The Confrontation between New and Old Government Theories in Constitutionalism Era and its Effects on Shiites' Political Mindset

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Abstract: *Shiites' political theory has undergone various changes during the course of its history in the period of immaculate Imams' absence. But, the most important incident having a large deal of influence on Shiites' political jurisprudence in Iran is the formation of the evolutions related to constitutionalism revolution. According to the importance of this issue, the present study aimed at investigating the confrontation between the new and old government theories during constitutionalism era and its effects on Shiites' political mindset. The main question was that what effects had the confrontation between the new and old government theories exerted on the Shiites' political mindset? To answer this question, the study hypothesis has been proposed as follows: the confrontation between the old and new government theories has caused the blossoming and enriching of the Shiites' political mindset. To investigate this issue, data have been collected through library research and taking notes from the other existent books and resources. The study findings signified the justification of the aforesaid hypothesis and the constitutionalism revolution was known as one of the main factors given rise to the change in the Shiite jurisprudents' notions. Hence, according to the researcher, the Shiite political jurisprudence could be divided into pre-constitutionalism and post-constitutionalism periods in the current study. In the period before the constitutionalism, sultans and governors were separately dealing with the people's worldly and religious affairs but it was after constitutionalism that the emphasis was made more than ever before on the political aspects of the Shiites' ideas. Moreover, the formation of an Islamic government and political government by the jurisprudents was placed amongst the top discussions by Shiite thinkers.*

Keywords: *New Government Theory, Old Government Theory, Political Jurisprudence, Constitutionalism Revolution.*

INTRODUCTION

Looking at the rationale behind the constitutionalism revolution with contemplation and scrutiny, it can be found out that a confrontation finally occurred between the two theories in the revolution that was unprecedented and unexampled in every respect till that time in the political history of Iran. On the one hand, the new theory of government was proposed which had aimed at establishing a government that enjoyed some aspects of power and was deprived of some others. Secondly, they demanded that the Iranian people, as the founders of a power source, should be authenticated besides and separate from the sultan(king).

In the meantime, it was assumed that both of these theoretical worlds should follow the expansive authority of the religion. The confrontation between the new and old theories of government was notable in Iran.

On the one hand, from Shiites' perspective, the head of the government should be a person enforcing the divine rules, upholding the divine limits and protecting the heavenly canon, devising strategies for managing and guiding the people whose headship had to be preceding any other person and his obedience should be obligatory for everyone. Thus, the highest example of such a way of governance is the government system at the apex of which the great apostle resides (Hosseini, 2016, 37). Sheikh Mofid, an antecedent Shiite, has dealt with this issue. He is amongst individuals realizing the guardianship of the jurisprudents as being equal to the guardianship of the God (Firahi, 2014, 278).

On the other hand, Iran's constitutionalism movement and its product, the constitutional law, were deemed as a spontaneous leap resulting from the discussions between modernist enlightened minds considering modernism in the western manifestations along with the traditionalist and evolutionist religious scholars. Its outcome was the change in Shiites' political theory within the format of the Shiite constitutionalism theory, the practical fruit of which was the constitutional law. It was for the first time that efforts were made to make a balance between the various governmental organs. It was a concept laid on the foundation of medieval theory and led to the despotism due to the non-delimitation of a clear-cut border between the religion and government as well as for the fact that sultan was envisaged as a perfect individual. However, it did not provide an answer to the question as to who should supervise the guards. In theory, sultan was a follower of the canon, but no means had been devised in practice so as to compel him to obedience. Accordingly, the issue was extensively theoretical. Sultan believed that he is the shadow of the God on the earth and there is no intermediary between him and the God. The new government theory wanted to break up this theory.

