what was expressed in the book represented not only the ideas of Nā'īnī, but also the ideas of Khurāsānī and those of Māzandarānī who were speaking for all the Iranians fighting for a constitutional régime.

Tanbīh was first published in Baghdad in 1909, and one year

later, in 1910, a lithographed edition appeared in Tehran. A third edition came out in 1955 in Tehran; this edition was different from the previous ones in several respects. First, it was prefaced and partly interpreted and summarized in the footnotes by Ḥājī Sayyid Maḥmūd Ṭāliqānī. Second, the purpose of the new edition was not necessarily to propagate the idea of a constitutional system because there was not then any opposition to the theory of constitution. But since the book contained a strong attack on the misrule of Muḥammad ʿAlī Shāh, Ṭāliqānī, who was reputed as an influential leader of the oppostion to the existing Persian régime, edited the book as a kind of indirect attack on the régime. One should also bear in mind that the reputation of Nā'īnī in 1955, as a distinguished and generally acknowledged authority among the Shīʿah, was different by far from his reputation in 1909 when, as an assistant to Khurāsānī, he first published his book. As might be expected, the third edition of the book received special attention from various groups in Iran.

The last edition which appeared 45 years after the first publication proved that the ideas expressed by Nā'īnī on constitutionalism are still considered important and influential, and above all, relevant to the current problems of Iranian society. In 1930-1931 the book was translated into Arabic in Lebanon and was published

in the journal Al-ʿIrfān.[25] According to Nāʾīnī's son, Mahdī Nāʾīnī, it has been translated into several other languages,[26] but this assertion is not documented and is, as this writer was told, based on casual information. Later on, especially after the third edition, Nāʾīnī's thesis was propagated and quoted by Persian writers.[27] Nāʾīnī's argument on tyranny was even included in a defense submitted to an Iranian military court in 1963. In his defense, the accused followed Nāʾīnī's line of argument that rule by a tyrant is slavery, whereas, human beings are slaves only to God. Consequently, accepting the rule of a tyrant is equal to polytheism, shirk.[28] The particular attention given to the book on the one hand, and the absence of much interest in constitutionalists writings of other ʿulamā, even to the extent of their being practically forgotten on the other, prove the importance of the contents of Nāʾīnī's book and its overwhelming superiority to other works of this sort.

As mentioned in Ṭāliqānī's introduction to the third edition, some hold that at one time Nāʾīnī's book was taken out of circulation by the government while others think that Nāʾīnī himself collected and withdrew all remaining copies. Ṭāliqānī takes the former view as being more logical.[29] Dr. Ghulām Ḥusayn Ṣadīqī also does not believe that Nāʾīnī himself collected the copies,

but thinks the book, like similar works, fell out of favor immediately after the Revolution and simply disappeared from circulation. Such books disappeared because the position of the ʿulamā, beginning from the time of the Constitutional Revolution, also began to decline.[30]

Dr. Ṣadīqī's idea, however well-founded and applicable to the existing general situation, along with that of Ṭāliqānī, contradicts the information provided by Nā'īnī's son. Nā'īnī's son explained to this writer that because of the unhappy events which followed the Revolution, many people turned against Nā'īnī. Nā'īnī's reputation accordingly was seriously injured. Therefore, he made efforts to destroy the remaining copies of his book.[31]

We fully agree with the latter view, particularly in view of the fact that Nā'īnī, a man with a brilliant academic background and distinguished mastery in the fiqh and uṣūl, had the potentiality to become the sole marjaʿ-i taqlīd of his time; his participation in the Constitutional Revolution proved detrimental to his reputation among the supporters of the old régime. In a biographical work which was devoted mainly to the contemporary Shīʿī ʿulamā (published 1947), no biography of Nā'īnī is given, though the certificate of ijtihād that Nā'īnī issued for Shaykh Ḥusayn Āqā Tabrīzī Shanb Ghāzānī appears in the book.[32] In a biography of Nā'īnī, his book

Tanbīh, is not mentioned. The writer of the biography, who was a disciple of Nā'īnī, ascribes a number of works to Nā'īnī, but despite the undeniable fame of Tanbīh, adds that "we do not know of any other book written by Nā'īnī."[33] It seems fairly justified to assume that Nā'īnī, aiming at a later religious leadership, forsook the idea of a constitutional régime and, among other things, removed his book from circulation. By doing this he somewhat obscured the traces of the past, hoping, perhaps, that this action would be judged as a sort of repentance.

The Origins of Nā'īnī's Political Thought

An important part of Tanbīh is devoted to proving the legitimacy of a constitutional form of government and the illegitimacy of tyranny. Nā'īnī's theory of tyranny is, to a degree, similar to that of Montesquieu and Rousseau. This question now presents itself as worthy of attention: how and through which channel did the modern European theory of government in general, and the concept of tyranny in particular reach Nā'īnī? As we indicated in our third chapter, there were sources of information from which he may have drawn elements of his political theory.

Due to the fact that Nā'īnī was living in an Arab country he must have had easy access to the Arabic journals of the time.

Arabic journals such as Al-Hilāl and Al-Manār had been in circulation for some time repeatedly publishing discussions on aspects of constitutionalism and the different existing constitutional governments.[34] Nā'īnī's acquaintance with Arabic political literature is shown very clearly in his writings by his use of Arabic political terminology. There were, of course, many publications in the Turkish language also,[35] but Nā'īnī's literary sources of information were limited to Arabic and Persian literature, because, to the best of our knowledge, he did not know Turkish.

The political thought of the Arab reformers as well as Arabic translations of a number of European books on history, law, geography, philosophy, logic, anthropology, and politics, were available to Arabic readers. A few Arabic publications which are important from the standpoint of our study are as follows:

1. Rifā'ah Rāfi' al-Ṭahṭāwī, Takhlīṣ al-Ibrīz ilā Talkhīṣ Bārīz (The Extraction of Gold in the Summary of Paris). This book offers a full account of the French political institution which was observed by Ṭahṭāwī during his five-year stay in Paris (1826-31). It was first published in Cairo in 1831.

2. Ṭahṭāwī, Manāhij al-Albāb al-Miṣrīyyah fī Mabāhith al-Ādāb al-'Aṣrīyyah (Programs for Egyptian Minds in the Delights of Modern

Literature). In this book, which was written after 1870,[36] the author discusses a variety of political concepts such as vatan, law, the system of rulership and so on.[37]

3. Aḥmad Fāris al-Shidyaq, Al-Sāq ʿalā al-Sāq fī mā Huwa al-Fāryāq (The Life and Adventures of Fariac), which was published in Paris in 1855. Shidyāq in this work deals with France and England; he admires the British administration.

4. Fransīs Marrāsh, Riḥlah ilā Urūbbā (A Trip to Europe), first published in Beirut in 1867. This work, which is the memoirs of the author's trip to Europe, deals with political aspects of the continent.

5. Muḥammad Bayram (5th), Ṣafwat al-Iʿtibār bi Mustawdaʿ al-Amṣār wa al-Aqṭār (The Purest Consideration in the Location of Countries), which was published in 5 volumes in Cairo in the years 1884-86. The work contains a detailed treatment of European political institutions.

6. [Muniqurus], Taʾrīkh Mulūk Faransa (History of the French Monarchs). This is a translation of a French book rendered by Ḥasan Qāsim in 1847. It contains valuable information about the French Revolution.[38]

7. Khayr al-Dīn Pāshā, Aqwam al-Masālik fī Maʿrifah Aḥwāl al-Mamālik (The Surest Paths to the Knowledge of the Conditions of

Countries); it was first published in 1867 in Tunis. In this book, detailed accounts are given of the political institutions and the function of governments and rule of law in the following countries: England, France, Austria, Holland, Belgium, the Ottoman Empire, Russia, Germany, Italy, Spain, Sweden, Norway, Switzerland, Portugal, Bavaria, and Denmark.[39]

8. The last, but not the least, important book which we should like to mention is Ṭabā'i' al-Istibdād wa Maṣārī' al-Isti'bād (The Characteristics of Tyranny and Destruction of Enslavement) written by Sayyid 'Abd al-Raḥmān al-Kawākibī and was first published in Cairo in 1905 (?). In this book al-Kawākibī gives full consideration to the defects of tyranny. The last chapter is devoted to questions about the rule of law, justice, governmental function and so on. Although he does not actively engage himself in answering them, the nature of the questions is very significant.[40] It is only probable that Nā'īnī consulted the previously listed books while writing his own book on constitutionalism, but evidence is clear that he directly benefited from Kawākibī's Ṭabā'i' (see below).

There were also available Persian materials in which political subjects were treated by Persian intellectuals. Mīrzā Muḥammad 'Alī Khān Tarbīyat writes:

> One point worthy of mention is that in the latter days of the period of autocracy the wealthy and well-known Ḥājjī Zaynu'l-'Ābidīn Taqioff of Baku, an eminent philanthropist, subscribed yearly for nearly 500 copies of the Calcutta Ḥablu'l-Matīn, paying the subscription himself, and arranging that they should be sent gratuitously to the Shī'ite doctors of theology and students residing at Karbalā, Najaf and others of the Holy Shrines, regularly and directly from the chief office. This great service rendered by him to the enlightenment of the 'ulamā and their political awakening greatly conduced to the circulation of newspapers in spiritual circles and societies."[41]

One of the useful measures that was taken during the Revolution was the establishment of a public library in Karbalā:

> "On se souvient du rôle joué par le Comité des Ulémas de l'Irak, lors de la révolution persane et notamment au cours des luttes qui amenèrent, avec le rétablissement de la Constitution, le reversement de Mohammed 'Alī. Désireux de répandre l'instruction parmi la population chiite, il a jugé qu'un des moyens les plus efficaces serait l'ouverture, à Karbéla, d'une bibliothèque publique. Cette bibliothèque sera, dans la plus large mesure possible, composée de livres scientifiques, littéraires et techniques, et recevra aussi des journaux et des revues. Le concours des amis de l'instruction est sollicité pour cette fondation. Livres et périodiques seront reçus avec reconnaissance, dès le début, le Habl oul-Matîn a décidé de faire un service gratuit à la bibliothèque."[42]

From the beginning of modernization in Iran, namely from the first decade of the 19th century, attention was given to the translation and publication of European works on a variety of topics.

This intellectual movement began, along with other modernizing measures, under the auspices of ʿAbbās Mīrzā to whom reference was made in our first chapter. His steps were not followed seriously by Persian rulers. After his time, however, during the 19th century a considerable number of books were written or translated on subjects such as history, politics, technology, military science, natural philosophy, etc. In dealing with the constitutional theory of the 19th century Persian enlighteners, we, in the first chapter, introduced several books and treatises which might have been consulted by Nā'īnī. Here, we only make reference to a few other works which contributed a great deal to the history of the Persian awakening and to which Nā'īnī most likely had access. These books are as follows:

1. Voltaire, L'Histoire de la Russie sous Pierre le Grand (Paris, 1759-1763). This book was translated into Persian, by command of ʿAbbās Mīrzā, by Mīrzā Riẓā Muhandis, and was published in 1866.

2. William Pinnock, Modern Geography and History, translated with comments by Farhād Mīrzā Muʿtamid al-Dawlah under the title Jām-i Jam (The World-showing Goblet of Jamshid). This book contains information about many countries of the world; the translation also included many pages on the history of Iran. The work was published in Tehran in 1855.

3. A Persian translation of James Morier's The Adventures of Hajjī Baba of Ispahan. This book was first published in 1824, and was translated into Persian by Ḥājī Shaykh Aḥmad Rūḥī Kirmānī (murdered in 1896), and was entitled Sarguzasht-i Ḥājī Bābā-yi Iṣfahānī (Calcutta, 1905). The book contained criticism of the political establishment. According to the editor of the Persian translation, D.C. Phillott, "When an MS copy... [of it] first reached [Kirmān] it was looked on as an original work: it was copied with eagerness, it was read with excitement."[43]

4. Muhammad ʿAlī Muʿīn al-Salṭanah, [Safar-Nāmah] (n.p., 1900). This book is the memoirs of a rich Persian man who visited the United States and Europe during the years 1892-94. The writer recounts in detail his visit to Turkey, Russia, Italy, Austria, France, England, New York, Washington, D.C., Chicago, Philadelphia, and San Francisco. Concerning the American political institution he says: "There is a Chamber [Senate] which has 88 representatives, 44 on behalf of the people and 44 representing the State. While in session, it can be watched by the public. There is also the House of Representatives with 395 members. For passing a bill, it has to be passed by the House, the Chamber [the Senate], and the Ministers. Then the president, whose name is Mr. Cleveland, ratifies the bill."[44]

In addition to the list given above, there were also Persian translations of other European works which, in the words of Muḥammad ʿAlī Tarbīyat:

> "...had an effect in bringing about the National Awakening... [such as] the Memoirs of Mademoiselle de Montpensier, which were translated and added as a supplement to the year-book, or Sāl-nāma, of A.H. 1313 (A.D. 1895-6), and which, on their publication, aroused the extreme anger of Nāṣiru 'd-Dīn Shāh, who caused all copies of them to be confiscated and destroyed, the stories of Alexandre Dumas... and a few other books..."[45]

During the Persian Revolution, mainly within the years 1906-1909, a great number of books and treatises were published on constitutionalism and constitutional law in Persia. Many of these works were mere political propaganda, though useful enough, but there were also a number of enlightening books which, no doubt, had great effects on the Revolution. Earlier in this chapter, we made reference to a few of the works which were authored by members of the clerical circles. Here, we should like to list a few important books from among those which were written by Persian intellectuals on the idea of constitutionalism in the course of the Persian Revolution:

1. Ḥuqūq-i Asāsī (Yaʿnī) Ādāb-i Mashrūṭīyyat-i Duval (Constitutional Law, Namely the Rules of Constitutionalism among States), by Mīrzā Muḥammad ʿAlī Khān Ibn Ẓukā' al-Mulk (Tehran, 1908).

This book is prefaced by the author's father, Muḥammad Ḥusayn Khān Ẕukā' al-Mulk, who was director of the Law School, Madrasah-yi Sīyāsī. As noted in the preface, the book was written for both the students of the Law School as well as public readers.[46] This book gives a systematic and concise treatment of the basic topics of constitutional law drawn from, in the words of the author, "opinions and research of specialists in the subject...."[47] The author explains the concepts of equality, liberty, the rights of nations, the legislative, executive and judicial powers, sovereignty of the nation, and so on. He employs Persian terms and brackets the original French equivalents from which they were translated. This fact indicates that Ẕukā' al-Mulk's sources of research were all French. The author does not involve himself in religion, and his aim is not to reconcile constitutionalism with Islam. He only points out in his introductory notes that whatever he says is not in contradiction with the Sharī'ah.[48] In brief, the book is well written, informative and systematic, but the author's treatment of the constitutional matters which are in conflict with the Sharī'ah is vague.

2. Favā'id-i Majlis-i Shūrā-yi Millī (The Benefits of the National Consultative Assembly), written by Ḥājī Sayyid Naṣr Allāh Taqawī (Tehran, 1906). This treatise deals with interesting topics

relating to constitutionalism in the form of "question and answer". It was repeatedly reproduced, e.g., in the newspaper Tarbīyat, in the same year.

3. The treatises and articles of Mīrzā ʿAbd al-Raḥīm Ilāhī Qarāchahdāghī Aharī contributed a great deal to the Persian understanding of constitutionalism. A few of his works are worthy of mention as follows:

i. Majlis-i Shūrā-yi Āsimānī (A Heavenly Consultative Assembly), in which the author discusses the necessity of consultation according to the Qur'ān and ḥadīth. This treatise was published in the journal Tarbīyat in 1906, and a while later it was published separately.

ii. Sharḥ-i Ḥadīth-i Ikhtilāf (A commentary on the Ḥadīth Concerning Disagreement). In this work, Qarāchahdāghī deals with the idea which is presented in the ḥadīth, a part of which heads this work, namely, the necessity for disagreement among people. He considers argument and disagreements as criteria for progress. The book was published in 1907.

iii. Qarāchahdāghī also wrote an article entitled Qānūn (The Law) and published it in Tarbīyat in 1906.[49]

4. There were translated into Persian some parts of Montesquieu's De l'Esprit des Lois in the journal Tarbīyat, edited by Mīrzā Muḥammad

Ḥusayn Iṣfahānī (Ẓukā' al-Mulk) and published in Tehran during the early period of the Persian Revolution.[50]

5. The three-volume work of Ḥājī Zayn al-'Ābidīn Marāghah-'ī was also a great contribution to the Persian awakening. The author was a wealthy Persian living in Russia, and a distinguished intellectual of the 19th and 20th centuries. He wrote his critical book entitled Sīyāḥat-Nāmah-yi Ibrāhīm Bayk (The Book of Travels) in three volumes; Vol. I, Tehran, 1906; Vol. II and III, Calcutta, 1906, 1909. He first published the volumes anonymously but soon he saw that other people were being punished on the accusation of having written the books. Therefore, in his introduction to the third volume he disclosed that he was the author. His writings contributed to the downfall of the old régime in Iran.[51]

6. From 1894 on, a series of articles was published in the style of a dialogue between a Persian and an Indian. During the Persian Revolution, the dialogue appeared in the form of a book entitled Mukālamah-yi Sayyāḥ-i Irānī bā Shakhṣ-i Hindī (The Conversation of an Iranian Tourist with an Indian). The book deals critically with the existing disorganized structure of taxation and the judiciary in Iran. By a comparison made between India and Iran, it indicates how India was then more progressive than Iran. Discussions on topics, such as court procedures, the function of

barristers at law, the administration of taxes, the necessity of freedom of the press, legal equality, and so on, occupy most of the book. Special criticism has been made of the state of anarchy resulting from the operation of the Sharī'ah courts.[52]

7. One of the most important and influential books published during the Revolution was a Persian rendering of Sayyid 'Abd al-Raḥmān Kawākibī's Ṭabā'i' al-Istibdād wa Maṣāri' al-Isti'bād. The original Arabic text of this book was later "listed fifteenth of the best forty-five books in Arabic, in a poll conducted among leading writers, professors, and public men in Egypt."[53] In 1907, roughly two years after its first appearance in the form of a book, it was translated and published in Tehran by 'Abd al-Ḥusayn Mīrzā Qājār.[54]

Kawākibī's Influence on Nā'īnī

Thanks to these intellectual activities, modern trends, especially ideas on governmental reform, were in the air in the Muslim environment. Given the fact that Nā'īnī was involved in politics, it would be safe to assume that the above-mentioned sources of information were accessible to him while he was compiling his own book. In addition, there is clear evidence which shows a definite channel through which Nā'īnī acquired food for thought

especially in forming his theory of tyranny. This channel was Kawākibī's Ṭabā'i'.

In his explanation of tyranny, to be given in the next chapter, Nā'īnī not only follows the ideas given in Ṭabā'i', he even employs Kawākibī's exact terminology. Some of the terms that Nā'īnī uses as synonymous with "tyranny" are as follows: istibdād, istī'bād, i'tisāf, tasallut, tahakkum; words for "tyrant" are hākim-i mutlaq, hākim-i bi amr; peoples who suffer tyranny are called usarā', mustaṣgharīn and mustanbatīn. All these terms are used by Kawākibī in exactly the same sense.[55] Nā'īnī, of course, does not limit himself to the scheme and contents of Ṭabā'i'. He also employs his own methodology and expresses his own ideas which, in fact, represent the position of all the 'ulamā who favored constitutionalism, not only in the theory of tyranny, but also in the idea of constitutionalism. The concept of tyranny, however, particularly the Western explanation of its characteristics, was borrowed from Kawākibī.

What was the origin of Kawākibī's political thought expressed in Ṭabā'i'? Kawākibī himself mentions and quotes "the famous Alfieri", Ālfiyārī al-mashhūr, in his book.[56] The reference is to Vittorio Alfieri (1749-1803), who has been called by Gaudence Megaro, the "forerunner of Italian nationalism".[57] This mention of Alfieri

in Ṭabā'iʿ and other indications perhaps led observers to think that most of his book was taken from a book written by an Italian philosopher.[58] In 1948, Aḥmad Amīn also remarked that many of Kawākibī's ideas presented in Ṭabā'iʿ originated from Alfieri.[59] Thanks to careful research by Professor Sylvia G. Haim, we learn that these passing remarks hold paramount importance, because "large parts of Ṭabā'iʿ turn out to be, on examination, a faithful reproduction of the small book of Alfieri, Della Tirannide ...."[60] This distinguished Italian thinker, who was "...absorbed and delighted in Montesquieu and he read him twice from beginning to end...,"[61] was a great enemy of tyranny. He himself notes:

> "My predominent passion is the hatred of tyranny; the only aim of all my thoughts, words and writings is to combat it always in every form, be it mild, frenetic, or stupid, in which it manifests or hides itself."[62]

The best evidence for this quoted statement is Alfieri's concise, but important, book on tyranny.[63] It is apparent from the texts of both, Of Tyranny and Ṭabā'iʿ - as Professor Haim was the first to illustrate - that a great portion of Kawākibī's book is a translation of Alfieri's. Kawākibī even follows the scheme of Of Tyranny.[64] Thus, Alfieri read Montesquieu, and Kawākibī

borrowed Alfieri's ideas most probably from a Turkish translation of Alfieri's book.[65] Nā'īnī, in turn, while forming his theory of tyranny, was influenced by Kawākibī. Taking these facts into consideration it is apparent that the modern ideas presented by Nā'īnī in the main originated indirectly from the French thinkers of the 18th century, from especially Montesquieu. Having also in mind that Kawākibī's book was translated into Persian during the Constitutional Revolution of 1906, and remembering the other enlightening publications circulating in Iran, we are inclined to believe that the Persian Revolution was to an extent inspired by the same intellectual elements as the French Revolution of 1789.

Perhaps it was due partly to this characteristic of the Persian Revolution that a contemporary American journal, The Nation, comparing these two Revolutions, gives the following account:

> "Persia continues to exhibit the characteristic symptoms of a nation passing from an old order into a new. There is this remarkable exception, however, that the transformation from an Oriental despotism into a Constitutional state has been attempted by comparatively little fighting and a minimum of bloodshed. The people of Persia must be either models of self-restraint or of native gentleness.... Here is a rough parallel to conditions in France at the beginning of the great Revolution.... But of Bastille stormings, attacks on the Tuileries, and September massacres, Tehran has not tasted. The French of Asia seem to have all the progressiveness of their European

models without their liability to sudden excess."[66]

This is, of course, not to say that all conditions and motives affecting the French in 1789 were present in the Persia of 1906. In fact, many elements necessary for a revolution such as, for instance, a truly popular support, were absent in Iran. A great majority of the Persian population, the peasants and villagers, hardly heard the news of the Revolution.

European ideas made their way into the mentality of the Persian intelligentsia and the revolutionaries, but many of these ideas were interpreted in Islamic contexts. Consequently, people formed differing opinions about constitutionalism. These misinterpretations were intensified when the ʿulamā took an active part in the Revolution and started to write and to provide justification for their participation.[67]

Nā'īnī's Works and Discourses on Jurisprudence

From his return to Iraq, in 1924, until his death, Nā'īnī lived in Najaf and conducted the most-learned circle of religious studies in that city. He paid particular attention to training disciples who were studying the fiqh and uṣūl under him. Several distinguished contemporary religious leaders were his disciples. In fact, Nā'īnī owes his fame amongst present-day clerical circles

mainly to his influential students such as, Sayyid Abū al-Qāsim Khu'ī, Sayyid Muḥsin Ḥakīm, Sayyid Muḥammad Hādī Mīlānī and so on. A number of Nā'īnī's disciples wrote down and published his discourses together with their own comments and critiques; such treatises are called taqrīrāt. These taqrīrāt, or discourses, are famed for presentation of Nā'īnī's original methodology and his theoretical discussions on the fiqh and uṣūl; they are now used in clerical circles of Qum and Najaf. Since he had managed to train a number of students to take perfect notes of his discourses, he does not himself seem to have devoted much concern to a compilation of his views. Accordingly, Nā'īnī's thought is known substantially through the efforts of his special disciples such as, Ḥājī Shaykh Muḥammad Taqī Āmulī, Sayyid Abū al-Qāsim Khu'ī, Shaykh Muḥammad ʿAlī Kāẓimī, Ḥājī Mūsā Najafī Khwānsārī, and so on. However, several books are also reported to have been written by Nā'īnī himself.[68]

There are 5 known sources of information about Nā'īnī's works, none of which gives a complete list:

1. The journal Al-Riḍwān edited by Muḥammad ʿAskarī al-Naqawī, published in Lucknow, India.[69]

2. The book Ṭabaqāt.[70] The latter has taken most of its information from the former source.

3. Fihrist-i Kitābhā-yi Chāpī-yi Arabī, (An Index to Arabic Printed Books), compiled by Khānbābā Mushār (Tehran: Rangīn, 1965) in which fairly useful bibliographical details are given.[71]

4. A biographical report on Nā'īnī written by his son, Mahdī, in the newspaper Nā'īn-i Bīdār.[72]

5. Al-Dharī'ah ilā Taṣānīf al-Shī'ah (The Means to the Compilations of the Shī'ah), written by Āghā Buzurg Ṭihrānī.[73]

The following is an attempt to give a complete list of Nā'īnī's known works, both his writings and the reports of his discourses. Our description of the works will be mainly bibliographical, but since the titles of some of the works are obscure, brief explanations will be presented.

I. Works on Fiqh

A. His Own Writings

1. Ḥāshīyah al-'Urwah al-Wuthqā (A Comment on the Firm Handclasp), Najaf, al-Maṭba'ah al-Murtaḍawīyyah, 1927. The famous work on the fiqh, Al Urwah al-Wuthqa, was written by the great mujtahid Ḥājī Sayyid Muḥammad Kāẓim Ṭabāṭabā'ī who opposed the Constitutional Revolution of Iran. The earliest date of its publication given by Mushār was 1910.[74] Since its appearance, it has held the highest possible place among books on this subject. Ṭabāṭabā'ī's mastery

in the fiqh has been unquestionably acknowledged by all, even by those who were his political opponents. His book offers a brief survey of the science of fiqh in fairly simple language, and is useful for the student of the subject as well as the Arab layman. All the notable mujtahids, those who possessed the potential of becoming leaders, from the author's time until today, have commented on this book; the constitutionalist ʿulamā, such as Nāʾīnī, were not, of course, excluded. Sayyid Muḥsin Ḥakīm (d. 1970), Nāʾīnī's disciple, wrote a twelve-volume commentary called Mustamsak al ʿUrwah al-Wuthqā (The Sources of...) in which he has undertaken an analytical and scholarly discussion of the subject matter as well as the sources with which Ṭabāṭabāʾī had dealt.[75] The secret behind the special reception the book enjoyed can be related to the following factors:

a. The author was an established authority on the subject.

b. The book was an inclusive work whose conciseness, perfection and simplicity are widely recognized.

c. After the Constitutional Revolution all the constitutionalist mujtahids became isolated and fell out of favor. In contrast, Ṭabāṭabāʾī who was clerical leader of the absolutists, became overwhelmingly important and popular, partly because of his opposition to the Persian Revolution or, in the words of the news-

paper Iran, because of his isolation from the Revolution.[76] From 1910 onward, qualified ʿulamā, including Nāʾīnī, wrote commentaries on the ʿUrwah. This was done partly in order to prove their respect for Ṭabāṭabāʾī. The constitutionalists through their commentaries, thus, made an indirect repentance of their past deeds while the other ʿulamā indirectly indicated their sympathy with Ṭabāṭabāʾī. Gradually it became customary amongst aspiring mujtahids to write a ḥāshīyah on ʿUrwah.[77]

2. Fihrist al-Ḥawāshī (A Catalogue of the Comments), Najaf, al-Maṭbaʿah al-Murtaḍawīyyah, 1930. What Nāʾīnī wrote as a comment in the margin of the ʿUrwah described above, is compiled in this collection and published separately.

3. Wasīlah al-Najat (Means for Salvation), Najaf, 1921. This is a book of the type which a marjaʿi taqlīd normally writes for his muqallids. The general name of such a book is risālah ʿamalīyyah. Taking into consideration the date of its publication, which is one year after the death of Sharīʿat Iṣfahānī, one may assume that this book was the first risālah ʿamalīyyah that Nāʾīnī published. After Sharīʿat Iṣfahānī passed from the scene, Nāʾīnī began to be mentioned as a leading mujtahid.

4. Zād al-Muttaqīn (Provisions for the Pious), Najaf, al-Maṭbaʿah al-Ḥaydarīyyah, 1931. This book which was intended for

Nā'īnī's Persian-reading muqallids was written in simple language and covers his fatwās on topics such as prayer, fasting, marriage, usury, inheritance, ablution and so on.

5. Fī Ḥukm al-Libās al-Mashkūk (On the Rule of the Suspected Garment), written by Nā'īnī himself but attached to Khwānsārī's Munyah.[78] According to some ḥadīths, the use of certain animal products, such as cat's wool is prohibited for Muslims while praying. The problem is to decide how a person can recognize such suspected cloth materials; this book is an analytical discussion of the subject.

6. Risālah Zakhīrah al-ʿIbād (A Treatise Concerning the Treasure of the Servants). This Persian book was also a risālah ʿamalīyyah which was meant for the Persian reader, but it was never published.[79]

7. Mukhtaṣar Wasīlah al-Najāt (An Abridgement of the Means for Salvation); this risālah ʿamalīyyah also did not appear in published form.

8. Manāsik al-Ḥajj (The Rituals of the Pilgrimage), in Arabic and Persian. Usually a book under this title deals with the duties that a Muslim pilgrim to Mecca is to perform. This topic has usually formed a chapter of fiqh books. From the time of Shaykh Murtaẓā Anṣārī and his Al-Manāsik, it became a custom amongst the marjaʿ-i

taqlīds to write a book on manāsik al-ḥajj of their own, or to comment on Anṣārī's Al-Manāsik.[80] In brief, Anṣārī's work reached a place of eminence in regard to this particular topic similar to that of the ʿUrwah, in the fiqh. Mahdī Nā'īnī has listed Nā'īnī's Manāsik al-Ḥajj among his published works.

9. Su'āl va Javāb (Questions and Answers). According to Mahdī Nā'īnī, this is a semi-analytical work written in Persian and Arabic in three volumes, but it was not published.[81]

B. His Discourses

1. Munyah al-Ṭālib fī Ḥāshīyah al-Makāsib (The Object of Desire of the Student: A Commentary on the Book of Trades), compiled by Ḥājī Mūsā Najafī Khwānsārī, Qum, Maktabah Muḥammadī, vol. I, 1953; vol. II, 1956. The original work, Al-Makāsib, was written by Shaykh Murtaẓā Anṣārī on business and trades and was published in Tehran in 1863.[82] Nā'īnī devoted a series of his lectures to this subject but within the framework of the contents of Al-Makāsib. In the text of the discourse the phrase qawluhū (his opinion) refers to Anṣārī. The first volume of the Munyah includes, among other topics, an analytical discussion of the Shīʿī theory of government; on many points Nā'īnī refuted Anṣārī's views.[83]

2. Kitāb al-Ṣalāt (The Book of Prayer), compiled by Ḥājī

Shaykh Muḥammad Taqī Āmulī. The compiler notes in the preface that, in organizing these volumes of Nā'īnī's discourses, he has discussed also the points on which he has disagreed with his professor.[84]

3. Fī Qā'idah lā Ḍarar (On the Principle of "No Harm"). Mahdī Nā'īnī has mentioned this treatise as one of Nā'īnī's unpublished works;[85] but Mūsā Khwānsārī has attached a treatise with the same title to the second volume of Munyah, identifying it as one of Nā'īnī's discourses.[86] It is possible that Nā'īnī both wrote on the subject and discoursed on it as well, but that his work did not achieve publication. The title of the treatise refers to the saying ascribed to the Prophet that forbids people to cause harm to one another. The prohibition of harm became a principle in Islamic jurisprudence.

4. Ta'līqah 'alā al-Makāsib wa al-Bay' (A Gloss on [The Rules of] Trade and Sales), compiled by Ḥājī Shaykh Muḥammad Taqī Āmulī, Tehran, Muṣṭafavī, vol. I, 1952; vol. 2, 1953.

