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# SHARIATISM VERSUS CONSTITUTIONALISM IN THE IRANIAN CONSTITUTIONAL REVOLUTION

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## *Abstract*

Soon after the Shah granted a parliament and a constitution to the Iranian people in 1906, a struggle broke out between the mainstream of the constitutionalist party and the pro-Court clergy and the Court. The latter used discrepancies – real and manufactured – between the constitutional order and the formal sharia. The result was a polemic in which no quarter was given. This paper, after providing background on the struggle between the two sides, examines the content of both sides of the polemic from contemporary sources, particularly in the Iranian press.

This paper analyses the shariatist (*mashrū‘a-khwāh*) polemic launched against the constitutionalist (*mashrūṭa-khwāh*) party in the summer of 1907 as the Iranian constitutional revolution entered a critical phase. This terminology is a little simplistic. Members of the constitutionalist camp insisted that they stood on the shariat, while members of the shariatist camp insisted that they were constitutionalists. But this is how the terminology developed in the course of the constitutional movement, and so, with this caveat, we accept it.

The quality of the polemic will be a center of our focus. Aḥmad Kasravī, in his monumental history of the constitutional period, said<sup>1</sup> that the shariatist polemicists “went after the journalists more than anyone, complaining and attributing to them articles which we never have found written in the newspapers of the time.” We have tracked down what we could of the material the shariatists were attacking and compared their objections with what had actually been written.

## 1. The Background

The Iranian constitutional revolution of 1905–11 led to the creation of a European-style parliament and constitution based on a combination of European laws. Since these laws were the product of the Enlightenment, in which divine

1 See KASRAVĪ 1941:412.

intervention was firmly excluded from legislation, this perhaps inevitably led to a conflict with those Muslim clergy who found European ideals of freedom and equality before the law incompatible with the shariat.

*From the Demand for Reform to the Granting of the Constitution*

The key reference points for the historical background of what follows are the following: In 1905, tensions had been building between an alliance of merchants, nationalist agitators, and elements of the Shiite clergy led by Sayyed Moḥammad Ṭabaṭabā'ī on the one hand and the Prime Minister and the governor of Tehran he had appointed on the other. This culminated in December 1905 in Tehran's leading clergy taking refuge in the shrine of Shāh 'Abdol-'Azīm. After a month, the reigning shah promised a "House of Justice." But after seven months and no sign of improvement, a much larger group of clergy took refuge in Qom while some 15,000 merchants and guildsmen took refuge in the British legation. The Shah then granted a constitution on August 5, 1906, and a parliament (the Majlis) on the European model was opened two months later.<sup>2</sup> The Fundamental Laws were ratified on December 30, 1906 by the Shah, who died soon after.

*Shariatism versus Constitutionalism*

The new Shah took office in January 19, 1907. He began his reign snubbing the Majlis representatives by not inviting them to his coronation. Relations between Court and Majlis went downhill from there. The Court tried to maintain its prerogatives as the Majlis insisted that it had the right to ameliorate ancient inequities and to interfere in the appointments of ministers and the raising of foreign loans and the use to which these monies were to be put.

The Court soon realized the usefulness of objecting to the Constitution on religious grounds. The Shah issued a rescript February 1907 declaring that,<sup>3</sup> "the laws ... must be written in accordance with the shariat of Moḥammad ... and then implemented." Referring to a debate over the ratification of articles in the Constitution which most of the clergy found objectionable, a British report

2 The basic events are laid out adequately in KERMĀNĪ 1983 and the two major histories which have it as their main source of information of these events, KASRAVĪ 1941 and BROWNE 1966. BROWNE 1984 contains a very useful chronology of these events.

3 KERMĀNĪ 1983:II, 85. See also KASRAVĪ 1941:204. For an astute analysis on the Court's use of the shariatist clergy, see KASRAVĪ 1941:294, 313; on the delicate act the constitutionalists were forced to perform see KASRAVĪ 1941:293–294, 301–302, 306–310.

compiled in May 1907 said,<sup>4</sup> “the Shah has seized the opportunity of refusing to ratify the new clauses of the Constitution until they have been submitted to the Mujteheds of Kerbala [Najaf].”

To deal with this crisis, a Concordance Commission was formed. Its most prominent members were the so-called Two Sayyeds, Moḥammad Ṭabaṭabaʿī and ‘Abdollāh Behbehānī, who had become immensely popular for their prominent support for the Constitution, and Hājjī Sheikh Fażlollāh Nūrī, as well as members of the Azerbaijan and Tehran Majlis delegations.

The mainstream clergy’s attempt to amend the Constitution to suit its position alarmed the more alert element of constitutionalist public opinion. Iran’s second city and the stronghold of militant constitutionalism, Tabriz, closed down as the people showered the Majlis with telegrams. The Tabriz Majlis representatives’ replies to the effect that that the delay was because “a commission of the clergy and the representatives was holding daily discussions about the Constitution article by article”<sup>5</sup> only dashed oil on the fire. “After this telegram was read, the people went into a frenzy, declaring that this could not have been sent by their representatives.”<sup>6</sup>

Tabriz’s leading constitutionalist journal hinted<sup>7</sup> that Court intrigue was behind this. As one orator was reported<sup>8</sup> to have declared,

We are astonished. Are the people demanding a law about religion and prayer from the government which needs the clergy’s deliberations? We are demanding a Fundamental Law for a constitutional monarchy which is being implemented in all the constitutional countries. His Holiness the Seal of the Prophets has already brought us the illustrious shariat over thirteen hundred years ago and we have it already and we believe that no other prophet is going to be sent to us. Moreover, if the Court and the rest want all our affairs to be run in accordance with the obligatory shariat, we are ready with heart and soul. But then there will be no more customs stations and taxation. The people would not allow the foreign loans which the members of the government have made. The current ministries and governorships and so on would be violators of the obligatory shariat... So it is clear that courtiers who are enemies and traitors to the Sacred Royal Imperial Person have raised [this] issue in the name of the people, who have never raised it themselves.

4 “Sir C. Spring-Rice to Sir Edward Grey,” CRAP, No. 26, May 23, 1907. See also KASRAVĪ 1941:295.

5 A, no. 82 (5 Rabīʿ II 1325 = May 18, 1907), p. 2 col. 1 and p. 3 col. 2.

6 *Idem*.

7 A, no. 82, p. 4 col. 2.

8 A, no. 84 (7 Rabīʿ II 1325 = May 20, 1907), p. 1 col. 1.

A few days later, the Tabriz Anjoman told the Azerbaijan representatives<sup>9</sup> that the Concordance Commission was nothing less than a Discordance Commission for the Constitution “as all the people know full well.” The telegram continued,

The entire population has learned that some of the members of the Concordance Commission are educated in and supporters of autocracy and absolutism. They know for certain that not only will this Concordance Commission yield not a bit of goodness or prosperity for the public, but they will consider themselves fortunate if it is unable to get its hands on anything which might cause the law to be adulterated or ruined.

*Sheikh Fazlollāh: Leader of the Shariatist Opposition*

Sheikh Fazlollāh Nūrī was a prestigious *mojtahed* of Tehran, considered the most learned of the Tehran *mojtaheds*.<sup>10</sup> According to Sheikh Aḥmad Nāẓem ol-Eslām’s memoirs of the period, although Sheikh Fazlollāh had played a prominent role in the Tobacco Rebellion against foreign concessions granted by Nāṣer od-Dīn Shāh,<sup>11</sup> he returned from the hajj behaving like a magnate (*a’yan*).<sup>12</sup> He allied with the new prime minister, ‘Ayn od-Dawla, who “turned over to him the country’s secular and religious judiciary and even matters of state.”<sup>13</sup> It is said that the sheikh became so powerful under ‘Ayn od-Dawla that he took a bribe from one nobleman, variously put at of 3000,<sup>14</sup> 24,000,<sup>15</sup> 25,000,<sup>16</sup> 30,000,<sup>17</sup> 70,000,<sup>18</sup> or 200,000<sup>19</sup> tumans, to use his influence with the

9 A, no. 88 (15 Rabī‘ II 1325 = May 28, 1907), p. 3 col. 2.

10 This was the opinion of the British historian of the period, Edward Browne, a passionate supporter of the constitutionalists. See BROWNE 1966:242. Even Nāẓem ol-Eslām declares his learning to have been superior to his contemporaries; see KERMĀNĪ 1983:I, 504 and 506, note 1. This opinion is all the more interesting given how deeply he loathed him. (KERMĀNĪ 1983:I, 565)

11 On the Tobacco Revolt, which began in December 1891, see KEDDIE:1966. See the telegrams by him to this effect in KERMĀNĪ 1983:I, 36, 41, and 49.