Researches have been presented regarding the present study's subject. In a research called "the relationship between meaning and context in understanding the theories of constitutional and constitutional sultanate", Shakeri Khou'ei and Amini (2013) believed that Shiite jurisprudence was not so much interested in social and political issues before constitutionalism and Qajar era. The Shiite political jurisprudence and theorization underwent changes in regard of governance in its keeping pace with the constitutionalism era's evolution and in the course of the dispute between old and new. In a research entitled "constitutionalism and Islamic republic: the Shiite political theory in transition from two different views of traditionalism and modernism", Taghilou (2016) believed that Iranian society's confrontation with the new world has incited various intellectual and political reactions during the recent century of Iranian history and it has set the ground for the two great revolutions, namely constitutionalism and Islamic Revolution. In a study entitled "political jurisprudence and modernism: discourse analysis of political jurisprudence of the political sciences' constitutionalism", Pezeshgi (2016) dealt with discourse justification of new political requirements like the demarcation of political power, founding a national counseling congress, codification of the constitution, paying attention to essential freedoms and civil equality all of which were actualized in the political jurisprudence of constitutionalism. Moreover, he declared that the two theories of "constitutional constitutionalist sultanate" and "absolutist sultanate" were recounted as novel theories in the Shiite jurisprudential tradition and that they were approved during constitutionalism in the Shiite jurisprudential tradition in contrast to one another. In a study titled "Shiite constitutionalism, a theory for proposition", Tabataba'eifar (2010) offered a jurisprudential pattern for investigating constitutionalism and emphasizing the religious atmosphere of this evolution and the necessity for paying attention to this tradition in resolving the today's problems. The researcher believed that there were different opinions amidst the jurisprudential thoughts concerning the quiddity and quality of a constitutional government in the occultation era. In line with this, other researches have also been carried out by Haidari Behnou'eiyeh (2002), Khorasani (2012), Ahmadi Tabataba'ei and Karbasi (2014) and Kadivar (2000).

As it can be seen in the abovementioned prior research, each study has approached the Shiite political mindset from a special perspective but no study was found having specifically dealt with the old and new

Shiite theories in the constitutionalism era. Therefore, the present study's advantage was toward investigating this issue in line with supplementing the findings of the prior research according to the research gap regarding the present study's topic. The main problem or question of the current research research was that what effects had the confrontation between the old and new government theories exerted on the Shiites' political mindset?

Literature Review

Old Government Theory

From Shiites' viewpoint, the constitutional government after the God's apostle belongs to the immaculate Imams. Moreover, they believe that in the occultation period, a well-qualified jurisprudent has the governance right and, as interpreted based on some narrations, he has been appointed for the government by the immaculate Imams (peace be upon them). The legitimacy of the jurisprudents' government has been born out of their general appointment by the immaculate Imams who were per se specially appointed for the government by the eminent God. From the perspective of Shiites, the governance by the immaculate Imams and by the jurisprudential guardian during the occultation time is constitutional based on the same criterion that renders the governance of the God's apostle as constitutional. It means that the legitimacy of the governance has never been conditioned to the human beings' votes for it is a divine issue and the appointment has to be made by the God (Mesbah Yazdi, 2002, 28).

In line with this, the Shiite scholars and jurisprudents' political mindset classifies sultans as either righteous and just or tyrannical and unrighteous. The just sultans serve the same functions of the imams and shoulder the responsibilities and authorities of the immaculate imams in the social affairs. Shiites consider all the rulers, except the aforesaid two, as the examples of tyrannical sultans. Although the examples of the tyrannical sultans have not been determined by the Shiite thinkers, it seems that the examples of tyrannical sultans are different from the perspective of the Shiite jurisprudents. Amongst the outrageous Shiite sultans, Al-e-Bouyeh sultans, Sunni sultans like Seleucid and Khwarazmshahi sultans and Sunni caliphates and tyrannical kaffir sultans, including Hulagu, can be pointed out (Firahi, Ibid, 315).

The theory of constitutional sultanate was an old perspective dating back to Safavid Era and the relations between Safavid Sultan and Shiite jurisprudence. This theory was written down and defended in constitutionalism era by several Shiite jurisprudents like Sheikh Fazlollah Nouri, Muhammad Hussein Ibn Ali Akbar Tabrizi and Abu Al-Hassan Najafi Marandi (Amini and Shakeri, 2014, 26).

The Shiites' political theory considered the authorized and constitutional government as being uniquely exclusive to the Immaculate Imams hence any other government was envisioned as the usurper of power. But, it was since that time that the dominant political theory was changed in Shiite mindset in such a way that it was held that a constitutional government could also be established by a just Shiite sultan. Subsequently, the type of cooperation and approach of the jurisprudents towards such a government was changed and the jurisprudential guardianship theory indicating the canonical authorization of a glorious Muslim sultan's sultanate found its way into the common mores. As the scholars' authorities increased, their theories in general and political domains during Qajar Era increased as well. Thus, the theory of the jurisprudents' "general guardianship" was born in such a ground. It was posited for the first time that the jurisprudents had the right to occupy and interfere in the general area and enjoy the canonical and guardianship superiority (Barzegar et al, 2009, 11).