II. Works on Uṣūl

A. His Own Writings

1. Risālah fī al-Ma'ānī al-Ḥarfīyyah (A Treatise on the Meaning of the Particles); this is one of the unpublished books of

Nā'īnī. We have not been able to locate the book itself, nor his other unpublished works. However, books of this nature in the field of usūl deal with the significance of the preposition, ḥarf, in Arabic grammar, with such words as fī, ʿalā, ilā, al, and so on. The study of these prepositions, which are used in the Qur'ān and ḥadīth, forms a part of the science of usūl because these important religious texts cannot be understood without it.

2. Fī al Tazāḥum wa al-Tarattub (Concerning Conflicts and Gradation). This is one of the most complicated and controversial topics in the usūl, and the English terms suggested above for the words tazāḥum and tarattub perhaps contribute to the difficulty of understanding the subject.

Relative to some matters there may appear to be two conflicting rules, each of which is obligatory to follow. For example, offering prayer and saving a person from drowning are both obligatory. If these two duties occur exactly at the same time, the problem of tazāḥum will appear; that is to say, the two duties will be in conflict. If the drowning person is to be saved, the prayer must be missed; and if the prayer be offered, the person will die. A solution to the problem has been suggested through a gradation of the nature and importance of duties. In the above-mentioned example, the person involved in these conflicting duties should leave the

duty which is of lower grade, rutbah, namely, prayer, and should make an attempt to save the drowning person because, according to both reason and religion, the latter duty holds a higher grade. Since the two duties, though both are compulsory, are of different rutbah, the problem of tazāḥum is solved. The process that achieves the solution is called tarattub. Those who believe that tarattub is impossible argue that there is always only one duty at a time for an individual. When one is to save a drowning person, he has no other duty. The tarattub formula rejects this argument by holding that both duties are to be performed, but priority goes to the more important one. If one does not perform his more important duty, e.g., saving a person's life, the less important duty, prayer, should still be performed. This problem, and many different theories and views that have arisen around it, is also discussed in the discourse of Nā'īnī compiled by Khu'ī.[87]

3. Fī al-Taʿabbudīyyah wa al-Tawaṣṣulīyyah; the word taʿabbudīyyah applies to religious practices for which one has to have a previous commitment to God. For example, a Muslim who prays has to believe whole-heartedly in God and the religion of Islam, and his devotion should aim only to please God and to seek nearness to Him. Tawaṣṣulīyyah, on the other hand, refers to practices whose validity or effectiveness, unlike the former ones, does not depend on the

inner intention of the person. For instance, water usurped or stolen from another cleanses a person even though the use of such water is unlawful. The book that Nā'īnī wrote on this subject is not published, but the topic is treated in one of Nā'īnī's discourses.[88]

4. Fī al-Sharṭ al-Muta'akhkhir (On Belated Stipulation). The title shows that the book concerns such practices as uncommissioned sales (bayʿ fuḍūlī); that is to say, the type of sale in which an object can be sold without the immediate approval of the owner, the confirmation of the deal depending upon the final consent of the owner which may be declared later (muta'akhkhir).

B. His Discourses

1. Taqrīrāt fī Ijtimāʿ al-Amr wa al-Nahy (Discourses on the Association of Commandment and Prohibition), compiled by Ḥājī Shaykh Mūsā Khwānsārī Najafī, Qum, 1955. Mahdī Nā'īnī has mentioned this treatise among Nā'īnī's unpublished books.[89] The title indicates the problem that arises from the existence of two opposing rules, one a commandment and one a prohibition. For example, there is a rule which makes prayer obligatory for a Muslim; but on the other hand, it is prohibited to use usurped land. The problem therefore, in the above-mentioned example, would be whether the prayer offered

on usurped land is acceptable or not. This problem has also been discussed in Nā'īnī's discourses compiled by Khu'ī.[90]

2. Al-Taqrīrāt fī Mabaḥith al-Alfāẓ (Discourses on Terminology), compiled by Shaykh Muḥammad ʿAlī Qābchī Khurāsānī Kāẓimī, three volumes, Najaf, 1930-32. This book comprises a discussion on the varying meanings and usages of terms employed in religious sources.

3. Ajwad al-Taqrīrāt fi al-Uṣūl (The Best of the Discourses on the Uṣūl), compiled by Ḥājī Sayyid Abū al-Qāsim Khu'ī, two volumes, vol. I (in two parts), Tehran, Muṣtafavī, 1947; vol. 2, Sidon, Lebanon, 1933.

4. Fawā'id al-Uṣūl (The Benefits of the Uṣūl), compiled by Shaykh Muḥammad ʿAlī Kāẓimī Khurāsānī in four volumes. Nā'īnī's discourse is based, as the compiler points out, on the discussions of the uṣūl by Shaykh Murtaẓā Anṣārī in the book entitled Farā'id al - Uṣūl[91] (Precious Gems of the Uṣūl), whose first Tehran publication was as early as 1851.[92]

5. Fawā'id al-Uṣūl: Ḥāshīyah ʿalā Farā'id al-Uṣūl (The Benefits of the Uṣūl: A Commentary on the Book of Precious Gems of the Uṣūl), compiled by Shaykh Muḥammad ʿAlī Qābchī Khurāsānī Kāẓimī, three volumes, vol. I, Tehran, 1949; vol. II, Qum, n.p. n.d.; vol. III, Najaf, 1930; supplement to vol. II, Qum, Muṣṭafavī, n.d. This work is of the same nature as the compilation of Khwānsārī,

but it is Qābchī's version of Nā'īnī's discourse on the subject.[93]

6. Taqrīrāt fī Mabāhith al-ʿAqlīyyah wa al-Uṣūl al-ʿAmalīyyah (Discourses on Rational Matters and Practical Principles), compiled by Qābchī, vol. II, Qum, Muṣṭafavī, 1949; supplement to vol. II, Qum, Muṣṭafavī, n.d.[94]

Notes to Chapter IV

1. For details concerning Nūrī's opposition and Ṭabāṭabā'ī's involvement in the opposition, read Kasravī, Mashrūṭah, pp. 294, 381-85, 496-98; see also chapters 2-3 of the present study.

2. Cf. chapters 5-6 of the present study. The motives of the various groups who supported the two opposing parties, the constitutionalists and the absolutists, are discussed in Ervan Abrahamian, "The Crowd in the Persian Revolution", IS, II (1969), 128-50.

3. Khānbābā Mushār, Mu'allifīn-i Kutub-i Chāpī-yi Fārsī va Arabī az Āghāz-i Chāp tā Kunūn (Tehran: Rangīn, 1961), I, nos. 558-59; idem, Fihrist-i Kitābhā-yi Chāpī-yi Fārsī (Tehran: Tarjamah va Nashr-i Kitāb, 1958), I, no. 1438. It should be noted that Mushār in the two above-mentioned books has recorded Mamaqānī's book with this title: Masālik al-Afhām..., but the word Imām mentioned above seems to fit better because the book dealt with the principles and duties of religious leaders.

4. The above-listed three items as well as 19 others, whose authors were not clergymen, are discussed in Muḥammad Ismā'īl Riẓvānī, "Bīst-o-du Risālah-yi Tablīghātī az Dawrah-yi Inqilāb-i Mashrūṭīyyat", RK, XII (1969), 229-40, 371-77.

5. Ṣadīqī, "Dah Risālah", 20.

6. RMM, XIII (1911), 191.

7. Maḥallātī, Al-La'ālī, p. 46.

8. These writings can be consulted in Malik-Zādah, Inqilāb; Nāẓim al-Islam, Bīdārī; Browne, Revolution; Kasravī, Mashrūṭah; also in ḤM, RMM, Al-'Irfān, and Al-'Ilm of the Persian Revolution period. Some of the writings of the 'ulamā are reproduced in Muḥammad Ismā'īl Riẓvānī, "I'lānhā va I'lāmīyyahā-yi Dawrah-yi Qājār", BT, V (1970), 259 ff. For the Tabrīz 'ulamā's views, see Muḥammad Gulbun, "Asnādī dar bārah-yi Tārīkh-i Mashrūṭah-yi Iran", BT, V (1970), 135-80. Note also the Introduction, chapters 1 and 2 of the present study.

9. Sayyid Jamāl al-Dīn Iṣfahānī, "Un sermon de A. Seyyéd Djémal-ed-Dine", trans. A.L.M. Nicolas, RMM, II (1907), 313-30.

10. As an example, we may mention a manifesto which was published in ḤM, August 15, 1910.

11. ʿImād al-ʿUlamā, Salṭanat (Tehran: Maṭbaʿah-yi Shāhanshāhī, 1907), p. 2.

12. Al-ʿIlm, II (1911), 327.

13. Many of the issues do not carry any date. We had access to a photographed copy of several issues of Īqāẓ which had been donated to the Mūzah-yi Mashrūṭīyyat-i Āẕarbāyjān by Yaḥyā Ẕukā'.

14. See pages 33-34 of the book.

15. The suggestion which was made to this writer is worth considering, because Najafī is not only a well-read religious leader (in Qum), he is also a distinguished geneologist and bibliographer. Besides, there is also an allusion that attests to the correctness of Najafī's suggestion because Shaykh ʿAbd al-Nabī Nūrī was one of the supporters of Shaykh Faẓl Allāh in his campaign against the constitutionalists; cf. Malik-Zādah, Inqilāb, III, p. 30.

16. Nā'īnī, Tanbīh, pp. 4-5.

17. Malik-Zādah, Inqilāb, IV, pp. 209-220; this fatwā is thought provoking. Nūrī, in this fatwā, has divided the process of the constitutional movement into three stages and has shown at which points he could not have approved constitutionalism. In chapter 6 of our study, we will examine Nūrī's views represented by this fatwā.

18. Kasravī, Mashrūṭah, pp. 409-438.

19. A sample of Al-Daʿwah al-Islamīyyah can be found in Riẓvānī, "Bīst-o-Du Risālah", 234-35; photographed copies of a few issues of Īqāẓ va Tanbīh were consulted by the present writer in Tehran.

20. Kasravī, Mashrūṭah, pp. 415-23; an original copy of this declaration was consulted for this study, but for the sake of convenience, we shall make reference to that which is reproduced

in Mashrūṭah.

21. Malik-Zādah, Inqilāb, IV, pp. 222-78.

22. Nā'īnī, Tanbīh, p. 77.

23. Ibid., pp. 4-5.

24. Examples of admiration expressed for the book can be seen in Muḥammad Ismā'īl Riẓvānī, "Ma'nī-yi Lughat-i Mashrūṭah va Rīshah-yi Ān", Sālnāmah-yi Kishvar-i Iran, XX (1965), 335; Sayyid Maḥmūd Ṭāliqānī's introduction to the third edition of Nā'īnī's Tanbīh, p. 17; the introduction which was written to the summary of Tanbīh, by the Mu'assasah-yi Ta'āvunī-yi Iḥsān in Sayyid Maḥmūd Ṭāliqānī, Jihād va Shahādat va Si Maqālah-yi Dīgar (Tehran, 1966), pp. 94-99.

25. Cf. our Introduction.

26. Nā'īnī, "Āyah Allāh Nā'īnī".

27. See, for instance, Ḥaydar 'Alī Qalamdārān, Ḥukūmat dar Islam (Qum; Ismā'īlīyān, 1966), p. 428; Muḥammad 'Alī Girāmī's introduction to Abū al-A'lā' Mawdūdī, Qānūn-i Asāsī dar Islam, translated into Persian by Girāmī (Qum: Dār al-Fikr, 1964), pp. 6, 11.

28. Muhandis Mahdī Bāzargān, Mudāfa'āt (Intishārāt-i Mudarris, 1971), pp. 294-96, 305. For Nā'īnī's treatment of tyranny, see chapter 5 of the present study, section, "What is Tyranny?"

29. Nā'īnī, Tanbīh, p. 16 (introduction).

30. Personal interview with Dr. Ghulām Ḥusayn Ṣadīqī.

31. Personal interview with Nā'īnī's son.

32. Ḥāj Mullā 'Alī Vā'iz Khīyābānī, 'Ulamā-i Mu'āṣirīn (Tehran: Islamīyyah, 1947), pp. 401-402.

33. Mūsawī, Al-Wadī'ah, p. 254. Scattered remarks made by the author of this book indicate his negative attitude towards the constitutionalist 'ulamā. In his treatment of Khurāsānī, for

instance, and the latter's fatwā concerning Muḥammad ʿAlī Shāh's deposition, the author uses the expression raḥimahū Allāh (may God have mercy on him) for the Shāh (ibid., p. 148). He also makes an effort to justify Sayyid Kāẓim Yazdī's opposition to the Constitutional Revolution by calling the Revolution "an irreparable loss [in Islam] that cannot be indemnified except by the coming of the Twelfth Imām" (ibid., p. 153). See also our reference to this book in chapter 3 of the present study, footnote no. 35.

34. See, for instance, Jurjī Zaydān, "Ḥurīyyah al-Maṭbūʿāt wa al-Ṣiḥāfah al-Miṣrīyyah", Al-Hilāl, VIII (1899-1900), 542-49; idem, "Taʾrīkh al-Aḥzāb al-Sīyāsīyyah min Qadīm al-Zamān ilā al-Ān", Al-Hilāh, XVI (1907-1908), 141-48; Ṣāliḥ Ibn ʿAlī al-Yāfiʿī, "Asbāb Ḍaʿf al-Muslimīn waʿIlājuhā", Al-Manār, VII (1904), 540-50, 581-88; idem, "Shakl Ḥukūmah al-Islam wa Ḍaʿf al-Muslimīn bi Istibdād al-Ḥukkām," Al-Manār, VII, (1904), 899-912.

35. On this matter, cf. Mardin, Ottoman Thought.

36. Hourani, op.cit., p. 72.

37. On Ṭahṭāwī, see ibid., pp. 67-84; Khaldūn S. al-Ḥuṣry, Three Reformers: A Study in Modern Arab Political Thought (Beirut: Khayyāt, 1966), pp. 11-32; Anouar Abdel-Malek, La Pensée Politique Arabe Contemporaine (Paris: Editions du Seuil, 1970), pp. 47-51; J. Heyworth-Dunne, "Rifāʿah Badawī Rāfiʿaṭ-Ṭahṭāwī: The Egyptian Revivalist", BSOAS, IX (1937-39), 961-67 and X (1939-42), 399-415. For a German rendering of Ṭahṭāwī's Takhlīṣ cf. Aṭ-Ṭahṭāwī in Paris. Ein Dockument des arabischen Modernismus aus dem frühen 19. Jahrhundert übersetzt,eingeleitet und erläutert (Münster, Westf.: Westfälischen Wilhelms - Universität, 1966).

38. Descriptions of the above items (3-6) are based on Ibrahim Abu-Lughod, Arab Rediscovery of Europe: A Study in Cultural Encounters (Princeton: Princeton University Press, 1963), pp. 51, 72-73, 105.

39. On this important figure and his work, consult Leon Carl Brown, The Surest Path: The Political Treatise of a Nineteenth Century Muslim Statesman (Cambridge, Mass.: Harvard University Press, 1967). This book includes a careful account of Khayr al-Dīn's life and thought plus a translation of the introduction to the book Aqwam al-Masālīk. See also A. Demeerseman, "Un grand

témoin des premières idées modernistes en Tunisie", Revue du l'Institut des Belles Lettres Arabes, XIX (1956), 349-73; Hourani, op.cit., pp. 84-99; Al-Ḥuṣry, op.cit., pp. 33-54; Aḥmad Amīn, Zuʿamāʾ al-Islam fī al-ʿAṣr al-Ḥadīth (Cairo: Nahḍah al-Miṣrīyyah, 1948) pp. 146-83.

40. Kawākibī, Ṭabāʾiʿ (Aleppo: Al-ʿAṣrīyyah, 1957), pp. 167-85. Summaries of this book can be found in Sylvia G. Haim, "Alfieri and al-Kawākibī", OM, XXXIV (1954), 323 ff; Sami A. Hanna and George H. Gardner, Arab Socialism: A Documentary Survey (Leiden: E.J. Brill, 1969), pp. 217-2[illegible] On Kawākibī see also Aḥmad Amīn, op.cit., pp. 247-79; al-Ḥuṣry, op.cit., pp. 55-112.

41. Edward G. Browne, Press and Poetry, p. 25. On Taqiev's life and personality, see Kasravī, Mashrūṭah, p. 39; Mīrzā Ṣādiq Sayyāḥ, Sharḥ-i Ḥāl-i Taqiev (no p., 1902); Riẓvānī's Dissertation, p. 137 ff.

42. L.B. "La Presse Persane", RMM, XI (1910), 341.

43. James Morier, Sarguzasht-i Ḥājī Bābā-yi Iṣfahānī, ed. D.C. Phillott (Calcutta: Asiatic Society of Bengal, 1924), p. ix.

44. Muḥammad ʿAlī Muʿīn al-Salṭanah, Safar-Nāmah, (no p., 1900) pp. 119-22. Needless to say, Muʿīn al-Salṭanah's account of the American political institution is not accurate. According to Article I, Section 3 of the American Constitution, which was in force until 1913, the senators were chosen by the legislature. Then, on May 31, 1913, Amendment XVII to the Constitution directed that all senators should be elected by the people. Concerning the procedure of law-making, according to Section 7 of Article I of the American Constitution, "Every bill which shall have passed the House of Representatives and the Senate, shall, before it becomes a law, be presented to the President of the United States... for approval " and does not need the approval of the Ministers. Cf. Saul K. Padover, The Living U.S. Constitution (New York: Mentor Books, 1968), pp. 70, 72, 86. The number of Representatives was determined according to the Eleventh Census taken in 1890 to be 357 not 395, as Muʿīn al-Salṭanah suggested; see William J. Peol, Avon Webster English Dictionary and Encyclopedia (New York: The John C. Winston Co., 1962), p. 518.

45. Browne, Press and Poetry, p. 22, for more details see ibid., pp. 153-66. A list of Persian newspapers of the period in question is given in ibid., pp. 1-153. On the problem of modern historiography in Iran, consult Fīrīdūn Ādamīyyat, "Inḥiṭāṭ-i Tārīkh Nigārī dar Iran", Sukhan XVII (1967), 17-30. This article is translated into English with annotation by Thomas M. Ricks entitled "Problems in Iranian Historiography", IS, IV (1971), 132-56.

46. Mīrzā Muḥammad ʿAlī Khān, Ḥuqūq-i Asāsī (Yaʿnī) Ādāb-i Mashrūṭīyyat-i Duval (Tehran, 1908), p. 5.

47. Ibid., p. 9.

48. Ibid., p. 9.

49. Cf. Ṣadīqī, "Dah Risālah", 21-22, for details on items 2-3.

50. Ṣādiq Riẓā-Zādah Shafaq's introduction to Montesquieu, Rūḥ al-Qavānīn, translated into Persian by ʿAlī Akbar Muhtadī (Tehran: Kāviyān, 1955), p. 28.

51. For details cf. Marāghah-ʾī, Sīyāḥat-Nāmah, vol. III, pp. 6-20.

52. Cf. p. 52 ff. According to Dr. Ghulām Ḥusayn Ṣadīqī, this book was written by Sayyid Jalāl al-Dīn Ḥusaynī Kāshānī Muʾayyid al-Islām, the editor of Ḥabl al-Matīn; see Ṣadīqī, "Dah Risālah", 19.

53. Haim, "Alfieri and al-Kawākibī, 321.

54. Since Ṭabāʾiʿ was published anonymously, the Persian translator points out in his introduction that "although the author is not known, the contents of the book tell us that the book belongs to a great scholar". Cf. Kawākibī, Ṭabāʾiʿ al-Istibdād, translated by ʿAbd al-Ḥusayn Qājār (Tehran, 1907), p. 1. For more information on this translation and on a Persian translation of Kawākibī's other work, Umm al-Qurā, see Muḥammad Ṣādiqpūr Vajdī, "Risālah-yi Ṭabāʾiʿ al-Istibdād va Tarjamah-yi Ān", RK, XII (1969), 685-88.

55. Nāʾīnī, Tanbīh, pp. 9-10; Kawākibī, Ṭabāʾiʿ, pp. 17-18.

56. Kawākibī, Ṭabā'i', p. 175.

57. Gaudence Megaro, Vittorio Alfieri: Forerunner of Italian Nationalism (New York: Columbia University Press, 1930).

58. Sayyid Muḥammad Rashīd Riḍā, "Tatimmah Sirah al-Kawākibī", Al-Manār, V (1902), 276-80; this point on page 279.

59. Amīn, op.cit., p. 254.

60. Haim, "Alfieri and al-Kawākibī", 326.

61. Megaro, op.cit., p. 27.

62. Ibid., p. 41.

63. Since the first appearance of Alfieri's Della Tirannide, it has been translated into French, German, Portuguese, English, and also into Turkish; on the latter translation see farther below in this chapter.

64. Quoting the titles of Ṭabā'i's contents, Professor Haim has italicized those titles that Kawākibī had borrowed from Alfieri; see Haim, op.cit., 327-28.

65. According to Professor Rossi, Alfieri's book was translated into Turkish by Abdullāh Gevdet. The latter was an anti-Abdūl-Hamid liberal. He escaped to Geneva, and in 1898, he translated the book into Turkish and published it, entitling it Istibdād. This translation was again published in Cairo in 1909, and was dedicated to Midhat Paşa; see Ettore Rossi, "Una Traduzione turca dell'opera 'Della Tirannide' di V. Alfieri Probabilmente Conosciuta da al-Kawākibī", OM, XXXIV (1954), 335-37. More details on the problem of Kawākibī's usage of Alfieri's Della Tirannide can be found in Dr. Maḥmūd al-Samrah, "Bayn al-Kawākibī wa Alfieri", Majallah Kullīyyah al-Ādāb Al-Jāmi'ah al-Urdunīyyah, I, no. 1 (1969), 33-48.

66. The Nation, 68 (June 18, 1908), 547; our aim here is not to compare these two Revolutions. Concerning the quality of the Persian Revolution, the following article is worth reading: M.A. Nizāmī, "Ti'urī-yi Inqilāb va Inqilāb-i Mashrūṭīyyat-i Iran",

Maktab, II, nos. 2-3 (1965), 53-60. Kasravī's accounts of the idea of revolution is found in his Inqilāb Chīst? (Tehran: Āzādigān, 1957). For a recent study on the French Revolution consult Melvin Richter, "Tocqueville's Contribution to the Theory of Revolution", in Revolution, ed. Carl J. Friedrich (New York: Atherton Press, 1966), pp. 75-121.

67. See chapter 2 of this study, from section "Ṭabāṭabā'ī on the Revolution" onward.

68. More explanation concerning the meaning of the word taqrīrāt in the present context and its difference from amālī (dictations) can be gained in Ṭihrānī, Al-Dharī'ah, IV, pp. 366-67.

69. Naqawī, op. cit., II, no. 8, 18-20; it is to be noted that this part of the article on Nā'īnī was preceded by two other parts published in the preceding issues of the journal Al-Ridwān; but unfortunately our attempts to locate them proved unsuccessful.

70. Ṭihrānī, Ṭabaqāt, I, pp. 595-96.

71. Cf. nos. 22, 195, 209-210, 287, 678, 730, 897, 930, 991.

72. Nā'īnī, "Āyah Allāh Nā'īnī".

73. Consult Al-Dharī'ah, IV, pp. 380, 386, 440.

74. Mushār, Kitābhā-yi Chāpī-yi Arabī, no. 522.

75. These volumes were published in Najaf in Maṭba'ah al-Najaf, during the years 1957-59.

76. Iran, May 9, 1919.

77. Literally hāshīyah means "margin". It has come to be synonymous with "commentary" because a commentary of this type was customarily written in the margins of books.

78. Cf. Vol. II, pp. 228-305.

79. Nā'īnī, "Āyah Allāh Nā'īnī".

80. In Kitābhā-yi Chāpī-yi Arabī, no. 909, Mushār indicates

that Al-Manāsik of Anṣārī was commented on by the following mujtahids: Mīrzā [Sayyid Ḥasan] Shīrāzī, Sayyid Kāẓim Ṭabāṭabā'ī Yazdī, Mīrzā Ḥusayn Khalīlī [Ṭihrānī], Ākhūnd Mullā Muḥammad Kāẓim Khurāsānī, Ḥājī Āqā Ḥusayn Qummī, Sayyid Abū al-Ḥasan Iṣfahānī, and [Ḥājī] Shaykh ʿAbd al-Karīm [Ḥā'irī] Yazdī.

81. Nā'īnī, "Āyah Allāh Nā'īnī".

82. For its later publications see Mushār, Kitābhā-yi Chāpī-yi Arabī, nos. 895-97.

83. Khwānsārī, Munyah, I, pp. 325-29.

84. See volume I, p. 2. This work is in 3 volumes, published in Qum, Buzurjmihrī, 1952-53..

85. Nā'īnī, "Āyah Allāh Nā'īnī".

86. Khwānsārī, Munyah, II, pp. 191-227.

87. Sayyid Abū al-Qāsim Khu'ī, Ajwad al-Taqrīrāt fī ʿIlm al-Uṣūl (Tehran: Buzurjmihrī, 1948), I, p. 248 ff.

88. Ibid., I, pp. 96-125.

89. Nā'īnī, "Āyah Allāh Nā'īnī".

90. Khu'ī, Ajwad, I, pp. 331-82.

91. Kāẓimī, Fawā'id, III, p. 2.

92. Mushār, Kitābhā-yi Chāpī-yi Arabī, no. 659.

93. Ibid., nos. 678-79.

94. Ibid., no. 210.

CHAPTER V

TYPES OF GOVERNMENTS: TYRANNICAL AND CONSTITUTIONAL

The Necessity of Having a Ruler

As pointed out in our previous chapter, Nā'īnī was influenced in his interpretation of the idea of constitutionalism by the writings of the modern reformists of the Muslim world. Like many other Muslim thinkers, he was attempting to reconcile constitutionalism with Islam. The remaining part of our study will be devoted to showing how Nā'īnī presented his proposal for the establishment of a constitutional form of government within the framework of Shī'ī Islam. In the present chapter, we shall examine Nā'īnī's treatment of both tyrannical and constitutional régimes in general terms. Nā'īnī's detailed interpretation of the principles of constitutionalism will engage us in the following chapter.

In the second chapter, it was mentioned that the problem of rulership has engaged the Shī'ī jurists, or fuqahā', for many centuries. They argue that every portion of the human community, in whatever corner of this world, is in need of a ruler. A ruler is indispensable to establish peace, justice, and order, and to protect his subjects from foreign attacks and aggression. Another point which the fuqahā'

stress is that, since having a ruler is normal and indispensable, reason demands that the Islamic community should not be left without any instructions regarding rulership. Consequently, the Prophet could not, by any means, have died without appointing a ruler as his successor. From this reasoning emerges the Shī'ī doctrine of the Imāmah and the Imām's function as ruler.

Therefore, the necessity of establishing a government appears in the writings of Nā'īnī as a thing of indisputable nature. It is also indisputable to him that a ruling authority remains necessary, no matter what its origins, whether it be formed rightfully, by usurpation, by force, by inheritance, or by election. Nā'īnī then, draws an analogy between this indisputable fact and another. He argues that the dignity, independence, nationality, religious or patriotic privileges of every people, all depend on the ruling power being exercised by the people themselves. Otherwise, their religion and dignity, the independence of their fatherland, and the nationality would completely disappear no matter how powerful, wealthy, progressive and civilized they may be. For this reason, the protection of the territory of Islam in the Sharī'at is considered as the most important duty, and rulership is one of the matters which belongs to the Imām.[1]

What Nā'īnī implies by deeming the self-government of people

to be necessary, seems to be the exclusion of any foreign domination. This idea becomes clearer as Nā'īnī enumerates two main principles on which the ideas of rulership and self-government (in any given society) are based. These two general principles are as follows:

> "1. The establishment of internal order in the country, the education of all the subjects, the consideration of everyone's rights, the prevention of all individuals from assault and aggression against one another, and other duties which are related to the internal interests of the country and the people.
> 2. Preventing any foreign intervention, avoiding the tricks which are usually exercised [by foreigners], preparing a defensive force and war ammunitions, and the like."[2]

So far, Nā'īnī has been dealing with matters which he considers to be indisputable (musallam). What is yet to be settled through argument is the problem of the proper type of government. Having established that government is necessary, he then logically proceeds to the question of what kind of ruler should come to power. Nā'īnī did not hesitate to suggest a constitutional régime in answer to this question, but only after having first divided governments into two types:

1. Tamallukīyyah (proprietorship, possessorship), that is to say, "tyranny".
2. Vilāyatīyyah (benevolent supervisorship), by which he meant a

certain form of constitutional government.

What is "Tyranny"?

Since our topic of discussion is now "tyranny", some introductory remarks on the meaning of the term, its applicability to the word used by Nā'īnī, and finally the origins of Nā'īnī's accounts of "tyranny" will be attempted. Nā'īnī uses a number of terms to signify a type of government which is based on no legal, moral, or constitutional restriction; he, of course, condemns this type of government. After describing this type of tyrannical government with a variety of adjectives (see below), he finally comes to one term which he repeatedly employs: the word istibdād which appears also in the writings of most Muslim reformists of the 19th and 20th centuries.

The term is Arabic and has been used in the ḥadīth and in medieval Islamic poetry and prose. The general meaning that can be drawn from its medieval usage is an arbitrary action or decision taken by one person without considering anyone else in forming his action or decision. Since the concept of consultation, which is contrary to istibdād, is supported in the Qur'ān and ḥadīth, the idea of istibdād has been criticized. The following ḥadīth can be given as an example: "Consultation is of the [Prophetic] sunnah,

and istibdād is a character of the devil." Since arbitrary rule was wide-spread in the past, the term istibdād is usually used to describe the quality of a bad and stubborn ruler.[3]

During the 19th and early 20th centuries, the same term was employed by Islamic thinkers to describe the concept of "despotism" and "tyranny". Khayr al-Dīn Pāshā of Tunisia,[4] Ṭahṭāwī of Egypt,[5] Kawākibī of Syria,[6] Āqā Khān Kirmānī of Iran,[7] and Namik Kemal of Turkey,[8] may be mentioned as examples of those who have used the term istibdād to signify "tyranny" and "despotism", or at times as a designation for forms of governments opposed to constitutionalism.

Mūsā Jār Allāh Bigiyef, a Turkish speaking subject of Russia, gave an interesting description of the word istibdād. He translated from Russian into Turkish the proceedings of the Russian Muslim Congress held in Petersburgh in 1906. With regard to the words istibdād and mustabidd, Mūsā Jār Allāh pointed out that, "Although these two words literally mean monarchy and monarch,[9] respectively, I translate the latter as saltanat and sulṭān because (in Turkish, Persian or Arabic), istibdād and mustabidd convey the meaning of zulm (oppression, tyranny)."[10]

On the other hand, these two terms, that is, "tyranny" and "despotism", have carried with themselves a variety of meanings and usages through the centuries. This historical development of

the concept of tyranny, for example, and its application to different kinds of rules and its usage in different contexts have made the definition of the term extremely difficult.[11] However, during the 18th and 19th centuries, these two concepts were used by European thinkers, such as Montesquieu and Rousseau as representing a ruler who imposed his oppressive rule upon his subjects. Therefore, there arose a slight difference of meaning between tyranny and despotism, as can be seen in the words of Rousseau:

> "...j'appelle tyran l'usurpateur de l'autorité royale, et despote l'usurpateur du pouvoir souverain. Le tyran est celui qui s'ingère contre les lois à gouverner selon les lois; le despote est celui qui se met au-dessus des lois mêmes. Ainsi le tyran peut n'être pas despote, mais le despote est toujours tyran."[12]

In our treatment of Nā'īnī's theory, we use the word "tyranny" almost in the same sense as "despotic rule"[13] used by Montesquieu and Rousseau. We choose this sense of the term because, a part of what Nā'īnī says about istibdād and other similar terms corresponds with the French liberal thinkers' explanation of tyrannical government. The following is Nā'īnī's basic theory of tyranny:

"The person who is ruling in a despotic régime treats the country and its population as his private property. He considers the people as slaves or animals to serve only his aspirations and

passions. Any person who devotes himself to serving the ruler's purposes will be rewarded by the ruler; otherwise, the ruler banishes him, hangs him, and tears him to pieces. The ruler lets the inhabitants eat him and provokes bloodthirsty persons to shed his blood and rob his property. The ruler takes anyone's property for himself or for giving it to the robbers who are under his authority. He reserves to himself the right to give justice to anyone or to violate anyone's rights.