12 KERMĀNĪ 1983:I, 210–211.

13 KERMĀNĪ 1983:I, 211.

14 KERMĀNĪ 1983:I, 336.

15 RQ, no. 10, p. 3 (6 Ramaḍān 1325 = October 14, 1907), no. 11, p. 2 (13 Ramaḍān 1325 = October 21, 1907), no. 18, p. 4 (28 Moḥarram 1326 = March 2, 1908), and no. 26, p. 3 (18 Rabī‘ I 1326 = April 21, 1908).

16 V, 25 Rajab 1325 = . September 4, 1907.

17 KERMĀNĪ 1983:I, 212 and 411.

18 SHARĪF 1983:122. In this case, the bribe was said to have gone directly to the Minister of the Interior.

Prime Minister to give him the governorship of the province of Qā'en after he had agreed to sell the governorship of the neighboring province of Sistan to his elder brother.<sup>20</sup> Nāẓem ol-Eslām recalls<sup>21</sup> that this deal was made while 'Ayn od-Dawla was imposing strict martial law on Tehran and the constitutionalists were being persecuted. The brothers who had purchased Sheikh Fażlollāh's favors were much hated. One source reports<sup>22</sup> that seminary students from Qā'en studying in Tehran held a protest and another reports<sup>23</sup> an eight day general strike petitioning the Shah to remove them, succeeding a month before Sheikh Fażlollāh broke decisively with the Majlis. Indeed, the Majlis declared that it was its resistance to this deal which made the Sheikh go public with his opposition to it.<sup>24</sup>

- 19 MOHĪT-MĀFĪ 1984:295. This case was widely reported in the constitutional press. K, vol. 1, no.11 (6 Rabī' II 1325) published a letter from all estates, including the local clergy and seminary students, protesting Sheikh Fażlollāh's abuse of authority in this case. A series in B, vol. 1, nos. 20 and 22 (no. 22 is 10 Rabī' II 1325 = May 15, 1907; we don't have vol. 1, no. 20) reports that the sum given was 200,000 tumans. The article goes on to ask the reader to imagine where the governor could have expected to make up this sum, since he would be governing one of the poorest provinces of Iran. The sheikh's wealth was a target of the criticism of a disillusioned follower (E, no. 18 (3 Rajab 1325 = August 13, 1907), p. 1, col. 2).
- 20 That despite the contradictory reports, this cannot be considered simple rumor-mongering is evidenced in the British Foreign Office documents cited by MARTIN 1987:1.
- 21 KERMĀNĪ 1983:I, 411.
- 22 Moḥammad Ṣādeq Tabrīzī, "*Qā'enāt va Sāyer Navāḥīya Khorāsān*," in K, vol. 1, no. 11 (6 Rabī' II 1325 = May 19, 1907) reports that the city was closed for eight days as "the clergy, sayyeds, magnates, merchants, tradesmen, etc." petitioned the Shah to have Heshmat ol-Molk removed. MOHĪT-MĀFĪ 1984:295, reports a popular belief that he was selling to foreigners. See also Sir Cecil Spring-Rice, Inclosure to No. 23, March 23, 1907 in CRAP, regarding Sistan: "The administration of the Deputy Governor, Mohammed Reza Khan, the eldest son of Hashmat-ul-Mulk, cannot be said to have begun well. A serious charge of rape has been brought against him by a man of Kain, whose daughter he enticed into his house. He has cruelly beaten another man brought before him on a frivolous accusation."
- 23 Moḥammad Ṣādeq Tabrīzī, "*Vaqā'a'-e Bīrjand*," K, vol. 1, no. 11 (6 Rabī' II 1325 = May 19, 1907) reports on a strike of "the entire population, including clergy and sayyeds and magnates and merchants and craftsmen and so forth." The Shah issued a rescript declaring Heshmat ol-Molk deposed in Ṣafar 6, 1305 = April 13, 1907.
- 24 A, no. 109 (29 Jomādā II 1325), p. 2.

The Sheikh became a byword among his enemies as a worldly priest. As one newspaper wrote,<sup>25</sup>

His Eminence has neither gone to trade in India nor accumulated incomparable wealth from Balkh and Bokhara. How much of the poor people's property and the oppressed people's blood has been lost to stuff his treasury and pockets?

One of the constitutional movement's turning points was the demolition of a Russian bank which was being built on a Muslim cemetery. On the one hand, the constitutionalists were incited to destroy it by a passionate speech by Sayyed Moḥammad. On the other hand, the selling of the land to the bank had been legitimized by Sheikh Fażlollāh.<sup>26</sup>

The sheikh soon became part of a network of Shiite clerics who came to oppose the direction the constitutional movement was heading. As Kasravī wrote in his *History*,<sup>27</sup> when the division between constitutionalists and shariatists had hardened,

Hājji Sheikh Fażlollāh gave himself over to a torrent of invective against the Majlis and the Law during study sessions... A gang of Muslim seminary students came to the Beharestan [the site of the Majlis] and stood before the Majlis so that if anyone were to talk about the Fundamental Law or some other issue, or if one of the Azerbaijan representatives or anyone else were to speak "against the shariat," they could descend on him, drag him out, and beat him.

This brazen behavior angered the liberals and so they themselves went into action and formed a group to stop them. When Hājji Sheikh Fażlollāh's name was mentioned, he would be roundly insulted. This reached the point that his son, Sheikh Mahdī, shunned him.

This activity was sponsored by the government; among other things, the tents pitched by the shariatist clergy in front of the Majlis were government property.<sup>28</sup>

However, the Sheikh was ultimately able to force an amendment into the Constitution, Article 2, which called for a board of at least five *mojtaheds* to vet the Majlis' legislation so that it not conflict with the shariat. A struggle then broke out over control over the appointments to this board. By mid-June, the

25 "Porsīd del cha sūd khāndan-e va'z, Naravad mīkh-e āhanīn dar sang," T, no. 25 (Jomādā I 1325 = July 10, 1907), p. 3. See also E, no. 18 (3 Rajab 1325 = August 13, 1907), where a former follower of the Sheikh makes the same point in the front-page article.

26 This story is related in KERMĀNĪ 1983:I, 325–327.

27 KERMĀNĪ 1941:361.

28 "Letter from Tehran," A, no. 106 (20 Jomādā II 1325 = July 7, 1907), p. 4, col. 2.

Majlis won, effectively gutting the board's independent power.<sup>29</sup> It should be mentioned that even the constitutionalist *mojtaheds* in Najaf demanded this article's inclusion.<sup>30</sup>

After their resistance to the Majlis led to fisticuffs, a number of the shariatist agitators determined in late February 1907 to take refuge in the shrine of Shāh 'Abdol-'Azīm.<sup>31</sup> They attracted a number of toughs and, it is said, mercenary poor people, swelling their numbers up to sixty in a few days.<sup>32</sup> We now discuss their indictment of constitutionalism.

## 2. The Issues

### *Equality*

There is no quarrel between the two factions over social equality, that it was desirable that both "Shah and beggar" should be equal before the law. The dividing line here was defined in terms of Iran's protected religious minorities (*zimmīs*, peoples of the book), i.e. Christians, Jews, and Zoroastrians. Even here women, and post-Muslim sectaries such as the Bahais and Babis as well as atheists were outside the terms of the debate. Indeed, the constitutionalists vied with their foes in denouncing Babism and Bahaism, and even the rights of recognized minorities went only so far. Thus, in a polemic against Sheikh Fażlollāh, the constitutionalist journal *Tadayyon* declared<sup>33</sup> that it was an insult to the Muslim public to say that they are "inclined to socialize with Franks and Naturists and unbelievers" and "sit with Jews and Christians and Zoroastrians and the misguiding Babi sect." Again, *Ḥabl ol-Matīn*, in defining freedom,

29 See KERMĀNĪ 1983:I, 370–371, which produces the two versions of this article (KERMĀNĪ 1983:I, 316–317 and 371). NE, no. 22 (Jomādā II 1325), p. 4, col. 2 says regarding the board called for in Article Two, "They say that this body [of supervising *mojtaheds*] must be from outside the Majlis but the representatives say that it would be best that it be part of the Majlis" and this defeat led Sheikh Fażlollāh to take refuge in Shāh 'Abdol-'Azīm in protest. This issue is alluded to in a polemic by the Sheikh and his allies reproduced in TORKMĀN 1993:I, 231 and 361.

