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Freedom as a Remedy for Decline:
The Horizon of the Question of Freedom in Nineteenth-Century Iran

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What is the power that gives (Europe) so great a superiority over us?
What is the cause of your progress and of our constant weakness?
The Prince Regent ʿAbbās Mīrzā (1805)[1]

Introduction

The intellectual elite in nineteenth century Iran gradually found the opportunity to become familiar with a new concept of freedom. Their discovery of this new meaning was less the result of abstract philosophical reflections and more the consequence of the observation of European social and individual lifestyles. They realized that Westerners (*farangiyān*) lived free from many restraints while in Iran such

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[1]Pierre Amédée Émilien Probe Jaubert, *Voyage En Arménie et En Perse, Fait Dans Les Années 1805 et 1806* (Paris, Pélicier [etc.], 1821), 175–177, quoted in Monica M. Ringer, *Education, Religion, and the Discourse of Cultural Reform in Qajar Iran* (Costa Mesa, Calif: Mazda Publishers, 2001), 1.

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restraints, according to a long-lasting cultural and political tradition, had been unquestionably regarded as necessary conditions to preserve order and security and to provide happiness in this world and the afterlife. A number of the Iranian elite came to believe that Europeans, free from these restraints, were successful in building ordered societies, decent and secure citizenship, powerful and lawful states, and ultimately, developed countries; on the contrary, lack of this freedom had left Iranians as unfortunate and insecure subjects in a disordered society with an army defeated at the hands of "infidels" in the two Russo-Persian wars (1803-1813 and 1826-1828), in a critically weakened country ruled by an arbitrary state. This research aims to examine the various aspects of this new awareness through studying Iranian travelogues and reformist writings of the nineteenth and early twentieth centuries, in order to argue that the concept of freedom was understood in the horizon of the question of decline.

This article is divided into two parts. As an application of a hermeneutical interpretation of Collingwood's logic of question and answer in the historiography of ideas[2], the first part reconstructs the horizon of meaning in which the question of freedom arose. It investigates how the Iranian elite of that time formulated and answered the question of the decline of Iran, and to what extent their formulations differ from those of earlier writers. They also wondered about the causes behind the "decline and fall" of dynasties in times of crisis, as well as Iran's defeat throughout history (for instance, the causes of the Safavids" decline was the subject of several treatises written after the fall of Isfahan in 1722). However, in the nineteenth century the new awareness of the gap between Iran and the west focused on new issues and departed from a novel worldview. Unlike the traditional Weltanschauung of political thought and *andarz'nāmah* literature, this elite posed

[2]In the "logic of question and answer," every statement which is uttered by an agent, as a part of "unit of thought," must be considered as an answer to a question either explicitly formulated by the agent or implicitly present in his mind. The "unit of thought," as Collingwood conceived it, is that which "any of [… its] parts taken singly is not a complete thought, that is, not capable of being true or false" (R. G. Collingwood, *An Autobiography* (London: Oxford University Press, 1939), 34). Establishing his "logic of question and answer," Collingwood rejects the central doctrine of propositional logic in which the proposition is regarded as the "unit of thought". In his *Truth and Method*, Hans–Georg Gadamer (1900–2002) explores the dialectic of question and answer inherent in the structure of hermeneutical experience. His point of departure is that each text has been written as an answer to a question. Rephrasing Collingwood, he states that "we understand the sense of the text only by acquiring the *horizon* of the question—a horizon that, as such, necessarily includes other possible answers" (See Hans–Georg Gadamer, *Truth and Method*, trans. Joel Weinsheimer and Donald G. Marshall (London: Continuum, 1975), 363–371).

the question of "decline and fall" within a new horizon of meaning and became attracted to a new set of social and cultural aspects such as the linkage between decline on the one hand, and on the other, factors like the Arabic alphabet, the absence of law, and the dominance of Islam.

The second part of the article shows how most locutions about freedom uttered in the last century of Qajar period were formed within the horizon of the question of decline and were somehow related to remedy such situations. They identified lawlessness and arbitrary rule as the chief cause of Iran's decline. The linkage between arbitrary rule and freedom will be better understood when one uses MacCallum's triadic format[3] to formulate arbitrary rule: the ruler is free *from* all restraints to do whatever he desires. On the contrary, the Iranian reformists of the time often aimed to establish the rule of law and to form a society in which civilized people were *free* from the arbitrary interferences of the state to do whatever lead them to progress and happiness.

Awareness of the Decline: the Horizon of the Question of Freedom

The Question of the Decline within the Perso-Islamic Framework

When Āqā Muḥammad Khān (r.1794-1797) put an end to chaos and reunited Iran in 1796, the issue of the decline and fall of the Safavids in 1722 was still disputed by a number of the Iranian elite: what caused the sudden decline of this glorious empire and its humiliating defeat at the hands of an Afghan tribe of a far-flung corner of the country?

These thinkers inquired into the issue of decline within the Perso-Islamic tradition of political thought.[4] Their analysis, both in perceiving decline and seeking reme-

[3]Gerard MacCallum argues that freedom is always ***of*** something (an agent or agents), ***from*** something (conditions such as constraints, restrictions, interferences, or barriers), ***to*** do, not do, become, or not become something (actions or conditions of character or circumstance). To put it formally: "***x*** is (is not) free from ***y*** to do (not do, become, not become) ***z***." In order to be precisely intelligible, a discussion of freedom should not fail in explicitly referring to all of these three variables unless the reference can be grasped from the context of the discussion (See Gerald C. MacCallum, "Negative and Positive Freedom," *The Philosophical Review*, 76 (1967), 314). MacCallum left the interpretation of the three variables open to provide a frame of analysis which is not a theory about freedom but a meta–theoretical position about the differences between theories of freedom (See "Positive and Negative Liberty," in *The Stanford Encyclopedia of Philosophy*, Ian Carter and Edward N. Zalta, eds., Spring 2012, http://plato.stanford.edu/archives/spr2012/entries/liberty-positive-negative/].).

[4]The central doctrine of this tradition is that the right to rule directly comes from the will of God. Possessing farr or divine grace, a shah has legitimacy to rule. As long as he is just, he will hold his divine grace and hence remain legitimate. For more information on the myth of Divine Grace see Homa Katouzian, *The Persians: Ancient, Mediaeval, and Modern Iran* (New Haven: Yale University Press, 2009), 396–397.

dies, often remained within the framework of this tradition with no comparison to other countries. To illustrate this point, I consider two significant diagnoses of the fall of the Safavids.

The first diagnosis comes from Quṭb al-Dīn Nayrīzī Shīrāzī (1688-1759) a master of *z̲ahabī ṭarīqah* (a chain in Sufism). Having witnessed the fall of Isfahan, he wrote two treatises on the Afghan fitnah (rebellion): *Ṭib al-mamālik* (in Arabic)[5] and *Faṣl al-khiṭāb* (in Persian).[6] *Ṭib al-mamālik* was probably written after Isfahan was re-captured by Nādir Shah Afshār in 1729 and Safavid princes returned to the capital hoping to restore the Safavid throne.[7] Referring to the Qurʾān and Shīʿī traditions, especially Imam *ʿAlī's Nahj al-balāgha, Nayrīzī* introduces five causes and symptoms for decline and social illness (*iʿtilāl*): breach of the divine and the prophetic promise, abandonment of the duty of commending right and forbidding wrong (*amr bi-lmaʿrūf wa nahy ʿan-lmunkar*), the ʿulamā's worldliness and their submission to the sultan, the sultan's ignorance and his lack of willpower, and the governors' corruption.[8]

Despite such a traditional approach in perceiving the causes of decline, his proposal for resolving the crisis was innovative within the framework of the pre-modern tradition of political thought. He proposed that, in order to remedy the decline, rational members of the society, namely *ʿulamā*, should mediate between the king and his subjects. By drawing lots, they should reach a consensus on the kingship of one of the Safavid princes. Then, they must obtain the new shah's commitment to follow what ʿAlī ibn abī Ṭālib, the first Shīʿī Imam, commanded his governor, Mālik Ashtar, to do in issues such as collecting taxes, fighting enemies, improving people's affairs and improving the cities. Finally, a just scribe must document the agreement between the shah, the *ʿulamā*, and the subjects. This endorsed agreement should be sent to all cities.[9]

Accordingly, it can be said that in Nayrīzī's view, the ultimate remedy for decline is to place limits on the sultan's power by obligating him to obey a set of regulations and making the legitimacy of his authority conditional on a written undertaking based on the religious command of Imam ʿAlī to Mālik Ashtar.

[5]See Quṭb al-Dīn Nayrīzī Shīrāzī, "Ṭib al-mamālik," in *ʿIlal-i bar'uftādan-i Ṣafavīyān: mukāfāt'nāmah*, ed. Rasūl Jaʿfarīyān (Tehran: Sāzmān-i Tabīghāt-i Islāmī, 1993), 217–34.