"In a tyrannical régime, taxes are exacted as rents for the ruler's personal land and are spent on his personal purposes. Since the country is considered as the ruler's own property, its order and protection are also at his own will: if he wishes, he will protect it; otherwise, he may grant the country to his rivals for the sake of a few flattering statements. He might also sell or mortgage it in order to finance his trips of debauchery. He even takes measures against the honor of his subjects. In spite of all these defects that the ruler possesses, he ascribes to himself God's attributes such as sacredness (aqdasīyyat). His assistants believe that all the powers of the country are subject to the ruler's personal wrath, domination, and lust. In brief, he will not be questioned on what he does.

"Since this kind of rulership is based on the personal desire of

the ruler, and the latter is in the position of an owner of his country, his régime is called tamallukīyyah (proprietorship), istibdādīyyah (tyranny), istibādīyyah (enslavement), i'tisāfīyyah (compulsion), tasallutīyyah (oppressive domination), and tahakkumīyyah (arbitrary power). Thus the ruler of such a régime is called hākim-i mutlaq (absolute ruler), hākim-i bi amr (autocrat), mālik-i riqāb (slave master), zālim (oppressor), qahhār (subduer), and the like.

"As for the people whom such a ruler governs, they should be called usarā' (captives), adhillā' (abjects), ariqqā' (weak people), because they are treated like slaves, and such a régime is imposed on them. Since these people are like orphans and minors, and do not know about usurpation of their wealth, they are called mustasgharīn (under valued). The benefit that these people enjoy from their life is like that of plants which are made to fulfill human needs. Since such people, like plants, do not have their own independent benefits from life and simply serve their ruler's purposes, they are called mustanbatīn (treated as plants).

"The extent of oppression, irresponsibility and arbitrariness in a régime of this sort depends, on the one hand, upon the extent of the traits of character, wisdom, and discernment of the ruler and his assistants. On the other hand, it depends on the extent

of the people's education and awareness of the rights and duties of the ruler. This form of rulership will continue and will reach its highest degree unless the intellectual power of the country refuses to obey such rule. In such a country, every person following the ruler's pattern will also do injustice to the people under his own authority. The reason behind the existence of such an unhappy régime is twofold: 1) the people's unawareness of kingship and common rights; 2) the absence of responsibility on the part of the ruling power and its being free from check and watch."[13]

Problems to Which Nā'īnī Addressed Himself

As we mentioned in the second and third chapters, Nā'īnī was involved in the Persian Constitutional Revolution, co-operating closely with Khurāsānī and other clerical leaders in Najaf. It was also pointed out that he wrote this book during the rule of Muḥammad ʿAlī Shāh, that is to say, a few months after the Shāh had bombarded Parliament and massacred many constitutionalists. Muḥammad ʿAlī abrogated the constitution in June 1908 and imposed his arbitrary rule until July 1909. During this period every action was taken by Muḥammad ʿAlī to suppress the constitutional movement. In Tehran, Shaykh Faẓl Allāh had turned against his former allies, Ṭabāṭabā'ī and Bihbahānī, working towards the

elimination of the constitution by enlisting supporters from among the clergy, as well as the masses, and by closely co-operating with the Muḥammad ʿAlī administration. In Najaf, the constitutionalist ʿulamā were under serious attack by the absolutists who had gathered around Sayyid Kāẓim Ṭabāṭabā'ī. The latter had gained far more popularity than other ʿulamā largely because of his opposition to the constitution. His followers openly mocked and insulted those who supported the constitution. Khurāsānī and his group, Nā'īnī included, were the particular targets of attack. These attacks were so effective that there were but few people left around Khurāsānī.[14]

It was in these circumstances that Nā'īnī wrote his book. Therefore, Nā'īnī's theory of "tyranny" and other matters should be studied in the light of the existing situation in the geographical area of the Persians' constitutional activities. Nā'īnī's reference to the ruler who hangs his adversaries, no doubt, applies to Muḥammad ʿAlī's execution of the liberals in the Bāgh-i Shāh.[15] In his encouragement of the people to rise against a tyrannical ruler, Nā'īnī was definitely urging people to enter a large scale campaign to dethrone Muḥammad ʿAlī Shāh.

Nā'īnī saw a great number of people supporting the absolutist ʿulamā without understanding the meaning of "tyranny" or "constitu-

tionalism". He noticed that Khurāsānī and his party were losing their base among the people, and that Sayyid Kāẓim and his followers were growing stronger because the former were constitutionalists and the latter absolutists. The reason behind this trend, Nā'īnī argues, was that people did not know the importance and usefulness of a constitutional régime. Why did they not know? Simply because they were illiterate and had not studied politics, so that they were not aware of "the rights and duties of the ruler".

Nā'īnī, in his discussion did not, of course, limit himself to these few months of Muḥammad ʿAlī's rule. He also addressed himself to the misrule of the Qājār Dynasty in general. In talking about the oppressive ruler who sells his country in order to finance his "journeys of debauchery", asfār-i lahvīyyah, he was certainly referring to Nāṣir al-Dīn Shāh and Muẓaffar al-Dīn Shāh. These two Kings granted several concessions to foreign countries, mainly to England and Russia. Nāṣir al-Dīn Shāh travelled to Europe three times, in the years 1873, 1879 and 1889, and granted concessions to Europeans. His successor, Muẓaffar al-Dīn Shāh, also went to Europe three times, during the years 1897, 1902 and 1905, and concluded treaties, such as the Customs Agreement with the Belgians in 1898, and the Oil Agreement with D'Arcy (English) in 1901, and several others. These Monarchs also borrowed a tremendous amount of money

from England and Russia.[16]

Evidence Used in Nā'īnī's Argument

In their arguments, the ʿulamā looked upon Islam and did their best to reconcile constitutionalism with the Qurʾān, the ḥadīth and the speeches given by ʿAlī Ibn Abī Ṭālib in Nahj al-Balāghah. The best clerical representative of the Persian constitutional theory of the first decade of this century is Nā'īnī. He condemned tyranny more or less as did Alfieri and Montesquieu, but in presenting evidence to support his argument, like Kawākibī, based his reasoning principally upon Islamic sources. Nā'īnī very rarely made reference to non-Islamic sources such as British political institutions.[17] Any appreciation of European thinkers "who divided tyranny into political and religious",[18] or "the first philosopher who based constitutionalism on liberty and equality",[19] is also rare. The following is the supporting evidence that Nā'īnī offers to show the wickedness of tyranny:

"All the disruptions and destructive obscenities from which Iran has so far suffered and all the religious corruptions that the Iranians have faced are derived from tyrannical rule; this goes without saying. So long as the Islamic government did not become tyrannical, Islam flourished astonishingly. But after

Muʿāwīyah's ascendancy, all the principles and subsidiary directives (usūl va furūʿ) necessary for lawful rulership were replaced by elements of opposite character. As long as other nations, like us, were suffering tyranny, Islam was passing through its time of stagnation. But, when other nations discovered the natural basis of Muslim progress and followed the pattern of early Islam, the oppressors enslaved Muslims and created a miserable situation for the Islamic peoples."[20]

In other words, the rule of the first four Caliphs was non-tyrannical, and for this reason Islam triumphed. But Islam suffered a severe decline when it came to be ruled by tyrants such as the Umayyad Caliphs; and this is one reason for the wickedness of tyranny. There is no doubt that the Umayyads and ʿAbbāsīds were tyrannical rulers, but the mere fact that they were tyrannical did not cause the Islamic decline. On the contrary, Muʿāwīyah founded a powerful Islamic Empire for the first time in history. Under some of the ʿAbbāsīd rulers, Hārūm al-Rashīd for example, Muslims attained very high prestige in the world. Later on, the power of Islam was even more expanded. As Arnold J. Toynbee says:

> "The Arabic Muslim civilization was still, at the close of the fifteenth century, holding an Atlantic seaboard in Africa, from the Straits of Gibraltar to

> Senegal. Western Christiandom was thus cut off from Tropical Africa overland, while waves of Arab influence were breaking upon the Dark Continent not only along its northern frontier in the Sudan out of the Sahara but also along its east coast, 'the Sawahil', out of the Indian Ocean...Arab shipping was not only plying up and down the African shore from Suez to Sofala but had also found its way across to Indonesia, captured the archipelago from Hinduism for Islam, and pushed on eastwards to plant an outpost in the Western Pacific by converting the pagan Malay inhabitants of the Southern Philippines.
>
> At the same date the Iranic Muslim civilizations held what seemed to be an even stronger strategic position. The Osmanli empire-builders had occupied Constantinople, the Morea, Qāramān, and Trebizond; and had turned the Black Sea into an Ottoman lake by the seizure of the Genoese colonies in the Crimea. Other Turkish speaking Muslim people had extened the domain of Islam from the Black Sea to the middle course of the Volga; and, behind this western front, the Iranic world extended south-eastwards to the north-western Chinese provinces of Kansu and Shensi, and over Iran and Hindustan to Bengal and the Deccan."[21]

These powerful states, however, were ruled by tyrannical rulers.

In his theory of the Islamic decline, Nā'īnī was not alone. In fact, a great many Muslim reformists of the 19th century, who have been called Salafīyyah, held the same view. One example of those reformists who, in the 19th century, saw the backwardness of Muslims to lie in their deviation from early Islam was Afghānī of whose thought we spoke in Chapters I and II of this study.[22] This argument indicates that Nā'īnī did not have a firm grasp of the

historical processes effecting Islamic community in his time. He correctly noticed that the Muslim rulers were guilty of tyranny, but he lost sight of the fact that still other reasons for the Islamic decline were to be sought elsewhere. The complicated historical problem of the decline in Muslim fortunes involves many economic and political factors which must be traced in the light of a careful study of the Muslim community's historical development. Nā'īnī seems not to have appreciated the complexity of the problem and to have lacked an adequate understanding of the necessary history.

Nā'īnī goes on to offer evidence to support his argument concerning the evil of tyranny. With regard to the idea that living under tyranny is equal to slavery, he says that both the Qur'ān and the infallible leaders, the ma'ṣūmīn, (i.e., Muḥammad, Fāṭimah, and the Twelve Imāms) on a variety of occasions stated that living under tyrannical rule is slavery, which is the opposite of freedom. They instructed the Muslims to free themselves from such slavery. He quotes the following passages, in which slavery has been condemned, from different sources:

I. From the Qur'ān:

1. "And this is the past favour wherewith thou reproachest me: that thou hast enslaved the Children of Israel." (26:22)

2. "And they said: Shall we put faith in two mortals

like ourselves, and whose folk are servile unto us?" (23:47) These verses, Nā'īnī adds, concern the Israelites, and God's mention of their slavery means only their being subject to the tyrannical rule of the Pharaoh. Of the same type is also this verse:

3. "The chiefs of Pharaoh's people said: (O King), wilt thou suffer Moses and his people to make mischief in the land, and flout thee and thy gods? He said: We will slay their sons and spare their women, for lo! we are in power over them" (7:127).

4. "...They ascribe no thing as partner unto Me. Those who disbelieve henceforth, they are the miscreants." (24:55). Nā'īnī says that partnership to God, Shirk, in this verse refers to the idea that His representative on earth should not take an oath of allegiance to tyrants.

5. "They have taken as lords beside Allah their rabbis and their monks, and the Messiah, son of Mary, when they were bidden to worship only one God. There is no god save Him. Be He glorified from all that they ascribe as partner (unto Him)!" (9:31). That the bishops and monks have been called the Christians' gods, arbāb, has been interpreted as to the Christians' humiliating obedience to the popes and priests.

II. From the ḥadīth:

1. The Prophet Muḥammad, in warning the people of the malicious rule of the Umayyads, said: "When the children of ʿĀṣṣ reach the number of thirty, they make...the servants of God as their own slaves." The Prophet was speaking of the future when the Umayyads were to transfer the Islamic rulership from benevolent supervisorship (vilāyatīyyah) to proprietorship (tamallukīyyah).

Nāʾīnī's interpretation of this ḥadīth indicates his lack of historical sophistication. He evidently believed that the Prophet could predict the future, and he would have definitely given little significance to those persons and parties in Islamic history who would not accept the attribution of such power to the Prophet. This method of argument not only is traditional but is also very medieval. The merits of Western democratic constitutionalism cannot be proven through this kind of argumentation unless one were to be content with a gross misunderstanding of the idea of constitutionalism.

2. Speeches and sayings of the Imāms. Nāʾīnī quotes several passages from Nahj al-Bālaghah and sayings ascribed to Ḥusayn Ibn ʿAlī, the third Imām of the Shīʿah. In these quotations, the oppressive rule of the Pharaohs, the Kisrās, the Caesars, and finally the Umayyads, has been critically attacked. These historical

evidences, in Nā'īnī's view, well demonstrate that tyrannical government is evil, against the Islamic spirit, and in sharp contrast with the ideal system that the founders of Islam had meant to establish.[23]

In Nā'īnī's discussion of tyranny, there is no modern element. Neither the topic nor the approach reveals any factor of modern origins. Oppressive rule has been condemned for centuries in Islam and elsewhere. The reasons given here also do not offer the Persian audience any new method of rising against tyranny. The only interesting point to be discerned is Nā'īnī's remarks on the legitimacy of the early Caliphs before ʿAlī. It is rather strange that a Shīʿī mujtahid should judge the first four Caliphs equally and call their rule vilāyatīyyah, whereas, according to the Shīʿah, the first three Caliphs, Abū Bakr, ʿUmar, and ʿUthmān, were usurpers who violated the definite right of the fourth Caliph, ʿAlī. Needless to say, the generalization of the Caliphs' equal merits can hardly carry any truth even from the Sunnī point of view, because each of the four had different policies and attitudes. Kawākibī, who also made almost the same point would not be, as a Sunnī, immune from criticism.[24]

Nā'īnī's remarks on the four Caliphs were perhaps made out of expediency, because he was living in Iraq, then an Ottoman province.

On the other hand, the Young Turks had just restored the constitution in Turkey, and consequently the new Turkish government was in favor of the Revolution in Iran. The constitutionalists at one time took refuge in the Turkish Embassy in Tehran.[25] In the British archives related to the period of Muḥammad ʿAlī Shāh's reign (1907-1909), there can be found many documents revealing the Young Turks' friendly relationships with the Persian revolutionaries of Tabrīz and particularly with Sattār Khān. A letter of the British Ambassador in St. Petersburgh indicates how Russia and Britain were reluctant to witness such relationships. The Ambassador writes that,

> "I am told by the Turkish Ambassador that M. Isvolsky mentioned to him yesterday the report that the Young Turk Committee was encouraging the Nationalist Party at Tabreez by sending them medals, and M. Isvolsky remarked to the Ambassador that the relations existing between Russia and Turkey were very friendly, and that he would deeply regret if any cloud arose to disturb them. The Ambassador explained that the medals had no significance, and that any one could buy them in the streets of Constantinople, but promised that he would telegraph to his government in accordance with M. Isvolsky's wish.
>
> I said to my Turkish colleague that, in my opinion, what M. Isvolsky would really like would be some sort of assurance from the Young Turk Committee that they had no desire to mix themselves up in any way with Azarbaijan affairs."[26]

In addition, there was also a friendly relationship between the Turkish government and the Persian ʿulamā, because the Turks

were then propagating Pan-Islamism and had received a favorable response from the ʿulamā.[27] Nāʾīnī might have thought it wise, therefore, to put aside all the matters of conflict between the Shīʿah and the Sunnīs at that crucial time and to fight with all his power against tyranny. This assumption is supported by Nāʾīnī's repeated reference to the idea that the Shīʿah and the Sunnīs, the ʿulamā of Najaf and the Shaykh al-Islam of Istanbul, have no disagreement on opposition to oppressive rule.[28] Similarly, he felt that a parliamentary institution and limitations on the power of the ruler would gain the approval of both Shīʿah and Sunnīs.[29]

Ignorance: A Force of Tyranny

Nāʾīnī devotes several pages of his work to explaining the forces of tyranny: "One of the effective forces of tyranny is people's ignorance of the duties of government and their own rights. Just as knowledge brings all happiness, ignorance is the source of all evils. Ignorance causes slavery, polytheism, Shirk, the loss of God-given freedom and the disappearance of equality. It is ignorance that leads men to spend their powers and wealth on their own serfdom. Instead of giving their full support to those who fight for freedom, religion and fatherland, they plunder their property and violate their honor. Such irreligiosity and

dishonor, bīnāmūsī, they call 'courage', 'bravery', or 'patriotism'. Like the rough people of Kūfah and Syria, they saw honor in murdering and taking captive the ʿulamā, sayyids, and 'liberals'. It is ignorance that causes men to lend a hand to our Russian enemies who want only the disappearance of religion and the state and the extreme poverty of the nation. By doing this, these men, together with the Russians, commit great crimes."[30]

In his criticism of ignorance, Nāʾīnī has clearly in mind the existing situation during the short period of Muḥammad ʿAlī Shāh's rule. He refers to the people who were gathered around Shaykh Faẓl Allāh and their violent clashes with the constitutionalists. He likens them to the murderers of Ḥusayn Ibn ʿAlī in Karbalā and the tyrannical attitude of Yazīd Ibn Muʿāwīyah toward the family of Ḥusayn in Damascus. His mention of the Russians concerns the latter's opposition to the constitutional movement in Iran. The common interest that the Royal Court, Shaykh Faẓl Allāh, and the Russians had in suppressing the movement finally resulted in the bombardment of the Parliament building and the execution of a great many liberals.[31] It is the latter to which Nāʾīnī refers when he mentions the crimes that have been committed.

For fighting this disease, i.e., ignorance, Nāʾīnī suggests that some non-violent measure should be taken: "There are two

kinds of ignorance: 1) simple ignorance, jahl-i basīṭ; 2) compound ignorance, jahl-i murakkab. The former is easy to cure. One who possesses it suffers only one ignorance; that is to say, he is aware of his ignorance. He should simply be taught the facts about tyranny and the constitutional régime. This should, of course, be done with leniency and gentleness to avoid confusion and hatred. The call for freedom was one of the duties of the prophets and saints; therefore, anyone who wants to enlighten the ignorant should follow their method which is expressed in the Qur'ānic verse which reads: 'Call unto the way of thy Lord with wisdom and fair exhortation, and reason with them in the better way. Lo! thy Lord is best aware of him who strayeth from His way, and He is best aware of those who go aright.' (16:125)

"As for the jahl-i murakkab, it is composed of two ignorances; that is to say, the person is not only ignorant, but he is even ignorant of his ignorance. Therefore, Nā'īnī goes on to argue, it is very difficult to enlighten such a person. However, by leniency and avoidance of enmity and arguments, the problem may gradually be solved.[31a] In sum, worship of Pharaohs and Cows, the tyranny of the Umayyads and the 'Abbāsīds, the fickleness of Iranians and all Muslims, the absolution of Popes, the Jews' expectation of the Messiah, the Azalīs', and Bahā'ī's belief in a

creature as being the Creator of the universe, and everything in this line, have no origins but ignorance."[32]

The latter passage indicates a great amount of subjectivity and superficiality on the part of Nā'īnī. It is highly probable that Nā'īnī did not know much about all the religions and cultures that he mentions. Despite this fact, however, he calls the adherents of those religions ignorant, losing sight of the fact that they contributed, in their various capacities, a great deal to human culture and civilization. Nā'īnī's absolutely traditional approach shows that even if he had known those peoples and their cultures very well, he would not have appreciated their contributions, because these peoples' religious convictions differed from his own. It seems that the significance of any faith for Nā'īnī was the depth of its adherents' belief, not the social, political and economic institutions which arise from it. This fact is another evidence which indicates Nā'īnī's lack of historical thinking and his misunderstanding of modernity.

All those liberal thinkers who have discussed tyranny consider the ignorance of the masses an important element in a tyrannical régime. Nā'īnī, as a Shī'ī mujtahid, also paid special attention to this point and elaborated on the problems involved. He mentioned the mishaps and the evils which result from ignorance. However,

unlike some other thinkers, he did not make clear the role of the tyrant in the ignorance of the masses. He did not say who keeps the masses from learning, viz: the tyrant. Nor does he say why this should occur. What kind of sciences are out of favor in a tyrannical régime? Does the tyrant have fear of the sciences and of education for the masses? And if so, why? These questions are not raised in Nā'īnī's account. He was content only to point out that ignorance is a force of tyranny and to expound the unhappy results of the deprivations that tyrannically governed people have to suffer.

Tyranny and Religion

Modern thinkers, such as Montesquieu,[33] Alfieri,[34] and even Kawākibī on a certain occasion,[35] held that the religious sciences and the religious authorities are two influential forces of tyranny and that in a constitutional state they cannot play an active role. These emphases posed a crucial problem for Nā'īnī. The point is that the Europeans were secularists while Nā'īnī was not. European thought on constitutionalism proceeds partly as a form of opposition to religion, in any event, on a non-religious basis. Nā'īnī wants the same thing but on a religious basis.[36] Were he to follow these European thinkers, he would be placed in an untenable position

because, on the one hand, he was himself a religious authority with the potentiality for leadership in the Shī'ī world, and he had spent all of his mature life in learning the very religious sciences which constitutional thinkers had condemned. On the other hand, Nā'īnī had hazarded the rejection of tyranny and the approval of constitutionalism. What position was he to take? Were he to agree with the modern trends which were unfavorable to religion, he would have denied all his own qualifications and his position as a mujtahid. An alternative to this choice could have been the rejection of constitutionalism. In Nā'īnī's case, the latter alternative was irrelevant because he and many other mujtahids, for the reasons which were spelled out before,[37] were working towards the establishment of a parliamentary institution.

To rescue himself and other clerical constitutionalists from this odd position, Nā'īnī adopted an interesting alternative. He divided the 'ulamā into two categories: 1) Those who are devoted to religion, who are enemies of oppressive rule, who think about the welfare of the people, who are not selfish and deceptive, and who understand the real meaning of Islam and constitutionalism. 2) Those who possess exactly opposite qualities. Of course, Nā'īnī and other constitutionalist 'ulamā fall within the former category. In other words, Nā'īnī diverted all the attacks of

modernism on religion, religious authorities and religious studies, to the ʿulamā who fall into the second category, whom Nā'īnī called shuʿba-yi istibdād-i dīnī (the branch of religious tyranny). To be more exact, he was referring to Sayyid Muḥammad Kāẓim Ṭabāṭabā'ī Yazdī, Shaykh Faẓl Allāh Nūrī, and other leading clerical figures who opposed the Constitutional Revolution.

We are to keep in mind that Nā'īnī's refutation of the absolutists' argument is, for the most part, formal and serious in tone. It is based on the questions which were put to the constitutionalists by their attackers. In answering his opponents, Nā'īnī wasted little effort in criticizing their personal characteristics. His argument was not directed ad hominem. Rather, he made an attempt to meet the opponents' objections by reasoning and academic argumentation.[38] Throughout, his chief concern was the substantial issues, though at times he did ascribe a number of evil qualities to his critics.

Nā'īnī's entering into combat put him under many conflicting intellectual and religious pressures. Once he had decided to side with the constitutional movement and made an attempt to establish a distinction between different types of the ʿulamā, he was faced with an extremely delicate problem. On the one hand, there were several great mujtahids - and Khurāsānī above all - who

were supporting constitutionalism. These mujtahids, particularly Khurāsānī, were much respected and well-recognized authorities among the Shī'ah. On the other hand, other mujtahids, the most important of whom was Sayyid Kāẓim Ṭabāṭabā'ī, and all of them almost as well qualified and important as the former group (except that Khurāsānī topped them all), were fighting earnestly against constitutionalism. Despite this delicate situation, Nā'īnī, himself a mujtahid in association with the circle of Khurāsānī, decided to write about the necessity of establishing a constitutional régime. In most respects, the contending 'ulamā shared common opinions, but on the constitutional issue they were clearly divided, with each group holding different understandings of constitutionalism. Any accusation that Nā'īnī might have made against the absolutist 'ulamā, as a whole, could easily be made applicable to Nā'īnī himself and his group. Therefore, he could handle the problem only by establishing a division between those 'ulamā who were good and who had become constitutionalists and those who were wicked and who had supported tyranny. The following shows Nā'īnī's treatment of the problem:

"As obedience to tyrannical rulers is slavery, obedience to the arbitrary desire of religious leaders is also slavery. It is easier to get rid of the former than of the latter."[39] "Religious

tyranny, which has always had the duty to protect political tyranny in the name of religion, has confused the truth with falsehood. It has denied the importance of constitutionalism and a parliamentary system upon which national rights and the responsibility of the ruler depend. The absolutist ʿulamā have mocked these principles and branded our struggle for them as heresy. They have made people believe that one of the consequences of a constitutional régime is that women will be unveiled. They lose sight of the fact that there is no connection between these two problems. We see, for example, that Russia, as a despotic state, and England and France, as two constitutional countries, all permit their women to be unveiled. These countries have this custom because in their religion there is no restriction against unveiling. Those ʿulamā are religious thieves, and their aim is to lead weak-minded people astray. They are good examples of those to whom this ḥadīth is applicable: "These ʿulamā are more harmful to our Shīʿah than Yazīd Ibn Muʿāwīyah was to Ḥusayn Ibn ʿAlī."[40]

"This group of ʿulamā is more dangerous than any other force of tyranny, because they have influence on people's hearts. These ʿulamā are like those materialistic persons around Muʿāwīyah such as ʿAmr Ibn ʿĀṣṣ, Mughīrah Ibn Shuʿbah and others. In the eyes of the common people, they were 'companions of the Prophet', and enjoy-

ed the people's respect, even though they did every wrong thing in the name of religion. In the name of religion, they allied themselves with Muʿāwīyah to defeat ʿAlī and to establish their tyrannical government. In fact, religious tyranny, originated in Islam, allied itself with political tyranny from the time of Muʿāwīyah in order to combat the truth represented by ʿAlī. Since then, the tradition of tyranny, political and religious, has been preserved until this time."[41]

"Unfortunately there is no solution to the problem of religious tyranny, and the evil ʿulamā cannot be led to the truth. They are not going to terminate their stubbornness and their tyrannical attitudes. On the other hand, weak-minded common people are not able to differentiate between truthful religious leaders and these religious thieves. As long as the situation is so, there seems to be no solution to our problem. There is only one way to end this religious tyranny: political tyranny cannot be religiously legitimized forever, and the co-operation of the religious authority cannot always be invoked as the 'protection of religion'. Therefore, at this time of the century when people are becoming awakened, there is some hope that the people's own awareness will eliminate the influence of religious tyranny."[42]

Thus, Nā'īnī treated his religious adversaries who were supporting tyranny. We must give him credit for taking a definite position on such a delicate and crucial problem. In his argument he was outspoken and unequivocal. He goes so far as to say clearly that this evil type of ʿulamā has always, from the distant past to the present, qadīman wa ḥadīthan, been supporters of the existing tyranny (not necessarily in opposition to constitutionalism).[43] His statement does not, of course, refer to the ʿulamā in general because otherwise it would have included himself and the other ʿulamā who were then fighting for constitutionalism.

Nā'īnī did not touch upon the relation between religious studies and tyranny as was the fashion of European liberal modernists. He clearly believed that people should be educated and taught what are the ruler's duties and what are their own rights. How far he would have followed this matter, however, is not clear. Did he mean that the people should study Western political science and constitutional law? No answer can be found in Nā'īnī's writings. He did, however, become involved in the problem of constitutionalism, and under the constitutional form of government that he suggested, he felt that the position of religion and the ʿulamā would become quite clear. Thus, there is now an appropriate occasion to turn to Nā'īnī's theory of constitutionalism.

The Term "Mashrūṭah"

Before expounding Nā'īnī's definition of constitutionalism, we should like to offer a few words about the term mashrūṭah as a term and as a concept. In the writings of students of modern Iran and Turkey, the word mashrūṭah has been used as an equivalent to "constitutionalism" or a "constitutional form of government". The two words, mashrūṭah and mashrūṭīyyat, have been used in Iran in reference to the parliamentary system which was set up after the 1906 Revolution. In the Arab countries, the word dustūr, and in India and Pakistan, āʾīn, (both originally Persian) have been employed as equivalents to constitution.[44] In Ottoman Turkey the term Meşrūṭīyet meant a constitutional form of government since sometime before the Turkish Constitution of 1876. Namik Kemal frequently used the words devlat-i meşrūṭah[45] or idārah-yi meşrūṭah[46], meaning constitutional government. This term was imported to Iran from Turkey. There were also other words, such as muqayyadah (bound),[47] muʿtadilah (or muʿtadil) (moderate),[48] maḥdūdah (limited),[49] and "constitution" (with French pronunciation),[50] which were less commonly used, as synonymous with mashrūṭah. It seems that it was Mīrzā Ḥusayn Khān Sipahsālār who first introduced the latter term to Persians in his reports dispatched in 1868, while he was Iranian Ambassador to the Ottoman Empire.[51]

Concerning the etymological origins of the term, there are certain disagreements among scholars. Almost all Persian writers of the period in question took the term as meaning "conditional" without paying attention to its real origin: Kāshmarī,[52] Maḥallātī,[53] and Adīb al-Ḥukamā',[54] may be mentioned as examples of Persian authors who understood the term in the sense "conditional". The use of this term for the new Persian régime evoked a serious argument. Sa'd al-Dawlah, for example, said that the term mashrūṭah, which means "conditional", is a wrong translation of "constitution".[55] Taqī-Zādah reports that one of the 'ulamā of Tabrīz, Āqā Mīrzā Ṣādiq Āqā, suggested that the original European term "constitution" should be used in Iran. He reasoned that were this Arabic term to be employed by the 'ulamā, they would conjugate it according to Arabic grammatical rules as sharaṭa (past tense), yashruṭu (future), wa huwa shāriṭun (active participle), wa dhāka mashrūṭun (passive participle meaning conditional); and finally they might come up with the idea that the new régime should be under the condition of having no freedom or of being under the rule of the 'ulamā'.[56] Thus, this mujtahid took it for granted that the word came from the Arabic root sh-r-ṭ. Also, the 'ulamā, who migrated to Kāẓimayn to offer resistance to the Russian invasion of Iran in 1911, took the word mashrūṭah as coming from shart, and used the infinitive

of the 8th form (ishtirāṭ)[57] as synonymous with constitutionalism. In brief, the term mashrūṭah was employed to denote a constitutional form of government because such a government, as it was understood in Iran, rules conditionally within a certain limit assigned by the law.

However, another theory rejects this general understanding of the word. The new theory was put forth by Taqī-Zādah and Ṣādiq Riẓā-Zādah Shafaq. Both have been known as politicians, scholars and eye-witnesses of the Persian Revolution. Taqī-Zādah points out that the root of the word mashrūṭah is derived from the French word la charte, not Arabic sharṭ. La charte was imported to Ottoman Turkey and the word meşrūṭiyet was made out of it. Then the term came to Iran.[58]

Riẓā-Zādah Shafaq holds the same idea with an elaboration as follows: "The word mashrūṭah came to Iran from Turkey. The Turks may have coined it to denote a non-absolute government, that is, a government bound to conditions. But I remember that I read in some of the works of the Turkish scholars that they did not derive meşrūṭiyet from the root sharṭ (condition); rather, they took it from the French word la charte. This kind of derivation [following the rules of Arabic morphology] is common among the Turks. Another example of this sort is the fact that they call a shaven person

matrūsh which comes from the Persian word tarāsh, meaning shaving. In fact, if they had translated the word "constitution" into mashrūṭah, meaning "conditional", it would not have been a right translation."[59]

According to Professors Niyazi Berkes,[60] and Bernard Lewis,[61] meşrūṭiyet comes from sh-r-ṭ, meaning condition. "The theory put forth by Riẓā-Zādah Shafaq cannot be generalized because", said Professor Berkes to this writer in a personal interview in 1970, "it is common in Turkish, following the Arabic pattern, to derive a variety of words from a single root, but this derivation is usually made from Arabic and Persian terms, not French or English ones. The word la charte has always been translated into Turkish as fermān."