30 A telegram from Najaf's constitutionalist clergy to this effect is presented in KERMĀNĪ 1983:I, 411.

31 KERMĀNĪ 1983:II, 93, 96.

32 KERMĀNĪ 1983:II, 99.

33 No. 12 (7 Sha'bān 1325 = September 15, 1907), p. 4.

declared,<sup>34</sup> “We do not say that women should not cover their faces. We do not say that heretics should come out in the open and preach against Islam.”<sup>35</sup>

Article Eight of the constitution stated, “The people of the realm of Iran are to be equal before the government's law.” The problem here was that a Muslim and a non-Muslim could not be treated equally according to the common understanding of the shariat. But the issue of how a Muslim would be punished for killing a member of a protected minority was posed, particularly as reactionaries carried out assassinations of Zoroastrians. As one Iranian, presumably a Muslim, wrote in a Muslim liberal magazine,<sup>36</sup>

If we do not want equal rights to be implemented, we would be facing real problems. One of these would be that I do not believe that a Majū [Zoroastrian], a Jew, or an Armenian, seeing that his blood price is equal to about twenty five *tomans* according to the law, would agree to be a subject of this nation or monarchy or to this law and not reach out to representatives of other governments and complain, “What did I do wrong that my blood, that of a human, is cheaper than that of an animal?” If we answer, “You are a People of the Book and do not have the spirit of faith and this is why your price is the price of an animal,” they would reply, “The German priest<sup>37</sup> who was killed in Urmia, was he not of the People of the Book for whom a sum of sixty five thousand *tomans* was paid? But we see precisely that for two People of the Book..., one is worth sixty five thousand *tomans* blood money and the other, twenty five *tomans*. For one, the price is that of sixty Muslims, the other's price is that of a miserable mule. Is that fairness? Is this justice?” Another problem: Let us see if a law containing such discrepancies is accepted in humanity's community of laws. How well will the members of such a nation be respected in foreign lands?...

This article was typical of the polemics of the day on this subject, characteristically leaning more on arguments of expedience than of justice.

34 “Harf-e Goftanī”, no. 65 (29 Jomādā I 1325 = July 11, 1907), p. 2. The article is surtitled, “Letter from a woman.”

35 An interesting variation on this appeared in the constitutionalist biweekly E. In answer to the religious foes of the constitution, the author, one Esmā’īl Zanjānī, writes, “This misguiding sect,” whom he identifies as the Babis, “has been forbidden by its leader [*morshed*] from entering the Majlis or the *anjomans* [constitutionalist clubs]... They incessantly denounce the members of the Majlis. Everyone knows this.” “Defāi Qābel-e Tavajjoh Hājjī Sheikh,” E, no. 18 (3 Rajab 1325 = August 13, 1907), p. 2.

36 *Habl ol-Matīn*, cited in KERMĀNĪ 1941: 316.

37 As Kasravī points out, it was a British priest. KASRAVĪ 1941:316, footnote.

One magazine, *Nedāye Vaṭan*, edited by Sheikh Aḥmad Majd ol-Eslām Kermānī,<sup>38</sup> went on a campaign to defend the rights of the Zoroastrians. For months after its founding, every issue of this journal would carry telegrams and letters from the Zoroastrian community and the editor himself pleading for equality before the law both as a matter of justice and as a matter of expedience. He carried letters by his Muslim friends arguing that the Koran teaches love for all human beings and that its references to repudiating relations with non-Muslims<sup>39</sup> were to be understood as temporary measures taken when the Muslims were at war with them, and that the humanistic verses of the Koran were to be understood as referring to Islam's eternal values.<sup>40</sup> In addition to this was the argument from expediency: The Zoroastrians living in India were a wealthy community and skilled in agriculture and industry. Their opening factories in Iran would be a valuable contribution to their original homeland.<sup>41</sup> And, of course, there was the argument that the mistreatment by Iranian Muslims of members of religious minorities was an international embarrassment. How Westerners saw Iranians was a major preoccupation with the constitutionalists, who were proud of Iran's being seen by Westerners as belonging to the ranks of the constitutional governments as they were acutely embarrassed by being seen as uncivilized. That the constitutionalists were particularly concerned in their polemics with Iran's image in the West he loathed

38 Majd ol-Eslām was a student of Nāzem ol-Eslām Kermānī (the author of *Tārīkh-e Bīdārīya Irānīān*) and was inducted by him into Sayyed Moḥammad Ṭabaṭabā'ī's nationalist secret society. (KERMĀNĪ 1983:I, 134)

39 For example, Koran 5:51 declares, "Oh Believers! Take not the Jews and the Christians for your friends and protectors: they are but friends and protectors to each other. He amongst you that turns to them is of them."

40 For example, Koran 60:8–9 decrees, "God does not enjoin you from befriending those who do not fight you because of religion and do not evict you from your homes. You may befriend them and be equitable towards them. God loves the equitable. God enjoins you only from befriending those who fight you because of religion, evict you from your homes, and band together with others to banish you. You shall not befriend them. Those who befriend them are the transgressors." Even 5:51 is preceded by a plea to treat Jews kindly despite their errors, "for God loves those who are kind." (5:13)

41 The idea of inviting the Parsees of Bombay to settle and invest in Iran can be traced back to Iranian nationalist thought under Nāser od-Dīn Shāh. Mīrzā Āqā Khān Kermānī, a nationalist thinker and activist of this period, had advocated this in an unfinished work, according to one contemporary. DAWLATĀBĀDĪ 1983:I, 160.

and despised was not lost on Sheikh Fażlollāh, who derisively pointed this out in some of his polemics.<sup>42</sup>

*Expediency and the Shariat in Practice*

The constitutionalists argued that, while they were in favor of the shariat being implemented, it was impolitic to execute every one of its provisions in every circumstance. The shariatists argued that everything is in the Koran, which says, “there is neither green nor dry that (but it is all) in a clear book.”<sup>43</sup> A writer in *Nedāye Vaṭān* rather artfully turned this argument around:<sup>44</sup> Using this as a proof-text, he declared that there is no need for European laws in Iran because the mojtaheds can derive everything from the general principles of Islam. Having shifted the source of Islamic guidance from the Koran to the mojtaheds, he continues:

In some cases when protecting Islam’s testicles depends on measures being implemented, the great mojtaheds can, in accordance with the exigencies of the time, reason from general commandments to the particular. For example, consuming tobacco is not objectionable in Islam’s sacred shariat, i.e., it has no special commandment associated with it, and so is permitted. The religious judge will rule that this same permitted thing is forbidden when it causes British domination over the country, in order to free the country from captivity in accordance with the principle, “necessity makes permitted the forbidden.”<sup>45</sup> The pure Imams (God’s blessing be upon them!) interacted with the tyrannical caliphs, perhaps they even called them caliphs although they considered them infidels and heretics, for they saw the exigencies of the time in terms of political relations and protecting the foundations of the Clear Faith. Today, too, the distinguished clergy, who are the deputies of the Imam (Upon whom be peace!) are surely aware of this point and do not give our powerful neighbors a cause for complaint and do not ruin the country’s tranquility for the sake of some secondary matters.

42 “So’āl az Sheikh Fażlollāh Nūrī dar bāreye Mowāfeqat-e Avvaliyyah va Mokhālefat-e ṣanāviyyaye ū bā Mashrūtiyyat va Dalāyel-e Shar’iye Ān” in TORKMĀN 1993:II, 107.

43 Koran, 6:59.

44 “*Majles-e Moqaddas-e Shorāye Mellī*,” NV, no. 32 (15 Rabī‘ II 1325 = May 28, 1907), p. 2.

45 *Aż-żururāt tabīḥ al-maḥzūrāt*. This is a reference to the Tobacco Rebellion, in which the leading mojtaheds declared tobacco unclean in protest of the monarchy’s selling of the right to grow tobacco to a European in December 1891.

Of course, the author is deriving this positive statement from a negative one because it concerns the redefining of the shariat to serve the national interest. But the point is taken — a mojtahed can do this. Sheikh Fażlollāh supported the ban; ironically, the constitutionalist mojtahed Sayyed ‘Abdollāh Behbehānī, was one of the few prominent mojtaheds not to uphold it.