General guardianship is also known as the theory of "authorized sultanate". This theory is based on the general guardianship viewpoint for the fully qualified jurisprudence which was proposed by Mohaqqeq Korki (Najafi, v.22, 156; cited in Emami, 2009, 154-155). Some claimed that another similar perspective came about in those conditions which was termed "constitutional sultanate" (Emami, 2009, 155).

From the perspective of the practical standpoints and the theoretical viewpoints, the scholars had discrepancies regarding government until before the modern era and constitutionalism revolution (Lambton, 1979, 95-128; cited in Musavi Jashni et al, 2015, 84). Some scholars preferred to keep silent about the topic "government" for their belief in such a principle as "prudence" and, occasionally, based on their practicing of canonical conservatism in making any judgment about government. The second set was comprised of the scholars who selected collaboration with the government to justify the sultanate and preserve the status quo based on their own personal expediencies. Hence, they chose to stay connected to the government especially for political and social expediencies (Rahbari, 2009, 96). Opposite to these two groups, there was a cohort of the religious scholars and exegetes in Qajar Era that turned its back on governmental dependency and cooperating with it and if necessary, rose up in opposition and clash with it. Although their opposition was limited and did not pursue the overthrowing of the political system governing the society, it was an important factor for moderating and mitigating the political despotism and the tyranny and oppression of the government functionaries towards people (Ajdani, 2005, 17-37; see also Musavi Jashni et al, 2015, 85).

But, in general, the Shiites' political mindset was always underlying the connection between sultanate and canon until the emergence of the constitutionalism's preparatory interventions. The relationship between the sultan and the scholars was considered as the necessary condition for the Islamic society (Kadivar, 1998, 61-71). In this period, sultan was considered as the shadow of the God, the successor on earth and His agent in preserving the cosmic order. The kings considering themselves as the shadows of the God thought of themselves as the possessors of divine prophecy and knew crown and throne as the divine gifts (Shoja'ei Zand, 1998, 70).

In constitutional sultanate theory, the mankind and Muslims' affairs are divided into two parts including customary and canonical matters. Accordingly, constitutional sultanate has been composed of two pillars: appointive guardianship of the jurisprudents in non-litigious affairs or canonical issues (the matters that the sacred canonical ruler is not willing to abandon) and the sultanate of a glorious Muslim sultan within the area of customary matters. In the theory of constitutional sultanate, the jurisprudent is responsible for non-litigious affairs. On the contrary, the sultan and the king have governance and political and customary guardianship in the customary matters area, government and Muslims' issues. Making no interference in the affairs between the sultan and jurisprudent is a generally accepted rule (Shakeri and Amini, 2013, 31).

It is believed in this theory that sultan might have obtained his power by any means. But the important issue is that he has to be a Shiite and respect the guardianship of the jurisprudents. In this theory, jurisprudent and sultan are two independent powers (Haghighat, 2016, 46). Based thereon, jurisprudents are responsible for the canonical matters during occultation through making inferences from the book and the tradition in such a way that these two are the source of reference in the newly occurring issues. Customary matters, as well, are governed by the glorious sultans (Abu Al-Ghasemi Dehghani and Vara'ei, 2016, 69).

The Theory of New Government

Constitutionalism revolution was formed in Iran on the foundation of general discontent resulting from the foreigners' exploitation and internal dictatorship. It was born with internal inconsistencies and conflicts. However, its success in attaining a great victory against the governing dominance via the unification of various social classes and elites was an unprecedented accomplishment in Iran's contemporary history. Desecration of the government and questioning its authenticity that occurred for the first time in Iran's history in 1907, was the first accomplishment by constitutionalism. The establishment of such institutions as the houses of representatives and cabinet, formation of the press, factions and political groups, codification of constitutional and civil law for regulating the relationship between the nation and the government and between the every individual member of the nation, establishment of an election system that caused the people's political participation in the country's decision-making and destiny along with tens of the other political change were amongst the most important accomplishments of constitutionalism (Musavi et al, 2015, 101-103). The great many of the problems after constitutionalism and the emergence of the army commander,