The word meşrūṭah had been used in Turkey for centuries but as,

> "An estate or trust in mortmain limited by conditions fixed by the founder as to the appointment of the mutevelli or Trustee or to the disbursal of the revenues."[62]

In the writings of Namik Kemal, one comes across the phrase Shart-Nāmah-yi idārī in reference to the (Hatt-i Gulhanah).[63] Namik Kemal's usage of the word shart seems relevant to the Turks' original

employment of mesrūṭah. An estate in mortmain was called mesrūṭah because it was bound within certain regulations and conditions imposed by law. The Ḥatt-i Gulhanah was referred to as Sharṭ-Nāmah (the book of conditions), because it limited the rights of the Ottoman Sultan; that is to say, his power would no longer be unconditional. Both usages seem to have been derived from the Arabic word sharṭ. This fact, therefore, makes one think that the mesrūṭah, in the sense of constitutionalism, was also derived from sharṭ because it aimed at the limitation and conditionality of the Monarch's power.

Unfortunately, Taqī-Zādah did not elaborate on the problem he had brought up. Shafaq who gave some explanations did not mention the Turkish source he had consulted. However, in spite of the above assumptions, the theory expressed by Taqī-Zādah and Shafaq does not seem to be entirely without foundation. Since the word mashrūṭah is not a literal translation of "constitutionalism", we assume that the Turks, in using it, did not attach its Arabic sense to it. If they had wanted to translate "constitution", they would perhaps have employed a Turkish term such as, for example, tüzük. The latter term was also used by the Turks of the fourteenth and fifteenth centuries to connote the political institution under the great conqueror, the so called Tamerlane (Timūr) (d. 1404).

The best example of this usage is the constitution of Tīmūr's state which is entitled Tūzūkāt-i Tīmūrī.[64]

Many Turkish thinkers were aware of the fact that Arabic or Persian terminology could easily have been interpreted in a traditional sense and, consequently, in favor of the old régime. Therefore, it is possible that they adopted an original French term and then applied their own derivation to it. This tendency, as mentioned above, also existed in Iran.

In addition, in the memoirs of the 19th century Egyptian thinker, Ṭahṭāwī, one comes across the term sharṭah on different occasions.[65] Ṭahṭāwī explains the term as follows:

> "The book...which contains the French constitutional law is called al-sharṭah which in Latin means a piece of paper. It was freely interpreted and then applied to the written document in which there are limited provisions (al-aḥkām al-muqayyadah). We will narrate it to you, even though most of what is in it cannot be found in the Book of God...nor in the ḥadīth.... So that you may learn how their [French's] reasons command them that justice is one of the means to development of the countries and comforts of the people."[66]

Thus, Ṭahṭāwī used sharṭah as the equivalent of the French term la charte. In Arabic script, sharṭah looks very much like sharṭ which means condition. This term was introduced to the Arabs in 1831, when Ṭahṭāwī's book was first published. Turkish

intellectuals took particular interest in this book which offered an annotated translation of the French Constitution. A Turkish translation of the book, rendered by Rüstem Besīm, was published in Cairo in 1839; it was entitled Seyāḥat-Nāmah (The Book of Travels). In the Turkish version, the French term la charte was introduced to the Turks in its Arabic form sharṭah.[67] Therefore, it might also be safe to assume that the term was later on Arabicized or Turkicized, and that one of its derivations became meşrūṭiet according to the rule explained by Shafaq. As far as form of the word is concerned, it became Turkicized as the Arabic al-sharṭah not as the French la charte, but from the point of view of meaning, it was taken as the French term connoting "constitution".

In 1907, the word mashrūṭah, for the first time, appeared in an official decree reluctantly issued by Muḥammad ʿAlī Shāh under pressure. Since in the previous Royal Decrees the word mashrūṭah was not used, the new Shāh had to confirm the conversion of the Iranian old regime into a constitutional system by clearly using the word mashrūṭah.[68] The Shāh, therefore, announced that,

> "Since the day when the Decree of the blessed King of Kings [Muẓaffar al-Dīn], may God illuminate his proof, received the honor of issuance, and the establishment of the National Consultative Assembly was commanded, Iran has been included among the

mashrūṭah states which possess a constitution."[69]

In this Decree, both terms "mashrūṭah" and "constitution" (in the French pronunciation) are employed. The Decree implies that Iran had begun to develop a constitutional institution in line with countries such as Belgium, England, France, etc., where a democratic system was at work.

We are not sure how much Muḥammad ʿAlī Shāh himself was aware of the meaning of the words he pronounced. We know, however, that a number of Persian liberal constitutionalists, under whose pressure and insistence the Decree was issued, were aware of principles of democratic constitutionalism. To them, mashrūṭah not only meant a system based on a set of fundamental laws which would determine the duties of the ruler and the rights of the ruled and would separate the powers and establish order in the country, but the term also implied a democratic constitutionalism as developed in some of the European countries; a system which philosophers like Locke and Montesquieu discussed.

A constitutional form of government may exist without democracy and a fundamental law may authorize a tyrant to rule. It is difficult to give a precise definition of democracy, but there are certain principles which characterize a democratic institution.

In other words,

> "...a democratic political system is one in which public policies are made, on a majority basis, by representatives subject to effective popular control at periodic elections which are conducted on the principle of political equality and under conditions of political freedom."[70]

These principles were, to a great degree, known to many Persian liberals and were favored by them. The inclusion of an article (22) in the Persian Supplementary Fundamental Law which recognizes the sovereignty of the people indicates that many of the liberals were fighting for democracy. So too, the conflicts of the liberals with the constitutionalist ʿulamā in the first Majlis, over the problem of equality, shows that the liberals' understanding of the word mashrūṭah was a democratic form of government.[71]

On the other hand, to the absolutist ʿulamā the word mashrūṭah appeared to represent an evil system which aimed at the extinction of the Sharīʿah. For this reason they suggested the adjective mashrūʿah (based on the Sharīʿah) for the term, in order to make a constitutional form of government within the framework of Shīʿī principles. They declared that they sought "constitution, constitution, constitution, but Islamic, Islamic, Islamic."[72]

Despite these two different understandings of mashrūṭah, in the eyes of the constitutionalist ʿulamā, mashrūṭah was a political system which might be reconciled with the Shīʿī theory of government. It is very difficult to make a general statement about the attitudes, understandings, and aims of different groups involved in the Mashrūṭah Revolution. Professor Lambton does make a generalization by saying that,

> "...the underlying intention of the supporters of the constitutional movement was not revolution but a carrying out of the Islamic duty to enjoin what is good and to forbid what is evil."[73]

This generalization may be questioned by the fact that some of those revolutionaries who were legislating the laws of equality, liberty, and sovereignty of the people did not have as their sole ambition the performance of that Islamic duty, namely, amr-i bi maʿrūf va nahy-i az munkar. If this were the case, how could Bihbahānī be attacked for his suggestion that the Qur'ān should be followed?[74] How could the same mujtahid be threatened with death for his claim that the article 8 of the Constitution, concerning complete equality of all subjects, was un-Islamic?[75]

Nā'īnī and the Idea of Constitutionalism

To understand the interpretation of the constitutionalist

ʿulamā of mashrūṭah, or a Western pattern of constitutional régime, we now turn to Nā'īnī's account of constitutionalism. He says that "The second type of government is that in which there is absolutely no state of possessorship, subjugation and despotism. Rulership here is based on the performance of certain duties in the interests of the public. The ruler's authority is limited to those duties, and he has no right to transgress this limit. In this office the person in charge has to employ all the forces of the country to establish order and protection. For this reason, his authority is of the type of benevolent supervisorship, vilāyat. 'Every one of the people, in such a state, is equal to the ruler and shares with him in all affairs, financial or otherwise. Those responsible for any office are only public trustees, not possessors or lords, and all are responsible to the people and are liable to be questioned by them. Everyone has the right to protest and is not to be subjugated or subdued by the ruler. Such government is called bound, (muqayyadah), limited (maḥdūdah), just (ʿādilah), constitutional (mashrūṭah, dustūrīyyah) and responsible (mas'ūlah). The person who rules in such a state is called custodian (ḥafiẓ), vigilant (ḥāris), justice giver (qā'im-i bi qisṭ), responsible (mas'ūl) and just (ʿādil). The people who enjoy such government are called accountants, (muḥtasibīn), free

people (abrār), and alive (abyā'). Since this government is a trusteeship or guardianship, it is bound to be void of any transgression and dissipation, and like other trusteeships, it has to be accountable, subject to watch, and be based on responsibility."[76]

"As a matter of fact, rulership is like custodianship of some endowments, mawqūfah; the custodian is appointed to carry out his duty according to the law. He definitely does not possess anything and cannot take any measure according to his own will. It is on this basis that the Imāms and the ʿulamā have designated rulers as valī (guardian), vālī (governor) and rāʿī (shepherd), and the people as raʿīyyat (subjects). Consequently, the reality of rulership consists of supervision over the protection and order of the country, and is in the rank of a shepherd over the flock."[77]

Most of the terms which describe the form of government and the people ruled under it are taken from Kawākibī;[78] Nā'īnī only adds the word mashrūṭah. The definition that Nā'īnī gives of a constitutional form of government includes some provisions which apply to a democratic constitutional régime. He disqualifies the ruler as a possessor, subjugator or a despot. He sanctions the notion that every individual shares in the public interest because all are equal in public matters. He also gives every individual

the right to question the ruler. These concepts are perfectly applicable to a democratic régime.

On the other hand, however, Nā'īnī compares the ruler to an awqāf administrator, losing sight of the fact that there are differences between rulership and the administration of awqāf. A public waqf administrator may be appointed by one person, a governor or otherwise; whereas, in a democratic régime no ruler can be so appointed. He may be elected by popular votes or votes of confidence in Parliament or according to other operating systems existing in different countries.

Another point that Nā'īnī has made, which invites an observer's criticism, is that he has identified the position of the ruler vis à vis his subjects in a constitutional régime with a shepherd's relation to his flock. A shepherd has absolute power over the flock; he is not appointed, selected or elected by them; they are animals not human beings. The differential of status between shepherd and flock is in sharp contrast to his previous assertions concerning the right of the individual to object to, or to question the ruler. The analogy of the shepherd reveals that Nā'īnī did not really understand the point of democracy and that he was still thinking in terms of traditional ideas of government. His discussion of the nature of the legislature and the process of law making

in a parliamentary régime will throw more light on Nā'īnī's understanding of modern concept of government.[79]

In describing the new régime, Nā'īnī takes his point of departure from Islam and attempts to liken modern political institutions to different aspects of Islam, especially to Shī'ism, which in his view has established the most perfect theory of government. He legitimizes constitutionalism, not because it may be genuinely the ideal form of government, but because it can be proven to be somewhat similar to the Islamic system, which he thus elaborates:

"The best means to preserve such privileges as a constitutional régime and to avoid tyranny is immunity to sin, or infallibility, 'ismat, on which rulership in the religion of us Twelver Shī'ah depends. This is true because the infallible person possesses God-given knowledge, 'ilm-i ladunnī, and all high qualities; he is far from animal passions; he does not make any mistake. He enjoys other qualifications as well, the truth of which is beyond mankind's apprehension. However, such a qualified man, namely the Imām, is not presently available. One can conceive of a highly qualified ruler, such as Chosroës with advisors such as Buzurgmihr, who might establish a rule based on supervision, inspection, and responsibility. First of all, however, such a rule does not guarantee people's liberty and equality and their participation in

public affairs. Second, the privileges that people might enjoy under such a government are given to them out of condescension, tafazzul, not because those privileges are the people's own right. Third, examples of this sort are very rare. Therefore, in such circumstances, the only possibility left to find a substitute for the ideal government is to choose a constitutional form of government, even though the latter would be a usurpation of the Imām's authority."[80]

In Nā'īnī's arguments concerning the legitimacy of a constitutional régime, several interesting points stand out quite clearly. His reference to Chosroës (Khusraw Anū Shīravān) as possessing all perfections is rather unhistorical. Kawākibī also made a similar remark.[81] Although narratives about this King suggest that he performed some good actions, there would still remain no room to take his "justice" as unquestionable, or to call him "a collection of perfections", mustajmaʿ-i kamālāt.[82] The old accounts are partly legendary and, therefore, the argument does not stand on accurate historical reconstruction. However, Nā'īnī's other point concerning the right of the people to public privileges in a country is of utmost interest. Having disqualified the government of Anū Shīravān, he shows that he considers the people's equality with the ruler in public affairs and in all other privileges

as their own inherent right. This is one of the important democratic principles that Nā'īnī did not hesitate to advocate, though it clearly contradicts his analogy of the ruler as shepherd and his subjects as flock.

The most crucial point in Nā'īnī's argument paraphrased above is his attempt to prove by reason that, despite the fact that a constitutional régime violates the right of the Imām, it is permissible according to Islam. Nā'īnī purposely stresses this subject because the absolutist ʿulamā had declared mashrūṭah to be un-Islamic and had accused the constitutionalists of being propagators of irreligiosity and infidelity. The following is a list of the key matters arrising from constitutionalism which were found to be against Islam: liberty, equality of men and women, equality of Muslims and non-Muslims, etc., the rule of the majority, changes in the fundamental law, imposition of fines on individuals as punishment, legislation, imposition of punishments according to the law, not according to the fatwā of the mujtahid, the representative system (vikālat), of goverment as a substitute for vilayat.[83] In addition, the new régime makes Europe so attractive to Muslims, closes the gate of ijtihād, gives the administration of justice to non-mujtahid judges, and bases the power of the ruler upon the people, not upon God. In all these ways, according

to Nā'īnī's critics, it violates Islam.[84]

The absolutists' attacks upon the constitutionalist ʿulamā on these religious questions were very influential, and proved to be costly for all the revolutionaries. Shaykh Faẓl Allāh took bast in Shāh ʿAbd al-Aẓīm for 90 days,[85] and used the opportunity to express his powerfully effective criticism against the proposal to change the Persian ancient régime into a Western model parliamentary system. During this period many leaflets and treatises appeared.[86] These publications served to gather many followers around the absolutist ʿulamā and threatened seriously the position of the constitutionalists.

Under such circumstances we see Nā'īnī paying particular attention to finding an Islamic justification for constitutionalism, employing rationalist as well as traditional arguments. He also argues strongly that the ʿulamā's participation in the movement is necessary. The following is Nā'īnī's elaborate argument on the legitimacy of constitutionalism according to Shīʿism:

"There are three points of which one should not lose sight: first, if one commits several evils at the same time, it is compulsory to prevent the person from performing each one of them. Every single evil creates a separate responsibility for a Muslim to prevent it (nahy-i az munkar). Bad deeds should be prevented

as far and in as many cases as possible. If, for instance, one is able to make another person to abandon only one of several evils he has committed, it is necessary to prevent him without taking into consideration his other bad deeds. Second, whatever action that may be against Islamic law should be handled by the administration of the hisbah; the latter office is unquestionably under the authority of the fuqahā' during the Greater Occulation of the Twelfth Imām.[87] It is true that the 'ulamā's responsibility as General Agents of the Imām in all other offices, i.e., rulership, is not unquestionably recognized, but we know that Islam does not allow disorder and the loss of the Islamic territory. We also know that establishing order in Islamic countries is more important than every other duty, hisbah or otherwise. Therefore, it also becomes a definite right and a religious duty of the 'ulamā to possess the ruling power. Third, it is generally recognized by all the 'ulamā that if someone establishes illegal power over a certain thing which is in the sphere of vilāyat (supervisorship), e.g., awqāf, and his complete removal from that position is not possible, it is still compulsory to limit his unlawful hold as far as possible. Every learned man, whether Muslim or materialist, can have no doubt about this matter.

"Once these three points are clear, there remains no room to

doubt the necessity of changing a despotic régime into a constitutional one. This is true, because the former consists of three sets of usurpations and oppressions: 1) It is usurpation of the authority of God and injustice to Him; 2) it is usurpation of the Imām's authority and oppression of the Imām; 3) it also involves oppression of the people. By contrast, a constitutional system is only oppression of the Imām, because his authority is usurped. Thus, a constitutional régime limits three sets of oppressions to one; consequently it is necessary to adopt it.

"In order to remove the oppression done to the Imām, there is but one solution. As we said before, the function of the ruler in the new régime is like that of the supervisor of awqāf. The person in charge of the awqāf, even though he may have illegally occupied the office, can seek the sanction of the lawful authority, i.e., the ʿulamā, to make his own function lawful. If he gains the ʿulamā's approval, then there will remain no usurpation and no oppression of the Imām." [88]

In the above discussion, Nā'īnī legitimizes constitutionalism not simply because of its own inherent virtue, but rather because it is better than despotism and the old tyrannical rule. Since ideal rulership which can only be exercised by the Imām is absent, constitutionalism should be chosen as the next best. Let us see

now how Nā'īnī describes the political institutions in which a constitutional system should take form. According to him, two substantial steps should be taken in order to let constitutionalism function:

"1. To write a constitution; in this document the limit of the ruler's power should be established. Liberty for the people and the rights of all people according to religion are to be reserved. Deviation of the ruler from his duty of limited supervisorship should make him liable for punishment as a traitor and should cost him his dismissal. Since it includes all instructions concerning politics and public order, a constitution is like the risālah-yi ʿamalīyyah [89] of the marjaʿ-i taqlīd. This document is called qānūn-i asāsī (fundamental law), which should not be in conflict with Islam.

"2. A national consultative assembly should be established in which the people's representatives meet. These representatives should be wise, knowledgeable, of good will, and aware of international law and world politics. They are to be responsible not to change the system of supervision (vilāyat) to possessorship. They should supervise the duties so that they be carried out properly. The executive power is responsible to the assembly and the latter to all the people. If either of these two powers,

du masūlīyyat (literally: two responsibilities), does not function properly, the result will again be tyranny, namely tyranny of the executive power or that of parliament."[90]

Nā'īnī allows the composition of a constitution which establishes rights and duties and the extent of the ruler's power. So far so good. But he, like other contemporary Muslim reformers, sanctions this constitution only if it is checked by religion. In other words, he suggests a type of constitution at whose elimination the French Revolution was aiming. Alexis de Tocqueville writes as follows:

> "...les philosophes du XVIII[e] siècle s'en sont pris avec une sorte de fureur à l'Eglise;... [the clergy were attacked] parce qu'ils étaient propriétaires, seigneurs, décimateurs, administrateurs, dans celui-ci...; [the church was hated] parce qu'elles occupait alors la place la plus privilégiée et la plus forte dans cette vieille société qu'il s'agissant de réduire en poudre."[91]

> "Le discrédit universel dans lequel tombèrent toutes les croyances religiouses à la fin du siècle dernier [18th] a exercé sans aucun doute la plus grande influence sur toute notre Révolution; il en a marqué le caractère. Rien n'a plus contribué à donner à sa physionomie cette expression terrible qu'on lui a vue."[92]

Nā'īnī also divides the powers into two, the executive and the parliament. He also gives accounts of the legislative authority

of parliament.[93] He seems to have been rather confused about the different powers within the state and especially about the separation of powers. What Nā'īnī says about the responsibility of the executive power to parliament, and that of the latter to the people is quite similar to the theory given by al-Kawākibī.[94] We know that al-Kawākibī borrowed his materials from Alfieri. The concept of separation of the powers is clear in Alfieri's writings:

> "...that government must be considered a tyranny in which he who is charged with creating laws can execute them himself. And here it must be observed that laws...must be only the simple product of the will of the majority, expressed through the duly elected representaives of the people. If, therefore, the elected on setting down in laws the will of the majority can themselves execute them at their will, they become tyrants because they alone have the power to interpret, annul, change, and carry them out....
>
> Not only, then, is every government a tyranny in which he who executes the laws makes them, or he who makes them executes them, but indeed any government is an absolute tyranny in which he who is responsible for carrying out the laws never even gives an account of their execution to those who created them."[95]

The difference between Kawākibī's views and those of Alfieri is due, as Professor Haim points out, to Kawākibī's having not grasped Alfieri's explanation of the theory.[96] This misunderstanding, as was seen above, was reflected in the writings of Nā'īnī.

Nā'īnī, on another occasion, gives a fuller explanation of the separation of powers which very clearly shows that he also had not grasped the theory. He says that it is necessary that the powers of the country function separately so that every section may perform its duty in an organized and scientific manner.[97] This statement is vague enough. But when Nā'īnī likens the doctrine of separation of powers to ʿAlī Ibn Abī Ṭālib's classification of different guilds and varieties of professions and trades, it becomes obvious that Nā'īnī had a wrong understanding of the doctrine.

The trades and professions that ʿAlī enumerates in Nahj al-Balāghah,[98] such as the military, the judiciary, the merchants and so on, are considered by Nā'īnī as separate powers which may be applicable to governmental departments. In other words, every ministry, Nā'īnī seems to have thought, is a power.[99] The extent of Nā'īnī's misunderstanding of the matter and the irrelevance of his teachings about the separation of powers can be well highlighted by Max Weber's description of the concept of separation of powers:

> "Fundamentally specific separation of powers' differs from that based on socially independent groups in that powers are divided in terms of their functionally objective character.... It is not merely spheres of competence which are separated in this case but also the ultimate

> rights to imperative control.
>
> The functionally specific separation of powers is not wholly a modern Western phenomenon. The separation of an independent political authority from an equally independent religious authority instead of either Caesaropapism or theocracy belongs in this category. Similarly, there is a certain sense in which the specific spheres of competence of the different Roman magistracies may be thought of as a kind of 'separation of powers'.... In most patrimonial states as well as in the Roman Principate it has been usual for the administration of justice and the civil aspect of finance to be separated from the military establishments, at least in the lower reaches. But in these cases the concept of separation of powers loses all precision. It is best to restrict its application to the supreme authority itself. If this restriction is accepted, then the rational formally enacted constitutional form of the separation of powers is entirely a modern phenomenon."[100]

Whatever his understanding of this concept may have been, Nā'īnī believed that establishing a useful and advantageous régime in parliamentary form meant the disappearance of wicked tyranny. Therefore, the parliamentary régime becomes lawful in Islam, according to both Shī'ah and Sunnīs: "It is permissible in the Sunnī tradition because the system of election of parliamentary representatives corresponds to the doctrine concerning the authority of the 'people of loosening and binding', ahl-i ḥall va'aqd.[101] As for the new régime's legitimacy among the Shī'ah, during the Greater Occultation, the mujtahids are responsible for the Muslims'

affairs. If a number of mujtahids or their envoys give their approval to parliamentary decisions, the constitutional system would also become lawful according to the Shīʿah.[102]

Nā'īnī's defense of constitutionalism is of seminal importance, because for the first time the position of the Shīʿah in relation to constitutionalism is favorably and systematically expressed by a reputed mujtahid and is approved in writing by the highest ranking Shīʿī religious leaders of the period.[103] The Muslim reformers from different regions had already discussed the problem of harmony between Islam and modern political institutions. Their ideas, however, did not represent the stand of the Shīʿah who hold a different theory of government. Nā'īnī analytically rejected tyranny, condemned the clerical support of tyranny, advocated a constitutional form of government and finally legitimized it by reconciling it with the Shīʿī tradition.

Nā'īnī does not, of course, stop at this point. He goes on to discuss, in a more elaborate manner, the function of parliament, the duties of representatives, the legislative process and the operation of the judiciary, and so on. He also gives accounts of the concepts of liberty and equality and strongly challenges the position of the absolutist ʿulamā. These problems are important enough to deserve our attention in another chapter.

NOTES TO CHAPTER V

1. Nā'īnī, Tanbīh, pp. 6-7.

2. Ibid., p. 7.

3. For relevant quotations and examples consult ʿAbd al-Raḥīm Ṣafīpūr, Muntahā al-Arab fī al Lughah al-ʿArab (Tehran: Islāmīyyah, Parts I-II, 1957), p. 60; ʿAlī Akbar Dih-Khudā, "Istibdād", Lughat-Nāmah, Vol. II:5, 2119; Hüseyn Kâẓim Kadrī, Türk Lûghati (Istanbul: Maarif Vekâleti, 1928), I, pp. 226-27.

4. Khayr al-Dīn, op.cit., pp. 18-21.

5. Ṭahṭāwī, Manāhij, pp. 363-64.

6. Kawākibī, Ṭabā'iʿ, passim. Concerning Kawākibī's usage of Della Tirannide of Alfieri for compilation of Ṭabā'iʿ see our 4th chapter, section "Kawākibī's Influence on Nā'īnī".

7. Ādamīyyat, Āqā Khān, p. 244.

8. Namik Kemal, Kullīyyāt, pp. 82, 169.

9. Jār Allāh must be referring also to the literal meaning of the words because the word monarch which is originally Greek is combined of "mon" (single) and "arch" (ruler).

10. Jār Allāh, Rūsiyā Müslümanlari Ittifakinin Programi (St. Petersburgh: Tipographia K.S. Antokolskago, 1906), p. 9. On Jār Allāh's life and views of reform a Ph.D. dissertation is being undertaken by Rusen Sezer in the Institute of Islamic Studies, McGill University, Montreal.

11. For a concise survey of the concept of tyranny, consult Frederick Mundell Watkins, "Tyranny", Encyclopedia of the Social Sciences, XV (1935), 135-37. See also C.W. Cassinelli, "Autocracy", International Encyclopedia of the Social Sciences I (1968), 478-80. For a discussion on the variety of definitions of the term since Aristotle and the classifications of tyrants, the following book

is of paramount value: Maurice Latey, Tyranny: A Study in the Abuse of Power (London: MacMillan and Ltd. 1969), pp. 12-28. Concerning the difficulty of the definition of the word tyranny, see Robert A. Dahl, A Preface to Democratic Theory (Chicago: The University of Chicago Press, 1956), pp. 4-33.

12. Jean-Jacques Rousseau, Du Contrat Social, Livre III, Chap. X.

13. Nā'īnī, Tanbīh, p. 8-11.

14. Kasravī, Mashrūṭah, pp. 380-85.

15. Ibid., pp. 658-66.

16. Concerning the Belgian hold on the Persian Customs, see Destrée, "Assistance Technique", pp. 159-70. In this article, the Belgian offical documents have been utilized and it contains thought-provoking discussions on the problem. For the Tobacco Concession, cf. the bibliography cited in our third chapter, no. 8. Information and critical analysis of the concessions and the Kings' European journeys can be found in the following sources: Kazemzadeh, op.cit., p. 100 ff. Taymūrī, Imtīyāzāt; Victor Bérard, Révolutions de la Perse: Les Provinces, les Peuples et le Gouvernement du Roi des Rois (Paris: Librairie Armand Colin, 1910), pp. 339-51.

17. Nā'īnī, Tanbīh, p. 44.

18. Ibid., p. 27.

19. Ibid., p. 59.

20. Ibid., pp. 16-17.

21. Arnold J. Toynbee, A Study of History, abridgement of volumes vii-x by D.C. Somervell (New York: Dell Publishing Co. 1969), pp.187-88. For more details on the three great Empires, consult H.J. Kissling, et al, The Last Great Muslim Empires, Vol. III of The Muslim World: A Historical Survey (Leiden: E.J. Brill, 1969); John J. Saunders, The Muslim World on the Eve of Europe's Expansion (Englewood Cliffs, New Jersey: Prentice-Hall, Inc., 1966).

22. On this particular view of Afghānī consult Hairi, "Afghānī", 121-25. The term Salafīyyah applies to many Muslim reformers of various categories. Muslim modernists such as Shaykh Muḥammad ʿAbduh and Sayyid Muḥammad Rashīd Riḍā, particularly the latter, are referred to as Salafīyyah because they, in some ways like Muḥammad Ibn ʿAbd al-Wahhāb, considered the early Muslim system as the best model for progress. It is due to this fact that the Salafīyyah are also called conservatives in Charles J. Adams, "Conservative Movements in the Arab World", Arab Journal, IV, no. 1 (1966-67), 57-62., For details on the Salafīyyah movement and its connection with ʿAbduh and Rashīd Riḍā, see Malcolm H. Kerr, Islamic Reform: The Political and Legal Theories of Muhammad Abduh and Rashid Rida (Berkeley: University of California Press, 1966). See also Henri Laoust, "Le Réformisme Orthodoxe des "Salafiya" et les Caractères Généraux de Son Orientation Actuelle", Revue des Études Islamiques, VI (1932), 175-224. On the Wahhābī movement consult, inter allia, D.S. Margoliouth, "Wahhābīya", SEI, 618-21; Holt, Fertile Crescent, pp. 149-55; Wilfred Cantwell Smith, Islam in Modern History (New York: The New American Library, 1963), pp.48-51, and the ample references mentioned there.

23. Nāʾīnī, Tanbīh, pp. 18-27.

24. Kawākibī, Ṭabāʾiʿ, pp. 33-34.

25. Taqī-Zādah, Khaṭābah, p. 85.

26. F.O. 416/38, Nicholson to Grey, St. Petersburgh, November 28, 1908, no. 270 (277).

27. Cf. chapters 2 and 3 of this study.

28. Nāʾīnī, Tanbīh, p. 4.

29. Ibid., pp. 15, 45.

30. Ibid., pp. 105-108; quotation marks are ours.

31. Kasravī, Mashrūṭah, p. 631 ff.

31a. Ibid., pp. 120-25.

32. Nāʾīnī, Tanbīh, p. 108.

33. Montesquieu, De l'Esprit des Lois, livre IV, Chap. III and livre V, Chap. XIV and passim.

34. Vittorio Alfieri, Of Tyranny, translated, edited, and with an introduction by Julius A. Molinaro and Beatrice Corrigan (Toronto: University of Toronto Press, 1961), pp. 40-49. See also Megaro, op.cit., pp. 77-85.

35. Kawākibī, Ṭabā'i', pp. 48-49.

36. See our quotation from de Tocqueville farther below in this chapter.

37. Cf. our 2nd chapter, from section "Ṭabāṭabā'ī on the Revolution" onward.

38. Cf. our 6th chapter.

39. Nā'īnī, Tanbīh, p. 27.

40. Ibid., pp. 36-38.

41. Ibid., pp. 108-109.

42. Ibid., pp. 125-27.

43. Ibid., p. 36.

44. Ḥamīd Allāh, "Ā'īn", Urdu Encyclopaedia of Islam (Lahore: The University of Panjāb, 1962), I, 1-2.

45. Namik Kemal, op.cit., p. 169.

46. Ibid., p. 178.

47. Kenny, "Al-Afghānī", 21.

48. Malkam Khān, Āṣār, p. 15.

49. Nā'īnī, Tanbīh, p. 12; Maḥallātī, op.cit., p. 3.

50. Mustashār al-Dawlah, op.cit., p. 17.

51. Ādamīyyat, Āzādī, p. 66.

52. Shams Kāshmarī, op.cit., p. 54.

53. Maḥallātī, op.cit., p. 4.

54. Mīrzā Salīm Khān Adīb al-Ḥukamā' Ḥājīlū-yi Javānshīr Qarābāqī, Shabnishīnī-yi Ramazān yā Qissah-yi Sang-o-Sabū (Tehran, 1909), pp. 304-305. This book covers a detailed narration of the Sipahdār-i A'ẓam's march to Tehran in July 1909.

55. Taqī-Zādah, Khaṭābah, p. 53.

56. Taqī-Zādah, Khaṭābah, pp. 53-54.

57. Cf. our 3rd chapter, section "The Coincidence of Two Invasions: Iran and Libya".

58. Taqī-Zādah, Khaṭābah, pp. 18-53.

59. Ṣādiq Riẓā-Zādah Shafaq, Khāṭirāt-i Majlis va Dimukrāsī Chīst? (Tehran: Kayhān, 1955), p. 141.

60. Berkes, Secularism, p. 232.

61. Lewis, "Dustūr", 640.

62. James W. Redhouse, A Turkish and English Lexicon (Constantinople: The American Board Mission, 1921), p. 1868. For more details about the word and its usage in Ottoman Turkey, see Mehmet Zeki Pakalin, Osmanli Tarih Deyimleri ve Terimleri Sözlügü (Istanbul: Milli E Gitim Basimevi, 1953), II, pp.493-94.

63. Ihsan Sangu, "Tanzimat ve Yeni Osmanlilar", in Tanzimat (Istanbul: Maarif, 1940), I, pp. 777-857; the point referred to, on pages 844-45.

64. This book is suggested to have been written originally in the Chāghātā'ī Turkish language by Tīmūr himself. Then it was translated into Persian by Abū Ṭālib al-Ḥusaynī and thence into English by Major W. Davy and entitled Institutes: Political and and Military published in Oxford in 1783. It was also translated into some other languages; see Mujtabā Minuvī's introduction to

the recent edition of both Persian and English versions of this work published by Intishārāt-i Asadī in Tehran in 1963.