The author takes the following example: It transpired that the Jews of Isfahan had set up a school in which English was being taught. "Some of" the Muslim clergy had it closed down on unspecified grounds.<sup>46</sup> This led to a diplomatic embarrassment, as the Jews appealed to the British, who let the school open under their protection. This showed how an insistence on upholding an obscure corner of the shariat could lead to a weakening of Iran's sovereignty and a public embarrassment for Iran and Islam. The polemicist is arguing that Muslims should accept, or pretend to accept, non-Islamic ideas under duress (of the Ummayyids, the British, etc.) Of course, following this logic too closely would lead one to hold that one should grant equality to religious minorities only because the Muslims are under pressure from the oppressive infidel governments. But it serves to make the basic point, that blind adherence to the letter of the shariat is folly.

A similar argument was raised in *Habl ol-Matīn*:<sup>47</sup>

First, we submit that the obligatory character of the shariat's commandments depend on the possibility of performing them. Thus, any commandment can be altered if one is incapable of fulfilling it, e.g., one may pray sitting down if one is incapable of standing. Today, due to the strength of the foreign governments, and our own weakness, we do not have the strength to condemn foreign subjects and dependents to inequality and so the matter of "necessity makes permitted the forbidden" and other verses and traditions is sufficiently clear that it is not necessary to discuss it. Second, it is the judgment of all the wise and all the prophets that if a matter contains great goodness, it is obligatory even if it includes some little evil. God [*ḥaẓrat-e Ḥaqq*] does not stop the rain and allow fields to be ruined just because a wall or room will be ruined by the rain. By the same token, if constitutionalism requires something prohibited, the country is now ill and the capable physicians believe that its cure is nothing but equality. We honestly ask His Eminence Hājji Sheikh Faẓlollāh, if one of your servants could only be cured by wine, would you not permit it? Consider the country to be your servant and please do not make such trouble and do not allow us to succumb to the foreigners.

Similarly, when a group of Zoroastrians appealed for equal rights under the law,<sup>48</sup> they felt compelled to couch their appeal in terms of expedience as well as justice. In addition to the straightforward principled argument that Islam should

46 This was the least of the Isfahan Jews' problems. Āqā Najafī, the leading religious authority and an ally of the constitutionalists, forced the Jews there, many of whom were peddlers, to agree not to peddle their wares within eight miles of the city. "Sir C. Spring-Rice to Sir Edward Grey," CRAP, no. 21, February 27, 1907.

47 Hājji Sheikh Esmā'īl Tehrānī in HM, no. 63 (29 Jomādā I = July 10, 1907), p. 4.

48 SS, vol. 1, no. 42, 13 Rabī' II 1325 = June 2, 1907.

not treat a non-Muslim subject as if his life was worth less than that of an animal, these petitioners added that now that the constitution guaranteed them equal rights under the law, they were able to get out from under British protection; should such equality be withdrawn, they would have to return to it.

### *Nationalism and Equality*

The constitutionalists combined – some would say diluted – the defense Islam against the infidel with the revival of the Iranian nation. Patriotism – literally “country-worship” (*vatanparasti*) – was the new badge of pride, and this often crowded out the role of Islam in the constitutionalist worldview. A stark example of this is a statement issued by a group of constitutionalist merchants after the Majlis was promised. Upon hearing that an “Islamic Constitutional Assembly” had been granted, they demanded a “National Constitutional Assembly” first of all in order to keep clerics such as Sheikh Fażlollāh from interfering in it, but also to allow the religious minorities to participate in it.<sup>49</sup>

Many Iranian intellectuals developed a fascination with Iran’s pre-Islamic glory and a concomitant sympathy for Zoroastrianism and the Zoroastrians. When the Constitution was granted, the Court poet launched into a lengthy panegyric, part of which told the enemy of Iran that the “fire-worshipper” was returning.<sup>50</sup> Again, one journal discussed<sup>51</sup> life in ancient Iran “when Iran was Iran” and everyone lived in harmony and security. “If we want to show an example of ancient Iran, we must in fairness reflect on the conditions and activities of the noble Zoroastrian people and agree that we have forgotten in the age of absolutism the morality of our ancestors while they have preserved them with perfect firmness.” *Şūr-e Esrāfil* referred the reader to consider pre-Islamic Iran “to understand ... that we had all the contemporary learning,”<sup>52</sup> and even argued that constitutionalism and equality could be traced to that time and place.

All this only stoked Sheikh Fażlollāh’s ire.<sup>53</sup> For the shariatists, the mere presence of the infidels alongside Muslims in the celebration of Iran’s constitutionalism was anathema. A follower of Sheikh Fażlollāh writes in horror of “the celebration for the Majlis of that ‘blessed’ night... where all peoples and

49 KERMĀNĪ 1983:I, 565.

50 SHARĪF-KĀSHĀNĪ 1983:111.

51 “Ṭarīqat jozʿ khedmat-e Khalq Nīst,” T vol. 1, no. 14 (20 Rabīʿ II 1325 = June 9, 1907).

52 “Masʿūliyyat-e Qalam,” SE, vol 1, no. 1 (7 Rabīʿ II = May 30, 1907), p. 6.

53 See the aptly named *Tazkīrat-e Jāhel*, where he demands to know why there was all this praise of ancient Iran and the Zoroastrians, while these were (in his opinion) “the filthiest of people.” TORKMĀN1993:I, 64.

faiths, native and foreign, Jews and Christians... were present. And *guebres* [Zoroastrians] and Armenians and Jews even set up booths and decorated them.”<sup>54</sup> Again, “You ... keep company with Jews, Christians, Majus [Zoroastrians],” and “[The liberals] incessantly cry, ‘Long live liberty and fraternity and equality!’ ... Part of [their] agenda is to render equal Jews, Christians, Majus and Muslims so that all would be subject to the same punishments.” And when a Muslim was not let off with the payment of blood money for the murder of a Zoroastrian, but was given a severe flogging, Sheikh Fażlollāh was outraged and this incident became a fixture in his shariatist polemics.<sup>55</sup>

### *Secularization*

As we have seen, Sheikh Fażlollāh was particularly concerned that Iranian society was drifting away from religious observance and that worship of nation was replacing worship of God. The opening shot in this battle for secularism was fired, according to one of his polemics,<sup>56</sup> when, “in the royal decree granting an Islamic National Consultative Assembly, the word ‘Islamic’ was lost and gone for good.” According to one of the historians of the period who participated on the constitutionalist side, this was done specifically to keep the anti-constitutionalist clergy from dominating the legislative process<sup>57</sup>. In his anti-constitutionalist tract, *Tazkīrāt ol-Ghāfel*, published during the Little Autocracy (between the monarchist coup of June 1908 and the restoration of the constitution in July 1909) Sheikh Fażlollāh mentions in particular the way the Majlis was displacing the Ka‘ba and the law was displacing the Koran and the shariat.<sup>58</sup> For example, he complains<sup>59</sup> how an unnamed journal had called the Majlis “the Ka‘ba”. This

54 TORKMĀN 1993:I, 296 (26 Jomādā II 1325 = August 6, 1907).

55 See the polemics in TORKMĀN 1993:I, 106 and 319. In his *Tazkīrāt ol-Ghāfel va Ershād ol-Jāhel*, written after the monarchist coup of June 1908, he still fulminates against the punishment meted out to the murderers; TORKMĀN 1993:I, 69.

56 TORKMĀN 1993:I, 262 (18 Jomādā II 1325 = July 29, 1907).

57 The standard story of the granting of the Majlis is given in KERMĀNĪ 1983:I, 552–561. There were three royal proclamations for the Majlis mentioned there. The first version made no mention of the Majlis being either “national” or “Islamic.” It was rejected by the people for obscure reasons. (KERMĀNĪ 1983:I, 553–554) The second does call it “Islamic.” (KERMĀNĪ 1983:I, 558) The Prime Minister, in a meeting with the protesting constitutionalists, insisted on this point, which led to a sharp exchange with one of the latter’s representatives, who insisted that it not be called “Islamic” but “national.” After negotiations, the government relented. (KERMĀNĪ 1983:I, 561.)