[6]*Faṣl al-khiṭāb* has not yet published. For a summary of this verse treatise see Rasūl Jaʿfarīyān, "Darbārah-ʾi faṣl al-khiṭāb," in *ʿIlal-i bar'uftādan-i Ṣafavīyān: mukāfāt'nāmah*, ed.Rasūl Jaʿfaīyān (Tehran: Sāzmān-i Tabīghāt-i Islāmī, 1993), 257–81.

[7]See Rasūl Jaʿfarīyān, "Darbārah-i risālah-ʿi ṭib al-mamālik"ʿ, in ʿIlal-i bar'uftādan-i Ṣafavīyān: mukāfāt'nāmah, ed. Rasūl Jaʿfarīyān (Tehran: Sāzmān-i Tabīghāt-i Islāmī, 1993), 202.

[8]Nayrīzī Shīrāzī, "Ṭib al-mamālik," 219–226.

[9]Nayrīzī Shīrāzī, "Ṭib al-mamālik," 226–227.

The connection between lawlessness and decline has been better addressed in the second diagnosis attributed to Karīm Khān Zand (r. 1759-1779).[10] Muḥammad Hāshim Āṣaf, known as Rustam al-Ḥukamā (d. 1841) provides a detailed quotation from Karīm Khān on the causes of the decline and fall of the Safavids. Karīm Khān compared Iran with the Ottoman Empire, Europe, China, Cathay and Transoxiana, and asserted that what had made these foreign countries stable, prosperous and powerful was that they had righteous laws (*qavānīn-i sharīfah*) and acted as required by wisdom, prudence and justice. He went on to add, "what can I say about ruined Iran where calculation and planning are as futile as writing on water, and where appropriate customs and fascinating laws are rare? Iran is always in a state of chaos due to the coercion and oppression of tyrants, and it is constantly destroyed by the conflict between despots."[11] Even if such a quotation was post-constructed by Rustam al-Ḥukamā's historiographical imagination in the early years of the nineteenth century, it indicates that in the light of comparing Iran with other countries an awareness of the causal relationship between lawlessness and decline began to arise.

The Question of the Decline after Iran's Encounters with Modernity

The establishment of a new and relatively strong state by the Qajars did not effectively improve the situation within which the question of decline and backwardness had arisen. On the contrary, the domestic and international conditions of nineteenth century Iran made the situation even more critical. The long military conflicts with Russia over the control of neighbouring territories resulted in two humiliating defeats and bitter treaties. These defeats cast doubt not only on the country's military power but also on the efficiency of the whole socio-political structure of Iran.

This new perception of decline has a comparative nature. The Iranian elite of the time perceived the country's weakness and deficiency in comparison with the Europe.[12] To go into the details of this newly emerged awareness is beyond the scope of this study. An outline of the innovative formulations of and solutions for the question of decline is however necessary in order to reconstruct the horizon of meaning within which the new Iranian socio-political thought emerged and a paradigm shift in approaching the question of decline occurred. By the horizon of meaning I

[10]Adding legitimacy to his claim, Karīm Khān pretended to rule on behalf of the infant Shāh Ismāʿīl III (d. 1773), the grandson of the last Safavid sultan, who was placed on the throne in 1757 by him.

[11]Karīm Khān Zand, quoted in Muḥammad Hāshim Āṣaf, *Rustam al-tavārīkh* (Tehran: Amīr Kabīr, 1973), 395–396.

[12]For a study on the perception of Iran's deficiency in early Qajar travel literature see Monica M. Ringer, *Education, Religion, and the Discourse of Cultural Reform in Qajar Iran* (Costa Mesa, Calif: Mazda Publishers, 2001), 53–65.

mean the essential part of the concept of historical situation since as Gadamer says, "situation … represents a standpoint that limits the possibility of vision."[13] This range of vison or horizon of meaning was expanded through comparisons with and evaluations of Europe; for the comparisons constructed the "other," and shifted the standpoint from which the Iranian elite comprehended and evaluated the "self". The progress and success of the "other" were juxtaposed with the deficiency of the "self" yet in different ways. The perception of Iran's deficiency or even Iran's decline did not necessarily mean that a mood of despondency about the condition of the country had set in among all elite. Many of them, rather, simply admired the achievements of the West and argued that it was essential for Iran to undergo a set of European-style reforms.

Admittedly, ʿAbbās Mīrzā (1789-1833), Prince Regent and governor-general of Azerbaijan and the Iranian military commander in Russo-Persian wars, was one of the first who intuitively perceived that the military defeats were indicative of a greater problem. He naïvely framed such a multifaceted and critical situation in a question addressed to Napoleon's secret agent, Pierre Amédée Jaubert, who visited the Prince Regent in 1805 at his court in Tabriz:

> What is the power that gives (Europe) so great a superiority over us? What is the cause of your progress and of our constant weakness? You know the art of governing, the art of conquering, and the art of putting into action all human faculties, whereas we seem condemned to vegetate in shameful ignorance...[14]

To rectify the situation, ʿAbbās Mīrzā, along with his reform-minded ministers, Mīrzā ʿĪsā and his son Mīrzā Abū al-Qāsim (*Qāʾim'maqām* I and II) brought about a series of reforms. Similar to the process of reform that under Sultan Selīm III (r. 1789-1807) was already in progress in the Ottoman Empire, these efforts aimed primarily to form a new army, *niẓām-i jadīd*, along European guidelines.[15] The first steps were taken by translating French military books on artillery and war technique, as well as hiring European advisors to train Iranian troops. At the same time, ʿAbbās Mīrzā dispatched two student missions to Europe in 1811 and 1815.[16] All

[13]Gadamer, *Truth and Method*, 302.

[14]Pierre Amédée Émilien Probe Jaubert, quoted in Monica M. Ringer, *Education, Religion, and the Discourse of Cultural Reform in Qajar Iran*, 1.

[15]For a helpful study on the reform from 1800 to 1848 see Vanessa Martin, "An Evaluation of Reform and Development of the State in the Early Qājār Period," *Die Welt des Islams*, 36 (1996), 1–24.

[16]For an in-depth study on *niẓām-i jadīd* under ʿAbbās Mīrzā and his son Muḥammad Shāh see Ringer, *Education, Religion, and the Discourse of Cultural Reform in Qajar Iran*, 15–51.

these measures stemmed from admiration and emulation of Europe as the pioneer of progress and a model for change.

The Prince Regent's enthusiasm to know the history of European progress and the causes behind the decline of great powers also led to the translation and writing of a number of books and treatises. In 1807, Muḥammad Raẕī Tabrīzī translated *Ḥavādis'nāmah* from Turkish into Persian as an account of the defeat of Russia in the Battle of Austerlitz, which occurred in 1805 between Napoleon's army and the Russo-Austrian army.[17] *Tārīkh-i Iskandar*, a biography of Alexander the Great, was collected and translated from by "James Camel" (جیمز کمل?) for the Prince Regent in 1813.[18] Furthermore, Mīrzā Ṣāliḥ Shīrāzī, a student dispatched to England, wrote his travelogue around 1819. He not only presented his observations on the socio-political system of "the new world" (*jahān-i jadīd*) but also spent a chapter on the history of the kings of England in order to show "the path of the progress of that country" (*ṭarīq-i taraqqī-i īn valāyat*).[19] Likewise, Mīrzā Riẓā Muḥandis translated a number of historical books for ʿAbbās Mīrzā, including the first chapter of Edward Gibbon's *The History of the Decline and Fall of the Roman Empire* (*Tārīkh-i tanazzul va kharabī-i dawlat-i Rūm*) circa 1831.[20] Each of these works in its own way helped the ruling elite to perceive the situation of decline.[21]

The Prince Regent died in 1833 before acceding to the throne, but his question echoed throughout the century. The root of almost all reformist thought, until the triumph of the Constitutional Revolution, was the question of decline. Two changes took place in this era. First, formulations of the issue of decline were now founded on comparisons of Iran with Europe. Second, solutions for the crisis were sought beyond the framework of tradition and by reference to western achievements and experiences in science, technology, politics, and culture.

[17]"Ḥavādis'nāmah," trans. Muḥammad Raẕī Tabrīzī (Tehran), MS Farsi/ 80, The Iranian National Library. See Kitābkhānah-ʾi Millī-i Īrān, *Fihrist-i nusakh-i Khaṭṭī-i Kitābkhānah-i Millī-i Īrān*, ed. 'Abd Allāh Anvār (Tehran: Kitābkhānah-i Millī-i Īrān, 1365), vol. 1, 68-69.

[18]"Tārīkh-i Iskandar," trans. James Camel [?] (Tehran), MS Farsi /1680, the Iranian National Library. See Kitābkhānah-i Millī-i Īrān, vol. 4, 155-156.