Reza Khan, as the Iranian king led to the result that some great constitutionalism era's jurisprudents like Mirzay-e-Na'eini intensively supported and confirmed sultanate. Some other jurisprudents like Haj Sheikh Abd Al-Karim Ha'eri Yazdi, the founder of Qom's seminary, thought about keeping a large distance with politics and power and obeying it (Barzegar et al, 2009, 13). The theory of constitutionalist sultanate was configured through resorting to and being influenced by the modern constitutionalism discourse by such jurisprudents as Akhond Khorasani, Muhammad Hussein Na'eini, Esma'eil Mahallati, Abd Al-Rasoul Kashani and others (Amini and Shakeri, 2014, 26).

In this theory, the citizenship rights of the individuals and citizens had been accepted for their payment of tax to the government and the governance was, in the meanwhile, considered as being entrusted to the rulers. Such modern concepts and institutions like the house of representatives and parliament, law and constitution, separation of power, justice house, freedom (liberty) and justice (parity) of the individuals in the society were envisaged acceptable and justifiable in the theory of constitutional sultanate. According to constitutional monarchy, the human affairs and the canonical verdicts and responsibilities of the obliged individuals were divided into two areas of canonical and customary. In the customary area that incorporated the general and political affairs, human reasoning and strategy are employed for management. Emphasizing on the general area under the title of "the things for which there is no explicit text in the book and tradition", Muhammad Hussein Na'eini believed that there was no explicit order and text received in this area from the sources of canon and religion. Hence, the informed persons and knowledgeable scholars and specialists should use their own expert and correct ideas as well as strategies to perform the collection of the duties assigned to them regarding order and protection of the country and politics of affairs (Na'eini, 2004, 130).

Generally, the theory that was formed from inside the constitutionalism era was the kind of conditional governance. The persistence of the constitutional government is suspended on two issues: codification of the constitution (including all the rights of the nation, their freedom, duties and limits of the authorities of the governors and conditions of their dismissal) and supervision (protection and calculation of the national council's lawyers in fulfilling their typical duties). Accepting the supervision of the Islamic Sultanate is for the reason that Islamic sultanate is limited not absolute. In regard of the issues for which no verdict has been specified in the texts, public participation and consultation with nation's intellectuals are used to come to a conclusion (Haghighat, 2016, 47).

Underlining the society's need for government for preserving the religion and society, Na'eini believed that since human beings are greedy and authoritative and inflicted with the revolt of the sensual wishes except the immaculate and righteous and just persons who are careful about their own statuses, there should be a force in the society that can preserve freedom and justice and prevent uproar. Accordingly, this faculty is called the restricted power, i.e. Na'eini realistically prefers the external control source over the internal control source (Na'eini, 2004, 87-88).

Constitutionalism sultanate was a sort of governance, the essential gem of which was formed by the delimitation of the political power. This type of government was introduced by such characteristics as the legal restrictions, observance of civil and political freedoms, civil equality and importance of national council (Na'eini, 2004).

The Effect of Modernism on the Shiite Scholars' Mindset

Before the entrance of modernism into Iran, the majority of the scholars were acting only parallel to the enforcement of canonical rules, promotion of good and prevention of vice and mentioning of the government's canonical duties. But, it was with the entry of modernism into Iran that the clergymen's discourse encountered very complicated issues that can be reminded as the contention and struggle between tradition and modernism. Scholars' confrontation with the issues was mostly occurring inside the tradition whereas, from that time on, the scholars were frequently engaged in confronting external issues encompassing nonreligious cases like humanism, instrumental intellectuality, empiricism, relativism and secularism (Rahbari, 2009, 97).

With the entry of modernity and modern thoughts, the activities by modern symbols and institutions were witnessed. The newspapers and journals, associations and factions as well as the formation of new schools alongside the religious and canonical schools were amongst the cases calling on the constitutional sultanate theoreticians for exhibiting reactions. The constitutionalists' reaction was natural because these newly emerged phenomena weakened the foundations and contents of constitutional sultanate theory, particularly those of the scholars and jurisprudents' canonical pillar and exegesis, the holy spirit, the firm cord and so forth. Various newspapers like Sur-e-Esrafil, Musavat and others placed atop of their agendas such subjects as separation of religion from politics, limitation of the scholars and clergymen's interference in the customary area, rights of the non-Muslim religious minorities, granting of social rights to women, creation of new schools and education of girls in new schools (Ziba Kalam, 2001, 461-462).