65. Ṭahṭāwī Takhlīṣ, pp. 140-41, 147-48, 152, and passim.

66. Ibid., p. 140.

67. Cf. Ṭahṭāwī, Seyāḥat-Nāmah, translated into Turkish by Rüstem Besīm (Cairo: Būlāq, 1939), p. 73. Compare our above given accounts of the word mashrūṭah with that of Muḥammad Muḥīṭ Ṭabāṭabā'ī in "Farmān-i Mashrūṭah az Kīst?", Muḥīṭ, I (1942), 9-18, and 2nd series, I, no. 4 (1947), 18-20, 23; idem, "Rīshah-yi Mashrūṭah", Muḥīṭ, I, no. 3 second series (1947), 24.

68. For a detailed treatment of the subject consult Muḥammad Muḥīṭ Ṭabāṭabā'ī, "Farmān-i Mashrūṭah az Kīst?", Muḥīṭ, second series, I, no. 4 (1947), 18-20, 23; Hidāyat, Khāṭirāt, pp. 147-49.

69. Ibid., p. 149; the Persian text reads that,

"از همان روزکه فرمان شاهنشاه مبرور انارالله برهانه شرف صدور یافت و امر به تأسیس مجلس شورای ملی شد دولت ایران درعداد دول مشروطهٔ صاحب کنستیتوسیون بشمار میاید"

70. Henry B. Mayo, An Introduction to Democratic Theory (New York: Oxford University Press, 1960), p. 70.

71. For an example of these conflicts, consult chapter 6, the section on equality. For Kasravī's understanding of the idea of a mashrūṭah régime see, among his other books, the following: Mashrūṭah Bihtarīn Shakl-i Ḥukūmat va Ākhirīn Natījah-yi Andīshah-yi Nizhād-i Ādamīst (Tehran: Āzādagān, 1956).

72. Rizvānī, "Bīst-o-du Risālah", 235. For details on the views of the absolutist 'ulamā, see the 6th chapter, passim.

73. A.K.S. Lambton, "The Persian Constitutional Revolution of 1905-6", in Revolution in the Middle East and Other Case Studies, ed., P.J. Vatikiotis (London: George Allen and Unwin Ltd., 1972), pp. 173-82; the quotation on page 176.

74. Cf. chapter 3, no. 29.

75. Cf. chapter 6, the section on equality.

76. Nā'īnī, Tanbīh, pp. 11-12.

77. Ibid., p. 43.

78. Cf. Kawākibī, Tabā'i', pp. 17-19.

79. Cf. our sixth chapter, section, "Legislative Power of Parliament".

80. Nā'īnī, Tanbīh, pp. 12-15.

81. Kawākibī, Tabā'i', p. 52.

82. Among other sources on this Persian Emperor, see Hermann Ethé, "Persia", Encyclopedia Britannica, 9th ed., XVIII, 612 ff.. For his cruel treatment of Mānī, cf. Sayyid Ḥasan Taqī-Zādah, Mānī va Dīn-i Ū, ed. Aḥmad Afshār Shīrāzī (Tehran: Iranshināsī, 1956), passim.

83. For details on the view of the absolutist 'ulamā, consult chapter 6, passim and the literature introduced in chapter 4, section, "The Rise of Ideological Conflicts".

84. Maḥallātī, op.cit., pp. 20-57.

85. Malik-Zādah, Inqilāb, IV, p. 212.

86. Cf. above, no. 83.

87. For Nā'īnī's more detailed discussion on ḥisbah, see also our 6th chapter, section, "Legitimacy of Parliament".

88. Nā'īnī, Tanbīh, pp. 46-48.

89. See our second chapter, section, "The Institution of the Marja'-i Taqlīd".

90. Nā'īnī, Tanbīh, pp. 14-15.

91. Alexis de Tocqueville, L'ancien régime et la Révolution, ed. J.P. Mayer (Paris: Gallimard, 1967), pp. 63-64.

92. Ibid., pp. 250-51.

93. We shall discuss these questions in our 6th chapter, the sections on Parliament.

94. Kawākibī, Ṭabā'i', p. 18.

95. Alfieri, op.cit., pp. 11-12.

96. Haim, "Alfieri and al-Kawākibī", 328-29.

97. Nā'īnī, Tanbīh, p. 102.

98. Nā'īnī has quoted ʿAlī's statement from his order to Mālik Ashtar Nakhaʿī when he was appointed as governor of Egypt. For the complete text of this order and commentary, see Ibn Abī al-Ḥadīd, Sharh Nahj al-Balāghah, ed. Al-Shaykh Ḥasan Tamim (Beirut: Maktabah al-Ḥayāt, 1964), V, pp. 23-40; the portion quoted by Nā'īnī on page 36. For an English translation of Nahj al-Balāghah, see Nahjul Balagha: Sermons, Letters and Sayings of Hazrat Ali, translated by Syed Mohammed Askari Jafery (Haydarabad: Seerat-uz-Zahra Committee, 1965).

99. Nā'īnī, Tanbīh, pp. 103-104.

100. Max Weber, The Theory of Social and Economic Organization, translated by A.M. Henderson and Talcott Parsons, edited with an introduction by Talcott Parsons (New York: The Free Press, 1964), pp. 404-405.

101. Information on this concept is found in Ed., "Ahl al-Ḥall wa al-ʿAḳd", EI^2, I, 263-64 and E. Tyan, "Bayʿa", EI^2, I, 1113-14.

102. Nā'īnī, Tanbīh, p. 15.

103. See the letters of support of Khurāsānī and Māzandarānī which appeared in the beginning of Nā'īnī's Tanbīh.

CHAPTER VI

THE FUNCTION OF CONSTITUTIONALISM

The Problem of Writing a Constitution

In the last portion of the previous chapter we outlined Nā'īnī's explanation concerning the legitimacy of a constitutional régime in a Shī'ī community. What is intended to be expounded here is Nā'īnī's account of the function of a constitution that would be suitable to Iran. As we have noted, Nā'īnī considered constitutionalism as the most practical system, but not as an ideal and unquestionably legitimate one. Once this principle were accepted, then it would be absolutely necessary to adopt a constitution and to make it operate in line with the ideal régime as far as possible. It was to this end, to form a constitution at once workable and not alien to Iranī tradition, that Nā'īnī made a conscious effort to propose a constitutional form of government as much in accord as possible with the teachings of the Shī'ah.

Nā'īnī advocated a written constitution which clearly differentiated between the functions that should be exercised and the matters which should be excluded from any intervention or change. We shall deal below with Nā'īnī's opinion regarding the extent of

the state's legitimate intervention in people's affairs, judicial or otherwise. To uphold the necessity of a written constitution, he argued by analogy that the common people (muqallidīn), who have to follow their marjaʿ-i taqlīd[1], cannot fulfill their duties unless they have a risālah-yi ʿamalīyyah of their marjaʿ at hand detailing his instructions step by step. By the same token, in political and state affairs, it is inconceivable not to have a written constitution which sets out the duties and responsibilities of those in charge, and clarifies their being subject to the supervision of other authority. Thus, it goes without saying that it is obligatory to make a constitution.[2]

The idea of writing down a constitution was challenged by the absolutist ʿulamā as soon as it was felt that a law other than Islam might come to be officially in force. Shaykh Fazl Allāh, referring to the Persian Revolution, noted that this great sedition (fitnah-yi kubrā) consisted of three stages: 1) discourse and presentation (taqrīr va ʿunvān); 2) writing and declaration (taḥrīr va iʿlān); 3) practice and test (ʿamal va imtiḥān). The call for the first stage was favorably received by all, literate and illiterate, because it was presented in a pleasant way. The second stage involved the writing of the Constitution and freedom of the press; such freedom gives sanction that one may write freely against religion

and religious people and the ʿulamā. In the third stage, the constitutionalists began to practice whatever oppression they could.

Shaykh Faẓl Allāh adds that the most important problem of all is the drafting of a constitution. This matter involves three innovations, all of which are against Islam and are forbidden: 1) writing a law vis à vis the Islamic law; 2) forcing the subjects to obey a law which is not presented by the Sharīʿah; 3) punishing subjects for their failure to obey the written law.[3]

In his argument, Nāʾīnī takes issue with Shaykh Faẓl Allāh about the Constitution without mentioning his name. Nāʾīnī calls the Shaykh's argument sophistry, similar to that which was put forward by Muʿāwīyah's army when they raised the Qurʾān in the battle of Ṣiffīn. This action resulted in the secession of the Khawārij from ʿAlī Ibn Abī Ṭālib's camp because of their objection to accepting arbitration.[4] Nāʾīnī's refutation of Shaykh Faẓl Allāh as well as his defense of the Constitution goes as follows:

"First, legislation would be an innovation, bidʿat, and consequently against Islam only if one declares a non-Islamic provision to be a provision of the Sharīʿah and puts it into effect. But if one does not associate the non-Islamic provision with the Sharīʿah, then there would be no innovation. For instance, one person can make a certain schedule for himself so that he may operate in

an organized way; or the people of a certain territory may decide to establish regulations to govern their own affairs in a particular manner. Such a schedule or set of regulations can also be written down in a book and can be called "constitution". As long as no claim is made that the constitution is established by the Sharī'ah, there would be no ground to label this action "innovation" or "legislation over" against Islam (tashrī').[5]

"Second, just as a number of things which were not originally compulsory become so under the force of a vow (hazr), a covenant ('ahd), or an oath (yamīn), etc., so also certain non-compulsory actions become compulsory if the performance of a compulsory action depends upon them."[6]

For example, if one makes an oath in the presence of an agent of the Sharī'ah to give a certain amount of money to someone, it will become obligatory to pay the money, even though before his oath the person making it did not owe any money to the other. This is a good example which clarifies how a non-compulsory action may accidentally become compulsory.

Another example may be seen if one wants to participate in a holy war which requires horsemanship. For the person who knows horsemanship it will be compulsory, according to reason ('aql), to ride a horse, because this action is considered to be an indispen-

sible preparatory phase which leads to the compulsory holy war even though riding a horse itself was not originally compulsory under the Sharī'ah. Thus, does it come about in Islam that under certain conditions, non-compulsory things may become compulsory.[7]

Nā'īnī goes on to say that once this principle is established, it is clear that the making of a constitution, which accords with religious expediencies (muqtazayāt-i mazhab) and limits oppressive rule, is compulsory according to religion. A constitution is compulsory because the establishment of order and the fixing of limitations on the ruler's power and his responsibility all depend on it. It is mere sophistry on the part of the absolutist 'ulamā to identify such law-making with the tashrī', and to set it over against the institution of prophecy. The Akhbārīs[8] made the same criticism of the Shī'ī 'ulamā for their custom of writing the risālah-yi 'amalīyyah; out of ignorance the Akhbārīs considered such rasā'il against the institution of prophecy (dastgāh-i nubuvvat).[9]

Before his complete separation from the constitutionalists, Shaykh Fazl Allāh himself wrote the second article of the Supplementary Fundamental Law of Iran, which rules that no law is to be passed in the National Assembly without the approval of at least five selected mujtahids in the Majlis.[10]

Nevertheless, he was still unhappy about the Constitution,

believing it to be un-Islamic because after its passage in Parliament, he found some other articles of the Constitution not formulated in accordance with Islam. However, his argument against the idea of writing a constitution, in general, was found unacceptable by Nā'īnī on the ground that the mere fact of writing a constitution cannot be considered bid'at or, in the 'ulamā's terminology, tashrī'. It is true that the constitution which Nā'īnī suggested is not contrary to the Sharī'ah; perhaps, it should rather be considered a risālah-yi 'amalīyyah, not a constitution. A democratic constitution is not simply a book made by one person or a body of persons within the framework of a certain religion. It does involve legislation which may violate Islamic law. Nā'īnī did not really understand the concept "constitution". Instead, he made an attempt to fit it into an Islamic frame by using it as a kind of risālah-yi 'amalīyyah, thus missing the idea of constitutionalism.

Nā'īnī's argument in support of a constitution is limited only to the Shī'ī justification for compiling books of law which are to be based on the Qur'ān, sunnah, ijmā' and 'aql. The nature of the argument, therefore, shows that Nā'īnī did not understand the idea of a democratic constitution. The Persian Constitution, despite all its religiously oriented nature, was not made exactly as Nā'īnī

prescribed, nor did it function as he wished (see farther below). In fact, Shaykh Faẓl Allāh's argument on this problem seems closer to reality, i.e., he perceived that the Constitution would operate in a fashion contrary to Islamic teachings.

Parliamentary Elections

For making law in a constitutional context there is need to establish a national assembly. This national assembly, of course, should be formed by a general election in which the public is to participate. Nā'īnī deems it necessary that Iranians be most careful about this important "religious and patriotic" task. In casting their ballots for their candidates, they are to put aside all sorts of personal purposes, friendships, and family relations. They must understand the meaning and purpose of elections. The most important goal in participating in an election should be the protection of religion, preservation of the independence of the country, "nationalism", and the tutelage of Islamic territories.

The electors must recognize who is most deserving for membership in Parliament. It is substantially important, Nā'īnī argues, to elect a person who is benevolently inclined toward religion, the state, the "Islamic fatherland" (vaṭan-i Islamī) and all Muslims (nawʿ-i Muslimīn). A parliamentary representative should also love

every corner of his country and its borders a thousand times more than his personal property, and consider the blood, honor and property of every individual, as honorable as his own life and honor. A proper representative should hold the independence of this Islamic country next in importance only to religion. Even non-Islamic groups ought to participate in the election because of their share in taxation and other things, and for the reason that the complete realization of a constitutional régime depends on their participation. Even if they elect representatives from among their own fellow-religionists, we should not expect from them to foster our religion. To qualify as candidates, they should only be benevolent toward the fatherland and toward their fellow-men.[11]

By using the adjective "Islamī" to modify the term vaṭan, Nā'īnī made it clear that he did not mean fatherland in the modern sense of the word. He was referring simply to Iran which was inhabited mostly by Muslims. Nā'īnī also held the representatives of Parliament in Iran responsible, not only to their electorates, but also to all non-Iranian Muslims living outside of Iran.

Even though Nā'īnī employed the word vaṭan with the adjective Islamī, he still deemed it necessary that the elector as well as the elected should be loyal first to religion and then to the vaṭan. This matter, of course, is against the spirit of democratic constit-

utionalism in which religion cannot be given such an exceptionally important place:

> "The standards of religion can only be applied in the area of voluntary life which lies outside the state; and the equality of behaviour which they involve can only be achieved if it is sought freely and without any shadow of legal compulsion."[12]

Nā'īnī also disregarded the modern theories of nationalism and patriotism which, for instance, developed in France during the 19th century.[13]

On the other hand, there are at least two points in Nā'īnī's above discussion which may be considered elements of nation-state, that is to say: "love for every corner of the country and its borders", and "people's preference of the country to their personal property." Also, Nā'īnī's remarks concerning "the equal rights of the non-Muslim subjects in participating in the parliamentary election with Muslims", suggest a democratic idea.[14] The reason behind the inclusion of these modern elements in Nā'īnī's discussion is perhaps that the territorial limits, which Nā'īnī suggested as worthy to be loved and protected, made up Iran, the overwhelming majority of whose population was Muslim. Giving equal rights to non-Muslim citizens, therefore, would not have caused much of a serious difficulty for the state.

The fact that Iran's population was mostly Muslim marks an outstanding difference between Iran and the Ottoman Empire in modern times. The latter had to handle the problem of the equal rights of non-Muslim subjects, which formed 14,000,000 out of 35,000,000 of its total population, under the pressure of the Western Powers. The fact that the non-Muslim population was fairly great caused the Ottoman rulers to consider equal rights for non-Muslim subjects very seriously. This consideration finally resulted in the proclamation of the Hatt-i Şeirf of Gulhaneh of 1839, and the Hatt-i Humayun of 1856.[15]

Such a situation not having existed in Iran, loyalty to the territorial borders of the vaṭan, would have, in Nā'īnī's mind, and perhaps in reality too, meant loyalty to the Muslim territory of Iran, which Nā'īnī considered as next in importance to loyalty to religion itself.

In Nā'īnī's presentation, there is little, if any, indication of his awareness of democracy, or modern analysis of the idea of fatherland, or that of nationalism. Credit, however, should go to Nā'īnī for having been realistic enough to take these important points into consideration. Unlike Nā'īnī, the absolutist ʿulamā took issue with the constitutionalists on the fact that non-Muslim Persians had found their way to the Persian Parliament; this was

one of the important reasons for the absolutists' condemnation of the parliamentary régime.[16]

Legitimacy of Parliament

Having seen Nā'īnī's view of elections, we should now find out what he wished the nature and function of parliament representatives to be. Nā'īnī, like other Muslim reformers of the 19th century, such as Khayr al-Dīn[17] and Mustashār al-Dawlah,[18] likened the idea of parliament to the concept of consultation (mashvarat), which is supported in the Qur'ān and ḥadīth. With reference to that part of the Qur'ānic verse which reads "and consult with them upon the conduct of affairs" (3:159), he argued that the addressees of the Qur'ān are the bulk of the people, both all those who came from Mecca to Madīnah after the Prophet, (the muhājirūn), and those who joined him in Medinah, (the anṣār), not only the special entourage. This Qur'ānic instruction can be realized in what is now called a "national assembly".[19] Nā'īnī also mentioned some historical examples, in which Muḥammad had practiced mashvarat, and in which ʿAlī Ibn Abī Ṭālib had advised his people to consult.[20]

Nā'īnī went on to argue that once the ideal ruler, i.e., the Imām, is absent, and it is established that consultation is advocated by Islam, and that nothing better than a parliamentary system can

replace the ideal rulership, it becomes definitely obligatory to set up a parliament which may be able to suppress all the powers of tyranny.[21]

The idea of setting up a parliament and the election of its representatives from among the ordinary people was another problem which encountered a strong opposition on the part of the absolutist ʿulamā. Deeming the establishment of a parliament obligatory, Nā'īnī tried to refute the arguments of the opposition. Again he referred, without mentioning any name, to the writings of Shaykh Faẓl Allāh who had challenged this idea on the following grounds:

1. Dealing with the affairs of the people is a responsibility of the qualified mujtahids, not of any individual from among the people, such as a grocer or a draper (baqqāl wa bazzāz).

2. The idea of the majority, whose agreement makes the law, is an innovation that is against Islam.

3. The third point, on which Shaykh Faẓl Allāh took issue with the constitutionalists, was the idea of representation (vikālat). In the fiqh, the problem of vikālat has been discussed in the sense that one person appoints another as his lawyer to perform certain actions on his behalf. This arrangement involves individual matters; for instance, one person may appoint another to buy a house for him and sign necessary papers on his behalf. The lawyer is called

vakīl and his action vikālat. However, when a problem belongs to the public and a vikālat is required, no one but the mujtahids are capable of handling the matter.[22]

The word vakīl was used, and is still used, in Iran to signify a parliamentary representative, and vikālat is applied to his parliamentary function. Since the same word was used in religious discourses, Shaykh Fazl Allāh argued about it in religious terms. He notes that in parliament, if religious problems are to be discussed, there would be no need for any vikālat, because the problems must be handled under the authority of the mujtahids in the absence of the Twelfth Imām. But if the subject matter were limited to secular affairs (umūr-i ʿurfīyyah), then no religious justification would be required.[23] In brief, the absolutists opposed the idea of intervention by non-ʿulamā in those affairs which are within the jurisdiction of the institution of ḥisbah.

In refuting the views of Shaykh Fazl Allāh, Nā'īnī also brings up the idea of ḥisbah. According to the Shīʿī ʿulamā, any action which opposes the teachings of the Sharīʿah must be prevented by the institution of ḥisbah, which is unquestionably under the authority of the ʿulamā. Nā'īnī holds that rulership in a Muslim community is also within the responsibility of ḥisbah and only its custodians, i.e., the ʿulamā, are the legitimate rulers. He thus

argues:

> "The dissatisfaction of the sacred law-giver [i.e., the Prophet] with the topsy-turvy order and with the loss of Islamic territory [is most evident]. It is also most evident that the duties relating to the protection and [establishment of] order in Muslim countries are more important than all ḥisbah affairs [such as administration of justice, for instance]. Therefore, representation of the fuqahā' and the General Agents [of the Twelfth Imām] during [His Greater] Occultation in performing those duties [i.e., rulership] is a settled matter in [our] religion."[24]

In other words, the authority of ḥisbah over matters such as administration of justice is established on the ground of preventing misconduct and corruption. By the same token, one may argue that the custodians of ḥisbah should definitely control the state's affairs to prevent political disorder which, involving misconduct and corruption on a larger scale, would result in even greater dissatisfaction of the Prophet.

To Nā'īnī, the above views of the absolutists were "scholarly expressed arguments" which invited his appreciation. Then, Nā'īnī noted that the opposition refused to acknowledge the other side of the coin. Elaborating on the problem, Nā'īnī goes on to argue that since Islamic rule is based on consultation, and since the people pay taxes to their government, all the people therefore have

the right to interfere in, and watch over the state's affairs. On the other hand, Nā'īnī adds that, since the interference of the people, that is to say, their participation in the elections, prevents the tyrant from exercising oppression, people's right to and their responsibility for the state's affairs are established under the principle of nahy-i az munkar which is an obligatory duty of every individual and can be realized through the institution of popular elections.[25]

Besides, Nā'īnī continues, once the ideal government is absent and it becomes clear that a parliamentary system is the best means for limiting the authority of the ruling body, there can remain no room for hesitation about the necessity for adopting the best possible system. The best possible system, as we have seen, he identifies with constitutionalism.

Nā'īnī says that there are two more points to keep in mind about the institution of hisbah: 1) It is not necessary that a mujtahid handle hisbah problems; it is sufficient, however, if he authorizes another person for the purpose. 2) If all or some of the Imām's General Agents, i.e., the mujtahids, cannot perform their duties, their responsibility is not dissolved. In their place the just faithful (ʿudūl-i mu'minīn) can perform the function of the mujtahid. In case this opportunity is not available to the

just faithful, the task may be left for any Muslim even if he is numbered among the sinful (fussāq); this is what all the Twelver Shīʿī ʿulamā have accepted.

Under such circumstances, Nāʾīnī adds, a representative system has been recognized as the only possible way to limit the power of a tyrannical government. Since the ʿulamā themselves in practice cannot take power, we have no better choice than the creation of a constitutional régime. However, as the second article of the Persian Constitution decrees, there must be a number of mujtahids in parliament to correct and confirm the parliamentary decisions. Thus, there should be no excuse for casting doubts on the legitimacy of a constitutional government.

Another problem raised by the absolutists was the matter of establishing a supervisory board (hayʾat-i-nuẓẓār), i.e., a parliament, in the country. They argued that a parliament is not competent to exercise the function of religious agency or representation (vikālat-i sharʿīyyah). Nāʾīnī, however, disagreed, saying that vikālat-i sharʿīyyah may fall within the competence of a parliament. The payment of taxes by the people in the public interest as well as other reasons give the people the right to a voice in their own affairs and those of the state. In other words, everyone has the right to rulership, but people decide to elect

one person or persons to defend their rights and carry out their wishes. Second, representation (vikālat), does not have necessarily to be religious representation in order to be rightful. The literal meaning of vikālat is attorneyship or agenthood in a general sense and the idea can be applicable to a variety of things. There are several Qur'ānic verses in which the term is used in its general sense, not in the sense of vikalāt-i sharʿīyyah. A few of the verses are as follows: "Allāh is sufficient for us! Most Excellent is He in Whom we trust! (niʿm al-wakīl)" (3:173); "And thou art not a warden (wakīl) over them" (39:41); "Thou art but a warner, and Allāh is in charge (wakīl) of all things" (11:12). Third, once the necessity of setting up a lawful body to check upon the state's affairs is proven, any argument concerning its applicability or non-applicability to the concept of vikālat-i sharʿīyyah is but playing with words.

As for the absolutist ʿulamā's opposition to the authority of the majority, it too, is baseless. Since Islamic rulership is based on the concept of mashvarat, it should be easy to understand the preference for, and the superiority of, the majority of wisemen over a minority on a problem in which there are opposing views. Moreover, there are several historical cases which show that the opinion of the majority prevailed. For instance, the Prophet in

the battles of Uḥud and Aḥzāb, and ʿAlī Ibn Abī Ṭālib in the battle of Ṣiffīn, had to follow the majority.[26]

In this argument, Nāʾīnī appears to have gone a long way on making compromises. This fact indicates his realistic attitude towards the then existing situation with all of its modern developments. The manner of posing questions by the opposition invited Nāʾīnī's appreciation; this fact speaks of Nāʾīnī's basic but partial agreement with the absolutists' viewpoints, and also tells us about Nāʾīnī's background as an ʿālim. Nāʾīnī strongly rejected his opponents' arguments on the ground that, in the absence of the Imām and the impossibility of the mujtahids' direct rule, even sinful Muslims can take the responsibility for people's affairs. The new system turns away from despotism, and this important advantage is enough to give it legitimacy and to override any arguments advanced against it, such as that on the idea of vikālat-i sharʿīyyah or otherwise. In other words, in the existing circumstance, where ideal Islamic rule cannot be set up, expediency requires the Muslims to establish constitutionalism.

Nāʾīnī's realism becomes more evident when he says that "the opposition thinks that Tehran is the district of the Twelfth Imām, and it is the period of Alī Ibn Abī Ṭālib's rule, and the people are attempting to interfere in his rightful rulership. I wish it

could have become clear that Tehran is neither the sacred district of the Imām nor does anyone want to usurp the Imām's authority. The people's representatives only want to curtail oppressive rule."[27] This statement implies that it is not the right time to argue about the rule of the Imām, and to disapprove of any attempt to establish a ruling system which is not based on the idea of Imāmat.

In short, Nā'īnī seems to have believed that some of the most fundamental Shī'ī ideas were not relevant to the modern situation. Iranian Muslims, therefore, should make concessions to modernism and formulate a constitution which might be approvable by the Shī'ī teachings as far as the existing circumstances permit. Needless to say, however, his deeming it necessary that the 'ulamā serve the function of a check on parliament is entirely against the idea of democratic constitutionalism (see below).

Legislative Power of Parliament

Consideration should now be given to the function, extent of responsibility and authority of parliament and the people's representatives. Evidently, the most important task of any parliament is to make legislation, but the right of parliament to undertake such a task was strongly denied by the absolutist 'ulamā. For example, Shaykh Faẓl Allāh Nūrī[28] and Shaykh 'Abd al-Nabī Nūrī[29]

argued that legislation is forbidden in Islam. Islam, they held, is already perfect and does not need to be perfected by new legislation. Even the mujtahid, who is authorized to deal with the affairs of the Muslims, can only extract relevant provisions from the Qur'ān and sunnah; he cannot make law. Also the idea of changing law was rejected by Shaykh Faẓl Allāh. He asks, "Does change mean [a deviation] from Islam to infidelity, or from infidelity to Islam. The falsity of both [alternatives] is evident."[30]

Since Islam meant the absolute truth to Shaykh Faẓl Allāh he, as a mujtahid, was fully right to consider false any deviation from Islam. Deviation from infidelity to Islam was also called false by the Shaykh; perhaps, because he was assuming that Iran was already a Muslim country. Therefore, to him, it was absurd to think that the change of law involved a deviation from infidelity to Islam.

Shaykh Faẓl Allāh goes on to say that, if change involves a change from one Islamic principle to another Islamic principle, it would mean replacing a permissible law with another permissible law (az mubāḥī bi mubāḥī dīgar). Although this possibility can be logically conceived, it would still be wrong, because what is called mubāḥ by Islam can be either performed or abandoned. Therefore, there should be no legislation to make a mubāḥ provision compulsory or forbidden in a way that entails punishment upon non-observance.[31]

Shaykh Faẓl Allāh's viewpoints are strongly refuted by Nā'īnī. He calls the Shaykh's argument vain and spiteful,[32] and finds it to be based upon negligence (ghaflat) or feigned negligence (taghāful) and feigned ignorance (tajāhul) vis à vis religious principles.[33] Directing his argument against the absolutist ʿulamā, Nā'īnī proposed a certain procedure for law-making which, according to him, was not at all at variance with Islam.

In his introductory remarks on the idea of legislation, Nā'īnī emphasizes that if there are already any specified Islamic provisions (manṣūṣāt) concerning political or judicial problems, then there is no need for new law-making in those areas. The existing manṣūṣāt will be sufficient and will be valid and unchanged until the Day of Judgement. But if there are a number of problems which have not been predicted by the Sharīʿah, and to which, consequently, no solution has been proposed, it is the duty of the authorized ruler, (valīy-yi nawʿī) to decide about these things, that is to say, to establish appropriate law. The latter procedure is, of course, subject to change according to expediency, time, and place. Therefore, during the rule of the Imām, law-making of this sort depends on the preference of his Agents who represent him in different regions. In the course of the Imām's Greater Concealment, this task is left to his General Agents (nuvvāb-iʿāmm), i.e., the highest

marja' al-taqlīd, or even to an authorized person who may be a middle ranking clergyman authorized by the marja' al-taqlīd.

Nā'īnī notes that whatever is supposed not to be discussed, questioned, or changed, is therefore limited to the mansūsāt, and whatever needs to be discussed and consulted about, makes up the matters which fall into the category of unspecified rules, (ghayr-i mansūsāt). Under the rule of the Imām, as mentioned earlier, the Imām's representatives can decide on unspecified matters. It is for this reason that the Qur'ān commands: "O ye who believe! Obey Allah, and obey the messenger and those of you who are in authority;..." (4:59). In this verse, obedience to the valīy-yi amr , i.e., the Imām, is equal to obedience to God and His messenger. 'Alī Ibn Abī Ṭālib's appointment by the Prophet as his successor in the Ghadīr incident[34] is considered as the perfection of religion. The idea of completion of religion (ikmāl-i dīn), on this occasion, is related to the fact that a ruler (valī) is necessary for the Muslim community in order to deal with unspecified problems and to give guidance.

During the Greater Occultation, whatever the Imām's General Agents or their representatives prefer, is to be adopted. This procedure applies only to the problems on which no specific provision is available. The encouragement of mashvarat in Islam relates to unspecified matters, not to the mansūsāt; no legislation on the

latter is allowed.

Nā'īnī goes on to argue that law-making of this nature is, of course, one of the tasks of the ʿulamā. However, under present circumstances, law will be effective only if it is passed by a parliament. Therefore, if a person, who is authorized by the religious authority, approves the legislation, there should be no room for doubt about the religious legitimacy of parliament.

As for the matter of changing the law, about which the opposition had made a great sophistry, it should be pointed out that, since the law itself emerges out of expediency and circumstance, it is logically subject to change or even to abolition according to new circumstances; this is a hisbah type of task. Thus, Nā'īnī finally says, the amendment of law is not to be interpreted as anything but the adoption of a more suitable and useful law by which the affairs of the people are organized.[35]

The points made by the absolutist ʿulamā are generally correct. They sought to disqualify anyone, mujtahid or otherwise, from acting to legislate. The mujtahid can only deduce the provisions of Sharīʿah from the Qur'ān and ḥadīth, and announce his findings in the form of a fatwā. This process cannot be called legislation. But, if a parliament were to function as a law-making body, such a development would be a definite violation of Islam, and the

absolutists' argument is fully justified.

In refuting this argument, Nā'īnī, as was noted, made a distinction between the mansūsāt and ghayr-i mansūsāt. His argument on this point is, in fact, quite inadequate. The ideas of mansūsāt or ghayr-i mansūsāt are entirely irrelevant to a régime based on democratic constitutionalism. In this argumentation, Nā'īnī plainly shows that the understanding of democracy was foreign to him and that he was not prepared to recognize a truly sovereign democratic parliament. It seems not only that was he not committed to democracy, but he did not even understand the idea of domocratic constitutionalism. He was fighting tyranny, and the advocacy of a constitutional form of government seemed a convenient way to victory in his campaign. By limiting the function of parliament so that it might deal only with matters about which there is no clear provision in Islam, Nā'īnī undercut the whole idea of democracy and constitutionalism and gave approval to a paralyzed and non-sovereign parliament! There would remain, on this ground, very little room for setting up a modern constitution, because the main body of the constitution would be formed of a number of Qur'ānic verses and hadīths. The régime he conceived would be closer to theocracy than to democratic constitutionalism, the latter being the historical enemy of the former.