[19]This is comparable with *The History of Persia* written by British Major-General Sir John Malcolm (1769-1833) which was published in India in 1815. This was the first nationalistic history of Iran in which the conquest of Iran by the Arabs was introduced as the cause of Iran's decline.

[20]Edward Gibbon, "Tārīkh-i tanazzul va kharabī-i dawlat-i Rūm," trans. Mīrzā Riẓā Muḥandis (Tehran), Ms Farsi / 66, The Iranian National Library. See Kitābkhānah-i Millī-i Īrān, 1:56-57.

[21]For further information about translations in Qajar Iran, see S. Ahmad Hashemi, "Tarjumah: Tarjumah-i Fārsī dar Dawrah-i Muʿāsir: Qājār, Pahlavī, pas az inqilāb-i Islāmī," *Dānish'nāmah-i jahān-i Islām <Encyclopaedia of the World of Islam>* (Tehran: Kitāb-i Marjaʿ, 2002); Iraj Afshar, "Book Translations as a Cultural Activity in Iran 1806-1896," *Iran*, 41 (2003), 279–89. http://dx.doi.org/10.2307/4300649.

As time went by, efforts to diagnose the causes of decline became more intense as superficial reformist measures met with increasing failure. Soon after playing a key role in putting down the succession crisis and helping Muḥammad Mīrzā (r.1834-1848), the eldest son of ʿAbbās Mīrzā, to succeed to the throne, the enlightened chief minister, Mīrzā Abū al-Qāsim Qāʾim′maqām (d.1835) was executed by the shah's arbitrary order. Fourteen years later, Amīr Kabīr, the reform-minded politician trained by Qāʾim′maqām, loyally assisted young heir-designate Nāṣir al-Dīn Mīrzā to come to the power. He became chief minister as well as army commander, and attempted to conduct a reform program. However, once again, the shah arbitrarily took his life and brought the reformist measures to a halt.[22] Such determining events uncovered the arbitrary nature of Iranian rule; hence, many of the elite arrived at the conclusion that the country's decline could not be remedied without changing the political culture.

In such a situation, the idea of the absence of the rule of law or, in the other words, "arbitrary rule" (*istibdād*) being at the root cause of decline was gradually constructed.[23] From the early nineteenth century onward, European law and order were wonderingly and enviously pointed out in almost all Iranian travel accounts. The most renowned messenger of the idea of the necessity of law was Mīrzā Malkam Khān Nāẓim al-Dawlah (1833-1908).

Around 1859, young Malkam Khān submitted a constitutional proposal entitled *Daftar-i tanẓīmāt yā Kitābchah-ʾi ghaybī* to the chief minister, Mushīr al-Dawlah (d.1862).[24] In the introduction of the proposal, Malkam wrote:

[22]Abbas Amanat discussed the significance of the dismissal–and later execution–of Amīr Kabīr in demonstrating the inherent weaknesses of ministerial power and elaborated how such reformist attempts from above faced structural resistance from within and diplomatic pressure from without; see Abbas Amanat, "The Downfall of Mirza Taqi Khan Amir Kabir and the Problem of Ministerial Authority in Qajar Iran," *International Journal of Middle East Studies*, 23 (1991), 577–99.

[23]This point has been comprehensively discussed in Homa Katouzian's works, especially in his thoughtful study on the history of Iran, The Persians. In his words, "for the first time in Iranian history they struck upon the most ancient and fundamental problem of the state and society, that is, arbitrary rule (*estebdad*), which revealed the *differentia specifica* between Iran and Europe: in the latter, lawful government and orderly society had been the rule rather than the exception."(Katouzian, *The Persians*, 157). For further discussion on the theory of arbitrary rule as an approach to the study of Iranian society see Homa Katouzian, "Arbitrary Rule: A Comparative Theory of State, Politics and Society in Iran," *British Journal of Middle Eastern Studies*, 24 (1997), 49–73.

[24]Mushīr al-Dawlah is Mīrzā Jaʿfar Muhandis who was dispatched by ʿAbbās Mīrzā to England along with Mīrzā Ṣāliḥ Shīrāzī and three other students. He was also Iran's ambassador to the Ottoman Empire during (1252-1259/1836-1843).

> We have not yet perceived how far ahead of us Europeans are. We assume that their progress is as much as we see in their industries, whereas their main progress has appeared in the rules of civilization (*āʾīn-i tamaddun*). And it is impossible for those who have never travelled abroad to perceive the extent of this type of European advancement.[25]

Using the metaphor of "the human factories of Europe" (*kārkhānijāt-i insānī-i farang*) and expressing the significance and priority of these factories over industrial factories, he added that "what we need in Iran is these human factories such as the tax factory, the army factory, the justice factory, the science factory, the security factory, the regulation factory and so on."[26] He went on to emphasize that "… to regulate the state is not to deny any religion but the religion of those whose greatness requires the perpetuation of chaos".[27]

In the third law of *Daftar-i tanẓīmāt*, Malkam Khān introduced eight articles of the rights of the people, highlighting their significance by footnoting that to understand these few lines would take ten years: "The French state has killed four million human beings for these very lines".[28] Malkam Khān spent the rest of his life explaining the same rights and promoting the idea of the rule of law by various means such as: establishing the *farāmūsh'khānah* (House of Oblivion, an association modelled after European Masonic lodges), writing several effective works, correspondences and debates with the intellectual and political elite, and publishing the *Qānūn* newspaper in which he called on commoners and nobles to claim the rule of law.

Many times in his works, Malkam Khān identified arbitrary rule and lawlessness as the fundamental causes of decline. The crux of the problem, in his words, is that "today, all of Iran's affairs are run by the arbitrariness of rulers (*dil'bikhvāh-ʾi ruʾasā*)".[29]

It is worth mentioning that Malkam Khān tried to place his solution within traditional values. Distinguishing between the legislation and the implementation of law, he wrote that:

> We are not saying that we demand the law of Paris, Russia or India. The principles of good laws are always the same, and the best laws are those which

[25]Mīrzā Malkam Khān, "Daftar-i tanẓīmāt yā kitābchah-ʾi ghaybī," in *Risālah'hā-yi Mīrzā Malkam Khān Nāẓim al-Dawlah*, ed. Ḥujjat Allāh Aṣīl (Tehran: Nashr-i Nay, 1381), 28.
[26]Mīrzā Malkam Khān, "Daftar-i tanẓīmāt," 29.
[27]Mīrzā Malkam Khān, "Daftar-i tanẓīmāt," 31.
[28]Mīrzā Malkam Khān, "Daftar-i tanẓīmāt," 39.
[29]Mīrzā Malkam Khān, "[Īrān mamluvv ast az naʿamāt-i khudādād]," Qānūn, no.1 (London, 1 Rajab 1307 [21 February 1890]), 2.

> we learn from the sharia of God. However, we have been so deeply wronged due to the lack of implementation of these principles … that we are content with any kind of law, be it Turkmen law, because even the worst laws are better than lawlessness.[30]

He went on to add that "good laws, whether divine or rational, from whatever source and language" would not be implemented by themselves, and would require the "special measures" (*tadābīr-i makhṣūṣ*) which were discovered by the developed nations through hundreds of trials and errors. He persistently concludes by saying "yet Iranians have no idea about the contents and functions of these measures".[31]

Another famous proponent of the rule of law was Yūsuf Khān Mustashār al-Dawlah[32] (1823-1895). He also posed the question of decline in the introduction to his book One Word (*Yik Kalamah*), published in 1278/1861, asking his countrymen: "Why are you sitting so unaware and idle? Why are you not thinking about the progress of other nations?" He bemoaned the fact that not only Europe but also even Iran's neighbour (Ottoman) had overtaken Iran in constructing hospitals, schools, roads and railways, in the court of law (*dīvān'khanah*), and in regularizing taxation. Although he had once advocated the importation of European science and technology, especially railways, he maintained that "telegraphs and steam ships and catapults and war instruments" were "the results and not the preliminaries". Mustashār al-Dawlah criticized the elite who focused on "the history and technology of Europe" and neglected its "principles and foundations of administration" (*bunyān-i ʿamal-i idārah*). He described them as men who only looked at the surface and overlooked the undercurrent (*qaṣr-i naẓar kardan bih naẓarīyāt-i sādah and ṣarf-i naẓar nimudan az ʿamalīyāt-i ʿumdah*)".[33] Instead, he summarized the source of Europe's progress and orderly system in one word: "the book of law" (*kitāb-i qānūn*).

The other tendency in diagnosing the decline identified "religion" as the chief cause. Without doubt, the figure most representative of this trend was Fatḥ ʿAlī Ākhund′zādah (1812-1878), who described himself as a "liberal" and "a wayfarer of the path of progress and a proponent of civilization" (*az sālikān-i maslak-i puruqrah va*

[30]Mīrzā Malkam Khān, "[Yikī az ḥarf'hā-yi tāzah-ʾi mā]," *Qānūn* (London, 1 Rajab 1307 / [28 February 1890]), no. 1, 4.

