CHAPTER - II

ORIGINS OF SHI'ISM IN IRAN

We have seen above that the political power never came into the hands of Ithna 'Ashari Shi'ism, therefore there has not been any precise attempt on the theory of power and politics. Instead Shi'ism developed a theory of quietism and tolerance. Although a number of states and dynasties supported the beliefs of Shi'ism but they never professed it as official religion. Shi'a scholars thought that the legitimate power - both spiritual and temporal, belongs only to imams; therefore all the leadership other than imam was condemned as illegitimate. Even though they collaborated and cooperated with and lived under the patronage of monarchs of various states, they considered them as illegitimate ruler by principles.

Ithna 'Ashari Shi'ism for the first time obtained state recognition by the Safavid rulers of Persia (1501-1722), Shah Isma'il I declared Ithna 'Ashari Shi'ism to be the religion of his state in A.D. 1501. Thus began a new chapter in the history of Shi'ism. Although within a few years the whole of Persia was converted to Shi'ism, which was predominantly Sunni before Shah Isma'il I, not much was achieved in the field of political theory.  

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The temporal power was still regarded as illegitimate. The reason was obvious: the Safavids have adopted Shi'ism as a political tool and it was to remain so under the official control. However, de-facto recognition was conceded to the rulers.²

That the Safavids adopted Shi'ism as a tactics tool of their political existence is quite evident.³ The political Safavids were the heirs of a mystic order initiated by one Safi al-Din of Ardabil after whom the dynasty is named.


³ There is a great deal of disagreement among modern scholars as to how far Isma'il's proclamation of Ithna 'Ashari Shi'ism as his state religion was politically motivated. There are scholars who believe that it was totally a political decision. See R. Savory, "Safavid Persia" in The Cambridge History of Islam. There are others who think that it was not a totally political decision, rather the result of the gradual development of a particular kind of ethos that had been developing in Persia at that time. See S. Hossein Nasr, "Spiritual Movements: Philosophy and Theology in the Safavid Period" in The Cambridge History of Iran, vol. VI, pp. 656 ff. and "Religion in Safavid Persia" Iranian Studies, vol. VII, No. 1-2; pp. 277 ff; H.R. Romer "The Safavid Period" in The Cambridge History of Iran, Vol. VI, pp. 190 ff. B.S. Amoretti "Religion in the Timurid and Safavid Periods" in The Cambridge History of Iran, vol. VI, p. 610 ff. Romers has discussed thoroughly the stands of various scholars in this regard in his long article.
Azeri speaking Safavids were not Shi'is. During the fifteenth century they turned warriors and tended to adopt Shi'ism. As his enemies from both sides, in the east Ozbek and in the west Turks, happened to be Sunnis, he adopted Shi'ism to counter and resist them ideologically as well. By adopting Shi'ism, he envisaged not to differentiate himself from the Ottomans and Ozbeks or for that matter from the whole of Sunni world but also to win the sympathies of the Persians who have been perceiving the predominantly Arabian Islam with a punch of salt and also the sympathies of "all heterodox elements". A false propaganda campaign was launched to provide close relation between Shi'ism and the Safavid dynasty .... They systematically destroyed any evidence which indicated that Shaykh Safi al-Din Ishaq, the founder of the Safavid tariga was not a Shi'i .... They fabricated evidence to prove

4 But Shaykh Safi was also not a typical orthodox Sunni theologian either; 'was a typical religious leader, a representative of folk Islam far removed from the official theology, whose spokesmen viewed his career with grave suspicion ... Significantly he belonged to the Shafi'i madhab, that is, to precisely that school of religious law which is closest to the Shi'a and therefore, normally adopted by Shi'a who are masquerading as Sunnis ....

The tendencies of activism and militancy had been found in Shaykh Safi himself .... He is portrayed as a paradoxical personality in which miracle worker and man of God combined with a sober, practical politician ....' H.R. Romer, _op. cit._, p. 191. Moreover see R.M. Savory "Safavid Persia" in _The Cambridge History of Islam_ (London, 1970), vol. 2, p. 395.

5 R.M. Savory, _op. cit._, p. 394.
that the Safavids were Sayyids, that is, direct descendants of the Prophet. They constructed a dubious genealogy tracing the descent of the Safavid family from the seventh imams, Musa al-Kazim - a genealogy which is seriously followed by the later Safavid sources. There was a dearth of Shi'ite 'ulama' and literature. Shah Isma'il invited 'ulama' from Aleppo, Syria and Baghdad to meet the need. The population was converted to Shi'ism by force or otherwise. New dimensions were added to popular Shi'ism. Public cursing (tabarra) of the first three caliphs of Islam was made compulsory, passion processions were carried out, chest beating inflicting injuries upon bodies, and rawza khwani etc. became permanent features of day to day life.