The Shiite world's confrontation with modernism instigated reflections that influenced the course of jurisprudence to wit the jurisprudential expression and approach and the method of the jurisprudents' social communication. The political role of jurisprudent that had found a new executive dimension with the declaration of the famous decree on tobacco embargo (1887) paved the way for a vaster relationship between the jurisprudents and the general public. This relationship was extensively expanded with the entry of printing industry into Iran. Since it required a larger number of the followers to gain access to the jurisprudent's decrees and reach more understanding. The intellectual force of a great many of the Muslim thinkers was spent on finding an Islamic response to this stream. Ayatollah Allameh Sayyed Muhammad Hussein Tabataba'ei, Aytaollah Shahid Mortaza Motahhari and Shahid Sadr were the representatives of this effort in its verbal domain. The prevalence of the scientific treatise that per se stemmed from rendering the compulsoriness of the principle of followership in the secondary teachings affected the increase in the number of followers and centrality of the exegete's rank and caused the attraction of or paying of attention by the forces that were previously absorbed to gnostic Shiite circles (Kazemi, 1991, 89). It was with the heightening of modernism wave that the scholars deemed it expedient`s withdrawal from political engagements.

The sharp-sighted exegete who had a correct understanding of that time`s canonical and customary authority sources, was Imam Khomeini. After testing the grounds of the clergymen's (guardians') authority in theosophical concepts, Imam Khomeini began writing his own historical idea, the principle of the jurisprudential guardianship, since early 1952. The circulation of this theory founded a novel trend in the Shiites' jurisprudential mindset wherein the recognition of the jurisprudential position was the turning point in expressing and enforcing the canonical verdicts. This recognition entered a new round in the history of Shiites with the magnificent revolution in 1979 (Ibid).

It is necessary to point out that the effect that the periodical trends and changes have exerted on the political jurisprudence caused the emergence of various readings therein. These changes have led to the emergence of two sets of theories: non-intermediated divine legitimacy and intermediated legitimacy or divine-populistic theories. In the theories of the first group, legitimacy is only supplied by the God even if the governments find themselves in need of the people's votes or satisfaction for actualizing it. Conversely, the second set of the theories is usually a combination of divine and populistic legitimacies and are in need of the people's votes even in this position. The most important theories of the first set in the area of the Shiites' political jurisprudence are constitutional sultanate theory, the theory of the general appointive guardianship of the jurisprudents, the theory of the general appointive guardianship of the exegetes' council and the theory of the absolute appointive guardianship of the jurisprudents. The divine-populistic legitimacy theories per se include the theory of the constitutional government, the theory of the people's caliphate with the supervision of the exegete, the theory of restricted appointive guardianship of the jurisprudent and the theory of the appointive Islamic government (Kadivar, 1998, 254-311).

The Effect of Constitutionalism on Shiites' Political Mindset

Iran's constitutionalism movement caused essential changes and a departure point in the Shiites' political mindset in the occultation era of Imam Zaman. It was composed of a novel discourse in elucidating the

Shiites' political attitudes. In this period, Qajar kings could not make any success in spite of their extensive efforts for gaining the divine sacrosanctity and legitimacy. But, the thing posited in this era beyond the disputes by some layers of Shiite scholars with the government was a growing discourse that could enter the Islam world and Iran within the framework of the western civilization's indices. This could for the first time seriously attack the Shiites' generally accepted political theories. It rapidly succeeded in winning the support of many of the addressees even amongst the religious individuals and scholars and its indicators were accepted by a great many of the people. Although these indicators did not penetrate in the context of the masses, it incessantly influenced the thoughts of the society's thinkers. In the end, an important part of it was accepted amongst the political and legal postulations of Iran in constitutionalism revolution's streams and challenged the historical traditions of the Iranian society. This internally provoked an acute debate between the opposite and various ideologies, including old and new. The gist of a great many of the thoughts related to constitutionalism contested the premises of the political-religious consensus as well as the cultural coordination of the traditional system and formed a gap and fissure between the elites (Abrahamian, 2015, 285).