[31]Mīrzā Malkam Khān, "[Yikī az ḥarf'hā-yi tāzah-ʾi mā]," 2.

[32]Mustashār al-Dawlah was closely familiar with European lifestyle and its political system: He lived abroad and worked as a consul for almost fifteen years (eight years in Ästerxan, four years in Tbilisi, and three years in Paris) and traveled to London four times.

[33]Mīrzā Yūsuf Khān Mustashār al-Dawlah Tabrīzī, *Yik kalamah va yik nāmah* (Tehran: Intishārāt-i Ṣabāḥ, 1382), 38.

ṭālibān-i sīvīlīzah). He had once believed that "the instinctive (i.e. immanent) capability of the Muslim people" (*qābilīyat-i jibillī-i millat-i Islām*) was greater than that of Europeans, and that the only cause of their backwardness was the insufficiency of the Arabic script.[34] However, when his insistence on replacing a new alphabet[35] did not succeed, he located the source of this failure in Muslim fanaticism (*finātīzm-i millat-i Islām*), and began to write his criticism, Maktūbāt-i Kamāl al-Dawlah, written in 1280/1863, in order to "destruct the foundation of this religion (Islam), to remove fanaticism, to waken the Asian nations from carelessness and ignorance, and to prove the necessity of Protestantism in Islam".[36] In his view, the expansion of science is conditional on progress, progress is conditional on being liberal, and being liberal is conditional on release from wrong beliefs. Yet religion prevents release from wrong beliefs.[37]

Such bitter criticism could certainly not be widely welcomed in the religious and traditional atmosphere of Iran. But a mild account of this diagnosis captured some attention. In such an account, the cause of decline referred not to Islam itself but to the assaults of the Arabs and the sociopolitical role of the ʿulamā. The anti-Arab prejudice and accusing Arabs of Iran's thousand-year decline was not a new phenomenon, but Ākhund′zādah's opinion on the role of clerics in catalyzing the crisis seemed innovative. For instance, in a letter written in March 1871 to Mustashār al-Dawlah, who was recently appointed minister of the newly established justice ministry (*vizārat-i ʿadlīyah*), Ākhūnd′zādah reminded him of the necessity of deposing the ʿulamā from judicial affairs. He also pointed out that the gap and the conflict between the state and society in the Shiite community stemmed from the *ʿulamā's* convincing the people that governors were agents of injustice (*ahl-i ẓalamah*) and that *ʿulamā* were the judges and protectors of the people (marjaʿ-i millat).[38] The innovation and the "heresy" of Ākhūnd′zādah's opinion becomes clear by comparison to Quṭb al-Dīn Nayrīzī who had lived a century before him. Within the framework of the Perso-Islamic political thought, Nayrīzī believed that the cause of the Safavids' decline was the breach of the divine and the prophetic promise. He also believed that the ultimate remedy would be

[34]Fatḥ ʿAlī Ākhund′zādah, "[Letter to Mīrzā Yūsuf Khān Mustashār Al-Dawlah Tabrīzī (1872)]," in *Alifbā-yi jadīd va maktūbāt*, ed. Ḥamīd Mūhammad′zādah (Tabriz: Nashr-i Iḥyāʾ, 1357), 276.

[35]He suggested his new script in 1875. See Fatḥ ʿAlī Ākhund′zādah, "[Autobiography]," in *Alifbā-yi jadīd va maktūbāt*, ed. by Ḥamīd Mūhammad′zādah (Tabriz: Nashr-i Iḥyāʾ, 1357), 352.

[36]Ākhund′zādah, "[Autobiography]," 354.

[37]Fatḥ ʿAlī Ākhund′zādah, *Maktūbāt-i Kamāl al-Dawlah* ([n.p.]: Intishārāt-i Mard-i Imrūz, 1364), 61.

[38]Fatḥ ʿAlī Ākhund′zādah, "[letter to Yūsuf Khān Mustashār al-Dawlah Tabrīzī (Mars 1871)]," in *Alifbā-yi jadīd va maktūbāt* (Tabriz: Nashr-i Iḥyāʾ, 1357), 199–202.

the mediation of the *ʿulamā* between state and society in order to select a shah and commit him to obeying the religious commands of Imam ʿAlī.[39]

Freedom and Law as the Answer to the Question of Decline

In almost all of the diagnoses of Iran's decline by the nineteenth century Iranian reformist thinkers, lawless and arbitrary rule was identified as the chief cause of decline. For these reformist thinkers, the term "arbitrary rule" described the following triadic relation of freedom: the ruler is free *from* all restraints to do whatever he desires. Such arbitrary exercise of power by both central and provincial rulers constrained people's freedoms and threatened the security of their life and property. Needless to say that the rulers' power was not absolute. On the surface even the king, as the sultan of Islam, pretended to observe of the sharia. The *ʿulamā*, who were considered by the people as the guardian of Islam and countervailing power to the state, particularly after the Tobacco Revolt of 1891–2, used their power and authority to limit the shah's arbitrary rule.[40] Yet the sharia was not always an insurmountable law as the *ʿulama* had their own inter-personal rivalries for which many of them did not refuse to be reconciled with the state.

A description of such a lawless society has been effectively presented by Mīrzā Abū Ṭālib Bihbahānī in a short passage of his *Minhāj al-ʿulā*, written in 1877:

> disorder and chaos in the administrative apparatus; constant abrogation of decrees; indecisiveness and hesitant decision-making; unnecessary and unfounded modifications; contradictions and falsifications in the words of the government; and the oppression of the poor, the weak and the defenseless by the staff and employees of the government administration as well as the men of power and wealth.[41]

[39]A counter approach was suggested by Sayyid Jamāl al-Dīn al-Afghānī (1838-1897), the well-known reformist cleric. Instead of questioning Iran's decline, he always posed the question of Islam's decline. Examining his important diagnosis is beyond the scope of this paper. For an analysis of one of his essays on this issue, entitled *Chirā Islam ẕāʿīf shud?* [*Why has Islam become weak?*], see ʿAbd al–Hādī Ḥāʾirī, "Afghani on the Decline of Islam," *Die Welt des Islams*, 13 (1971), 121–25; and ʿAbd al–Hādī Ḥāʾirī, "Afghani on the Decline of Islam: A Postscript," *Die Welt des Islams*, 14 (1973), 116–28.

[40]The Tobacco Revolt, as Katouzian pointed out, was an exceptional event in Iranian history. It was the first time that "the arbitrary state had given in to a public demand rather than either suppressing it or being overthrown violently" (see Katouzian, The Persians,164–165; for a history of the revolt see Nikki R. Keddie, *Religion and Rebellion in Iran: The Tobacco Protest of 1891-1892* (London: Cass, 1966)).

[41]Mīrzā Abū Ṭālib Bihbahānī, "Minhāj al-ʿUlā," in *Rasāʾil-i siyāsī-i ʿaṣr-i Qājār*, ed. by Ghulām Ḥusayn Zargarī′nizhād (Tehran: Kitābkhānah-i Millī-i Jumhūrī-i Islāmī-i Īrān, 2001), vol. 1, 276.

Under such circumstances, reformist thinkers sought freedom *from arbitrary rule* through a revolt for law. Unlike European revolutions such as the French Revolution of 1789, which aimed to make existing laws fairer and to remove the legal restraints on the freedom of individual, the Constitutional Revolution of 1906 was indeed a revolt for establishing law which sought to achieve freedom and other social rights.[42] Western classical liberals of the 18th and 19th centuries, especially proponents of the individualist or negative concept of liberty, tended to think of liberty as freedom from legal restraints. This concern is echoed in a famous definition of freedom suggested by Thomas Jefferson (1743-1826), one of the Founding Fathers of republicanism in the United States: "Rightful liberty is unobstructed action according to our will within limits drawn around us by the equal rights of others. I do not add "within the limits of the law," because law is often but the tyrant's will, and always so when it violates the rights of the individual."[43]

In the absence of law in nineteenth century Iran, however, the fact that the law itself could restrict the freedom of the individual was not seen as a real question and accordingly was not considered as such. For instance, as mentioned above, Mīrzā Malkam Khān emphasized the significance of the implementation of law in saying that "we are content with any kind of law, be it Turkmen law, because even the worst laws are better than lawlessness". It was only after the Constitutional Revolution that the disputes over the legislation of freedom arose in the first Parliament and the simplistic idea of "law as freedom" was re-examined.