58 TORKMĀN 1993:I, 61. See also *ibid.*, e.g. vol. 1, p. 332.

59 TORKMĀN 1993:I, 295 (26 Jomādā II 1325 = August 6, 1907).

could refer to an article from the Tehran *Ḥabl ol-Matīn*,<sup>60</sup> which referred to “circumambulating [*tawāf*] that beloved Ka‘ba.” The shariatist polemicists gave other specific examples of what would, if taken at face value, be considered a pagan cult of the Majlis and the Constitution. But the simpler explanation was that this was the sort of hyperbole common in the Iranian idiom. After all, the Iranian shahs were routinely referred to as the Kiblah of the World.

Of greater concern was the general decline in the public’s interest in things religious, which the shariatist clergy deplored. In taking up the charge made by one of the shariatists in Shāh ‘Abdol-‘Azīm<sup>61</sup> that *rawzakhwānī* (the ritual mourning of the martyrdom of the Shiite Imams) have been abandoned,<sup>62</sup> a former ally of Sheikh Fażlollāh tried to respond by shifting the terms of the debate:

Kindly tell us has that ... *rawzekhwānī* and standing [bare-chested] in front of a thousand women and singing and playing music as is done by Mīrzā Loṭfollāh Dastabənāfsha, who works for Your Honor, been cancelled or the recollection of the sufferings [of the Shiite Imams] by pious historians and pious, learned preachers who are day and night busy with *rawzekhwānī* and preaching, educating the people? May I be your sacrifice! What are these numerous meetings ... which are held guilelessly at every step in the alleys and bazaars? Isn’t guileless and pure *rawzekhwānī* still *rawzekhwānī*?

The constitutionalists, then, answer that the basic rituals of Shiism are not to be abandoned, but stripped of the dross of their vulgarity.<sup>63</sup>

### *Freedom*

The main problem the shariatists had with freedom was freedom of the press.<sup>64</sup> The fact is that the Constitution (in Article 20) declared on this matter, “All

60 “Jashn-e Sāl-e Dovvom-e Mashrūṭīyyat-e Īrān,” no. 81 (24 Jomādā II 1325 = August 4, 1907), p. 2.

61 E, no. 18 (3 Rajab 1325 = August 13, 1907), p. 2, cols. 1 and 2.

62 TORKMĀN 1993:I, 263 (26 Jomādā II 1325 = August 6, 1907).

63 The shariatist premise that *rawzekhwānī* sessions were disappearing was challenged by the constitutionalist cleric Nazem ol-Eslam in his memoirs of the times. (KERMĀNĪ 1983:II, 95) It is worth noting that after the constitutional order was overthrown in June 1908, *rawzakhwānī* was banned in the capital by the Russian military officer who engineered the coup. Indeed, according to a statement published by one constitutionalist secret society, these mourning rituals were on the rise “except for this year, when the poor people did not dare mourn out of fear of arrest and imprisonment and persecution.” (SHARĪF-KĀSHĀNĪ 1983:266). We have no record of the shariatist clergy protesting this.

publications, *aside from misguiding books and materials detrimental to the Evident Faith*, are free and uncensored.” (Emphasis ours.) The constitutionalists defended the freedom of the press they wanted on the grounds that it was the best way to expose corruption and tyranny and that it was a way of fulfilling the Koranic injunction of “enjoining the good and forbidding the improper.”<sup>65</sup> Yet the shariatist polemicists claimed that their rivals wanted absolute freedom of the press and continued to attack it<sup>66</sup> even as the constitutionalist press continued to deny it was part of their agenda.<sup>67</sup> They singled out some articles for rebuke, leading to some interesting polemics.

One article which sparked particular controversy was published in *Nedāye Vaṭān*.<sup>68</sup> It was published just before the shariatists took refuge in Shāh ‘Abdol-‘Azīm. I quote the parts relevant to the polemic:

Dear clergy! I will have knowledge, wisdom, and selflessness show you the sensible alternative and refrain from polemics so that the source of these errors might be made plain. We will reveal the way to abandon these abominations by degrees.

Regarding brothels, stopping people from using them is impossible these days, restraining people is absurd. If they are expelled, they will migrate elsewhere. Their wares will be easily sold and utilized; as they say, “People have power over their wealth and lives.”<sup>69</sup> And if you are restrained with lashes and beatings, your ranks will only increase, confirming the saying, “Men covet what they are not permitted.”<sup>70</sup> Limiting it is not in the realm of possibility.

One day, I asked the esteemed person of [the head of] the constabulary how many prostitutes there were in Tehran. He replied, “Don’t ask how many prostitutes there are; ask how many chaste women of virtue there are; these I can count. I cannot say how many prostitutes there are.” So we should know what the source of this great and growing population is and how to curb it. Today, out of every ten prostitutes, nine do it out of misery and absolute poverty and one does it for pleasure and to copulate... On the other hand, for each prostitute, there is one, nay, many bad men, idle and shameless... in the corners of the

64 We will focus here on freedom of the press. On the concept of freedom in general, see in particular E, 20 (18 Rajab 1325 = August 28, 1907), p. 4, col. 1.

65 Koran, 3:104. See footnote 67.

66 See, e.g., TORKMĀN 1993:I, 336.

67 See, e.g., HM, no. 65 (29 Jomādā I 1325 = July 11, 1907), p. 2 and E, no. 20 (18 Rajab 1325 = August 28, 1907), p. 4. The most secular interpretation of “freedom” in general is given in NV, (no. 23, 3 Rabī‘ I = April 16, 1907, p. 8), which understands the idea in purely Western terms.

68 NV, (no. 29, 1 Rabī‘ II, 1325 = May 14, 1907, p. 4 ff.)

69 In Arabic.

70 In Arabic.

taverns, coffeehouses, distilleries, and opium dens, and those who have fled abroad, living in utter misery and poverty by begging.

Let the wealthy of the realm now securely and in cooperation with the government found factories, railroads, mines, etc. with the cooperation of the knowledgeable. Indubitably, laborers and workers are a primary necessity of theirs, for their machines would not operate without operators and their factories would not work without workers. The idle would necessarily accept work presented to them in exchange for a salary, and this toil would have as its compensation this benefit, that each man would accept one of these ladies who has so miserably taken leave of her virtue and those very prostitutes who become fully aware and disgusted by the obscenity of their behavior would set the objective of virtue before themselves. Then would those nine out of ten referred to above be among the staunchest in virtue and achieve exalted levels, and that one out of ten who are notorious for good-timing with their beloved would have their names registered in the police department and be made to reside in a fixed abode and a proper and sufficient tax would be levied on them. Then surely these worthy ladies would either place holding fast to their honor and virtue above good-timing, i.e., abandon the latter, or else "Then leave them sporting in their vanities."<sup>71</sup> They would abandon their virtue and pay the taxes, and these very taxes would, say, be enough to cleanse the filth from the ruined streets of Tehran and repair them. So it would be in implementing this proposal in other lands and cities.

As for closing taverns, in accordance with the shariat, reason, and tradition, we consider culpability in this violation of the shariat vile. But today, owing to foreign influence in this kingdom, prohibiting them is impossible, for we have no power over them, and if we were, say, to find out a dealer in alcoholic beverages, he would integrate it into his other trade and profits. So it would be best to follow other governments which are under the rule of law and grant this concession to one of the citizens of the kingdom by the government's decree and have their bottles sealed with forms belonging to the concessionaire and place adequate and massive taxes on whoever wants to purchase the fruit of this industry. The effective earnings of these taxes would accrue to the state and in all likelihood, most of the hoodlums and ruffians, indeed, most of the people who have been disobedient and miserable would, with the aid of Fate, succeed in abandoning these acts, and with the passage of time, as the people of the realm wake up to the good and bad, the beneficial and the detrimental, domestically and abroad, and drink from the heavenly fountain of wisdom, they will surely abandon this root of evils.

Although its intention was to uproot violations of the shariat, the methods the author proposed were in stark contrast to the methods of the shariat. After this article appeared, conservative elements assaulted *Nedāye Vāṭan* vendors in the streets. An answer to this article was published in the next issue of *Nedāye Vāṭan*,<sup>72</sup> which forced the editors to issue a retraction.

71 Koran, 6:91.

72 Pp. 4–6. The author calls for the punishments sanctioned in the Koran for prostitutes and drinkers of alcohol, the latter excepting non-Muslims, who must pay an impost.