In addition, the social power of the jurisprudents became so institutionalized since constitutionalism movement that the people's level of demands and expectations from the exegete rank was firstly increased and the scholars' minds and thoughts were secondly influenced in such a way that they knew it their duty to deal with politics both theoretically and practically. The scholars' answers to the concerns of the majority of the society were influenced by that time`s events of the country and the proposed thoughts and, at the same time, exerted influence on the daily changes and common thoughts. This mutual action led to the enrichment of the Shiites' political mindset apart from the external results in the practical area of politics (Kadivar, 2000, 257).

Constitutionalism revolution did not change the principles and basics of jurisprudential paradigm and did not end in the collapse of the previous paradigm and establishment of another paradigm. Rather it revolutionized the existent discourse by the effect of the new situation and within the framework of the same paradigm, to wit the prior mindset of the scholars was not damaged. It was the new concepts that challenged the part of their traditional mindset regarding the governance type.

Constitutionalism revolution never denied the legitimacy of the sultanate's political system, rather it sought its restriction. No competent surrogate had been found for the kingship government in the light of which security could be established in the society till the late Qajar era. Scholars put an end to the traditional form of the government and kingship pattern, even of tyrannical type, and waited for the individual governance of the absent Imam to help them get free of the suppression, after the entry and development of such new concepts as congress, people's rights, freedom and law (Turkman, 1995, 251). During the late Qajar era, as a result of cultural, social and economic interactions between Iran and the new world that had been initiated by the royal court's heads and ministers and foreign travelers, the scholars and social activist groups' awareness was gradually increased and they come up with another substitute for the individual governance which was the rule of law and the right to choose (Ahmadzadeh, 2015, 20).

Shiite jurisprudents started discussing five primary subjects in the interval from the victory of constitutionalism movement till the reopening of the congress after the lesser dictatorship including delimitation of political power, codification of the constitution, establishment of the national consultative assembly, political and civil freedoms and civil equality of the citizens (Pezeshgi, Ibid, 71). These issues caused discourse changes in Shiites' political jurisprudence. As an example, the legitimate constitutionalist discourse, represented by Sheikh Fazlollah Nouri, was a reformative theory for protecting the Shiite paradigm that was proposed with it being slightly influenced by the imported modernist discourse.

The mere acceptance of the new manifestations of western discourse was per se a change in the Shiite mindset that spontaneously decreased the concentration of the paradigm's elitist cast. Even if the people's votes are assumed of the same importance as the exegetist jurisprudent's decree and they are provided with

legislative institutions like congress and levers like election and representatives in such a way that they are formally accepted and taken into account, it would be considered as a change in the mindset. In fact, it is the digestion of some elements of collective governance in the context of the jurisprudent's individual governance that is employed as a counseling institution in line with jurisprudent's decision-making. However, the scholars of the legitimate constitutionalism did not find the discourse governing constitutionalism era in agreement with their own favorable discourse and started disagreeing thereto. In their ideas, this governing discourse was not in proportion to the Iranians' tradition and religion and sought perfect actualization of the western discourse in a non-selective manner. Thus, such a discourse couldn`t guard the religion and caused order and reduced tyranny and domination of the foreigners (Jamalzadeh, 2009, 46-78).

Until before constitutionalism, the scholars were speaking about legitimacy or illegitimacy of the sultan's individual political governance. However, it was in the verge of constitutionalism that new questions were added to the previous jurisprudential issues and discussions about governance with the peaking of the Qajar kings and rulers' oppression and the entry of new European thoughts and concepts like the nation's right, elections and freedom. Such issues emerged in that novel epistemological environment and proposed new concerns that had found their way from outside the area of religious and jurisprudential heritage into the Shiites' paradigm of mindset in the brink of constitutionalism (Amin Al-Dawleh, 1992, 132-136).

The issue of governance did not emerge in a novel format through making efforts for changing the individual governance from the religious grounds or from inside Iran's borders. Rather it had been posited exogenously and was fostered in religious and jurisprudential grounds. In discourse level, i.e. in regard of the type of the political governance, the scholars' mindset evolution was never enumerated as a change featuring the nature of the governance right belonging to the immaculate Imams in Shiism paradigm. A group of the scholars who were in dispute with the proponents of the king and sultan's individual governance within the format of insistence on the people's governance submitted to this discourse evolution for preserving the religion and Shiites. The new belief in the governance in Shiism paradigm was accompanied by novel concepts like congress, freedom, equality and legislation which led to the emergence of a new institution like consultative assembly in practice for enforcement of governance (Enayat, 1984, 287-288).