Let us return to the pre-constitutional era in order to examine what made reformist thinkers lose their hope in reform from above, leading them to call for revolt against arbitrary rule. It was not only the reformist thinkers, but also Nāṣir al-Dīn Shāh who realized that lawlessness was the main obstacle to the freedom of the people. It is often pointed out that he returned from his third European tour (first in 1873, another in 1878 and the third in 1889) with the idea of introducing law and responsible government.[44] Nonetheless, it was not until the year before his third visit to Europe

[42]For an in-depth discussion of this point see Homa Katouzian, "The Revolution for Law: A Chronographic Analysis of the Constitutional Revolution of Iran," *Middle Eastern Studies*, 47 (2011), 757–77.

[43]Thomas Jefferson to Isaac H. Tiffany, April 4, 1819, in Thomas Jefferson, *Political Writings: Representative Selections* (New York: Liberal Arts Press, 1955).

[44]Homa Katouzian distinguishes three phases for Nāṣir al-Dīn Shāh's rule (1848-58, 1858-73, and 1973-96). In phase III, the shah "contented himself with maintaining his own authority at home, managing foreign relations as best he could and continuing to enjoy hunting and women." After his third European tour, as his brother ʿAbbās Mīrzā Mulk Ārā reported, the shah said to a group of the ruling elite: "All the order and progress which we observed in Europe in our recent visit is due to the existence of law. Therefore, we too have made up our mind to introduce a law and act according to it" (See Katouzian, The *Persians*, 162).

that the shah attempted to take the main step in preserving peoples' freedom. In Ramadan 1305/ May 1888, he issued the following Royal Proclamation:

> Forasmuch as Almighty God has endowed our blessed nature with the attributes of justice and benignity and ordained us as the manifestation of his ordinances and power, and has especially committed to our all-sufficient guardianship the lives and property of the subjects of the divinely-guarded Empire of Iran; in gratitude for this great gift, we consider it incumbent on us, in discharge of the duties it imposes on us, to relax nothing in ensuring to the people of this kingdom the enjoyment of their rights and the preservation of their lives and property from molestation by oppressors, and to spare no efforts to the end that the people, secure in their persons and property, shall, in perfect ease and tranquility, employ themselves in affairs conductive to the spread of civilization and stability. Therefore, for the information and re-assurance of all the subjects and people of this kingdom generally, we do proclaim that all our subjects are free and independent as regards their persons and property; it is our will and pleasure that they should, without fear or doubt, employ their capital in whatever manner they please, and engage in any enterprises, such as combination of funds, formation of companies for construction of factories and roads, or in any measures for the promotion of civilization and security. The care of that is taken on ourselves; and no one has the right or power to interfere with, or lay hands on, the property of Persian subjects, nor to molest their persons or property, nor to punish Persian subjects except in giving effect to decrees of the civil or religious law.[45]

In this decree, the shah as a lawgiver who "epitomizes the divine ordinances and power" (not as a representative of the people) believes that he is committed to preserving the lives and property of subjects and protecting their economic freedom. He thereby proclaims that the people of Iran are free *from* fear of oppressors' molestations and invasions of their lives and property *to* "employ their capital in whatever manner they please," *to* "engage in any enterprise," and *to* "take any measures for the promotion of civilization and security". Along the same lines, no one is free *from* the restraint of this proclamation *to* "interfere with, or lay hands on, the property of Persian subjects, nor *to* molest their persons or property, nor *to* punish Persian subjects except in giving effect to decrees of the civil or religious law."

[45]See Nāṣir al-Dīn Shāh, "Iʿlān-i rasmī-i dawlatī," *Īrān* (Tehran, 19 Ramadan 1305 / [30 May 1888]), 1. The English translation is quoted in George Nathaniel Curzon, *Persia and the Persian Question* (London: Longmans, Green, and Co., 1892), 460–461.

The Royal Proclamation on freedom was telegraphed to all the provincial governors, but it was fruitless. In fact, during his forty–eight year reign, Nāṣir al-Dīn Shāh sometimes gave people a number of privileges and freedoms in order to appease them. However, soon after each decree, a group of governors or *ʿulamā* often resisted the decrees, complaining that freedom would result in chaos and indecency. This would often lead to the shah's withdrawal of the decree. Regarding the Royal Proclamation of May 1888, Muhammad Ḥasan Khān Iʿtimād al-Salṭanah (1259-1313/1843-1895), the minister of publications and the shah's private secretary, wrote in his diary:

I respectfully informed [the shah] that the published proclamation of the freedom of the people was untimely, bad and inappropriate *(bī-mawqiʿ, bad, nā'munāsib*). Perhaps on the occasion of the 41st anniversary of the crown, and in gratitude for this divine gift, you intended to provide the subjects with ease and tranquility. However the content of the proclamation shows that you were either forced or dreaming when publishing it. The shah did not like what I was saying, and replied that since Ẓil al-Sulṭān [his son and the governor of Isfahan] treated people very oppressively, I dismissed him and judged the proclamation necessary.[46]

Such resistance to freedom can also be traced in the first and second phases of Nāṣir al-Dīn Shāh's rule. Once in the early second decade of his reign, he issued a decree on the establishment of the *majlis-i maṣlaḥat'khānah* (House of Consultation, a preliminary parliament composed of 25 elite members who would be free in criticizing governmental affairs) and permitted Malkam Khān to set up the *farāmūsh'khānah*. However, soon after in 1278/1861, both institutions were dissolved according to the shah's order. A member of the *maṣlaḥat'khānah*, Mīrzā Ibrāhīm Badāyiʿ'nigār (1240-1299/1825-1882) expressed his disappointment at the dissolution of the *maṣlaḥat'khānah* saying that "Alas, they did not tolerate it and swayed the royal might from such a noble freedom (*raʾy-i aʿlā rā az īn ikhtiyār-i fāẓil bar'tāftand*)".[47]

An instance of the *ʿulmāʾs* resistance to such reforms is the case of Ḥāj Mullā ʿAlī Kanī (1220-1306/1805-1889), the leading mujtahid of Tehran. In a letter addressed to the shah in 1873, he complained about the chaotic situation caused by "the pernicious concept of freedom" (*kalamah-ʾi qabīḥah-ʾi āzādī*) based on which "anyone can say whatever he desires" while claiming that "this is freedom and the supreme

[46]Muḥammad Ḥasan Khān Iʿtimād al-Salṭanah, *Rūznāmah-ʿi khāṭirāt-i Iʿtimād al-Salṭanah*, Īraj Afshār, ed., (Tehran: Amīr Kabīr, 1343), 649.

[47]Mīrzā Ibrāhīm Badāyiʿ'nigār, quoted in Khān Malak Sasānī, *Siyāsatgarān-i dawrah-'i Qājār* (Tehran: Kitābkhānah-'i Ṭuhūrī, 1338), 107.

person of the country has liberated everyone".[48] Although none of the reputable thinkers of the time defined "freedom" as the absence of all constraints, they were always susceptible to such accusation by Ḥāj Mullā ʿAlī Kanī. As is evident from the following argument, he tended to think of freedom as the absence of all constraints and therefore against the sharia as well as the raison d"etre of the government:

> The sharias and religions as such have always been the firm restraints which prevented people from committing prohibited deeds and sins and from molesting people's property and honour. Likewise, it is against the aims and regulations of government and kingship for anyone to say whatever he desires and to plunder wealth through fraud and corruption.[49]

These complaints distorted the reformist thinkers' conceptions of freedom and reduced it to absolute license,[50] but Nāṣir al-Dīn Shāh often lacked the motivation to withstand such objections. Despite this distortion, it can be argued that the common understanding of freedom among most of the Iranian elite of the time can be formulated as follows: civilized people are free *from* the arbitrary interferences of the state *to* do whatever leads them to progress and happiness. Such a formulation, of course, cannot be precisely found in any text of the time; rather, it can only be inferred after a conceptual analysis of the ambiguous passages on freedom here and there. Nevertheless, one must avoid a reductionist account. For instance, freedom in a number of these passages means freedom from superstition and ignorance embodied in some parts of Islamic law (*sharʿ*) and social customs (*ʿurf*). A comprehensive analysis of this issue is beyond the scope of *this* article. However, it is worth noting that in the constitutionalist movement, freedom from arbitrary rule emerged as a rising public demand for the introduction of a set of fundamental laws to limit the monarch's power.[51] Once the first parliament convened and the constitutional government was formed, some new concerns about freedom emerged and were carefully examined. Then rose an awareness that freedom in its legal expression must define not only the rights but also the duties to protect persons from interferences by both the state and other persons, in other words from both arbitrary rule and licence (*istibdād and harj-u-marj*).

[48]Ḥāj Mullā ʿAlī Kanī's letter, quoted in Farīdūn Ādamīyat, *Andīshah-ʿi taraqqī va ḥukūmat-i qānūn: ʿaṣr-i Sipahsālār* (Tehran: Shirkat-i Sihāmī-i Intishārāt-i Khvarazmī, 1351), 200–201.

[49]Ādamīyat, *Andīshah-ʿi taraqqī*, 200–201.