Thus Shi'ism underwent complete transformation both on political as well as ideological plane under the Safavids. The

6 Ibid. p. 394; see also Ahmad Kasravi, Shaykh Safi cited by R. Romer, op. cit., p. 199 f.n; 'Ali Shar'ati, Tashayyu'-e Alavi va Tashayyu'-e Safavi (n.p., n.d.).


8 R. Savory, Iran under the Safavids (London 1980), p.29.

'ulama' and the mujtahids who had been brought in Iran from the far off areas of Islamic domain in the name of propagating Imami Shi'ism had little freedom of speculation and thought because of the tight state control over them. So far, it were the Sunnis who were 'concerned to hold together church and state and sought to reconcile religious theory and historical precedent, the Shi'a as an opposition movement were broadly speaking at liberty to reject historical precedent. They therefore, enjoyed a greater freedom of intellectual speculation. But the same liberty of independent judgement regarding theological speculation was not possible as the church would not go completely independent of the state under the new circumstances. New religious institution were established. The office of the Sadr was introduced by Isma'il who although enjoyed considerable respect and authority, practically worked under the rigorous supervision of the government.

10 Lambton, State and Government in Medieval Islam, p. 223.

11 The office of the Sadr existed in the Timurid and Turkoman states. But under the Safavids the Sadr was a political appointee whose office was used by the Safavids as a means of controlling the religious classes. Since the Safavids equated beliefs in the right religion with loyalty to the state, it was necessary to root out heresy, and this task was also part of the duties of the Sadr. Upon the successful imposition of doctrinal uniformity depended the smooth operation of the temporal arm of government and the ability of the state to survive hostile attacks by its Sunni neighbours. This task, initially the chief part of the Sadr's duties, had been largely achieved by the end of Isma'il's reign; there after the energies of the Sadr were devoted mainly to the supervision of waqf property, if R.M. Savory, Iran under the Safavids, p. 30.
Among the great jurists and mujtahids of the Safavid period are: Shaykh Ali b. Husayn al Karkhi al-Amili known as Muhaqqiq al-Thani (d. 1533); Zayn al-Din b. 'Ali al-Amili, famous as al-Shahid al-Thani (d. 1559), Shaykh al-Islam Husayn al Husayni al-Karkhi al-Amili, Muhammad Taqi Majlisi (d. 1659), Muhammad Baqir al-Majlisi (d. 1699) and Baha al-Din Muhammad al-'Amuli (d. 1622). Among a number of voluminous theological works of this period the "Three Books" are: Wasa'il al-Shi'a by Muhammad b. 'Ali al-Hurr al-Amuli; Wafi by Muhammad b. Murtada known as Mulla Muhsin Fayd and Bihar al-Anwar by Muhammad Baqir Majlisi.

Not much effort was made to develop the theory of imamate during this period. The main concern so far, was to justify the theory of the imamate against the Sunni theory of the Caliphate, but since neither the imam nor the Caliph any longer existed their apologetics had little direct effect on political theory. Yet the imamate was always the centre of discussion for the fuqahā' of this period. The office of imamate was made more and more

12 For the biographies of these theological see Sā'īd Bakhshayshi Fugaha-yé Namdar-e Shi'a.

13 A.A.A. Fyzee, "Introduction" in A Shi'ite Creed, p.6.

14 Lambton, op. cit., p. 268.
more spiritual by the 'ulama'. A special mention can be made of Muhammad Baqir Majlisi. In his book *Bihar al-Anwar* Majlisi goes to the extent of describing the imams as pure spiritual being. This phase may be called Shi'i neo-gnosticism. 15

One of the problems with which the theologians were preoccupied was the question of status and authority of the mujtahids in the matter of religion. The legitimacy and authority of the 'ulama' had already been a point of discussion among the early theologians right from the beginning of the period of occultation. The imam in his presence was the final authority to whom every problem was to be referred. He was the final executor and interpreter of the Shari'a the divine will. As there remained no such authority by the time the last imam went into the occultation, the four wukalā' (representatives of the imam) acted on his behalf. The death of the last wakil, again created a void. The problem arose of not only the source of guidance and leadership, but also the problem of source of legislation and interpretation of shari'a. The responsibility was, obviously, shouldered by the 'ulama' who began to be called as "Proofs of Islam" (hujaj al-Islam, sing hujja). The legitimacy of interpretation of Shari'a by the 'ulama' was derived from some of the traditions of the