In fact, Nā'īnī's reasoning concerning the legitimacy of parliament is inspired by the traditional method used in the Akhbārī-Uṣūlī polemics. Āqā Muḥammad Bāqir Bihbahānī (1705-1790, sic), who has been reputed as the most influential instrument in the defeat of the Akhārīs, argued in favor of practicing ijtihād, and refuted the Akhbārīs who had strongly rejected the authority of the mujtahids. In his most famous polemic work, Bihbahānī says that there are many Qur'ānic verses and ḥadīths, whose meaning is not clear, and that it is not possible to obtain the truth about what the founder of the religious law, the Shāri', commanded. Therefore, the only means to reach the truth is the exercise of ijtihād by qualified persons, those who have the capacity to differentiate between what is authentic or false, ṣaḥīḥ wa saqīm.[36]

In his argument, Nā'īnī applied the same traditional argument to a modern concept, the parliamentary function, and argued that those problems which are not clear in Islam should be determined in parliament by those who are authorized by the mujtahids. Thus, Nā'īnī considered parliament as a committee of ijtihād and saw its function as only the determination of the authenticity of ḥadīths or of the real meaning of the Qur'ānic verses.

To support his argument, Nā'īnī made reference to the second article of the Supplementary Fundamental Law[37] which rules that,

> "At no time must any legal enactment of the National Consultative Assembly...be at variance with the sacred principles of Islam.... It is hereby declared that it is for the ...ʿulamā...to determine whether such laws as may be proposed are or are not conformable to the principles of Islam; and it is therefore officially enacted that there shall at all times exist a Committee composed of not less than five mujtahids or other devout theologians, cognizant also of the requirements of the age.... The ʿulamā...shall present to the... Assembly the names of twenty of the ʿulamā; and the Members of the...Assembly shall...designate five or more of these...and recognize these as Members, so that they may...reject and repudiate, wholly or in part, any such proposal which is at variance with the Sacred Law of Islam, so that it shall not obtain the title of legality."[38]

This article, though passed as an effective and unchangeable law and included in the Persian Constitution, is entirely against the principle of democratic constitutionalism. The article was composed by Shaykh Faẓl Allāh[39] and its passage was imposed upon the Majlis. For the passage of the article, heavy pressures were exercised upon the Majlis on the part of the absolutist ʿulamā, who were being strongly supported by Muḥammad ʿAlī Shāh. Besides, the article also pleased the constitutionalist ʿulamā by giving them officially such a great power in the process of law-making. In spite of all this pressure, it was passed only with severe opposition by the Āẕarbāyjān Representatives, one of whom invited the high admiration of Mr. Smart, the then official reporter of the British

Legation at Tehran. Smart wrote:

> "Mirza Fazlali Agha, a Tabreez Deputy, made a remarkable speech, opposing the proposal, which is especially worthy of notice as it indicates the ingenious methods which the party of progress is pursuing in its endeavours to get around the obstructive dogmas of the Koranic law.... After a brilliant and ironical definition of the relations between the Civil and Religious Law ("Urf" and "Sheri'") in the days of despotism, the orator went on to say that henceforth there would be one law for the whole land - the "Sheri'". The "Injunctions" and "Prohibitions" of this Law will undergo no change, and the laws that the Mejlis passes will be of two kinds: firstly, the defining of particulars of questions on which the "Sheri'" has pronounced in a general manner, as for instance... (he here gives a list of examples embracing practically the whole Government administration); and secondly, concerning matters which are "permissible"..., but regarding which, for the preservation of order, an engagement for the execution or abandonment thereof must be entered into, but not in the name of the Religious Law. These laws will in truth be the definition of the meaning of the "Sheri'", in accordance with the requirements of the age.... If on account of Treaties or other reasons in some instances the execution of the "Primary Sheri'" Law is impossible, then, on the principle that "Necessity justifies Avoidances", "Secondary Regulations" will be put in their place. Thus, in no case will the laws of the Assembly be contrary to the "Sheri'".
>
> The speaker then summed up his conclusions: that a law which had been voted by the Mejlis did not require to be referred to any other body for approval..., the speaker is careful to invoke this Law at every stage of the development of his thesis."[40]

These articles of the Constitution, which made concessions to religion and the <u>ʿulamā</u>[41] have since been discussed, and at times

heavily criticized, by various authors. For example, on June 16-17, 1911, Mr. Hooper Harris delivered a paper before the Conference of the Persian-American Educational Society held in Washington, D.C., dealing with the problem of Iran's future. In his address, he advocated the establishment of Iran-American economic relations, and attacked the religious aspects of the Persian Constitution by pointing out that,

> "To the American, who has had to guard his liberties with jealous care, Article 2 of the Persian Constitution has an ugly look.... Nothing could be more dangerous than to constitute such a Committee of Five [of the 'ulamā] representing an ecclesiastical hierarchy rather than the people, the Supreme Court of the country to decide upon matters of Constitutionality. Even if these men were individually good and able men, the pressure brought to bear upon them by the hierarchy to which they primarily belong would be such that they would need to be strong indeed to resist doing their bidding."[42]

Although all of the articles are not in conformity with the spirit of democratic constitutionalism, one should not lose sight of the fact that these concessions were made to the religious authority out of expediency. Under the existing circumstance, there was perhaps no other alternative. Mr. Smart's report throws light on the policy behind the compromise of the Persian liberals:

> "The Liberals know that they cannot, for a few years at any rate, attack the enemy openly. They have there-

> fore, made large concessions to the Clericals and affect an exaggerated respect for the body of Ulema. The clause... [i.e., 2nd article of the Constitution] was, in this spirit of conciliation, noted by the Assembly, in spite of the determined opposition of the Tabreez Deputies, headed by Taghizadeh and Mirza Fazlali Agha. As events turned out, it almost looked like an act of great political sagacity, for it cut the ground from under Sheikh Fazlullah's feet, when bribed by the Government, he began his campaign against the Majlis, and declared its members infidels. Once the Liberals have got hold of the power, it may be taken for granted that this retrograde clause will remain in perpetual abeyance."[43]

Despite the large concessions made to the ʿulamā, the same Majlis included a number of articles in the Constitution which weakened, overrode, or even removed the authority of the ʿulamā.[44] The best example of the articles of this nature is that which commands the equality of all subjects before the law (see farther below). The then British Minister at Tehran gives the following account of the matter:

> "The [Constitutional] Law reduces the Sovereign to practical importance, but by far its most important part is that defining the powers of the Tribunals, Article 71 and the succeeding Articles, although ambiguously worded, intentionally so, will, if carried into execution, deal a deadly blow at the judicial powers of the mollahs. The Courts of Justice are declared to be "the centres to which all suits must be referred.... The Ecclesiastical Judges will, it seems, be compelled to try their cases in the Courts of Justice, not in informal Tribunals held at their private residences or elsewhere, as has been

> the custom hitherto.... Article 86, also ambiguously worded, seems to grant the right of appeal against all decisions of the Civil or Ecclesiastical Courts to a Court of Appeal, instituted in accordance with the Regulations of the Ministry of Justice, i.e., of a civil power. If this interpretation be correct, it is obvious that a most effective restraint will be placed on the powers of the mollahs to give arbitrary and corrupt judgements.
>
> The Law is full of other important points, but many of these are so technical, so intimately connected with the whole course of the reform movement, that they can hardly be appreciated without a special knowledge of the question."[45]

As was planned, the religious authorities did not exercise any effective role in parliament or in judicial affairs. The second article of the Constitution gradually fell into oblivion, though a number of names are listed as the ʿulamā's representatives in the first few parliaments.[46]

Now, one cannot help asking these questions: Did Nā'īnī understand the real meaning of the clever wording of the Law formulated by the Persian liberals in the Majlis? Did he see the secular aspects of the Constitution, but, out of his realism, still support it? Did he well realize that,

> "...by the passing of the additions to the Constitution and debate over the question of the bast [taking refuge], the Mujteheds have been taught that the new régime means to emancipate itself from the yoke of the priesthood"?[47]

The answers, in a general sense, seem to be in the negative. Nā'īnī, in the capacity of a Shī'ī mujtahid, was realistic only to the extent of seeing that the overthrow of tyranny was indispensible and that, in the absence of the Imām, the alternative was to form a government based on law and justice. By making some concessions to constitutionalism, therefore, he attempted to achieve the latter's Islamicization. However, since he was not a secularist thinker, not only did he not understand the meaning and goal of constitutionalism, but he also overlooked the devices employed by the liberals in the process of making the Constitution to cause it to appear to be in favor of the 'ulamā, but in essence to operate in line with secularism. An optimistic view would be that, Nā'īnī may have thought that as long as the 'ulamā had the right to check the bills presented to the Majlis, Islamic principles would not be violated, no matter what the other articles of the Constitution may aim at.

It is worth noting that the above two quotations, which openly express the conscious efforts of the Majlis to suppress the influence of the 'ulamā, were published in a Persian translation in Tehran, in 1912.[48] Nā'īnī and other constitutionalist 'ulamā probably read them. It is therefore, safe to assume that those reports were instrumental in Nā'īnī's disappointment with and final withdrawal from the Persian constitutional movement.[49]

The Concept of Liberty

According to the Persian Constitution, all subjects are to enjoy liberty and are to be equal before the law. Liberty and equality formed two more points of disagreement between the two opposing groups of the ʿulamā. Shaykh Faẓl Allāh said that the freedom which was guaranteed in the Constitution was against Islam. In his argument, the Shaykh referred to article 20 of the Supplementary Fundamental Law which reads:

> "All publications, except heretical books and matters hurtful to the perspicuous religion [of Islam] are free, and are exempted from censorship. If, however, anything should be discovered in them contrary to the Press Law, the publisher or writer is liable to punishment according to that law."[50]

Although the article forbids the publication of "matters hurtful to the perspicuous religion", Shaykh Faẓl Allāh still found it un-Islamic. He noted that the article is against Islam because it rules that only two things, i.e., the publication of "heretical books" and "matters hurtful to Islam", are not allowed. However, by limiting this restriction to the two, other things are permitted, such as malicious accusation (iftirā), back-biting (ghaybat), slander, harm, obsession, abusive language, insult, and threatening and the like, all of which are indisputably forbidden in Islam.[51]

Most of the examples he gave fall within the category of defamatory statements which is subject to punishment under a democratic constitution. Writing on the British Constitution, A.V. Dicey, in reference to the 11th article of the French Déclaration des droits of 1789, which deals with freedom, points out that,

> "Every man who directly or indirectly makes known or, as the technical expression goes, "publishes" such a statement, gives currency to a libel and is liable to an action for damages. The person who makes a defamatory statement and authorises its publication in writing, the person who writes, the publisher who brings out for sale, the printer who prints, the vendor who distributes a libel, are each guilty of publication, and may each severally be sued."[52]

Also, article 20 of the Persian Constitution restricts freedom of expression by the Press Law (passed in February 1908), the preamble of which asserts that "the purpose of this Press Law is to protect the rights of the public and to prevent any harm and transgression on the part of writers and editors of the press."[53]

The attitude of Shaykh Faẓl Allāh towards the idea of freedom resulted in many mob demonstrations in the streets of Tehran, of one of which a British eyewitness gives the following account:

> "A chorus of children's voices...drew the attention of the indifferent crowd...a file of young scholars from a religious school...were singing...this phrase...:

> 'Azādi namikhaim.' ('we do not want liberty.')'.... They were greeted with shouts, and there were fresh volleys of firing, then a more definite response to the chanting; 'Mashruta namikhaim.' ('We want no Constitution.')... Mulla Sayyid Ibrahim mounted on a wooden platform... [and said]: 'If ye drink wine, if ye give yourselves up to gambling and adultery, murder, and every form of crime, the All Merciful will pardon you, but Allah keep you from becoming partisans of the Constitution.... Rather, do ye kill them in as great numbers as possible!...' [Then] I saw [two men taken as constitutionalists] hanging by their feet, their arms swinging loosely, two naked, mangled bodies, the unrecognizable remains of the victims of Mulla Ibrahim."[54]

To refute Shaykh Faẓl Allāh's criticism, Nā'īnī offered only a traditional argument which obviously would not by any means have been effective. In the previous chapter, we pointed out that Nā'īnī, like European thinkers, such as Montesquieu, argued that living under a tyrannical régime is similar to slavery. However, as he sought the evidence to support his argument, he made reference to some Qur'ānic verses and ḥadīths to show that in different passages slavery meant the same as being under tyrannical rule. His argument was devoid of historical sophistication. He seems to have understood freedom in an Islamic sense, as the opposite of slavery, which has been an important subject in the history of Islamic thought through the centuries.[55] He says that the overthrow of a tyrannical ruler is to become free from the captivity and servitude that the people have suffered under the ruler. The struggles that

the "nations" have had with their rulers, have been an attempt to achieve this goal, and not, as the opposition held, an attempt to displace religion, to ignore its provisions, or to abandon its exigencies, muqtazayāt-i mazhab. Every people, religious or agnostic, fights against this kind of servitude, not against servitude to God, and against subjection to religion and the Book.[56]

It is true that freedom is essential in a democratic constitutional system, and that living under tyranny may be likened, as some philosophers have done, to slavery. But, this is not what the concept of freedom in a democratic régime is all about. The point that Nā'īnī made relative to the question of religion is unhistorical and undemocratic. It is unhistorical, because one of the well known nations which fought strongly for freedom was France in the late 18th century, and one of her primary objectives was to put an end to the power that the Church had been exercising.[57] It is also undemocratic, because under a democratic constitutional régime one is to enjoy religious freedom, freedom of having or lacking religion. No one is to be punished for having or not having a certain religious belief, or for practicing or abandoning religious instructions.

Nā'īnī also touched upon freedom of speech and that of the press, but his argument was also completely traditional and did

not go beyond the Islamic interpretation of "freedom of expression". He says that every writer or religious orator (ahl-i minbar), like the prophets and saints, exists to enlighten ignorant people; he should familiarize them with the truth of freedom according to the ḥadīth and the Qur'ānic verse which commands: "Call unto the way of thy Lord with wisdom and fair exhortation, [mawʿizah al-ḥasanah] and reason with them in the better way." (16:125)[58]

This interpretation of freedom by Nā'īnī clearly indicates that he did not know the meaning of freedom as it is understood by modern thinkers. In democracy, the idea of freedom has to do with the separation of powers which, as discussed in the previous chapter, Nā'īnī misunderstood. The idea behind separation of powers is to preserve freedom for the people, to make the various powers of government watch over one another, and prevent oppression on the part of one another. Montesquieu's treatment of freedom may be of interest in this context:

> "Lorsque dans la même personne ou dans la même corps de magistrature, la puissance législative est réunie à la puissance exécutrice, il n'y a point de liberté; parce qu'on peut craindre que le même monarque ou le même sénat des lois tyranniques pour les exécuter tyranniquement.
>
> Il n'y a point encore de liberté si la puissance de juger n'est pas séparée de la puissance législative et de l'exécutrice. Si elle était jointe à la puissance législative, le pouvoir sur la vie et la liberté des citoyens serait arbitraire: car le juge serait législateur.

> Si elle était jointe à la puissance exécutrice, le juge pourrait avoir la force d'un oppresseur.
>
> Tout serait perdu si le même homme, ou le même corps des principaux, ou des nobles, ou du peuple, exerçaient ces trois pouvoirs: celui de faire des lois, celui d'exécuter les résolutions publiques, et celui de juger les crimes ou les différends des particuliers."[59]

Since Nā'īnī did not have a good grasp of the idea of separation of powers, his defense of freedom is devoid of any democratic value. We mentioned earlier in this chapter that Nā'īnī would have empowered the ʿulamā or their authorized agents to approve or disapprove the bills presented to parliament in order to make the law effective. This power is, in fact, nothing less than the right of veto that the ʿulamā, in Nā'īnī's view, and according to the second article of the Persian Constitution, are to enjoy. By giving this extraordinary right to a special group, the ʿulamā, the principle of equality has been violated. More important, the notion that law derives from the people through their representatives has been compromised. Parliament, therefore, is not the last voice and there is no true sovereignity of the people where such provisions apply.

Nā'īnī also reserved the judicial power almost completely to the ʿulamā. He says that problems in the sphere of muʿāmalāt,[60] marriage, inheritance, mulcts (dīyāt), punishment, and the like, are

all to be handled by the mujtahids.[61] Thus, Nā'īnī would have authorized the ʿulamā to hold two of the fundamental powers of any government, the legislative and the judicial. By sanctioning the accumulation of these two basic powers in the hands of la même corps des principaux, ou des nobles, ou du peuple, he failed to defend democratic constitutionalism. In this argument, Nā'īnī's stand appears self-contradictory. He was fighting tyranny, but his proposals, according to Montesquieu's theory, would only have perpetuated it.

In brief, Nā'īnī's view of liberty is derived entirely from an Islamic origin, even though he gave to all subjects an equal right to vote in parliamentary elections. In giving such an interpretation to liberty, Nā'īnī was no doubt influenced by the writings of reformers in various parts of the Muslim world. Most of these reformers made the same kind of arguments. As examples, one may mention Ṭahṭāwī of Egypt,[62] Ṣādiq Rifʿat of Turkey, the Young Ottomans, and Khayr al-Dīn of Tunisia.[63] A number of thinkers, such as Fransīs Fatḥ Allāh Marrāsh, who gave rather a liberal interpretation of the concept, did not deal with the conflicting aspects of Islam and modern concept of liberty.[64] Some of the Persian intellectuals, such as Mustashār al-Dawlah and Malkam Khān, also treated the idea of liberty with an Islamic coloring, though

their accounts were derived from Western origins. Mustashār, for instance, likened freedom of speech to the concept of al-amr bi al-maʿrūf wa al-nhyʿan al-munkar with which we dealt in some detail in our first chapter. Only a few Persians, such as Talibov,[65] gave a more liberal interpretation.

The Principle of Equality

Nā'īnī's interpretation of equality also violated the principle of the equality which developed in the West, because he granted great privileges and extraordinary rights to a certain group of people. In his argument, Nā'īnī again dealt with the points made by Shaykh Fazl Allāh. The latter had argued that in Islam there is no equality between the mature and the immature, the sane and the insane, the healthy and the ill, the slave and the free, wife and husband, the learned and the ignorant, the Muslim and the non-Muslim, and so on. How can a Muslim be subject to a law which decrees equality among all people?[66]

Shaykh Fazl Allāh's argument is directed against article 8 of the Supplementary Fundamental Law which states that "The people of the Persian Empire are to enjoy equal rights before the law."[67] This law does not apply to all of the cases mentioned by Shaykh Fazl Allāh. For example, his objection to equality between the sane and

the insane is irrelevant, because this problem is to be handled according to a special law made for treatment of insane persons. Concerning his other objections on the matter of equality, such as, for instance, that of Muslim and non-Muslim, one must agree with Shaykh Fazl Allāh, because in Islam, there is a great difference between a Muslim and a non-Muslim subject living under a Muslim ruler. These are some of the differences that Shaykh Fazl Allāh pointed out:

> "The zimmīs, [a free non-Muslim subject living in a Muslim country],[68] for example, are subject to special provisions in marriages. Non-Muslim men cannot marry Muslims, but Muslim men can have non-Muslim women as concubines and on a temporary basis. Apostasy of either partner of the married couple entails the cancellation of the marriage; conversion of either partner of a non-Muslim couple to Islam also has special provisions. With regard to the problem of inheritance, infidelity denies a person of inheritance. A non-Muslim may not inherit from a Muslim, but the reverse is permissible. Also an apostate has special definite provisions; his property will be transferred to his heirs, his wife [automatically] divorced, his body becomes unclean, and it is obligatory to punish him with death...."[69]

In his defense of the concept of equality, Nā'īnī first rejects a part of Shaykh Fazl Allāh's argument as completely irrelevant and out of the question. Among the irrelevancies are such matters as the equality of insane and sane persons. He says that it is

obvious that different groups of people have different kinds of responsibilities. This universal rule is not characteristically Islamic. It exists in all religions. Even those who deny religions admit this rational rule on which the formation (nash'ah) of humanity depends and by which one can differentiate between human beings and animals.

After these general remarks, Nā'īnī makes an analogy between several ideas, such as strength and weakness, freedom (ikhtīyār) and compulsion (iztirār), wealth and poverty. He argues that according to reason, one is bound to acknowledge the differences which exist among them. By the same token, the ideas of sanity and insanity are also at variance with each other and should be handled in different ways. That every group has to follow different provisions and different tasks is indisputable.

Nā'īnī thus concludes that, "having these facts in mind, even a child could understand that equality, in the sense that the opposition interprets it, is against reason, religion, and all the governing laws of the world. Using the term equality, (musāvāt) in this sense is but sophistry."[70]

On this point, Nā'īnī is fully right in what he says because, as mentioned earlier, questions such as sanity and insanity are absolutely beyond the sphere of the concept of equality as used in

connection with constitutional law. Problems of this type have to be handled through the enactment of particular laws. On other matters, however, Shaykh Faẓl Allāh put forward a strong argument which, in terms of Islamic law, cannot be refuted. Nā'īnī goes on to attempt to refute his opponent, but he was faced with an untenable position. Generally speaking, the Islamic principles on which Shaykh Faẓl Allāh based his argument are not contrary to Nā'īnī's opinions, because Nā'īnī himself was a Shī'ī mujtahid, sharing the same general views of the Shī'ah that Shaykh Faẓl Allāh held. However, the constitutional movement brought them face to face as two bitter enemies. Against this background, it is interesting to see how Nā'īnī tackled the great problem of his time which in his views had three important aspects: the refutation of the absolutist 'ulamā, the preservation of Islamic principles, and support of the idea of constitutionalism.

The following is what Nā'īnī had to say: "In Islam, when a law is made, it is to be applied equally and without discrimination to whomsoever for whom the law is made. Personal and special matters are not to be considered in the process of law-making. There is no way for violation of law, for bribery, or for imposing an arbitrary rule. Basic matters, which are common among all and include security of life, honor, property, and place, should be enforced. No one is to be banished or imprisoned without reason.

Holding religiously-sanctioned assemblies (ijtimā'āt-i mashrū'ah) is to be permitted.[71] In brief, whatever is common among all and does not belong to a particular group should be commonly put into effect. With regard to the problems which concern certain groups of the people in certain circumstances, equality still governs among all the individuals who fall under their particular rule. For instance, a defendant is to be called for trial no matter if he [or she] is of the lower class (vazī') or a noble person, learned or ignorant, infidel or Muslim.

"Any murderer, thief, adulterer, [or fornicator] [zānī], wine drinker, one who bribes or is bribed, a tyrant, a usurper of public and private awqāf and the property of the people, seditious persons, apostates and so on, are to receive the judgement which is based on the Sharī'at and which is issued by an authorized religious authority, (ḥākim-i shar'). Thus, the special precepts applying to Muslims, or those which apply to the zimmīs, are to be carried out without any discrimination among the members of each of these two groups. That is to say, all Muslims should be treated equally according to their laws, and all non-Muslims are to be treated also equally in accordance with the law that the Muslims have established for them.

"This is the truth of equality which forms the foundation of

justice and constitutes the spirit of all the political laws. Both the Constitutions [of Iran and Turkey] , decree the equality of all people before the Law, and they contain provisions for matters with common or special application. In other words, any provisions addressed to all people or certain groups of the people, should be carried out equally among the individuals to whom the provision is applicable."[72]

As Nā'īnī pointed out, in Islam, law is to be applicable on an equal basis. Personal purposes should not matter and, in brief, justice, as defined by the Sharī'ah, should rule. There is no difference between a nobleman and a low class citizen, a rich man and a poor one, a black and a white man. These kinds of equality enjoy the full support of Islamic law, and we have little doubt that Shaykh Faẓl Allāh had no disagreement with Nā'īnī and other constitutionalists on these problems. The problem is that the reformers in the Muslim world (see below) dealt mainly with the points that Islam has in common with democratic constitutionalism but not with the points of difference. Over these points of difference, they passed in silence. They might not have noticed in some cases, or if they did notice, they tried to Islamicize the controversial principles to the extent that they distorted the whole spirit of a democratic constitution. Nā'īnī is one of the

few constitutionalists who was faithful to the line he was following and who sincerely believed that the establishment of a constitutional system, to which his interpretation might be applicable, was in the interest of the people. He dealt clearly both with the democratic principles which correspond to Islam and with those which do not. He, therefore, presented an argument which in substance is quite far from democratic constitutionalism.

In defense of equality, Nā'īnī, as mentioned above, at a certain point, did not differentiate between Muslim and non-Muslim. This fact alone, however, does not make his defense amount to a democratic constitutionalist position. He says that any suspect, Muslim or otherwise, should equally be summoned to the court. This means only that in the process of summoning, both should be brought to the court. There is no guarantee, however, that the nature of the trial will be equal for both Muslim and non-Muslim, or that only one law and procedure will be applied to both of them equally.

He also considers apostasy as a crime for which, like bribery, murder and so on, the accused should be tried. This offense is, of course, purely Islamic and surely Nā'īnī and his colleagues looked forward to a system in which Islam would have power to try an apostate for his apostasy. This Islamic principle, however, is not democratic because it suppresses freedom of religion and thought

and makes the subjects unequal before the law simply because of their difference in belief. The problem, however, goes even beyond this limit; Nā'īnī wants all accused persons to be judged in the Sharī'ah court and by those who are appointed by the religious authorities. Again this principle, though fully Islamic, is entirely against the ideas of religious freedom and equality in a democratic system.

Finally, Nā'īnī announces that the principle of equality is related only to the man-made law (qavānīn-i mawzū'ah), which is provided to control the conduct of those in charge of government positions. In other words, the legislation passed in parliament should order the government to treat all the people in the country equally. This is not to mean that the principle of equality might come to affect the law of the Sharī'ah, or that it might aim at the removal of all distinctions which the Sharī'ah has ordered to be made among the people.[73] Clearer than Nā'īnī's interpretation is that of his colleague, Maḥallātī. He says that the equality, which has been the subject of our argument, means that the fornicator will receive physical punishment (ḥadd); the thief's hand will be amputated, and the murderer will be punished. All receive their relevant punishment no matter who they may be. In the eyes of the law, all are equal, king or beggar, learned or ignorant, strong or

weak."[74] Maḥallātī goes even further to say that in the early period of Islam, the above-described system was at work and that now, that system is going to be revived.[75] Such was the way in which Nā'īnī, Maḥallātī and their colleagues understood article eight of the Persian Constitution which was quoted farther above.

A variety of aspects of the doctrine of equality have been discussed through the ages, and many interpretations of it have emerged.[76] Apart from its complexity, the idea itself was not accepted in the full sense of the word by all European constitutional states. Political equality had been long fought for in Europe; it was not gained, for instance, in England, for women until as late as 1918 when the Representation of the People Act gave the vote to women over thirty who were householders or wives of householders.[77] There occurred movements which fought for more human rights, but complete equality was not established. The right to vote required as pre-conditions a certain amount of wealth and the payment of a certain sum of taxes every year. This development took many years to produce the result that: "the franchise should be co-extensive with all adults, regardless of such differences as those of sex, race, religion, or wealth, all of which are regarded as politically irrelevant."[78]

So, too, in the Middle East, the ideas of liberty and equality

could not be accepted as they were proposed by the Déclaration des droits but not for the same reasons as in the West, because:

> "Social and economic inequality were not major grievances. Islamic society did not know the rigid social barriers and caste privileges of pre-revolutionary Europe; its undeveloped economy limited the opportunities both of acquiring and spending wealth, and thus prevented the growth of glaring disparities between rich and poor. To some extent the gulf between the two was still bridged by the corporative structure of society and the moral and charitable tradition of Islam."[79]

The idea of equality, as interpreted in the West, was not favorably received in the Middle East simply because of its substantial conflicts with Islam. Almost all Muslim reformers accepted equality in theory, but they interpreted the idea within the framework of Islam. They mainly mentioned those aspects of equality which can be entertained in a thoroughly Islamic system of government and view of society. They either did not know or purposely did not mention the conflict between Islam and equality for all citizens, as viewed by Europe. The omission was made perhaps to avoid confusion and to discourage objections on the part of the conservative. What they did not take into account was that insistence on a religious identity of a particular kind and association of the state and society with one religion in the

case of multi-religious countries was already an active instance of inequality.

A few examples will give a better insight into the problem of interpretation of the doctrine of equality in the Muslim world. Fransīs Fatḫ Allāh Marrāsh in his book Ghābah al-Ḥaqq dealt with equality (istiwā') with rather a modern approach, but he limited his argument mainly to the desired equality between poor and rich, strong and weak, and to the proposition that the bulk of people form the real structure of the society and should enjoy equality. There should not be any distinction among persons or any differences in status.[80] In an abstract sense, this equality can enjoy Islamic sanction. However, if "the distinction among persons and differences in status" were discussed and actual examples were given, the conflicts between Islam and constitutional equality would have clearly made their appearances, because the status, for instance, of men and women, slave and free, Muslim and non-Muslim and so on are different in Islam. Khayr al-Dīn Pāshā, addressing himself to the Ottomans, under whom many non-Muslim subjects were being ruled, refuted the "reluctance of European countries to let their subjects be judged by the law of the Muslim countries...." Khayr al-Dīn added that,

> "The truth is that religious aversion does not incline the judge away from the impartiality upon which the

> sharīʿa is based or from deciding for the right wherever this leads. Even if this required giving judgement against the ruler himself he would treat the plaintiff with justice whoever he might be, acting in accordance with the principle of religion which is the mightiest restrainer, to such an extent that there would remain no trace of what might be able to sway him personally."[81]

Thus, Khayr al-Dīn advocated the idea of equality of the Muslim and the non-Muslim before the law, but the law he had in mind was the Sharīʿah, which itself differentiates between the two. Khayr al-Dīn, like many other Muslim reformers, believed in the perfection of Islam and the Sharīʿah quite genuinely. Thus, if judgement were given under any other religious law, there would be injustice and inequalities because these laws are imperfect. The Sharīʿah, however, is by definition perfect, and judgement under it could not result in the injustice of inequality.

A Persian thinker of the nineteenth century, Mustashār al-Dawlah, spoke rather clearly about a law which should treat all the people of different religious convictions in Iran on an equal basis.[82] This thinker, however, not only did not explain the real consequences of this law, which would be at odds with Islam, but he, like Fransīs Marrāsh, applied it to the objective of achieving equality of the nobles with lower class people, and confused it with the concept of justice in Islam.[83] Thus, he confused sociological

notions such as economic inequalities with what is meant by equality before the law.

In the Ottoman Empire, under Western pressure, efforts were made to the legal equality of all subjects. Although equality was asserted in both Hatts, those of 1839 and 1856, the attitude of the Muslim subjects of the Empire were quite negative towards the equality of non-Muslims with Muslims.[84] In the Turkish Constitution of 1876 and that of 1908, equality of all subjects was guaranteed,[85] but the great Ottoman constitutionalist, Namik Kemal, despite his fight for Ottomanism, interpreted the idea of equality in a religious context. On Namik Kemal's view of equality, Professor Mardin writes that,

> "For Kemal, equality meant before everything else equality before the law, and equality which derives from the dignity of the human person and the divine origin of the creation of man.... In practice, this meant for Kemal that high government officials would not be treated more leniently than ordinary citizens in the courts.... This was the equality that had existed between the Prophet and his followers and was identified with an idealized Islamic golden age."[86]

A brief examination here of Ṭahṭāwī's treatment of equality seems indispensible because of the influence his writings exercised upon thinkers of the modern Middle East. For the purpose of our

present discussion, we refer particularly to Ṭahṭāwī's Talkhīṣ because of his

> "...informative accounts of the French Revolution and for his translation and analysis of the French constitution, [and] for his exploratory statments about the intellectual heritage of the West which had found its political expression in the liberal movements of the nineteenth century."[87]

As we know, Ṭahṭāwī was sent on a mission to Paris by Muḥammad ʿAlī of Egypt (ruled 1805-1848), during the years 1826-1831, to supervise the religious duties of Egyptian students while in France. During his stay in Paris, the French Revolution of 1830 (to which Ṭahṭāwī referred as the Revolution of 1831[88]) occurred; Charles X resigned, and Louis-Philippe ascended the throne. The French Constitution of 1814, which had been given by Louis XVIII, changed, and another constitution of more liberal nature was made on August 14, 1830. Ṭahṭāwī was an eyewitness of these developments which formed a good portion of his memoirs entitled Takhlīṣ al-Ibrīz ilā Talkhīṣ Bārīz.