[50]For details see Homa Katouzian, "Liberty and Licence in the Constitutional Revolution of Iran," *Journal of the Royal Asiatic Society*, 8:3 (1998), 159–80.

[51]See Katouzian, "The Revolution for Law: A Chronographic Analysis of the Constitutional Revolution of Iran".

Epilogue: Question of freedom

As discussed, since the early nineteenth century, a very challenging question has been repeatedly posed by many educated Iranians conversant with world events. The question has two simple formulations: What is the cause of Iran's decline (weakness or backwardness)? What is the cause of Muslims' decline (weakness or backwardness)? Iran's / Muslims' backwardness or weakness were understood in comparisons with Europe or with Iran's glorious past before Islam or its golden age after Islam. As time went by, the frequency of this question and the variety of its answers increased. Therefore, it can be said that the awareness of the decline is the range of vision and horizon of meaning within which most of the socio-political texts of the time were formed. It was gradually revealed that we need freedom of speech and freedom of the press in order to pose the question of decline and to diagnose its causes. To consult and collectively think about a remedy for the crisis we need to set up societies and associations, which would be impossible without freedom of assembly. Likewise, freedom of work and commerce was required for the development of industry and the progress of national wealth. And all these freedoms were violated by arbitrary rule and lawlessness. On the other hand, in order to legislate and supervise the implementation of the law, people needed the right of popular sovereignty, as well as freedom to be elected and to elect. Arbitrary rule is nothing but the absolute freedom of the rulers to interfere in the people's freedom. The monarchy would have to become limited and "conditioned" (*mashrūṭ*). Even Muḥammad ʿAlī Shāh found that "the constitutionalism of the government would be the freedom of the nation".[52]

Freedom was suggested as an answer to the question of Iran's decline. The expansion of the meaning of freedom, however, led to new questions. I classified these questions under three groups regarding three variables of the concept of freedom namely the agent, the constraint, and the purpose of freedom. What is worth recapitulating here is some of the significant questions posed in this period, in order to illustrate how the Qajar thinkers could open new possibilities for questioning and expand the space of the thinkable.[53] These questions were "real questions" as long

[52]See Muḥammad ʿAlī Shāh's telegram to the clerics of the Holy Shrines, cited in Muḥammad Mahdī Sharīf Kāshānī, *Vāqiʿāt-i ittifāqīyah dar rūzgār* (Tehran: Nashr-i Tārīkh-i Īrān, 1362), 221–222.

[53]The concept of "the **thinkable**" and its counter-concept, "the **unthinkable**" are coined by Mohammed Arkoun (1928–2010), Algerian thinker and expert in Islamic studies, in his project entitled *Critique of Islamic Reason*. Controlled by political and religious powers, the "living tradition" determines the orthodox and accepted line of thinking. What stays within the boundary would be "thinkable" and in principle could be "thought," but what is beyond the boundary would be regarded as "*unthinkable*" and remains "*unthought*". Arkoun claims that all sources of religious and political power "exercise control over the thinkable and the unthinkable" (See Mohammed Arkoun, *The Unthought in Contemporary Islamic Thought* (London: Saqi, 2002), 11-22).

as they had more than one possible answer and the questioners were able to choose one of the possible answers on the basis of his own reasoning or free will.[54]

Some questions on the agent of freedom could be formulated as follows: Is it the right time for giving freedom to Iranians? Is it required to first make people aware and then give them freedom or is public awareness impossible without freedom? Who can identify people's maturity to have freedom?[55] Who gives freedom to an individual/ a nation? When an individual or a nation has not yet reached its rightful time of freedom, does it mean that it is not eligible to have freedom, or does it rather mean that it is incapable of using its freedom? Does giving freedom mean admitting an inherent right, or granting/ privileging a right?[56] Must all the people of Iran enjoy equal freedom?

The second group of questions were about the constraint of freedom: what are the limits of freedom? What are the differences between legal constraints and illegal

[54]A real question is a question with more than one possible answer that actually engages the questioner and lets her consider and choose one or more possible answers among several undetermined possibilities on the basis of reasoning (See Gadamer, *Truth and Method*, 368-369). For example, if a Muslim theologian asks himself: "is Muhammad a divine prophet?" This is a real question as long as he equally considers all possible answers.

[55]There were two main trends in answering these questions. Most constitutionalists, including Malkam Khān and Mīrzā Naṣr Allāh Malik al-Mutakallimīn, believed that freedom was an unconditional divine gift that could be achieved despite the fact that most Iranians were still ignorant. They argued that such a weakness could not justify withholding freedom, rather, liberty would be an essential requisite on the path to civilization (Mīrzā Naṣr Allāh Malik al-Mutakallimīn, cited in Mahdī Malik′zādah, *Tārīkh-i inqilāb-i mashrūṭīyat-i Īrān* (Tehran: Intishārāt-i ʿIlmī, 1373), 364–365; "Juzvah-ʾi rāpūrt-i shakhṣī kih dū darajah az farāmūsh′khānah rā ṭiy kardah ast," in *Farāmāsūnrī dar Īrān: az āghāz tā tashkīl-i luzh-i bīdārī-i Īrān*, ed. by Maḥmūd Katīrāʾī (Tehran: Iqbāl, 1347), 178,188). The other trend supported different strategy: "first public awareness, then freedom". Reminding "Iranians' immaturity," a famous representative of this view, Nāṣir al-Mulk argued that it was still too early to talk about freedom. He believed that the intellectual leaders of the society are the referees of the eligibility of the agent of freedom (Nāṣir al-Mulk, "Nāmah-ʾi Nāṣir al-Mulk bih Ṭabāṭabāʾī" [Jumada I 1324 / July 1906], in Aḥmad Kasravī, *Tārīkh-i mashrūṭih-ʾi Īrān* (Tehran: Hermes Publishers, 2010), 128–129; and Nāẓim al-Islām Kirmānī, *Tārīkh-i bīdārī-i īrānīyān*, ed. by Saʿīdī Sirjānī (Tehran: Piykān, 1376), 2:454-462). Referring to Ṭabāṭabāʾī's son, however, Malik′zādah cast doubt on the authenticity of this letter (Mahdī Malik′zādah, *Tārīkh-i inqilāb-i mashrūṭīyat-i Īrān*, 177). Nonetheless, the view expressed was fairly widespread at the time.

[56]An answer tended to think of freedom as a royal gift. When Muḥammad ʿAlī Shāh sat on the throne, this idea began to wane. Because if he was the one who could give the gift of freedom to the nation, then he could claim that he had the right to take their freedom back at his discretion since they were not eligible to gain such gift (See Muḥammad ʿAlī Shāh's telegram to the ʿulamā of the Holy Thresholds [*ʿatbat-i ʿālīāt*] quoted in Sharīf Kāshānī, *Vāqiʿāt-i ittifāqīyah dar rūzgār*, 221–222). In such conditions, the constitutionalists preferred not to award the custody of freedom to its enemy, Muḥammad ʿAlī Shāh. Another answer regarded freedom as a divine gift. Some leading clerics, such as Sayyid Muḥammad Ṭabāṭabāʾī, Siqat a-Islām Tabrīzī and Mīrzā Ḥūsayn Nāʾīnī, shared this idea. They argued that this divine gift was given to everybody at birth. A nation

constraints? How can one prevent freedom from turning into licence and chaos?[57] To what extent and wherefore is the *majlis* considered a legitimate authority to make the laws which impose limitations on the freedoms of individuals? What does parliamentary legislation mean? And what is the source of legitimacy for parliamentary law that allows it to determine the king's and the nation's rights and duties? What is the relationship between parliamentary laws and the sharia? Are they religiously legislated (*qānūn–i tashrīʿī*)? Or are they meant for "determining subjects" (*taʿyīn–i mawẓūʿ*) or for "legislating rules for the implementation of Islamic laws"?[58] Is the majority vote legitimate to put a limit on freedoms guaranteed by the sharia or to permit what has been forbidden by religious law?[59] Does the state have authority to enact laws that restrain the public rights held naturally and inherently by all the people? Is the government allowed to temporarily limit people's freedoms to eliminate terrorism and provide national security?[60]

The third group of questions were on the aim of freedom: Who is eligible to define the aim of a person's freedom? Is human perfection the aim of freedom? And if so,

might be deprived of this privilege due to their ignorance and inability to use their liberties, not because they are ineligible for having freedom (See Muḥammad Ḥusayn Nāʾīnī, "Tanbīh al-ummah va tanzīh al-millah," in *Rasāʾil-i mashrūṭīyat: mashrūṭah bih ravāyat-i muvāfiqān va mukhālifān, ed. Ghulām Ḥusayn Zargarī'nizhād* (Tehran: Intishārāt-i Muʿassisah-ʾi Taḥqīqāt va Tawsiʿah-ʾi ʿUlūm-i Insānī, 1387), 2:471).