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15 See W. Madelung art. "Imam", Shorter Encyclopaedia of Islam, p. 166.
Prophet who were supposed to be acting on behalf of the hidden Imam.\textsuperscript{16} It became a part of Shi'i belief that 'a fully qualified mujtahid is a representative of the Imam, in the case of the latter's absence. Thus he is an authority over Muslim and he performs the function of the imam as regards judgement and administration among the people'.\textsuperscript{17}

It took, however, centuries to establish the authority of the 'ulama' and it involved a number of problems such as what are the specific areas of authority which the imams delegated to the 'ulama'. It is essential here to note that only power of interpretation of shari'a was claimed to be inherited by the 'ulama'; while the execution of shari'a remained as the sole authority of the imam. It was therefore all temporal governments whether Shi'i or non-Shi'is just or unjust was declared as illegal and illegitimate. According to Lambton 'one of the earliest theologian who stated that fugaha' are, in effect, the successors or deputies of the imams in the giving of judgement was Muhammad b. al-Hasan al-Tusi (d. 1067). He states: 'The true imams, upon

\textsuperscript{16} Thus during the ghayba period the judicial competence of a faqih became valid and it was incumbent on people to accept his judgement on account of his being mansub min al-imam 'ala-al-Ummah (delegated by the Imam on the nations). Cf., Norman Calder, "Judicial Authority in Imami Shi'i Jurisprudence" British Society for Middle East Studies Bulletin, vol. VI (1979), p. 105

\textsuperscript{17} Muhammad Rida Al-Muzaffar, The Faith of Shi'a Islam, p. 4.
them be peace, have cast the mantle of judgement (hukumat) on the fugahā' of the Shi'a during such time as they themselves are not in a position to exercise it in person'.

Al-Mufid thought that specific delegation is not necessary for those who exercise authority on behalf of the Imam i.e. the fugahā'. He also does not demand impeccability for them. He, however, requires that they should have knowledge ('ilm) of everything which concerns their exercise of authority and that they should be more excellent than their subjects (ra'āya)'. Like their Sunni counterparts, the legitimacy to interpret Shari'a was also claimed on the basis of their knowledge (ilm) of shari'a.

Muhammad b. Mahmud al-'Amuli calls 'ulama' as ġulu'l-amr ("Those in authority"), a title which most of the theologians used exclusively for the imams.

In the period of occultation the collection and distribution of religious taxes such as khums, fitra etc. are also considered to be the jurisdiction of fugahā'. According to al-Tusi 'whenever the imam is manifest (zāhir) or that person whom the

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19 Ibid., p. 231 f.n.


21 Lambton, loc. cit.
imam has appointed to collect it is present, religious taxes should be taken to him so that he may divide it as he sees fit among the eight groups who are entitled to it. In the opinion of Al-Muhqiq al-Hilli when the imam is absent alms should be given to a reliable faqih because he would know on what purpose it should be expanded. Khums (the one fifth of the income) is considered to be the sole pre-rogative of the Prophet, the imams and their family, but in their absence fugaha' are fully entitled to collect it from the mukallifun. They are also entitled to utilize it on behalf of the Imam. 22

During the Safavid period, the belief to regard the 'ulama' as the successor of the Imam became stronger. Moreover, the domain of 'ulama's jurisdiction extended. Another significant development was the role of fugaha' in public matters under the new situation when the government professed the Ithna 'Ashari faith. Although the government and the Shah was, in principle, regarded as de jure illegitimate, tyrant and usurper, a rapprochement was evolved under certain theological explanation. As a matter of fact such a rapprochement could always be seen on the part of the 'ulama' towards the temporal authority. The Imam 'ulama' co-operated with the Buyids and other monarchs and even with Abbasid rulers. They

22 Cf., ibid.
accepted offices in the government. This was made possible applying the use of *taqiyya*. This dilemma of denouncing all temporal powers except the imam's as unjust and illegitimate and accepting office from the unjust rulers, has been an all-pervasing phenomenon in the Shi'i political and juridical theory. Like their Sunni counterparts, Imami 'ulama' were also confronted with the problem whether to revolt and disobey the unjust ruler and consequently create anarchy among the community, or to cooperate with the ruler so that anarchy can be avoided and a better situation can be awaited. Both chose the latter on the principle that less evil is better than great one.

But unlike the Sunni 'ulama', the Imami Shi'i theologian never tried to justify the unjust government itself. While the Sunni 'ulama' were mainly concerned to explain the dogmas of faith in such a way to make the ruler legitimate, the Shi'i 'ulama' were mainly concerned with justifying their relationship and collaboration with the monarch whom they still thought unjust and illegitimate.