However, Sheikh Fażlollāh's followers seized on this article and willfully manipulated its contents in a way which would extract maximum shock value. For example, one of his followers wrote:<sup>73</sup>

And again, public and clandestine newspapers appeared, most of them containing abuse about the learned clergy and mockery of Islam's commandments and saying that one should alter this Holy Law and some of its particulars must be amended and make it more suitable and that those laws which had been established according to the exigencies of one thousand three hundred years ago must all be made compatible with today's conditions and circumstances and exigencies, for example, in permitting intoxicating beverages and spreading brothels...

This is picked up by another polemicist. After denouncing the spread of "freedom of expression ... in which anyone could say anything he pleases or write whatever he wants, exalted God forbid!",<sup>74</sup> he continues, "So that now, which is only the start of the matter, ... they print in their newspapers and spread lies and errors ... [such as the idea of] spreading prostitution and forbidden drinks..." He closes the polemic repeating this charge for good measure.<sup>75</sup>

Again, in a polemic by Sheikh Fażlollāh's ally Sheikh Lahījī in the journal of the self-exiled shariatists,<sup>76</sup> he stated specifically that *Nedāye Vaṭān* had declared that "brothels and selling wine are called necessary for the expenses of municipal reforms and repairing houses." This, of course, in precisely what the article in question did *not* state.

Another complaint raised by the sheikh's journal was that the constitutional press says<sup>77</sup> that "the untutored people of Iran spend ten million tomans annually to bring a little water because it is from Zamzam<sup>78</sup> and a little dust as *torba*<sup>79</sup> and that if these people were not savage and barbaric, they would not slaughter so many sheep and cows and camels during 'Ayd ol-Qorbān<sup>80</sup> and would use this

73 The first issue of the emigrants' journal, published 18 Jomādā II 1325 = July 29, 1907. See TORKMĀN 1993:I, 262 (26 Jomādā II 1325 = August 6, 1907).

74 TORKMĀN 1993:I, 296 (26 Jomādā II 1325 = August 6, 1907).

75 TORKMĀN 1993:I, 300 (26 Jomādā II 1325 = August 6, 1907).

76 TORKMĀN 1993:I, 333 (7 Rajab 1325 = August 17, 1907).

77 TORKMĀN 1993:I, 262 (18 Jomādā II 1325 = July 29, 1907).

78 Sacred well in Mecca, situated few metres to the east of the Ka'ba.

79 Soil, i.e., from the Imams' tombs.

80 During this festival, which celebrates the Prophet Ibrahim's demonstration of faith in God by offering to slaughter his son and God's having spared them the ordeal, a sheep is sacrificed by the pious. (Compare Koran chapter 37, verses 99–111 and Genesis chapter 22, verses 1–18.)

money for building bridges and roads.” A later issue of this journal<sup>81</sup> punctures this argument by revealing that it had actually been published in the Calcutta *Habl ol-Matīn* “three years before,” well before the constitutional movement began.<sup>82</sup>

In one case, a polemicist wrote, “It has also reached Najaf the Noble, from where the clerics have written about it to Tehran that in issue one hundred and forty three of *Majles* it says that the Faith of the Prophet has become archaic and they have called the Prophet and ‘Isa [Jesus] a student of the political thinkers of Europe and the contemporary political thinkers.” *Majles* no. 143 of that year has no such article.

Sometimes the shariatists picked on the most innocuous articles and savaged them repeatedly. Thus, an article appeared in the journal *Zesht o Zībā*,<sup>83</sup> which made a practice of putting a mini-biography and a line drawing of its subject on its front page, often of a figure from the Koran. This started<sup>84</sup> with the Prophet of Islam. The article called him, “The legislator [*moqannan*] of the law of Islam, the most noble of the congregation, the Seal of the Prophets, the Lord of Apostles, of complete intellect, the Guide of the Way, the First Source of the Learned of All Places, the Ultimate Cause of the Creation of This World, the Bearer of the Koran and the Master of Discerning Truth from Falsehood, the Founder of the Realm [*mamlakat*] of Arabia, Moḥammad b. ‘Abdollāh (Blessing upon him and his family!).” One of the shariatist polemicists decried this in the following terms:<sup>85</sup> “Similarly, in the newspaper *Zesht o Zībā* a picture of the Prophet (Peace upon him!) and the King, Moḥammad ‘Alī Shāh, were drawn on two pages, and the Prophet (Peace be upon him!) was called nothing more than a law-giver of the politics of the kingdom of Arabia, in violation of the Koran.” Our polemicist overlooked the fact that *Zesht o Zībā* had repeatedly described figures from the Koran in Biblical terms, something which should indeed have aroused the ire of the Koran’s guardians. Thus in one issue,<sup>86</sup> published when the

81 7 Rajab 1325 = August 17, 1907. See TORKMĀN 1993:I, 330 (7 Rajab 1325 = August 17, 1907).

82 It should also be mentioned in this connection that the pre-Constitutional *Habl ol-Matīn*, for all its attacks on the clergy in general, was endorsed by the leading Shiite authority of his day, Ayatollah Mamāqānī, who issued a fatwa enjoining Believers to read it. (KASRAVI 1941:42).

83 This journal was published under the auspices of the Anjoman-e Ettehādiyyeye Ṭollāb, a powerful constitutionalist society and edited by Faṭḥ ol-Mamālek.

84 2 Jomādā II 1325 = July, 13 1907.

85 TORKMĀN 1993:I, 333 (7 Rajab 1325 = August 17, 1907).

86 ZZ, no. 2, 9 Jomādā II 1325 = August 13, 1907.

shariatist encampment at Shāh ‘Abdol-‘Azīm was well underway, this journal describes the Muslim prophet Mūsā as “His Holiness Mūsā b. ‘Omṛān Kalīmollāh (Moshe), the bearer of the Torah [not Torāt, as in the Koran], who liberated the Hebrews [and not the Koranic “Children of Israel”] from the bondage of the people of Egypt, who brought them over the Red Sea and led the Hebrews to the Promised Land, and died... before the Holy Land at the age of 120.” The latter two events are not mentioned in the Koran.

Another example of the shariatists’ polemical ineptitude is their attack on the premier liberal constitutionalist publication, *Şūr-e Esrāfīl*. One epistle declared, “In the newspaper *Şūr-e Esrāfīl*, the Prophet’s Faith is called a plaything [*bāzīcha*].”<sup>87</sup> In fact, the quote originates from a lengthy and confused unsigned article.<sup>88</sup> The author actually had written, “... that pure faith which, unfortunately, has had its lofty truths and unique essential meanings of that heavenly essence become a plaything of the false clergy and those who are more damaging to the community of our Prophet than Yazīd b. Mo‘āwīya’s army...”<sup>89</sup> Had the shariatist polemicist read further, he would have found ample material to attack. The statement that Islam’s astonishing spread in its first century was due to the principles of Islam being untainted and its clergy being uncontaminated by worldly desires and only desiring to spread the faith among the heathens is blatantly at odds with Shiite historiography; the conquests all occurred under the usurping caliphs and their lieutenants. Even the conquests that took place under Imam ‘Alī’s evanescent apparent caliphate were made by Mo‘āwīya’s troops. The conquest of Spain and parts of France, which the author includes in this, were carried out purely by Ummayyid arms. Again, the author deplores<sup>90</sup> how the clergy of the time “who, like some of the current clergy, neglect the true teachings of Islam” did not accept the Russians into Islam because they ate pork,<sup>91</sup> forgetting that the early Muslims let it suffice to say “*Lā allāh illā Allāh*,” and they would have given up pork eventually had they become Muslims.

87 TORKMĀN 1993:I, 332 (7 Rajab 1325 = August 17, 1907).

88 “Defā”, SE, 7/8 (21 Jomādā II 1325 = August 1, 1907).

89 Pp. 5–6.

90 P. 7, col. 1.

91 According to a well-known story based on Islamic and Russian chronicles, when Prince Vladimir of pre-Christian Russia (980–1015) was casting about for a religion, he discussed the matter with Muslim Arabs and Slavic converts. Things went well until he heard that wine was forbidden to Muslims, at which point he was to have declared, “The Rus love to drink; we cannot be without this.” ALLWORTH 1994.