In sum, the conversation between the jurisprudents resulted in the idea that the government types should be classified as either constitutionalist sultanate or absolutist sultanate. The properties of the first government included law restrictions, observance of civil and political freedoms, civil equality and importance of the national consultative assembly while the absence of these features constituted the main elements of the second type of government. In this respect, both types of governments reconstructed their characteristics based on a definition of constitutionalism's status. In regard of the constitution, the jurisprudents, constitutionalists and the proponents of the absolutist sultanate could not reach an agreement about the legitimacy of the constitution codification of the same type they had reached. Since both of these issues were enumerated amongst the pillars of religion and non-negotiable issues for the proponents of the absolutist sultanate whereas the constitutionalists knew both of the aforesaid issues as the essence of the canonical government. As for the third of the proposed issues in defining the constitutionalism's status, to wit the national consultative assembly, it can be stated that establishing national consultative assembly was amongst the subjects of the discussions by the constitutionalist jurisprudents and proponents of absolutist sultanate which never ended in a bilateral agreement by the two parties. The most important barrier to the agreement was the declaration of such an institution's contrast with the essence of the Islamic canon by the proponents of absolutist sultanate. It is evident that both of the parties did not want to compromise regarding the issues that they thought would contradict the essence of the Islamic canon. The fourth of the discussed subjects about the constitutionalism status was the political and civil freedoms. While the constitutionalist jurisprudents preferred the persistence of the Islamic governance over the citizens' freedoms, the proponents of the absolutist sultanate's theory intended freedom of the limits and regulations of religion and compliance with the Europeans and Christians' traditions and customs along having freedom in the constitutionalist

status. The fifth of the subjects discussed between the jurisprudents and the proponents of the absolutist sultanate was the civil equality between the citizens. The jurisprudent proponents of the absolutist sultanate theory believed that the equality principle would lead to a status of relief from religion, on the one and hand, and to the identicalness of the people in all of the canonical rules and limits, on the other hand. However, in reaction to the above reasoning, constitutionalists asserted that the civil equation, as interpreted by the supporters of absolutist sultanate, was not only contradictory to the evident religion, but it was also inconsistent with the mankind's social system in any religion and rite (Pezeshgi, Ibid, 67). So, it is observed that the confrontation of various perspectives led to ever increasing contemplation and study in the Shiites' political mindset and it was followed by its blossoming.

It was in such a way that it can be stated that the content of the Islamic constitutionalist government became a ground for the formation of Islamic government. However, the thing that is important in the Islamic constitutionalist government as opined by Imam Khomeini (may Allah consecrate the honorable soil of his tomb) is the government's content and not its form. Thus, the Islamic constitutionalist government can be morphologically considered in the form of the Islamic Republic. "It is not the legal form of the regime that matters, rather it is its content that matters, which can naturally be considered in the form of an Islamic republic" (Imam Khomeini, 1983, 159). In terms of the content, paying attention to two elements, i.e. the roles of Islam and the people, is the important thing in the Islamic constitutionalist government as opined by Imam Khomeini.

Generally, the acceptance of the constitutionalist government, consultative assembly and legislation and other topics by the secondary verdict and authorization of the appointed jurisprudent presents a new form of the government that was unexampled till that time in the jurisprudents' mindset and it brought with itself some manifestations of collective governance.

Conclusion

One essential principle in the Shiites' perspective is that, after the God's apostle, the constitutional government belongs to the immaculate Imams. In the occultation time, as well, a fully qualified jurisprudent holds the issue, one who been appointed by the immaculate Imams (peace be upon them), as interpreted based on some narration. The legitimacy of the jurisprudents' government is born of their general appointment by the immaculate Imams who are per se specifically appointed by the eminent God. Therefore, the Shiites' political mindset, in the absence of Imam Zaman (may Allah hasten his honorable reappearance), divides sultan into two types of righteous and just and unrighteous and tyrannical (deviant and oppressive). This essential principle led to many discrepancies. In other words, the successor of the immaculate Imams (peace be upon them) and the government type in the occultation period have been the two essential concerns of the Shiites' political jurisprudence.