[57]These three questions were about the criterion based on which freedoms of the people can be legitimately limited in order to keep rights and duties in balance. It was accepted that a person's freedom should be limited by the freedom of others or by the public interests. However, in practice, most of the legal limitations on a person's freedom were legislated by virtue of the priority of public interests over personal interests. In some cases, public interest and the exigencies of production and business in the modern world forced constitutionalist legislators to put a limit on freedoms guaranteed by the sharia in the old order.

[58]These questions addressed the problem of the legitimacy of non-religious legislation in a Muslim society. Distinguishing parliamentary law from religious law, constitutionalist *ʿulamā* argued that parliamentary laws were not religiously legislated, but were either "legislating rules for the implementation of Islamic laws" or legislating general political matters and worldly and supervisory affairs that are "consultable, adaptable and changeable" (See Shaykh Mahdī Tabrīzī, 'suʾāl'hāʾī dāyir bih mashrūṭīyat," in *Rasāʾil-i mashrūṭīyat: mashrūṭah bih ravāyat-i muvāfiqān va mukhālifān*, ed. by Ghulām Ḥusayn Zargarī'nizhād, 2 vols. (Tehran: Intishārāt-i Muʿassisah-ʾi Taḥqīqāt va Tawsiʿah-ʾi ʿUlūm-i Insānī, 1387), 2:74; For a few *pro-mashrūʿah* criticisms of this argument, see Shaykh Faẓl Allāh Nūrī, "Risālah-ʾi ḥurmat-i mashrūṭah, yā pāsukh bih suʾāl az ʿillat-i muvāfiqat-i avvalīyah bā mashrūṭīyat va mukhālifat-i sānavīyah bā ān," in *Rasāʾil-i mashrūṭīyat: mashrūṭah bih ravāyat-i muvāfiqān va mukhālifān*, 2 vols. (Tehran: Intishārāt-i Muʿassisah-ʾi Taḥqīqāt va Tawsiʿah-ʾi ʿUlūm-i Insānī, 1387), 1:260.

[59]An answer to this question was what Shaykh Faẓl Allāh Nūrī wrote: "in religious matters one should refer to the guardianship rather the deputation; and in the Major Occultation, the guardianship must be held by the *faqīhs and mujtahids* not by such and such grocer and draper" (see Nūrī, "Risālah-ʾi ḥurmat-i mashrūṭah," 1:260).

[60]Some more detailed legal questions on the

who can determine the requirements of this perfection? Is it the person himself? The shah and statesmen? The *ʿulamā* as the interpreters of Islam? Or the *majlis* as the representative of the majority?[61] Is freedom an aim by itself or an instrument to reach aims?[62]

These questions address normative matters and inquire about the value of arbitrary human actions. There is also another set of questions which address the objective reality of freedom. Some of such descriptive questions posed in this period can be formulated as follows: why do many people understand freedom as chaos, licence and absolute negation of government? Why do "unaccountability, unlawfulness, and disorder become one hundred degrees worse than the era of arbitrary rule" while it is said that "our country has turned constitutionalist"? Why, when we previously had only one shah, are we now "under the oppression and cruelty of thousands of shahs with the hat or the turban"? What do people want freedom for? Do they want it in order to shirk obedience to God?

Questioning these aspects of freedom, however, does not necessarily mean that they were thought about freely and critically. Free thinking begins with a "real question" and with an intention and ability to freely consider the possible answers. Suppose that a questioner asks: is it permissible to limit a freedom guaranteed by religion on the basis of the majority vote? For instance, despite the fact that slavery has been permitted in Islam, are we allowed to abolish it because of the majority's oppo-

constraint of freedom were: when is it justifiable to trespass on a person's life, property, home, and honor? When is it permitted to arrest a person, to issue a verdict, to execute punishment, or to banish him? When is it allowed to enter a person's house without his permission? When is it allowed to occupy a property, to confiscate assets and properties, or to dispossess properties and lands possessed by owners or occupiers? When is it permissible to seize and disclose postal correspondence or telegrams without permission of their sender? When is it permissible to refer an individual from a court, in which he is expected to be judged, to another court? When is it justifiable to prevent the teaching and learning of science, knowledge, and industry? When is it permissible to pose prior censorship (*mumayyizī*) on the press and books? When is it allowed to ban communities and associations? When is it permitted to ban a newspaper?

[61]Likewise, there were different answers to these correlative questions on the aim of freedom. Some thinkers bravely invite people to release from the tutelage of any shah or religious leader, and to dare to find his own way of progress. The right to be wrong, however, was never defended. Yet the permissible aim of freedom must be compatible with the public interest as well as the material and spiritual progress of individuals and society.

[62]There were some more detailed questions on the aim of freedom: what is the aim of freedom of assembly? Can one use this right to set up a harmlessly fruitless association or must it only be employed to achieve an individual/common good? Is one allowed to express profane or useless words under the name of freedom of expression? Is it permissible to have a sinful job or business that does not violate the rights of others? Do I have the right to hold a wrong opinion?

sition? Now imagine that although the questioner rationally tends to respond that "some religiously tolerated freedoms including slavery must be abolished when the majority believe that these freedoms are violating the rights of others," he is not actually able to choose this answer as a result of some causes like his faith in the sharia as eternal law, or his fear of Muslims' reactions, or personal benefits that he may find in slavery. In such case his real question would not lead to free thinking.

In the same line of analysis, many normative questions listed above were real questions; however, only few questioners dared to be wise and think autonomously, by means of reason and free from the dictates of external authority and without relying on religious or traditional *unthoughts*.[63]

Regardless of its possibility, how useful was it to think independently from the sharia? The dispute over the concept of freedom in the Iranian constitutional period was not merely a philosophical and abstract contestation, but rather pursued a practical and objective aim, namely the establishment of a set of socio-political rights. Freedom-seekers endeavoured to convince the *majlis* to give more and more freedoms to the nation. However, according to the second article of the Supplementary Fundamental Laws, "no legal enactment of the sacred national *majlis* … must be at variance with the sacred rules of Islam". In such a situation, thinking independently from the sharia was useful only if it could prove that its result was in accordance with the sharia.

It is true that many freedoms such as freedom of life, freedom of property, freedom of settlement, and freedom of commerce and trade had a long history in traditional regulations. The emergence of the notion of the nation-state in the modern era, however, had brought about two radical changes: the agent of these freedoms had been transformed from subject into citizen, and the law's and government's interferences to regulate people's freedom had been fundamentally changed. Such a transformed situation could provide the opportunity for Iranian thinkers to approach social freedoms as newly emerged phenomena about which the religious text is silent. Some thinkers were able to ingeniously take advantage of the possibilities of thinking within the existing tradition of thought. For instance, Shaykh Ismaʿīl Maḥallāti employed the principle of cohesion between rational precept and religious precept (*mulāzimah-ʾi bayn-i ḥukm-i ʿaqlī va ḥukm-i sharʿī*)[64] to infer from the ra-

[63]Arkoun, *The Unthought in Contemporary Islamic Thought*, 11-22.

[64]For more information about the opinions of *akhbārī* and *uṣūlī faqīhs* on the ability of human intellect to understand praiseworthiness and blameworthiness of arbitrary human actions (*ḥusn va qubḥ*) and the principle of cohesion (*mulāzimah*), see Muḥammad Riẓā Muẓaffar, *Uṣūl al-fiqh*, trans. Muḥsin Gharaviyān (Qum: Intishārāt-i Dār al-Fikr, 1385), vol. 1, 370-420.

tional obligation of "freedom from arbitrary rule" (*wujūb-i ʿaqlī*) that this freedom is also religiously obligatory (*wujūb-i sharʿī*).[65] Also it was suggested that "changes in circumstances require the interpretation, contraction and expansion of laws".[66] Based on this principle, those new freedoms that seemed to be incompatible with the sharia could be permissible for the sake of the public interest of the Muslim society.

Likewise, in spite of the fact that socio-political indications of the new concept of citizenship did not receive enough attention, it was acknowledged that "all residents" (*ahālī*) of Iran were no longer the very "subjects" (*ruʿāyā*) of the shah; and the notion of "*millat*" was semantically transformed from its traditional sense (religion and faith) into its modern sense (nation or residents of a country).[67] In light of this change, the Constitution stipulated that "the people of Iran, [and not necessarily Muslims,] are to enjoy equal rights before governmental laws." Furthermore, Nāʾīnī, as a leading *mujtahid*, wrote about a set of fundamental freedoms that generally and equally belongs to all the people of the country. To illustrate such fundamental rights he named some of them, including "security of the person's soul, reputation, and property, sanctity of the home, inviolability of the person, protection of privacy, immunity from unlawful imprisonment and banishment, freedom of legal assembly and other common matters belonging to all rather than a specific group." He ended his list with "and so on" (*va nahv zālik*) to show that more rights can be added.[68]

[65]Shaykh Muḥammad Ismāʿīl Maḥallātī Gharavī, "Al-laʾālī al-marbūṭah fī wujūb al-mashrūṭah," in *Rasāʾil-i mashrūṭīyat: mashrūṭah bih ravāyat-i muvāfiqān va mukhālifān*, ed. by Zargarīnizhād, Ghulām Ḥusayn, 2 vols. (Tehran: Intishārāt-i Muʿassisah-ʾi Taḥqīqāt va Tawsiʿah-ʾi ʿUlūm-i Insānī, 1387), vol. 2, 235.