### 3. Constitutionalist Polemical Exaggerations

It should not be imagined that the shariatist clergy was the only side to engage in dishonest and violent polemics. One is compelled to agree with Kasravī, who says of the constitutionalist polemicists, “if we want to tell the truth, they were nothing but deception and ruses...”<sup>92</sup>

#### *European Constitutionalism from the Islamic Shariat*

The prime example of these ruses was the claim that European constitutionalism was itself based on the shariat. This had the advantage of obviating the claim that it was an idea borrowed from the infidel. Such apologetics can be traced the late-nineteenth century Iranian statesman Mīrzā Malkom Khān.<sup>93</sup>

The constitutionalists eagerly adopted this claim. Thus, *Nedāye Vaṭan* wrote<sup>94</sup> that the efforts of the higher clergy in promoting this cause was none other than

... supporting the sacred Islamic faith. All these measures were for the sake of spreading Islam, for these commandments were [ours] from the start, but because they were not implemented, our times grew bleak and ... things reached the point that the Franks ridiculed our faith and creed ... while the basic progress of the European realms were due to nothing but the theft or incorporation of the Islamic religion's commandments.

Again, the constitutionalist journal *Etteḥād*,<sup>95</sup> in responding to Sheikh Faḡlollāh's insistence that the idea of constitutionalism had spread from

92 KASRAVĪ 1941:430.

93 In his newspaper *Qānūn*, he writes that “... the principle of this law so corresponds with the principles of Islam that one may say that the other countries have gotten their grand law from the principles of Islam.” Q, no. 5 (30 Shawwal, 1307 = June 18, 1890), p. 2, col. 2) In a later issue of this journal, he would say more clearly, “On the other hand, we bear witness in clear conscience that the principles of all this order and security and justice and rights and progress which appear before us abroad has in its essence been created and prepared by Islam. We see no order or wisdom in the world which is neither based on the Koran or on the words of the Imams nor on the sea of Islam's wisdom which we call the *ḥadīths*.” (Q, no. 36. Although the issue is not dated, it was published between the accession of Moẓaffar od-Dīn Shāh in 1896 and his first trip to Europe in 1897.)

94 “*Majles-e Moqaddas-e Shorāye Mellī*,” NV, no. 32 (15 Rabīʿ II 1325 = 28 May 1907), p. 2.

95 ʿAlī b. Yūsuf Zanjānī, “Defāi: Qābel-e Tavajjoh-e Hājjī Shaykh,” E, no. 18 (3 Rajab 1325 = August 13, 1907), p. 2.

Europe<sup>96</sup> to Iran, writes, "... the Franks themselves confirm Islam's heavenly commandments and have made them their own policies. You who consider yourself a leader attribute a divine commandment to the Franks and so make God and God's Prophet angry with you."

The constitutionalist periodical *Tadayyon* could be convicted of this sort of demagoguery on many accounts. We take two examples:

First, it frames its entire polemic against Sheikh Fażlollāh and his followers as a defense of the common Muslims.<sup>97</sup> But from a religious perspective, there is no reason to stand with the common Muslims against the Muslim clergy, which has as one of its duties to rebuke the people if and when they stray.

Second, the author takes off on the objection raised by Sheikh 'Alī Lāhījī, one of Sheikh Fażlollāh's followers, that the new schools are teaching Iranian youth to, among other things,<sup>98</sup> "urinate on walls to eliminate the faith of Moḥammad."<sup>99</sup> However awkwardly this statement is made, it is clear that its author intended it to mean that Iranian youth were being induced to follow Western customs in the modern schools, among them, urinating against walls, which is not acceptable according to Shiism's laws of purity. The polemicist in *Tadayyon* runs with Sheikh 'Alī's confused construction and declared:<sup>100</sup>

Putting the Faith of Moḥammad on the level of urinating on walls is vile and obscene. It is greater than urinating on walls and this fool believes that the Faith of Moḥammad (God forbid!) is dust and sticks to the wall so that when a Frank-mimic urinates on it, it will wash away. I spit on such error and feeble reasoning and understanding. Hey, fool! The Faith of Moḥammad is in the hands of God the Victorious and Mighty and then the Imam of the Age (blessings upon him!) and then the *ḥojjatoleslāms*, and is stronger and firmer than all the mountains of the world. That religion which can wash away by urinating on a wall is good enough for you!

The constitutionalists occasionally lapsed into threats of violence. Thus, in a letter in *Mojāhed*,<sup>101</sup> the Mojāhedīn Party declares, "If you don't shut up, the entire nation will unite and wipe every trace of you and those who are inciting you from the face of the earth." Again, a polemicist in *Etteḥād*, after providing a

96 TORKMĀN 1993:I, 261 (18 Jomādā II 1325 = July 29, 1907).

97 Ty, no. 12 (8 Sha'bān 1325 = September 16, 1907), p. 5, col. 1.

98 Sheikh 'Alī Lāhījī in TORKMĀN 1993:I, 331 (7 Rajab 1325 = August 17, 1907).

99 Ahmad-e Mokhtār.

100 Ty, no. 12 (8 Sha'bān 1325 = September 16, 1907), p. 4, col. 1.

101 M, vol. 1, no. 4, 4 Zī-Ḥijja 1325 = January 8, 1908, p. 3, col. 2.

list of provocations carried out by the shariatists, wrote,<sup>102</sup> “We should answer them with bullets, but because we lack the energy, we will reach for the pen.” An article in *Anjoman*, the voice of the Tabriz constitutionalist club, declared the Sheikh an infidel at war with Islam (*kāfer-e harbī*) whose killing is obligatory.<sup>103</sup>

Sometimes the constitutionalist polemicists painted themselves into a corner. Thus, one article in *Nedāye Vaṭan*<sup>104</sup> argued that the Majlis had the right to legislate by making a distinction between the holy law, “which is immutable until the Resurrection” and “public law [*qānūn-e ‘ommūmī*] which deals with a country’s domestic governance and relations with other countries... which must be taken from the legal books of other constitutional countries and appended to our own holy law... Sometimes, owing to changing times, we must amend to the degree necessary some of the laws... concerning governance just as exalted and glorious God [*ḥaqq*] Himself has dispatched prophets and messengers with new holy and secular laws. The sacred laws have always been of one policy and will always be so, while secondary issues which pertain to matters of social interaction [*ma‘āsh*] and the foundation and organization of a country have always changed” with the character of the people. The author confusedly argues that on the one hand, human laws are mutable and draws the analogy with divine law on this matter, while declaring divine law *immutable*, coming uncomfortably close to the idea of serial revelation, an anathema to Islam which had raised its head in the Iranian religious movements based on Babism.

#### 4. Defenders of Islam against Unbelief?

Although Sheikh Fazlollāh’s followers freely showered the charge of unbelief against their opponents, they had to contend with the fact that the mainstream constitutionalists were supported by two of the leading clerics of Tehran as well as three of the four leading *marjaʿ*s (the leading Shiite religious authorities) of Najaf. They could not read these figures out of Islamic orthodoxy.

102 E, no. 20 (18 Rajab 1325 = August 28, 1907), p. 3, col. 4.

103 A, no. 110 (3 Jomādā II 1325 = July 14, 1907), p. 4. This article led to the thrice-weekly journal disappearing for over a week and the editor’s dismissal for showing disrespect to the clergy. (no. 111, 11 Jomādā II 1325 = July 22, 1907)

104 “Nālaye Vaṭan,” NV, no. 22 (29 Safar 1325 = April 13, 1907), p. 5.

One solution was to declare the telegrams of the Najaf *marja's* upholding the Constitution and the Majlis to be forgeries. Thus, in one epistle from Shāh 'Abol-'Azim, a follower of Sheikh Fażlollāh writes,<sup>105</sup>

And the Assembly representatives are all trustees of the people, and that telegram, which is a clear and naked lie and an ugly forgery, was not worthy of the trustees of the people, and such violation of an oath and treason to the constituents calls for resignation from the post of representative, except for those who were completely unaware.

This refers to two letters signed by Ayatollāh Moḥammad Kāẓem Khorāsānī, the most prominent of the three Najaf constitutionalist clerics, which had just been issued saying, "Helping the Majlis is incumbent upon everyone," and "One must immediately cooperate with the Majlis. [Its] opponents' words are absolutely not to be listened to and their arguments are ludicrous."<sup>106</sup> Another, this one signed by the three constitutionalist mojtaheds of Najaf, declared,<sup>107</sup>

The terrifying telegram from the group [of shariatists in Shāh 'Abdol-'Azīm] arrived and all Muslims are dismayed at the opposition of the opponents of the esteemed Islamic Consultative Assembly... That Majlis which was founded to remove oppression and to help the oppressed ... and protect Islam's testicles is absolutely to be preferred, indeed is obligatory by reason and by sacred and secular law. Opposition and resistance to it is opposition to the illustrious shariat and attacking the Bearer of the pure shariat... Whoever alleges that we think otherwise ... is nothing but a liar...