As an internally spontaneous rise, the formation of the constitutionalism and its product, the constitution, was followed by the evolution in the Shiites' political mindset in Iran. In the constitutionalism era, the link between the religious tradition and the newly-arising modernism-related issues has been appeared in the form of conciliation between the concepts of the governance of law and restriction of the governmental authorities' actions to the extent of the law, establishment of national consultative assembly, freedom and the citizens and their representatives' rights for the assertion of their political ideas against the government actions and equality before the law as the examples of the novel political concepts and institution as well as the emphasis on Islam as the formal religion and the necessity for the presence of a five-individual delegation comprised of the religious scholars for investigating the enactments by the consultative assembly for confirming their non-contradiction of the Islamic rules as stipulated in the first, the second and 27th acts of the constitutional amendment and the other complementary acts.

In constitutionalism movement, the Shiite jurisprudence experienced the old and new governments' controversy. The two perspectives and theories of the government began confronting one another in this movement. One of these perspectives was related to the old tradition and the other was a product of the novel and modern evolutions. This was an unexampled product in the Shiites' political jurisprudence and in the old tradition. The theory of constitutional sultanate was an old perspective dating back to Safavid era and the relations between the Safavid sultan (king) and Shiite jurisprudent.

In Shiite's political theory until before constitutionalism, the constitutional government could be that of a just Shiite sultan (king). Therefore, the cooperation and approach types of the jurisprudents towards such a government were changed and the theory of the jurisprudents' guardianship in canonical matters and sultanate of a glorious Muslim in customary issues was formed. In other words, the Shiites' political mindset always emphasized on the link between sultanate and canon until the advent of the constitutionalism's preparatory interventions. They considered the relationship between the sultan and the scholars and the jurisprudents as the necessary condition for the Islamic society believing in the theory of constitutional sultanate that used such titles as the shadow of the God and sultans of justice for their contemporary sultans. Almost all the individuals who have mentioned the name of a sultan have also accompanied it by such epithets as "the shadow of the God". The shadow-of-the-God kings who have a sort of sacred sultanate are the sultans who realize themselves as the shadow of the God on the earth and spread their sultanate under the shadow of His support. In this period, the government and sultanate of the king, though not being conditioned to the rules and the king himself was envisioned as the law and sultana of justice. The use of such titles as the king's being the shadow of the God on earth sought religious and divine legitimization of the sultanate.

Two theories of constitutionalist sultanate and constitutional sultanate engaged in a conflict in the course of constitutionalism. In the theory of constitutionalist sultanate, the jurisprudent and the people were considered as the main pillars and elements of this theory. In the constitutionalist sultanate theory, the human beings' affairs and the canonical duties and responsibilities of the obliged individuals were divided into two parts of canonical and customary areas. In the customary area embracing the public and political issues, human intellect and strategies were used for management purposes.

In the verge of the constitutionalism and during the years afterwards, the scholars stood in three important lines: the group that stepped on the path of the new governance and found it matching with the canon and defended its slogans; the group that was ignorant of the ultimate goal and destiny of the new governance and was concerned about the religion's vulnerability and added the suffix "constitutional" to the constitutionalist governance just in case; the third group supported the kingship governance.

The proposition of various perspectives in this period about government led to the increase in the importance of the position of the jurisprudents and Shiites' political jurisprudence. Iran's constitutionalism movement posited a novel discourse in clarifying the Shiites' political jurisprudence. In this era, the thoughts and political literature of Shiites experienced a stage of recognition, rehabilitation and response to the modern conditions that per se exerted a considerable effect on the general trend of the Shiites' political mindset. The thing that was posited in this period was beyond the disputes between layers of Shiite scholars and the government as well as the existent internal religious matters. It could, for the first time, seriously attack on the generally accepted theoretical issues. This was a growing discourse that entered the Islam world and Iran within the framework of the western civilization's indices. This discourse could quickly win the support of many of the jurisprudents even amongst the religious people and the religious scholars. Its indicators were accepted by many of the individuals. Generally, the confrontation of the different perspectives led to an ever increasing contemplation and study in the Shiites' political mindset and, then, its development. Moreover, it became a background for the formation of an Islamic government.

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