[66]In an important unsigned article published in *Ṣūr-i Isrāfīl*, this solution was suggested for those new freedoms that seemed to be incompatible with the sharia. The writer claimed that the method of this revision of religious law is based on the very principles employed by the *ʿulamā* in justifying variations in commandments due to the alteration of circumstances, and accidental attributes (*ʿunvānāt-i ṭārīyah*). In other words, since the circumstances of the Prophet's time have been changed, a primarily obligatory (*wājib*) or optional action (*mubāḥ*) may enter under accidental attributes such as hardship (*ḥaraj*), difficulty (*ʿusr*), lack of alternative (*iẓṭirār*), or social disorder (*ikhtilāl-i niẓām*), and therefore become temporarily prohibited (*ḥarām*) and vice versa. Here, the role of human intellect is to recognize the differences between circumstances and to find a remedy in the public interest of the Muslim society (See "Al-yawm akmalt-u lakum dīnakum wa atmamt-u ʿalaykum niʿmatī," *Ṣūr-i Isrāfīl* (Tehran, 3 Shaʿban 1325 / 12 September 1907), no. 13, 1–3).

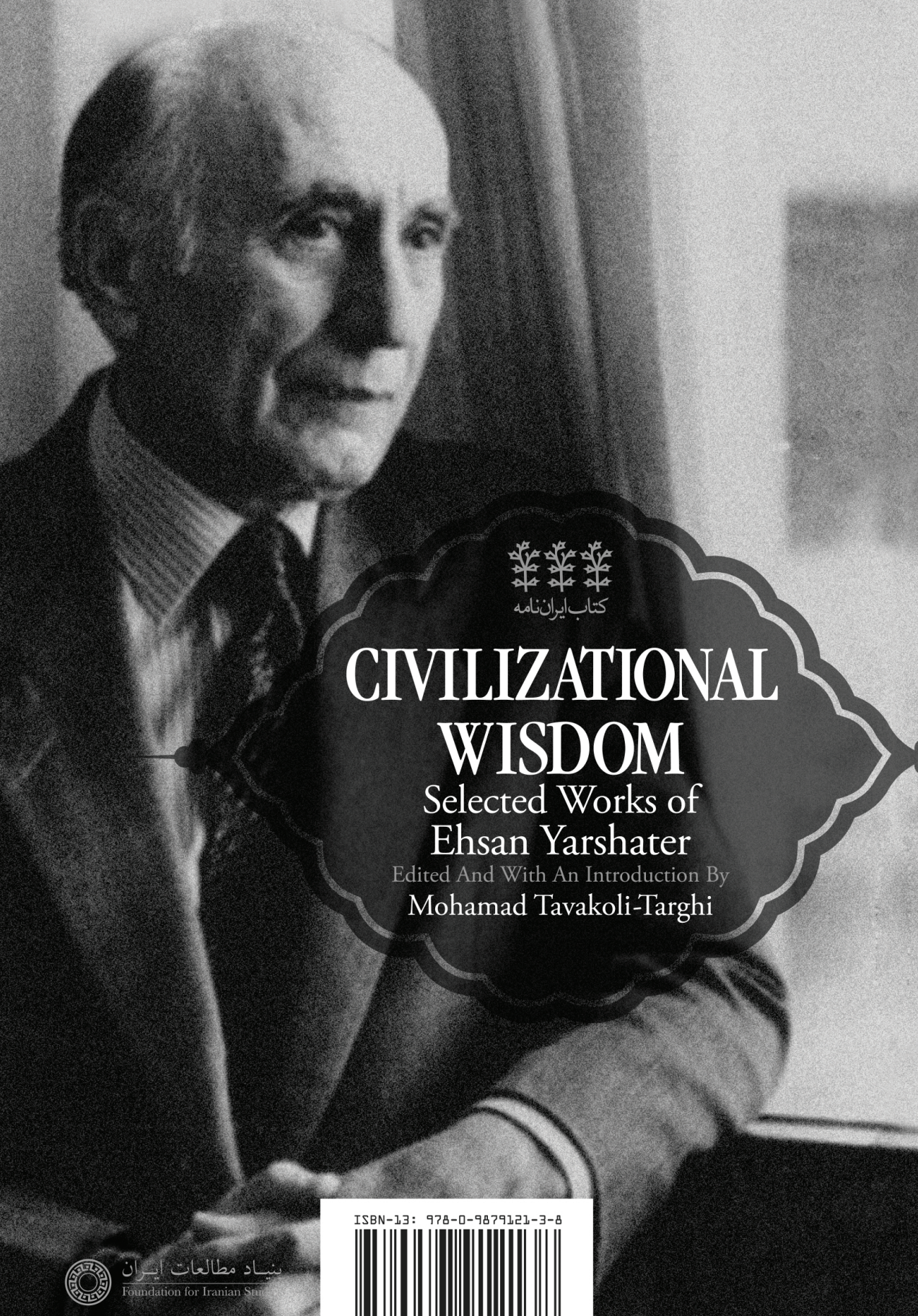
[67]In his royal proclamation of May 1888 (Ramadan 1305), Nāṣir al-Dīn Shāh addressed Iranians four times with the word *ruʿāyā*, twice with the word mardum (people), and once with the word *ahālī-i Īrān*. In the constitutional Decree of August 1906, Muẓaffar al-Dīn Shāh used the term *qāṭibah-ʾi ahālī* (all residents) three times, the term *millat-i Īrān* (the nation of Iran) twice, and the expression *ruʿāyā-yi ṣiddīq-i mā* (our loyal subjects) a single time. Finally, in the Constitution and its Supplement, *ruʿāyā* was replaced by *ahālī-i Īrān*; and after a couple of decades the Persian word *sharvand* became prevalent as the equivalent of "citizen".

[68]See Nāʾīnī, "Tanbīh al-ummah", vol. 2, 448-449.

In the end, I would like to emphasize what Nāʾīnī pointed out about the close collaboration between religious despotism and political despotism as the two main obstacles to the establishment of freedom in Iran. From the viewpoint of an *uṣūlī* faqīh, he made the most serious and effective criticism of a group of clerics' anti-freedom efforts and warned that freedom from obedience of kings is much easier than freedom from duplicity and falsification of religious despotism. This branch of despotism (*shuʿbah-ʾi istibdād*), according to Nāʾīnī, is the "arbitrary dominative precepts posed by leaders of sects and faiths under the name of religion"[69] and is a fallacious misuse of religion by "ill-natured clerics and brigands of true religion (*ʿulamāʾ-i sūʾ va rāh'zanān-i dīn-i mubīn*)"[70] who seek to preserve "the pernicious tree of despotism" (*shajarah-ʾi khabīsah-ʾi istibdād*). Nāʾīnī attempted to demonstrate that religion, rather than being connected with despotism, is correlated to justice, freedom and equality. His criticism, however, indicates that religion has the potentiality of despotic interpretations and unjust readings. Nāʾīnī teaches the Iranian freedom-seekers that it is impossible to remove arbitrary rule and to achieve freedom without revealing "religious despotism's fallacies". In the last hundred years, his *Tanhīh al-ummah* has provided inspiration for Iranian reformists in two various political situations. The first instance occurred when, several decades later, Sayyid Maḥmūd Ṭāliqānī (1911-1979), the leading clerical commentator of the Qur"an, republished *Tanhīh al-ummah* with his introduction and comments in 1955 when Muḥammad Riẓā Shāh Pahlavī's despotism was going to put an end to many achievements of constitutionalism. The second instance was when Muḥammad Khātamī, a former president of Iran, employed Nāʿīnī's ideas in developing post-revolutionary reformist discourse, implying that although the Islamic Revolution of 1979 was able to overthrow the monarchic despotism, it failed to defeat religious despotism. A research project that applies the questions of the present study to these two eras is a suitable subject for a future study. Such a study would explore the intellectual endeavours that expanded the constitutionalist thinkers' legacy in opposition to anti-freedom readings of Islam and which believed in the possibility of reconciling Islam with human rights and democracy.

[69]"*taḥakkumāt-i khvud'sarānah-ʾi rūʾasāʾ-i mazāhib va millal ... kih bih ʿunvān-i diyānat irāʾah mīʹdahand*".

[70]Nāʾīnī, "Tanbīh al-ummah," vol. 2, 432 and 438.



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