Although Ṭahṭāwī witnessed the French people's revolution which aimed at a more democratic franchise, and the people's fight for changing the old Constitution (1814) that only "was a compromise between divine right and the Revolution",[89] he did not pay much

attention to the new Constitution. Several non-liberal elements which existed in the Constitution of 1814 were removed. For instance, Catholicism was no longer the "religion d'Etat" but the religion "professée par la majorité des Français (article 6, 1814; 6, 1830). Also the power of suspending or dispensing with law was specifically taken from the king (art. 14, 1814; 13, 1830) and censorship was abolished forever (art. 8, 1814 and 7, 1830).[90] In spite of the significance of the 1830 Revolution, especially from the standpoint of religious equality, Ṭahṭāwī only referred his readers to the 1830 Constitution to learn about "the French uprising and their demand for liberty and equality (ḥurrīyyah wa musāwāt)."[91] Instead, he translated, and even then not very accurately, the 1814 Constitution which had already been changed.

The inaccuracy of Ṭahṭāwī's translation, whether he intended it or not, has resulted in an ambiguous exposition of the concept of equality in his book. The first few articles of the 1814 Constitution deal with the idea of equality among the citizens. The first article says that "Les Français sont égaux devant la loi, quels que soient d'ailleurs leurs titres et leurs rangs". Ṭahṭāwī translated this passage in abbreviated form as "all Frenchmen are equal before the law."[92] This abbreviation, of course, does not change the spirit of the article. However, because the article

itself does not refer to the actual application of the law of equality, the problems remain vague; and consequently, to an Islamic reformer, the possibility was opened to understand equality as conceived and advocated in Islam. A constitutionalist mujtahid such as Nā'īnī would interpret it as Islamic equality, like the equality among all Muslim men. Ṭahṭāwī did give some comment on this article, but his comment also does not help the reader to grasp the significance of equality as understood in the West. He said that "The meaning of equality in article 1 is that all French people, including the King himself will be equal before the law. This law supports the poor and the oppressed, and establishes justice."[93] This explanation can also be applicable to a variety of Islamic traditions which reveal the same ideas.

The second article, which is fully translated into Arabic, states that "Ils contribuent indistinctment, dans la proportion de leur fortune, aux changes de l'Etat." As long as this article was left without explanation[94] and mention of actual examples, and so long as its consequences were not pointed out, it again could be taken as applicable to Islam. If it had been explained that this article looked upon all the people as equal irrespective of their faith, its conflict with Islam would have been clearly shown because of the extra taxes (jizyah) that non-Muslim subjects were required

to pay to their Muslim rulers in early Islam,[95] taxes that continued to be sanctioned by the Sharīʿah.

The third article of the Constitution decrees that "Ils sont tous également admissible aux emplois civils et militaires."[96] This article is translated by Ṭahṭāwī as follows: "Everyone of them is qualified to achieve any position or rank."[97] As one will readily notice, the terms "civils et militaires" as well as the emphatic expression tous également are missing in the translation. It is true that the phrase kullu wāḥidin, would include all people under consideration. But, by omitting those important terms, the article can be more easily interpreted in an Islamic sense, as Nāʾīnī several decades later acutally did. One aspect of this article conflicting with Islam is that in an Islamic state only a qualified Muslim faqīh can become a judge, while according to the article, everyone "tous également" is entitled to hold civil positions. In interpreting this article, Ṭahṭāwī praised the French law mainly because it put an end to the system of hereditary occupation (tawāruth al-ṣanāʿī) which had existed, as Ṭahṭāwī put it, among the Chinese, Indians and the Copts.[98]

On another occasion Ṭahṭāwī elaborated on this article and mentioned that everyone would be accepted into military and civil service.[99] Since the term baladīyyah was used for "civil", the

article could be interpreted to refer to municipal positions which a Muslim reformer would not mind being occupied by a non-Muslim. Even if the term baladīyyah be taken as meaning only "civil", it is still easy for a mujtahid such as Nā'īnī to exclude judicial positions from the sense of the article, simply because they are not specified; he could argue that the latter type of position lies exclusively in the competence of the 'ulamā (see farther above).

The fifth article commands that "Chaucun professe sa religion avec une égale liberté, et obtient pour son cult la même protection." The inaccuracy of Ṭahṭāwī's rendering of this article is obvious; it reads: "Every human being living in France follows his religion as he likes. No one will share with him in it. Rather, he will be helped in it and protected from interference in his worship."[100] As is apparent from the Arabic text, the idea of "égale liberté" in religion is somehow hidden in Ṭahṭāwī's translation, because the phrase was translated as "no one will share with him in his religion." The last portion of the article is distorted by Ṭahṭāwī because the idea that everyone should enjoy pour son cult la même protection is entirely missing.

By reading Ṭahṭāwī's translation of article 5 of the French Constitution, Nā'īnī, or any other Muslim modern thinker, would not find in it anything at variance with Islam. Were he, however, to

read the original text of the article, he would inevitably notice that both égale liberté and "receiving lá même protection" cannot be easily reconciled with Islamic law.

Most of the 19th century Muslim thinkers, who were acquainted with and were admirers of European political and social institutions, spoke of these institutions in vague and ambiguous terms. To the best of our knowledge, the only early reformer who was outspoken and who did not hesitate to tell the truth was Ākhūnd-Zādah, a Persian resident of Russia, to whom we devoted a few pages in our first chapter.

Ākhūnd-Zādah said frankly that the polygamy which exists in Islam is against the principle of equality.[101] "If the Sharī'at brings justice, equality of rights and equality before the law should be carried out; whereas, in the Sharī'at there is no equality between man and woman. Also in judicial affairs, the zimmī's witness is not of an equal effect as the witness of a Muslim."[102] Ākhūnd-Zādah's voice does not seem to have reached many ears, and it died out very rapidly. On the contrary, those reformers who spoke of constitutionalism in terms of religion, aiming at reconciliation of constitutional institutions with Islam, could enjoy some supporters.

The principle of equality, like many other democratic principles, cannot be applicable in a system formed by Islam. However, since

the concept of equality had not been correctly and fully interpreted and elaborated by Muslim theorists, differing ideas emerged among the Persian constitutionalist ʿulamā in the course of the Persian Revolution. These conflicting views began to have serious implications when the discussion of article 8 of the Persian Constitution, dealing with equality of the subjects before the law, appeared on the agenda in the Persian Parliament. Kasravī points out that the ʿulamā who were seeking to uphold the Sharīʿat said that,

> "The Muslim and the infidel (kāfir) cannot be equal in payment of the blood-money (dīyah) and legal punishment (ḥadd). If a Muslim kills a Jew, a Zoroastrian or another infidel, he should not be given a death penalty; he only has to pay the blood-money."[103]

Kasravī's account concerning the ʿulamā's opposition is rather vague because it leaves the impression that these ʿulamā were limited to Shaykh Faẓl Allāh and his wing. We have, however, seen evidence that opposition to the idea of equality also arose on the part of the constitutionalist ʿulamā. The following is the report of the then British minister in Tehran, Spring-Rice, on the problem concerning article 8 of the Constitution:

> "Of the three great Mujteheds [Shaykh Faẓl Allāh, Sayyid Muḥammad Ṭabāṭabā'ī, and Bibahānī]; only one - Seyid Mohamed - declared in favor of it [art. 8]. The others, supported by a large body of the clergy,

> maintain that Mussulman law must be enforced in a Mussulman country. The clerical world is divided on the subject. A large number of priests, headed by Seyid Mohamed and the popular preacher Sheikh [?] [Sayyid] Jamal-ed-Din, declare that the law of Mahommed is a law of liberty and equality.... The representative of the Parsees, [Zoroastrians] informs me that he has great hopes that a decision will be taken favorable to toleration; but the matter is still in suspense, and will doubtless for some time be a source of trouble between the lay and clerical wings of the popular party."[104]

As Spring-Rice reported, the ʿulamā were divided on the provision for equality because some of them saw the article as opposed to Islam, and the others as in agreement with it. At this point, Shaykh Faẓl Allāh departed from the constitutionalist group of the ʿulamā and began to wage his heavy campaign against them and took refuge in Shāh ʿAbd al-ʿAẓīm, four miles to the south of Tehran. Even Bihbahānī, one of the great mujtahids, who remained loyal to the Revolution, rose against the article on equality. Mukhbir Humāyūn, an eyewitness, gives more detail on Bihbahānī's opposition:

> "One day, in the Bahāristān garden where the Representatives [of Parliament] had met, one of the articles which was to be discussed and then passed was that which dealt with the equality of different religions on which there had arisen a tumult (jār-o-janjāl). The late Sayyid ʿAbd Allāh Bihbahānī all the time opposed and deferred the passage of the mentioned article under the pleas that the Jewish minority should pay the jizyah and that they should not have an equal right with Muslims in the election of Representatives. Sulṭān Maḥmūd Mīrzā, who

> was one of the Dār al-Funūn graduates and was a poet and a man of letters, together with this writer, was waiting for the passage of the article in the Majlis garden. But, since the opposition of Sayyid ʿAbd Allāh lasted long, Sulṭān Maḥmūd Mīrzā called the Majlis servant, who was an old sayyid, and asked him to go hurriedly to Sayyid [ʿAbd Allāh] and to tell him: 'If this article of the Constitution whose [passage] is expected by all liberals is not passed today you will not be left alive.' After the warning of the servant, Sayyid ʿAbd Allāh clamored: 'I am not against [it].' Consequently, the mentioned law was passed."[105]

Thus, the bill was finally passed after a threat of dire violence.

The reaction to this struggle which occurred in Parliament on the issue of equality appeared among not only the Zoroastrians, as was reported by Rice, but also among the Armenians and other non-Muslim Iranian peoples. The Armenians grew angry with the ʿulamā for their opposition to the law of equality and threatened that, if the law were not made for the equal benefit of Muslims and non-Muslims, they would rise against it.[106]

People's reaction presented itself also in the press. Someone wrote in Ḥabl al-Matīn that "If we do not have equality, we will face great difficulties. For example, if an Armenian or a Jew sees the price of his blood-money in the amount of only 25 tūmāns (=roughly $3.00), he will forget about his nationality and will appeal to foreign governments. If they so treat us because we are

the People of the Book, then why did the government pay 65,000 tūmāns as blood-money for the murder of a Christian priest in Arūmīyah? Is this justice? It is to be found out if this law will be accepted in the Council of Human Rights, and what will be the value of our fellow-citizens in the eyes of other nations."[107]

Nā'īnī's account of equality was given in his Tanbīh against the background of the above-mentioned developments. With enough knowledge of opposing views on equality, he finally came to define this democratic principle in such a manner that he basically does not differ from the opposition's view. The only difference one can observe between Shaykh Fazl Allāh's argument and that of Nā'īnī is that the Shaykh understood that constitutionalism cannot be brought into conformity with Islam, and he did not want at all to compromise with modern political institutions and to accept or tolerate any modern principle. As soon as he heard the terms "liberty" and "equality", he turned against them, not because he had studied them in a Western sense, but because of the fact that equality and liberty, of which he mentioned several examples (see farther above), were found to be contrary to Islam. But Nā'īnī, confused by the wrong or vague interpretation of modern concepts and not aware of the real meaning of liberty and equality in a democratic institution, made an attempt to reconcile these modern principles

with Islam. He had hoped that by this reconciliation, two principal results would follow: first, that the tyrannical régime would disappear; and second, that Islam would be protected to a certain extent.

NOTES TO CHAPTER VI

1. On the idea of marjaʿ-i taqlīd, see chapter 2, section "The Institution of the Marjaʿ-i Taqlīd."

2. Nāʾīnī, Tanbīh, pp. 57-58.

3. Malik-Zādah, Inqilāb, IV, p. 213. For a similar argument see [Shaykh ʿAbd al-Nabī Nūrī], Tadhkirah, pp. 2-9.

4. On this problem, consult Valgieri's works referred to in our 2nd chapter, section, "Who Is the Legitimate Ruler?"

5. On the concept of bidʿah, many differing views have been expressed by Muslim scholars through the centuries, and that of Nāʾīnī is one of them. Muslims of different sects have restricted, interpreted, and modified the concept in various manners. In the West, the most substantial research on the concept is done by Ignaz Goldziher; see his Muslim Studies, translated from the German by C.R. Barber and S.M. Stern (London: George Allen & Unwin Ltd., 1971), II, pp. 33-37. A quick survey of the development of the concept of bidʿah is given in Muḥammad Khālid Masʿūd, "Trends in the Interpretation of Islamic Law as Reflected in the Fatwa Literature of Deoband School", a Master's Thesis submitted to McGill University, Montreal, 1969, pp. 14-19 and passim. For a Shīʿī treatment of bidʿah, consult Muḥammad Ibn Makkī al-ʿĀmilī (better known as al-Shahīd al-Awwal), Kitāb al-Qawāʿid (n.p., 1890), pp. 256-57.

6. Nāʾīnī, Tanbīh, pp. 74-75.

7. The examples given are ours.

8. The Akhbāris were those who rejected ijtihād and rose against the Shīʿī mujtahids in Iran and Iraq during the periods of Ṣafavīd and Qājār rule; cf. our treatment of this Shīʿī sect in the 2nd chapter, section, "Forces Threatening to the ʿUlamāʾs Position."

9. Nāʾīnī, Tanbīh, p. 75, The same kind of argument concerning

tashrī' is made by Maḥallātī in Al-La'ālī, p. 54.

10. See Browne, Revolution, pp. 372-73. The text of the Persian Fundamental Law of December 30, 1906, and the Supplementary Fundamental Law of October 7, 1907 (to both of which we refer as "Constitution"), can be found in English in the following references: Helen Miller Davis, Constitutions, Electoral Laws, Treaties of States in the Near and Middle East (Durham, N.C.: Duke University Press, 1947), pp. 67-90; Browne, Revolution, pp. 362-84; Amos J. Peaslee, Constitutions of Nations (The Hague: Martinus Nijhoff, 1966) II. pp. 452-70. For the Persian text, see, among other sources, the following: Gh. Sadīq-B, Ānchi har Irani Bāyad Bidānad dar bārah-yi Iran va Jahān (Tehran: Intishārāt-i Rasooli, [1964]), pp. 32-85; the journal Āyandah, III (1945), 625-30, 649-56; Dr. Qāsim-Zādah, Huquq-i Asāsī (Tehran: Ibn-i Sīnā, 1961), pp. 449-75. Our references in the present study will be only to Browne's Revolution.

11. Nā'īnī, Tanbīh, pp. 89-90.

12. Barker, Principles, p. 105.

13. See Hans Khon, Nationalism: Its Meaning and History (Princeton: D. Van Nostrand Company, Inc., 1955), pp. 135-40.

14. Nā'īnī, Tanbīh, p. 89.

15. For a full account of the Ottoman reform concerning the rights of the subjects of all creeds, consult Roderic H. Davison, Reform in the Ottoman Empire 1856-1876 (Princeton, New Jersey: Princeton University Press, 1963), passim. The problem of equality in the Ottoman Empire, which forms an aspect of this book, is treated in the same author's article entitled "Turkish Attitudes Concerning Christian - Muslim Equality in the Nineteenth Century", The American Historical Review, LIX (July, 1954), 844-64. The figures regarding the Ottoman population is given in Ibid., p. 846.

16. Kasravī, Mashrūṭah, p. 421.

17. Khayr al-Dīn, Masālik, pp. 11-13.

18. Mustashār al-Dawlah, Yak Kalimah, pp. 11-12.

19. Nā'īnī, Tanbīh, pp. 52-54.

20. Ibid., pp. 54-55.

21. Ibid., 56-57.

22. For a detailed discussion on the concept of vikālat in the Shī'ī jurisprudence consult Zayn al-Dīn al-'Āmilī al-Jabā'ī (better known as al-Shahīd al-Thānī), Al-Rawḍah al-Bahīyyah fī Sharḥ al-Lum'ah al-Dimashqīyyah (Tehran: Al-'Ilmīyyah al-Islamīyyah, 1960), II, pp. 11-17.

23. Malik-Zādah, Inqilāb, IV, p. 211.

24. Nā'īnī, Tanbīh, p. 46. The problem of the authority of the mujtahid as the legitimate ruler is subject to argument with which we briefly dealt in our 2nd chapter, section, "Who Is the Legitimate Ruler?". For details on ḥisbah consult Cahen et al, "Ḥisba".

25. The likening of the concept of amr-i bi ma'rūf va nahy-i az munkar to modern systems of government is an irrelevant argument which we touched upon in the first chapter in our treatment of Mustashār al-Dawlah's constitutional thinking.

26. Nā'īnī, Tanbīh, pp. 78-83.

27. Ibid., p. 78.

28. Malik-Zādah, Inqilāb, IV, p. 219.

29. Mūrī, Tadhkirah, pp. 7-9.

30. Malik-Zādah, Inqilāb, IV, p. 215.

31. Ibid., p. 215.

32. Nā'īnī, Tanbīh, p. 101.

33. Ibid., p. 102.

34. Cf. our 2nd chapter, section "Who Is the Legitimate Ruler?".

35. Nā'īnī, Tanbih, pp. 97-102.

36. Bihbahānī, Ijtihād wa al-Akhbār, pp. 6-9; this book is considered very important on the Akhbārī-Uṣūlī controversy. It has been widely quoted and its author widely recognized as the most effective defender of the Uṣūlī position vis à vis Akhbāris. On the Akhbārīs, see our 2nd chapter, section, "Forces Threatening to the 'Ulamā's Position".

37. Nā'īnī, Tanbīh, p. 79.

38. Browne, Revolution, pp. 372-73.

39. Malik-Zādah, Inqilāb, IV, p. 212.

40. F.O. 416/33, Memorandum respecting debate in the Persian National Assembly by Mr. Smart, Qulhak (Tehran), July 12, 1907, Inclosure in Spring-Rice's letter to Sir Edward Grey, July 16, 1907, No. 140 (147).

41. For a summary of those articles, consult F.R.C. Bagley, "Religion and the State in Iran", IsS, X (1971), 1-22; the summary on page 12.

42. Harris, "Is Persia's Future Safe?", p. 4; from a type-written copy of this paper kept in E.G. Browne Papers, Folder 2, no. 23 at the University Library, Cambridge, England. For the study of the Persian Constitution in general and those articles in particular, the following references are recommended: Eric Daenecke, "Constitutional Law in Iran", American Bar Association Journal, 49 (June, 1963), 568-70; Lockhard, op.cit., 372-88; these two articles comprise a quick look at the articles of the Constitution, though the latter is more detailed and informative. See also A.K.S. Lambton, "Dustūr", iv - Iran, EI^2, II, 649-57. For a discussion on the articles related to the authority of the monarch over the ministers, cf. A. Farmanfarma, "Constitutional Law of Iran", The American Journal of Comparative Law, III (1954), 241-47. Among many works appeared in Persian, the following may be recommended: Qāsim-Zādah, op.cit., pp. 360-502; 'Alī Pāshā Ṣālih, "Quvvah-yi Muqanninah va Quvvah-yi Qazā'īyyah", in Iranshahr, ed. 'Alī Aṣghar Ḥikmat (Tehran: Unesco, 1964), II, pp. 971-1013; Dr. Mūsā 'Amīd, "Qānun-i Asāsī" and "Quvvah-i Mujrīyyah", in Iranshahr II, pp.1014-41;

Dr. Muṣṭafā Raḥīmī, Qānūn-i Asāsī-yi Iran va Uṣūl-i Dimukrāsī (Tehran: Ibn-i Sīnā, 1968). The latter book comprises all the amendments to the Constitution made until 1967 (cf.. pp. 263-72).

43. F.O. 416/33, Memorandum by Smart, Qualhak, July 12, 1907, Inclosure in Spring-Rice's letter to Grey, July 16, 1907, no. 140 (147).

44. Details on this problem can be found in Raḥīmī, op.cit., pp. 135-41. See also Bagley, op.cit., pp. 1-22. Professor Bagley treats the same subject in his article entitled "Religion and the State in Modern Iran", ACTES du Ve Congrès, pp. 75-88.

45. His Majesty's Stationary Office, Correspondence Respecting the Affairs of Persia, December 1906 to November 1908 (London: Harrison and Sons, 1909), p. 63. It is worth noting that His Majesty's Stationary Office published a chosen collection of documents under the above-mentioned title. These documents are included, with other documents on Iran, in many volumes kept in the Public Record Office in London, England with catalogue number F.O. 416/.... Some of the volumes of the published collections were translated into Persian entitled Kitāb-i Ābī (The Blue Book) in several volumes a few years after the appearance of their English originals. Recently, an anthology of the above-mentioned documents which deal with the Persian Constitutional Revolution, covering the developments of the years 1906-1909, was translated into Persian by Ḥasan Muʿāṣir entitled: Tārīkh-i Istiqrār-i Mashrūṭīyyat dar Iran (Tehran: Ibn-i Sīnā, 1968). This voluminous book has neither any index nor a useful table of contents; therefore, it cannot enjoy the significance that a book of this nature may deserve.

46. [Sayyid Ḥasan Taqī-Zādah] Mukhtaṣar-i Tārīkh-i Majlis-i Millī-yi Iran (Berlin: Kāvīyānī 1918), pp.32-81. This book outlines the constitutional steps taken within the first decade after the declaration of the constitutional régime in Iran.

47. Correspondence, p. 59 (Marling's letter to Grey, Tehran, October 10, 1907).

48. See Kitāb-i Ābī, translated from English into Persian by Mīrzā Sayyid Abū al-Qāsim Khān (Tehran: Maṭbaʿah-yi Barādarān-i Baqirov, 1912), I, pp. 185, 199-201.

49. See our 3rd chapter on Nā'īnī's biography.

50. Browne, Revolution, p. 375.

51. Malik-Zādah, Inqilāb, IV, p. 216.

52. Dicey, op.cit., p. 241.

53. Muḥammad Ṣadr Hāshimī, Tārīkh-i Jarā'id va Majallāt-i Iran (Iṣfahān: Chāpkhānah-yi Rāh-i Najāt, 1952), I, pp. 19-20.

54. Eustache de Lorey, and Douglas Sladen, The Moon of the Fourteenth Night Being the Private Life of an Unmarried Diplomat in Persia During the Revolution (London: Hurst & Blackett, Ltd., 1910), pp. 159-64.

55. On the Islamic theory of freedom, see Franz Rosenthal, The Muslim Concept of Freedom: Period to the Nineteenth Century (Leiden: E.J. Brill, 1960); a quick summary of this book may be found in the same author's article "Ḥurrīyya", EI^2, III, 589.

56. Nā'īnī, Tanbīh, p. 64.

57. Cf. our quotation from Tocqueville in the 5th chapter, notes 83-84.

58. Nā'īnī, Tanbīh, pp. 120-21.

59. Montesquieu, op.cit., book XI, chapter VI. This chapter of De l'Esprit des Lois has given rise to a variety of interpretations and criticisms; see, for instance, John Plamenatz, Man and Society: A Critical Examination of Some Important Social and Political Theories from Machiavelli to Marx (London: Longmans, 1963), I, pp. 253-98.

60. This is the definition that the Shahīd al-Awwal has given to the term: "Every religious precept, [ḥukm shar'ī], which principally aims at worldly affairs, whether it involves attractions of benefits or avoidance of loss, is called "mu'āmalah". Cf. al-Shahīd al-Awwal, Al-Qawā'id, p. 5.

61. Nā'īnī, Tanbīh, p. 71.

62. For an account of Ṭahṭāwī's views see Leon Zolondek, "Al-Ṭahṭāwī and Political Freedom", MW, LIV (April, 1964), 90-97; the

author comes to the following conclusion: "...al-Ṭahṭāwī...did not arrive at a secular view of government and political authority. Though appreciating and discussing the workings of the Western system, when he addressed himself to the problems of his own society he held to the basic Islamic political orientation..."; (see p. 96).

63. A brief survey of the idea of freedom in modern Islam is given in B. Lewis, "Ḥurrīyya", ii - Modern Period, EI^2, III, 589-94.

64. Ra'īf Khūrī, Al-Fikr al-Arabī al-Ḥadīth: Athar al-Thawrah al-Faransīyyah fī Tawjīhih al-Sīyāsī wa al-Ijtimā'ī (Beirut: Dār al-Makshūf, 1943), pp. 187-88. This book is an intelligent account of the influence of the French Revolution on the Arab thought; it also covers an anthology of the views given by many Middle Eastern intellectuals, mainly Arabs, on Western political concepts.

65. Cf. our first chapter, section, "Talibov".

66. Malik-Zādah, Inqilāb, IV, p. 214.

67. Browne, Revolution, p. 374.

68. For more explanation on this concept, see Cl. Cahen, "Dhimma", EI^2, II, 227-31.

69. Malik-Zadāh, Inqilāb, IV, pp. 214-15.

70. Nā'īnī, Tanbīh, pp. 68-69.

71. Nā'īnī echoes articles 8-21 of the Persian Constitution which deals with the rights of the nation.

72. Nā'īnī, Tanbīh, pp. 69-70; explanations are ours.

73. Ibid., p. 71.

74. Mahallātī, Al-La'ālī, pp. 25-26.

75. Ibid., p. 26.

76. For a discussion on equality consult Barker, Principles, pp. 150-60, and Mayo, Democratic Theory, pp. 107-136.

77. David Thomson, England in the Nineteenth Century, Vol. 8 of The Pelican History of England, (London: Penguin Books, 1950), pp. 188.

78. Mayo, Democratic Theory, p. 107.

79. Lewis, Emergence, p. 55.

80. Khūrī, op.cit., pp. 189-90.

81. Khayr al-Dīn, Masālik, pp. 37-38. The quotation is from the English rendering of Khayr al-Dīn's introduction to Masālik; cf. Brown, op.cit., pp. 118, 20.

82. Mustashār al-Dawlah, Yak Kalimah, p. 10.

83. Ibid., pp. 19-20; for more details on Mustashār's thought, see our first chapter, section, "Mustashār al-Dawlah".

84. Davison, "Christian Muslim Equality", 855 ff.

85. Cf. Lewis, "Dustūr", 642-43.

86. Mardin, Young Ottoman, p. 319.

87. Abu Lughud, op.cit., p. 95.

88. Ṭahṭāwī, Takhlīṣ, p. 148.

89. Alfred Cobban, A History of Modern France (London: Penguin Books, 1961), II, p. 65.

90. For the French Constitutions from 1789 to 1969, consult Godechot, op.cit.; for the specific Constitutions under discussion, see pp. 217-24, 241-52. The Arabic translation of articles 1, 2, 3 and 5 of the 1814 Constitution are found in the Appendices.

91. Ṭahṭāwī, Takhlīṣ, p. 148.

92. Ibid., p. 141.

93. Ibid., p. 148.

94. Ṭahṭāwī gives a comment on this article, but he limits himself only to the idea that taxes should be paid to the government. On this occasion he tries to find an Islamic justification for taxation; see ibid., p. 149.

95. Concerning the procedure of Islamic government for taxation, see Daniel C. Dennett, Jr., Conversion and the Poll Tax in Early Islam (Cambridge, Mass.: Harvard University Press, 1950) and Cl. Cahen et. al., "Djizya", EI^2, II, 559-67.

96. Underline is ours.

97. Ṭahṭāwī, Takhlīṣ, p. 141.

98. Ibid., p. 149.

99. Ibid., p. 152.

100. Ibid., p. 141.

101. Ādamīyyat, Fatḥ ʿAlī, p. 225.

102. Ibid., pp. 156-57.

103. Kasravī, Mashrūṭah, p. 315.

104. F.O. 416/32, Spring-Rice's letter to Grey, Qulhak, (Tehran), May 23, 1907, no. 220 (113).

105. Abū al-Ḥasan Buzurg Umīd Mukhbir Humāyūn, "Muẓaffar al-Dīn Shāh va Mashrūṭīyyat", Armaghān, XXXII (1963), 104-107.

106. F.O. 416/32, Report from Churchill, Inclosure no. 2 in Spring-Rice's Letter to Grey, Qulhak, May 23, 1907, no. 220 (113).

107. Kasravī, Mashrūṭah, p. 316. The writer is referring to an English missionary who was killed in Iran on the eve of the Persian Revolution. Since the murderer was not found, an amount of 50,000 tūmāns had to be paid to the British authorities as blood-money. Cf. ibid., p. 147.

CONCLUSION

The idea of constitutionalism was not understood by most of the modern thinkers of the Muslim world. Following a general principle of conservatism or of expediency, or simply because of misunderstanding the idea, the Persian reformers failed to deal with the principles of democratic constitutional institutions in a correct manner. In the course of the development of modern political thought in Iran, four types of thinkers emerged; we may classify them as follows:[1]

1. Positive secularists; to this category belong Ākhūnd-Zādah and Talibov.

2. Secularist compromisers; two representatives of whom are Malkam Khān and Mustashār al-Dawlah.

3. Conservative religious reformers such as Shaykh Faẓl Allāh Nūrī, Shakyh ʿAbd al-Nabī Nūrī and many others. These people at their best demanded a house of justice, ʿadālat khānah, and so on; and at their worst, closely cooperated with the rulers who were entirely anti-constitution. There was another type of the ʿulamā with whom the latter group had much in common but who were very reluctant to interfere in politics and state affairs, except under

urgent circumstances. As the best example of this kind of the ʿulamā, one may mention Sayyid Muḥammad Kāẓim Tabataba i Yazdī.

4. Religious compromisers such as Khurāsānī, Māzandarānī, Bihbahānī, Nāʾīnī, and, with a more liberal attitude and more broad mindedness, Sayyid Muḥammad Ṭabāṭabāʾī.

The first group had studied modern European institutions, mainly by reading Russian translations of European thinkers, and had interpreted constitutionalism correctly. There was still a difference between the two men, Ākhūnd-Zādah and Talibov, however. Ākhūnd-Zādah clearly said that constitutionalism is not in conformity with religion. Talibov, however correct in his interpretation, did not say that Islam and the Shīʿah cannot tolerate a democratic constitutional institution. Rather, at one time he made the vague statement that "whatever is against civilization is forbidden in Islam". Both of these men were, of course, out of favor, though Talibov's books enjoyed a number of readers from among the Persian intellectuals.

The second group of reformers knew very well about modernism, its aim, its meaning, and its value, and they appreciated these things. They did have a direct access to modern thought originating from England and France, but out of expediency they colored their constitutional views with Islamic law and tradition. They hid the

real meaning of constitutionalism and at times declared it to be identical with Islam.

The third group of reformers were interested, at least in the beginning of their constitutionalist campaign, in making some reforms. They advocated the establishment of a better administration of justice, a "constitution, constitution, constitution but Islamic Islamic, Islamic".[2] In brief, they supported a type of reform which should occur strictly within the framework of Islamic law. Since they did not find the constitutional reform in conformity with that line, they declared it heresy and saw their religious duty to support Muḥammad ʿAlī Shāh's anti-constitutional régime.

The fourth type of reformers were those ʿulamā who rose against the tyrannical rule which existed in Iran. These men, like other reformers, were of different types and had different motives and goals, but they did not understand the real aim of a democratic constitutional régime and, in particular, failed to realize the shaky position of religion in a democratic institution.[3] They did not have any access to the original writings of European liberals because of their inability to read French or English; they only consulted Arabic and Persian sources. Those ʿulamā who were from Āzarbāyjān were also acquainted with Turkish literature which, according to Taqī-Zādah, was distributed among the revolutionaries

of Tabrīz.[4]

As a member of the fourth group, Nā'īnī played a role as an active and systematic constitutional theorist, but so far as the sources of his information were concerned, he was limited to those in Arabic and Persian, most of which took no notice of the points of conflict between Islam and democratic constitutionalism. As discussed in the fourth chapter, one of the definite channels of information for Nā'īnī was Kawākibī's book, Ṭabā'i' al-Istibdād. This book, however helpful in the formation of Nā'īnī's view of tyranny, did not provide him with a solid account of the principles of constitutionalism. Rather, Nā'īnī was misled by Kawākibī's misinterpretation of the idea of separation of the powers.