That Sheikh Fażlollāh and his followers believed that these telegrams were somewhat more than forgeries can be seen in their writings. Thus, one undated telegram from the Sheikh to the Najaf clergy asks what their duty is to a Majlis which spreads corruption. The son of Ayatollāh Khorāsāni replied in a telegram dated 19 Rajab, 1329 (= august 29, 1907) and published in *Ḥabl ol-Matīn* that since the amendments have been added to the Constitution, Sheikh Fażlollāh's oppositional activities can only be a matter of "protecting [his] own status."<sup>108</sup>

105 TORKMĀN 1993:I, 266–267 (18 Jomādā II 1325 = July 29, 1907, 12 Jomādā II 1325 = July 23, 1907, 26 Jomādā II 1325 = August 6, 1907, respectively). See also the conclusion of the epistle produced in TORKMĀN 1993:I, 245–47 and 297.

106 Telegram from Ākhūnd Mollā Moḥammad Kāẓem Khorāsāni, HM, no. 86 (4 Jomādā II 1325 = July 15, 1907), p. 4

107 "Az Qaṣr be Majles-e Moḥtaram-e Shorāye Mellī (raffa' Allāh qawā'idahu)," NV, no. 44 (Jomādā II 1325 = July 16, 1907), p. 5.

108 TORKMĀN 1993:II, 46. See also TORKMĀN 1993:II, 254–256.

Another solution was to demonstrate that the Najaf *marja*'s, and even the Tehran constitutionalist clergy, were saying the same thing as the shariatists. This actually had some substance. On the one hand the Najaf constitutionalist clergy and the Two Sayyeds were indeed concerned that the shariat not be abandoned. Thus, one Shāh 'Abdol-'Aẓīm epistle<sup>109</sup> reminded the reader that the call for Article 2 came from a message cosigned by Sheikh Faẓlollāh and Ayatollāh Khorāsānī. Another produced telegrams in which the Najaf constitutionalist *marja*'s endorsed Article 2 as a protection of Islam against the heretics who would use "the corrupt concept of freedom" to attack it<sup>110</sup> and the general efforts of the Shāh 'Abdol-'Aẓīm clerics in defending Islam against unbelief.<sup>111</sup> On the other hand, the shariatists installed in Shāh 'Abdol-'Aẓīm insisted that they were the true, indeed, the first<sup>112</sup> and only true<sup>113</sup> supporters of the Majlis. Their only intention was to improve and perfect the Majlis and the constitution and to attribute anything else to them was slanderous.<sup>114</sup>

They republished Najaf's telegram and devoted the next two issues of their journal to responding to it. They urged denouncing them that they wanted the same thing as the Najaf clergy, only they wanted to perfect it and protect it against its enemies and the enemies of the Najaf constitutionalist clergy themselves!<sup>115</sup> They were only opposed to the chaos and suffering which had ensued and the spread of heretical ideas which had become rife in the granting of unchecked liberty.<sup>116</sup> Any idea that this telegram was a forgery is simply dropped.

Ultimately, the conflict was irresoluble. One side was aligned with the Court, the other with the constitutionalists. The Najaf clergy declare Sheikh Faẓlollāh a threat to public order and corruptor (*mofsed*) and banned him from public affairs.<sup>117</sup>

It was only after the constitution was overthrown by the Court through Russian arms that Sheikh Faẓlollāh and his followers expressed themselves most

109 TORKMĀN 1993:I, 213.

110 TORKMĀN 1993:I, 237–38.

111 TORKMĀN 1993:I, 240 (23 Jomādā I 1325 = July 4, 1907).

112 TORKMĀN 1993:I, 322, 338–339 (4 Rajab 1325 = August 14, 1907, only refers to the first reference; the second is not dated).

113 TORKMĀN 1993:I, 349, 350.

114 TORKMĀN 1993:I, 321 (4 Rajab 1325 = August 14, 1907).

115 TORKMĀN 1993:I, 277–78 (23 Jomādā I 1325 = July 4, 1907).

116 TORKMĀN 1993:I, 285–89.

117 A, vol. 2, no. 27 (3 Zī-Ḥijja 1325 = January 8, 1908, p. 2 col. 1)

clearly on the topic, either because they were no longer interested in disguising their ideas to make them more palatable to the constitutionalists they were trying to win over or because they could now see the issues more clearly. Sheikh Fażlollāh openly attacked the views of the constitutionalist *marja*'s and, interestingly, summoned his readers to throw off the shackles of *taqlīd* (adherence to a *marja*'s ruling, something incumbent upon mainstream Shiites), urging that even if a thousand *mojtaheds* insisted on what a Shia Muslim perceived to be error, he should resist their misguidance.<sup>118</sup>

## 5. Conclusion

The study of the shariatist opposition to constitutionalism is underdeveloped. Most disappointing has been the lack of serious scholarship on the subject after the Islamic revolution. Virtually all writings on the Constitutional Revolution in Iran have been from the constitutionalist side. One could have hoped that, with the secularizing forces driven off the political stage, the clericalists could have presented an alternative view of this event. But as an Iranian author who tried to do just that observed, despite the generous atmosphere for shariatist writing after the Islamic revolution, "shariatist thought is not known correctly and in its essentials. Most of the articles and defenses ... of shariatism are basically full of emotion and propaganda and not of scholarly research."<sup>119</sup> Again, he writes that "... even to this day, the epistles of the shariatists criticizing the constitution have not been published..."<sup>120</sup> It is a severe indictment of scholarship under the Islamic Republic that the writings of its intellectual forbearers still lie moldering in family archives two decades after the revolution which brought it to power. We have done what we could with the material which has come to light to try to analyze the shariatist position on its own terms.

118 TORKMĀN 1993:I, 66. An exception appears to be an epistle written by one Moḥammad Hosein ibn 'Alī Akbar Tabrīzī, titled *Kashf ol-Morād min al-Mashrūta wa'l-Estebdād*, ZARGARĪNEŽĀD 1995:113–146, where the author declares that the Najaf *mojtaheds*, likening it to the case of a *mojtahed* who takes wine to be water and mistakenly declares it permitted. Here, the one who can see the true nature of the drink is not permitted to follow the ruling of this *mojtahed*. As a now-lost anti-constitutionalist newspaper, *Rahnama*, put it, first, the Najaf clergy are not infallible (*ma'sūm*) and second, they are not in Tehran. (pp. 119–120)

119 ZARGARĪNEŽĀD 1995:15.

120 ZARGARĪNEŽĀD 1995:87.

## 6. Abbreviations

A	= <i>Anjoman</i> (Ketābkhāneye Mellīye Jomhūrīye Eslāmīye Irān, Tehran, 1374 = 1995)
B	= <i>Basharat</i> (E. G. Browne Collection, Cambridge University)
CRAP	= <i>Correspondence Respecting the Affairs of Persia</i> (His Majesty's Stationary Office, London, 1909)
E	= <i>Etteḥād</i> (E. G. Browne Collection, Cambridge University)
HM	= <i>Ḥabl ol-Matīn</i> (E. G. Browne Collection, Cambridge University)
K	= <i>Khorshīd</i> (E. G. Browne Collection, Cambridge University)
M	= <i>Majles</i> (New York Public Library)
NE	= <i>Nedāye Eslām</i> (E. G. Browne Collection, Cambridge University)
NV	= <i>Nedāye Vaṭan</i> (New York University)
Q	= <i>Qānūn</i> (Kavīr, Tehrān, 1369 = 1990)
RQ	= <i>Rūḥ ol-Qodos</i> (Nashr-e Cheshma, Tehran, 1323 = 1984)
SS	= <i>Ṣobh-e Ṣādeq</i> (E. G. Browne Collection, Cambridge University)
SE	= <i>Ṣūr-e Esrāfīl</i> (Nashr-e Tarīkh-e Irān, Tehran, 1361 = 1982)
Td	= <i>Tadayyon</i> (Versailles Collection, Bibliothèque Nationale)
Tm	= <i>Tamaddon</i> (Versailles Collection, Bibliothèque Nationale)
V	= <i>Vaṭan</i> (Versailles Collection, Bibliothèque Nationale)
ZZ	= <i>Zesht o Ziba</i> (Versailles Collection, Bibliothèque Nationale)

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