Continued conscious efforts were made in Iran by modern liberal thinkers to keep the 'ulamā unaware of the conflicts between modern political institutions and Islam. The liberal modernizers needed the 'ulamā's support because the 'ulamā were the only influential element among the masses. On the other hand, they also wanted the 'ulamā uninformed, because otherwise they would not have enjoyed the 'ulamā's support. Also, the 'ulamā did not learn the truth about constitutionalism from the Arabic or Turkish press and publications. In addition, the ideas of freedom, equality, justice and

several other constitutional topics had already existed in Islam. In an abstract sense, they sounded similar. Since no honest interpretations of those concepts were given by the Middle Eastern thinkers, a number of the ʿulamā found the modern concepts not contrary to Islam and consequently made an attempt to interpret them in Islamic terms. Having interpreted liberty as being opposite to slavery, and freedom of speech as the maw ʿizah al-ḥasanah, Nā'īnī condemned his opponents on the ground that they were advocating the system of slavery and were opposed to the right guidance of the masses.

In spite of their various motives for participation in the Constitutional Revolution, the constitutionalist ʿulamā had become convinced that the existing tyrannical régime should be overthrown even at the price of borrowing certain elements from the West. Some of them, such as Ṭabāṭabā'ī, well realized that constitutionalism deprives the ʿulamā of their traditional privileges such as the administration of justice. But to defeat tyranny, he supported the establishment of a constitutional régime. This is the main point of difference between the two types of the ʿulamā involved in the Revolution. Both groups were defenders of Islam, but the absolutists, out of unrealism, rose against the new system of government because of its being un-Islamic, without making any attempt to

reconcile it with Islam. The constitutionalists, on the other hand, tried to reconcile, because they saw no excuse whatever to support the old régime.

In their reconciliation, however, the constitutionalist ʿulamā confined themselves only to religious justifications. All their activities, such as condemnation of Muḥammad ʿAlī Shāh and his tyranny, restoration of the constitution in 1909, resistance to the Russian invasion of Iran in 1911, propaganda for liberty and equality and so on were undertaken in the name of religion. The liberal constitutionalists had also to follow the ʿulamā at least on the surface. Therefore, there remained little room to question the authority of religion itself by arguing that constitutional democracy proceeded in the West partly as a form of opposition to religion, in any event on a non-religious basis.

Despite their conservative, traditional and undemocratic reconciliation, the constitutionalist ʿulamā may be credited for a certain amount of realism and relative awareness. As an excellent representative of this group of the ʿulamā, Nā'īnī systematized his views and those of his fellow thinkers in his work, and proposed a constitutional institution which he saw as feasible in the Persian society of the early twentieth century. He made allowance for the fact that the "ideal government", i.e., the government of the Imām,

is absent and that the existing régime was tyrannical and un-Islamic. Therefore, a non-tyrannical government which would not violate Islam completely should take over. Therefore, Nā'īnī openly said that, under the then existing circumstances, Iran should accept constitutionalism. Although he did not approve a secular administration of justice in which Muslims and non-Muslims may be treated absolutely equally, he clearly would have allowed political equality to all subjects, Muslims or otherwise. He sanctioned the notion that all people have the right to rule. This is an overwhelmingly important and unparalleled statement on the part of a Shī'ī mujtahid.

In his discussion, Nā'īnī proved his lack of historical sophistication. His methodology was entirely traditional; the evidence he offered to prove his views, and the assumptions underlying his argument were all traditional. But, unlike some of his opponents as well as his fellow thinkers, Nā'īnī did not use harsh language in his argument, nor did he overload his opponents with all kinds of accusations, though he accused them of having personal purposes.

He proposed an extraordinary privilege for a certain group of the society, i.e., the 'ulamā; this proposal is, of course, undemocratic. However, he clearly declared that expediency made it

legitimate for even a fāsiq Muslim to rule. This means that he was realistic enough to realize that the situation did not permit establishment of a completely Islamic rule; therefore, attempts should be made to change the old system and to set up a moderately "just régime", by authorizing the ʿulamā to check the process of legislation.

Nāʾīnī cannot be considered a spokesman of Westernization. As a Shīʿī mujtahid, Nāʾīnī wanted to support Islam and save his fellow-countrymen from the yoke of tyranny. The change of the existing régime was the way to reach his aim. Since there were conflicting ideas about the conformity or conflict of democratic constitutionalism with the doctrines of the Shīʿah, he undertook his systematic work with a desire to attain clarity and consistency. He tried to define the position of the Shīʿah vis à vis constitutionalism, and the extent of the former's tolerance of the latter. His initial choice was one of being favorable to both Shīʿah and constitutionalism. In his attempts to bring the two together, therefore, Nāʾīnī naturally violated many, but also surprisingly supported a few, of the democratic principles.

The difference between Nāʾīnī's approach to constitutionalism and that of other Persian modern thinkers, such as Malkam and Mustashār, is that the former's aim was to defend Islam and the

Shī'ah by an Islamicization of constitutionalist principles and by making some concessions to democratic constitutionalism. They valued certain principles of democracy because they found them in conformity with Islam. The latter, in contrast, wanted to import and propagate Western political institutions in Iran. They had realized the value and significance of modern institutions; but since the bare truth about Western systems was not going to appeal to the 'ulamā and to the common Persian people, they tried to find some justifications, correctly or wrongly, in the Islamic tradition for the modern concepts. In other words, they were somewhat dishonest as far as religion is concerned.

Nā'īnī, however serious and honest in his thinking, did not pursue his line. In spite of their conscious efforts for the Islamicization of the Persian Constitution, Nā'īnī and his fellow-thinkers withdrew their support from the Constitutional Revolution shortly after the restoration of Parliament in 1909. They did so because the force of secularism started to make itself felt strongly. In the process of the constitutional legislation in the first Majlis, the secularist thinkers made large concessions to the 'ulamā by including a number of articles in favor of the 'ulamā's authority. Since the constitutionalist 'ulamā were the most influential and effective supporters of the Revolution, the Majlis deemed it

necessary and expedient to reward the ʿulamā by passing those articles. But, at the same time, by passing other democratic legislation, those ʿulamā-favoring articles were turned into mere theory and denied effectiveness. Consequently, one may hold that the Persian Constitution is genuinely secular, and a constitution in which democratic principles have been to a large extent considered.

Thus, it seems legitimate to assume that the ʿulamā's mere participation in the Constitutional Revolution had little significance as far as democracy was concerned, because the ʿulamā were seeking religious objectives which had little to do with democracy. However, the opposition of the ʿulamā to foreign encroachments, their support of the Revolution, and the concessions the ʿulamā made to constitutionalism, all of which resulted in the restoration of the Persian Constitution in 1909, bore some fruits, despite their own intention, in favor of democracy. By their involvement in the Revolution, therefore, the ʿulamā contributed a great deal to the development of democratic constitutionalism.

Since the Constitution and the operation of the Majlis, as represented in the attitude of the nationalists, were based on secularist principles and since many incidents occurred against the position, reputation, and the authority of the ʿulamā, the latter

naturally were quite disillusioned and soon withdrew their support from the new régime. To this group of the ʿulamā, Nā'īnī was no exception. Not long after the publication of his book, he collected as many as possible of the copies of his book and threw them into the Tigris River. One and a half decades later, after an unsuccessful rising against the British mandate in Iraq and in support of the Iraqī independence movement (1920-22), he turned out to be a supporter of the Riẓā Shāh régime, perhaps out of disillusionment. To the best of our knowledge, he continued his favor towards it as long as he was alive. In spite of the fact that he discontinued to write on political problems and showed reluctance to have his book on constitutionalism continue in circulation, his political views enjoyed a great deal of popularity. Passages from his book were quoted in many other books, were cited from many pulpits, and even played a part in the defense of a leading political accused brought before an Iranian military court.

The fate of the Persian Constitution was to be decided by the subsequent events and power struggles of the Great Powers, such as the 1907 Anglo-Russian Agreement, the dismissal of the American financial advisors, Morgan Shuster, the Russian invasion of Iran in 1911, the formation of a majority of Parliament from representatives of the great landowners and supporters of the status quo[5] and

finally the outbreak of the First World War. In brief, constitutionalism did not, in fact, work as adequately as it should have. On this matter, E.G. Browne presented his view before the British Academy in 1918; a view which also constitutes our concluding remarks:

> "I have little doubt that Persia is capable of working out her own salvation on constitutional lines.... But I do not think that any candid student of the last ten or eleven years of her history will venture to maintain that the Persian Constitution was ever allowed a fair chance of success...."[6]

Notes to the Conclusion

1. For a similar and rather detailed classification of the intellectual élite in the Arab world during the period under review, consult Hisham Sharabi, Arab Intellectuals and the West: The Formative Years 1875-1914 (Baltimore: The Johns Hopkins Press, 1970).

2. Rizvānī, "Bīst Risālah", 235.

3. For a study of the development of the position of religion in a constitutional system, consult Carl J. Friedrich, Transcendent Justice: The Religious Dimension of Constitutionalism (Durham, N.C.: Duke University Press, 1964). See also Charles Howard McIlwin, Constitutionalism: Ancient and Modern (Ithaca, New York: Cornell University Press, 1947).

4. Taqī-Zādah, "Mashrūṭiyyat dar Āẕarbāyjān", 178-86.

5. A discussion on this problem is found in Amir H. Ferdows, "The Origins and Development of the Persian Constitutional Movement", an unpublished dissertation submitted to Indiana University in 1967, p. 10 ff.

6. Browne, "The Persian Constitutional Movement", Proceedings of the British Academy 1917 - 1918, VIII (1918), pp. 311-30; this quotation on page 330. The Anglo-Russian aggression and the damages the two Powers did to Iran during the period under Browne's discussion are eloquently discussed in Taqizadeh and Wahid-ul-Mulk, "Appeal of the Persian People".

APPENDICES

APPENDICES TO CHAPTER II

Appendix 1, related to note no. 99

UNION DES MUSULMANS

Avertissement et proclamation des Arguments de l'Islam.
Au nom d'Allâh Ar-Rahmân le Misericordieux !

« Puis la louange à Allâh, le Maitre des Mondes, et la priere et le salut sur Mohammed, sceau des prophetes, sa famille et ses compagnons les élus

« Nous avons vu que les divergences existant entre les cinq groupes islamiques ne provenaient pas des principes même de la religion et que les désaccords entre les diverses catégories de Musulmans sont la cause primordiale de la décadence des puissances de l'Islam et de la mainmise des étrangers sur la plus grande partie de leurs territoires. Pour conserver la communauté religieuse et faire respecter la loi de Mohammed, des fetwas ont été rendues par les grands Modjteheds, chefs des Chiites Dja'farites, et les nobles Ulemas du peuple de la Sounna, résidant à Bagdad elles s'accordent à dire qu'il est d'obligation de chercher refuge auprès de l'Islam, comme l'a ordonné Allâh (qu'il soit exalté, et gloire à lui !) lorsqu'il a dit *Cherchez refuge auprès d'Allah, tous ensemble ! Et ne soyez pas separés !* L'union complete des Musulmans, la préservation du germe de l'Islam, la preservation des nations islamiques, ottomane et persane, contre les entreprises des nations etrangeres et les attaques des puissances du dehors, voilà des points sur lesquels, tous, nous sommes tombés d'accord Pour préserver le domaine islamique, nous dépenserons toute notre vigueur et toute notre influence, sans nous refuser à aucune initiative qu'exigeraient les circonstances, confiants dans les résultats d'une entente complete entre les deux puissances musulmanes, chacune d'elles faisant respecter l'indépendance et les droits de l'autre Nous annonçons a toute la nation persane qu'il est d'obligation d'avoir confiance dans la nation ottomane et de lui prêter son aide, pour qu'elle conserve son indépendance, protège son territoire et préserve ses frontieres de l'invasion des étrangers. Leurs habitants seront alors, comme l'a dit Allâh, (gloire à lui !) *forts contre les infidèles et miséricordieux entre eux*. Nous rappellerons à tous les Musulmans que la fraternité entre les croyants a été prescrite par Allâh, (qu'il soit exalté !) et nous leur donnerons avis de l'obligation de s'abstenir de tout ce qui entraine la discorde et de prodiguer leurs efforts pour défendre l'honneur de la nation, de travailler avec assiduité et d'un commun accord à se conformer a la loi de Mohammed, et à maintenir le rang des deux Hautes Puissances Ottomane et Persane,—qu'Allâh (qu'il soit exalté !) éternise leur puissance — par Mohammed, sa famille et ses compagnons, les meilleures des creatures.

« Le 1er de zi'l hidjdjé 1328.

Pour Nedjef . AGAYÉ KHORÂSÂNI.
AGAYÉ MAZENDERANI.
AGAYÉ CHARI'AT ISFAHANI.

Pour Kerbéla : AGAYÉ SADR.
AGAYÉ HADJI NOÛR ED-DIN ISFAHANI.
AGAYÉ HADJI CHEIKH HOSEÏN.
AGAYÉ CHEIKH OL-'IRÂKEÏN.

Pour Samarra: AGAYÉ AGA MIRZA MOHAMMED TAKI CHIRAZI.

From RMM, , XIII (1911), 385-86.

Appendix 2, related to note no. 135

صورة تلغراف من علماء الفرقة الجعفرية في النجف ارسلت الى الاستانة الى السلطان و يتفرع عنها صور ثلاث للصدارة ولرئيس مبعوثان وللمشيخة وها هي

در عليه حضرة مبارك اعلا حضرة اقدس خليفتنا خلد الله سلطانه

صوره اجل اشرف صدر اعظم

صوره حضرة رئيس مبعوثان

صوره حضرة شيخ الاسلام دامت بركاته

قسماً بالواحد الاحد جلت عظمته وبخاتم الانبياء محمد عليه صلوته وتحيته و بحقيقة الشرع الشريف والدين الحنيف بعد ان رأينا الشيطان استولى بالغواية على شاه ايران الذي نقض العهد والايمان واستخف بالقرآن وهتك بيوت الله المعظمة وقتل النفوس المحترمة وما اصغى لاعطاء الثانيه ولم تكن له اذن واعية اعلما بحكم الله تعالى فيه وحرمنا اطاعته لمن يتاصبه ويدانية حولنا الرجاء نحو سلطان الاسلام على الاطلاق المتفضل على العموم في كافة الآفاق باعلان القانون الاساسي والمشروطية القائمة بالمداومة عليه زمام الرعية وعموم الفرق الاسلاميه وبذلك انكشف لديهان الاسلام يعلو ولا يعلى عليه خصوصاً بعد انطماس آثار الاستبداد وعقد الاخوة والاتحاد والمساواة بين الفقير والغني ومساعدة المظلوم على الظالم الشقي والآن بلما ان بعض الناس تداخليم الحماس فاعماهم وأصمهم ونفث الشيطان على لسانهم بكلمة حق يريدون ترويج باطلهم بانا نطلب الشرع وليت شعري فهل يمكن قيام الاحكام الشرعية بغير المشروطية وهل يمكن الامر بالمعروف والنهي عن المنكر الا بقطع عرق الاستبداد ومتى عارض القانون الاساسي الاحكام الشرعية وفي اي مادة عارض الصوم والصلوة والحج والزكوة ومتى اوجب غير المشروع و بدل اصول الدين والفروع فاعمل من سلطان الاسلام دامت افاضاته و بركاته عدم الاصغاء لكلمة هؤلاء فانهم اما اعداء واما جهلاء وهذه الملة الاسلامية التي هي محل نظر الدول الاجنبية يجب على الذات المقدسة حفظها ورفعها بعد خفضها وذلك باتفاق الكلمة وحقن دماء الامة خصوصاً في العاصمة فانها نهضة الاسلام وبها قامت دعائم شريعة سيد الانام وتستوجب بذلك خالص الدعوات الحيدرية تحت القبة المنورة الحيدرية وان شاء الله باعزازكم لهذه الملة الشريفة يندمل قلب الشريعة المقروح عن افعال محمد علي شاه وسوف يرى ماجنته يداه (وسيعلم الذين ظلموا اي منقلب ينقلبون) الداعي لدوام الدولة العلية

علماء الفرقة الجعفرية عبد الله المازندراني محمد كاظم الخراساني

From Al-ʿIrfān, I (1909), 240-41

Appendix 3, related to note no. 152

Inclosure in No. 529.

Draft Anglo-Russian Identic Communication.

DEPUIS plusieurs années la Perse est en proie à une lutte intestine. Animées de sentiments sincèrement amicaux envers ce pays, la Russie et la Grande-Bretagne ont usé de toute leur influence afin de contribuer à calmer les troubles qui le déchirent. Leurs efforts ne sont pas restés infructueux ; tout dernièrement le Schah, en suivant les conseils amicaux des deux Gouvernements, s'est décidé à rétablir le régime constitutionnel et à accorder à son peuple des réformes destinées à ramener le calme dans le pays.

Afin de faciliter le succès de l'action pacificatrice entreprise par Mohammed Ali, les Représentants Consulaires de la Russie et de la Grande-Bretagne sont chargés par leurs Gouvernements de faire appel aux sentiments patriotiques qui animent les chefs spirituels du schisme et qui sont connus dans tout l'Orient musulman, ainsi qu'à l'influence dont ils jouissent parmi leur coreligionnaires. En conséquence, ces Représentants demandent aux moudjtéhids de Kerbélah et de Nedjef leur appui énergique dans ce but humanitaire. En exhortant tous les partis persans à abandonner la lutte fratricide et en leur donnant de sages conseils de modération, les vénérables moudjtéhids contribueront puissamment au bonheur de leur belle patrie, qui a tant souffert des troubles des dernières années, et y ramèneront enfin l'ordre et le calme si ardemment désirés par le peuple persan.

From F.O. 416/40, Inclosure in Nicolson's letter to Grey, St. Petersburgh, May 23, 1909, No. 529.

Appendix 4, related to note no. 159

Memorandum by Consul-General Ramsay.

ON the 13th July, 1909, I received a visit from Mirza Mehdi Agha, son of Akhund Mulla Muhammad Kadhem Khorassani, and Mirza Mohsin, the son-in-law of Seyyid Abdulla Behehani. They were accompanied by Mirza Ibrahim, late dragoman of the Persian consulate-general, and Mirza Muhammad, clerk to Akhund Mulla Muhammad.

They said that the matters which they had come to discuss had been fully debated by the Mujtahids at Nejef, and that, though they only came to see me with a private and friendly request for advice, they were authorized to speak on behalf of the leaders of religious thought in Nejef, and they said that they were anxious to have my advice.

Their complaint was that the presence of the Russian troops at various places in Persia was unjustifiable, as foreigners had suffered no injury, and the presence of the troops made it impossible for the country to have rest. They admitted that they were under obligations to Great Britain for the help that it had given to the popular movement, but said that they did not understand why England now adopted a purely passive attitude.

I said that, as far as I was aware, the policy of England had not changed, that we were as anxious as they could be to see Persia at peace and free of foreign troops, but that I had no information that would enable me to form a judgment as to the need for the retention of Russian troops in Persia. I explained the object of the Anglo-Russian arrangement, and said that the recent occasion was probably the only one on which the British Government had volunteered any advice to the Mujtahids, and I thought that it was a pity that they had not acted upon it. I pointed out that the more the Mujtahids excited the people against the Russian troops the more difficult it was for the Russians to withdraw with any safety.

After much discussion my visitors said that they were willing to guarantee that peace would be restored in Persia, and that foreigners would be quite safe as soon as the Russians withdrew their troops. My visitors said they could not ensure peace as long as the troops were in Persia because the troops ill-treated the people, arrested the well-wishers of the popular party, searched houses, and did other things that excited the populace. Finally, I said that it was difficult for us, with the most friendly intentions, to discuss measures because we were not sufficiently well informed as to facts. I pointed out that His Britannic Majesty's Minister at Tehran was much better informed, and I assured them that his object was to see Persia prosperous and peaceful. I said that I would report what had been said, and if I received any communication for them in reply I would let them know.

In reply to the question whether the Russian troops were also protecting British subjects in Northern Persia, I said that they had no doubt considered this part of their duty, as our troops, while they were in Bushire, considered it their duty to protect all foreigners.

My visitors said that the Mujtahids were receiving many complaints and demands for advice and assistance. They had not sanctioned any violent methods, but had replied that they were striving to get the Russian troops withdrawn, and that if everything else failed they were willing to be martyrs for the cause of their religion and nation.

I cannot help thinking that if the withdrawal of the troops is much longer delayed sentiment and fanaticism may get the better of reason and judgment and so bring about most regrettable complications.

Up to the present time the Persians seem to bear no ill-will towards England, but it is difficult to say how much longer this desirable frame of mind will exist.

J. RAMSAY, *Lieutenant-Colonel,*
Political Resident in Turkish Arabia, and His Britannic Majesty's Consul-General, Baydad.

From F.O. 416/41, Memorandum by Ramsay, Baghdad, Inclosure 2 in Lowther's letter to Grey, Constantinople, August 17, 1909, no. 464 (670).

APPENDICES TO CHAPTER III

Appendix 1, related to note no. 130

Enclosure 1 in No. 179.

Sir P. Loraine to His Imperial Majesty the Shah.

SIR PERCY LORAINE a fait à son Excellence Serdar Sepah la communication que Sa Majesté impériale lui a fait l'honneur de lui confier.

Serdar Sepah a déclaré catégoriquement qu'il n'a qu'un désir, c'est-à-dire d'exécuter les ordres de Sa Majesté et de lui faciliter et assurer par tous les moyens possibles le voyage qu'elle envisage. Il a donné l'assurance positive à Sir Percy Loraine que Sa Majesté ne doit avoir absolument aucune inquiétude à ce sujet.

Pourtant, Serdar Sepah trouve que la procédure proposée par Sa Majesté impériale présente de sérieuses difficultés. Il trouve non seulement que l'acte pour Sa Majesté de lancer elle-même un communiqué pendant une crise ministérielle et en l'absence d'un Gouvernement serait tout à fait contraire aux usages constitutionnels et à la loi de la Constitution, mais aussi qu'une impression très malencontreuse serait produite ainsi sur l'esprit public. Or, il est du devoir du Gouvernement de prendre toutes les dispositions pour le voyage de Sa Majesté impériale, et l'annonce du départ devrait être faite par le Président du Conseil.

Par conséquent, si Sa Majesté désire toujours nommer Serdar Sepah comme Président du Conseil, il serait désirable de lui donner tout de suite le destkhatt, le chargeant de constituer un Gouvernement: le communiqué annonçant le départ de Sa Majesté serait alors fait immédiatement après par les soins du Président du Conseil.

Serdar Sepah a lui-même proposé de donner à Sir Percy Loraine des assurances formelles par écrit sur les quatres points indiqués par Sa Majesté aussitôt que Sa Majesté aura daigné lui octroyer le destkhatt.

Sir Percy Loraine a l'honneur de porter à la connaissance auguste et personnelle de Sa Majesté impériale le réponse de Serdar Sepah qui se trouve ci-dessus exposée. Il se permet d'ajouter qu'il n'entretient absolument aucun doute sur la bonne foi de Serdar Sepah.

Téhéran, le 26 octobre 1923.

Enclosure 2 in No. 179

Sir P. Loraine to His Imperial Majesty the Shah

Sir Percy Loraine, faisant suite à sa lattre du 26 octobre, a l'honneur de présenter ses respects les plus profonds à Sa Majesté impériale et de lui faire connaitre ce qui suit:

Sir Percy Loraine vient de recevoir une lettere de Serdar Sepah par laquelle son Excellence donne, d'une manière formelle, les assurances voulues sur les divers points indiquée par Sa Majesté impériale.

Ca document restera dans les mains de Sir Percy Loraine.

Sir Percy Loraine entend qu'il ne reste désormais aucun obstacle à ce que Sa Majesté impériale remètte le destkhatt de Président du Conseil à son Excellence Serdar Sepah, et communique immédiatement après au nouveau Président du Conseil ses ordres concernant la publication de l'Iblaghié du Sa Majesté.

Sir Percy Loraine se plait à espérer que la question sera ainsi réglée à l'entière satisfaction de Sa Majesté impériale, pour le honheur de laquelle il se permet de former les voeux les plus respectueusement dévoués et sincères - Téhéran, 16 heures, le 27 octobre, 1923.

P.S. - Sa Majesté impériale s'étant déclarée non satisfaite de la lettre ci-dessus, Sir Percy Loraine a l'honneur de joindre copie de la lettre d'assurances qui lui a été addressée par son Excellence Serdar Sepah. Le texte original restera dans les mains de Sir Percy Loraine. 17 heures 40, le 27 octobre 1923.

Enclosure 3 in No. 179

Serdar Sepah to Sir P. Loraine

(Translation)

3 Agrab, 1302 (October 27, 1923)

Excellency,

While renewing my expressions of sincere friendship, I refer your Excellency to our previous conversation, and state that, in the first place, I undertake to provide all facilities for the

immediate departure of His Imperial Majesty towards Europe, and to ensure that no delay occurs in the measures to be taken for the fulfillment of this purpose. Moreover, I will prevent any opposition to, or demonstrations against, the journey of His Imperial Majesty on the part of the people. I will even use force if necessary, to provide the means for quelling any opposition. In addition, and in order to give further proof of my intentions. I will accompany His Imperial Majesty to the frontier in order to make certain that every possible precaution will be taken to ensure His Majesty's safety.

In the second place, all due respect and homage will be paid to the Crown Prince's position, and every effort will be made to preserve his honour and prestige in such manner to satisfy His Imperial Highness.

From F.O. 416/73, Enclosures in Loraine's letter to Marquess Curzon of Kedleston, Tehran, October 31, 1923, No. 179 (No. 485. Most Confidential).

Appendix 2, related to note no. 150.

تلگراف علمای اعلام از قم

«بسم‌الله الرّحمن الرّحیم - جنابان مستطابان حجج اسلام وطبقات اعیان و تجار واصناف و قاطبهٔ ملت ایران دامت تائیداتهم ، چون درتشکیل جمهوریت بعضی اظهاراتی‌شده بود که مرضی‌عموم نبود وبامقتضیات‌این مملکت مناسبت نداشت لهذا درموقع تشرّف‌حضرت اشرف آقای‌رئیس الوزراء دامت شوکته برای مودّاعه بدار الایمان قم بنفس این عنوان و الغاء اظهارات مذکوره و اعلان آن بتمام بلاد را خواستار شدیم واجابت فرمودند انشاء الله تعالی عموماً قدر این نعمت را بدانید وازاین عنایت کاملا تشکر نمایید - الاحقر ابوالحسن الموسوی الاصفهانی - الاحقر محمد حسین غروی نائینی - الاحقر عبدالکریم حایری»

From Makkī, Bīst Sālah, Vol. III, p. 15.

Appendix 3, related to note no. 151

Prime Minister's Proclamation.

(Translation.) (From "Sitareh Iran" of April 1, 1924.)

Compatriots,

ALTHOUGH experience has shown that the Government of a country must not oppose public opinion, and the present Government, in accordance with that precept, has refrained from restraining the sentiments of the people which have appeared on all sides, yet, on the other hand, as my sole aim and personal idea from the very first has been, and still is, the safeguarding and care of the greatness of Islam and the independence of Persia, together with a complete respect for the welfare of the country and people—and whosoever was hostile to that policy was reckoned as an enemy of his country and was forcibly restrained—so I am resolved also in the future to pursue this policy.

Seeing, however, that public opinion is divided and people's thoughts are confused, and that it is possible that such mental agitation may have results entirely contrary to what I have in mind in so far as order, security and the strengthening of the principles of Government are concerned, and since from the very first both I and, indeed, the whole of the army have considered the care and preservation of the glory of Islam as one of the greatest of our duties and objectives, and have always striven that Islam might advance daily in the path of progress and exaltation, and that the honour owed to sanctity might be completely observed and respected, therefore at the time when I went to Kum to bid farewell to the ulama, I took the opportunity of exchanging views with them, and finally we decided that it was expedient to proclaim to the whole people that the question of the republic be dropped and in lieu thereof the people should strive with all their might to get rid of the obstacles which are in the way of the improvement and progress of the country, keeping in view the sacred idea of strengthening the principles of religion and upholding the integrity of the country and the national Government. That is the objective for which the people should now help and assist me.

I therefore counsel all patriots and the supporters of this sacred ideal to desist from demanding a republic and to unite with me in striving to attain that end on which we are all agreed.

Prime Minister and Commander-in-chief
of the Forces:
REZA.

From F.O. 416/74, Enclosure in Ovey's letter to MacDonald, Tehran, April 7, 1924, no. 132 (No. 179. Confidential).

Appendix 4, related to note no. 155

نامهٔ آقامیرزا حسین نائینی سردار به

بسم الله الرحمن الرحیم

دمقام منیع ریاست وزراء عظام دامت شوکته.

در این موقع که حمدالله سبحانه و تعالی سالماً بعتبه مقدسهٔ حضرت شاه ولایت صلی الله علیه وآله العظام مشرف شدیم دعای دوام تأیید حضرت اشرف دامت شوکته در اعلاء دین و دولت و موجبات تعالی مملکت و ملت را در تحت قبهٔ منوره از اهم ادعیه دانسته بعلاوه دامت وبعض کمالات صمدیت و تبرکاً یک قصیدهٔ تمثال مقدس را که از دهبه در حرانهٔ مبارکه محفوظ است از حضرات مستصاب ملاالانام آقای سیدعباس کلیددار روضه منوره برای حضار آن وجود شریف برخواست شد و ایشت اسعادت حضرات اکبره سردار رفعت دام تأییده تقدیم میشد بعنوین تعویذ و حرز آن وجود اشرف خواهد بود انشاءالله تعالی.

بحمدالله تعالی عنایت حضرت اشرفی از ابتدای پیش آمد این مسافرت و مدت اقامت در دارالایمان دم الی کنون مستمر و هر کدام شایان تشکر و امتنان و سرآمد همه اکرام حضرت اجل اکرم سردار رفعت دام تأییده الی ورود باین آستانه مبارکه و یقین است همچنانکه رحمت وحسنات وحسن عقیدهٔ آن حضرات اجل در پیشگاه اقدس شاه ولایت صلی الله علیه وآله الطاهرین به اعلی درجه قبول انشاءالله تعالی دار خواهد بود همین طور در حضور حضرت اشرف هم موجبی عظیم خواهد داشت و مشمول عنایات حضرت خواهد بود انشاءالله و بقضای حق سبحانه و تعالی اسبوعاری که دورهٔ زمامداری حضرت اشرف دامت شوکته شرف عظیم تاریخی و نام جمیلابدی در صفحات تاریخ ایران بیادگار گذارد.

From Makkī, Bīst Sālah, Vol. III, pp. 24-25.

Appendix 5, related to note no. 163

بسم الله الرحمن الرحيم

لا يخفى على كافة المسلمين بان الحاد على الحكومة الايرانية الاسلامية كالحاد على رسول الله في يوم بدر وحنين ويكون مثله كمثل الذين يقول البارئ سبحانه عز وجل في محكم كتابه يريدون أن يطفؤا نور الله بأفواههم والله متم نوره ولو كره المشركون.

والمشرع حرائه العمل والعدالة في يوم القيامة ولذلك وجب علينا اعلامهم أن لا يتعرضوا لحوزة الجمهورية الشريفة رئاسة الاسلامية ومن يخالف هذا الامر يعد من الذين كفروا ويريدون اضمحلال هذا الدين المبين وجب تكفيره ما تبعا للاحكام والدلائل القرآنية.

حرره ميرزا حسين نائيني — حرره ابو الحسن الاصفهاني

From HM, October 27, 1924.

AN APPENDIX TO CHAPTER VI

Related to Note no. 90

الكلام على حق الفرنساوية المنصوب لهم

المادة الأولى : سائر الفرنساوية مستوون قدام الشريعة .

المادة الثانية . يعطون من أموالهم بغير امتياز شيئا معينا لبيت المال . كل إنسان على حسب ثروته .

المادة الثالثة : كل واحد منهم متأهل لأخذ أى منصب كان وأى رتبة كانت :

المادة الخامسة : كل إنسان موجود فى بلاد الفرنسيس يتبع دينه كما يحب لايشاركه أحد فى ذلك ، بل يعاد على ذلك ويمنع من يتعرض له فى عبادته .

From Ṭahṭāwī, Takhlīṣ, p. 141.

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