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Sharif al-Murtada 'Alam al-Huda who wrote a separate treatise on the subject entitled Mas'ala fi'l 'amal ma'al-Sultan and which is one of the earliest works on this subject held that it is quite possible for 'ulama' to accept offices under an unjust ruler. It is, rather obligatory (wa<jib) if the one accepting office knows or considers it likely on the basis of clear indications, that he will through his tenure of the office be enabled to support a right and to reject a false claim or to order what is proper and to forbid what is reprehensible (i.e. amr bi'l ma'ruf wa'al-nahy'an munkar) and if it were not for this tenure nothing of this would be accomplished. In this case, the acceptance of the office is obligatory for him because of the obligatoriness of that for which it is a means and an expedient for its accomplishment. It reaches the level of compulsion when he is forced with the sword ..., or when he considered it likely that, if he does not accept it, his blood will be shed. In this case he is compelled to accept it. It is licit when he fears for some property of his or is afraid of some harm befalling him, the office is licit and the evil of accepting it is like of which can

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be borne. In this case it is removed.27 Answering the objection that by accepting office of an unjust ruler the one who does it will strengthen the latter which is an evil in itself, Shaykh al-Murtada says:

If the unjust ruler has gained control of the religion it is inevitable for everyone who is in his country ... that he extol him, display reverence to him, and submit to his orders as if obedience to him were a religious duty .... Holding office does not lead one into anything which would not have been necessary for him if he had not accepted the office, while through the office he is enable to order what is proper and to prohibit what is reprehensible. Thus it is obligatory that he seek to attain to that through the office.28

Al-Murtada further affirm this from tradition though he never mentioned it, that the "tenure of office on behalf of the unjust ruler" is so "only in appearance". 'Intrinsically it is on behalf of the true Imams-peace be upon them - because they have given permission for the tenure of office under the conditions which we have mentioned ... Sound tradition has been transmitted that it is permissible for anyone in this situation to administer


28 Ibid., p. 27.
the legal punishments, cut the hands of thieves, and do whatever the law requires in these matters'.

Al-Tusi reiterates the same points:

'...permission has been given, in the time when the true Imams are not in control and tyrants have usurped power, for the people to apply the legal penalties to their children, their own people and slaves when they do not fear that any harm will ensure from tyrants and when they are safe from harm from them, whenever this is not the case, it is not permissible to apply the legal penalties. If an unjust sultan makes someone his deputy over a people and appoints him to apply the legal penalties, it is for him to do so fully and completely and to believe to cooperate with him and to strengthen him as long as he does not transgress what is right in that over which he is appointed and does not go beyond what is legal according to the Shari'a of Islam. If he does it is not possible to assist him or for anyone to cooperate with him in that, unless he fears for his own person, in which case it is permissible, in a condition of taqiyya, to do these things as long as the killing of anyone is not involved. In no circumstances of taqiyya to be adopted in the case of killing anyone.'

The position of a faqih accepting office under an unjust ruler is stated by al-Tusi in the following words:

If a faqih exercises authority (wilaya) on behalf of a tyrant, let him think that in applying the penalties of the law and in giving


judgment he is acting on behalf of the true imam and let him undertake (these duties) according to the demands of the Shari'a of the faith; and whenever he is empowered to execute punishment against a transgressor, let him do so, for verily this is one of the greatest (parts) of jihad. If, however, someone does not know the conditions in which the penalties should be applied and cannot execute them, it is not permissible for him to apply them in any circumstances, if he does he will be a sinner. But if he is compelled to do so, there will be nothing against him let him endeavour to keep himself apart from things which are illegitimate (al-abâtil). It is not permissible for anyone to choose to exercise oversight on behalf of tyrants unless he has (first) determined that he will not transgress what is obligatory and will only execute what is right and that will allocate things such as sâdadât, âkhînas and so on to their proper use. If he knows that he will not be able to control these things, it is not permissible for him to undertake that work voluntarily, but if he is compelled to so do, it is permissible; let him strive (to act) as we have said.31

Like al-Murtâda and al-Tusi most of the imamî fuqahâ discussed this subject under the notion of amr bî'l-ma'ruf wa'nahy an'l-munkar, on this basis, Al-Muhaqqiq al-Hilli has made it incumbent and obligatory upon 'ulama' to accept offices under unjust rulers. He says that 'tradition permitted the exercise of authority on behalf of an unjust sultan provided that he who did

31 Ibid., p. 254; Al-Tusi, however, did not think it obligatory (Wajib) to accept office of an unjust ruler as his teacher al-Murtâda thought. He rather held that it is only permissible and desirable (Mustahab). Al-Tusi, op. cit., p. 20.
so was certain that he would be saved from the commission of forbidden acts and would be able to enjoin the good and forbid the evil.\textsuperscript{32}

During the Safavid periods the tendency to accept government offices increased. Because, now it was not a \textit{dār al-harb}, nor a \textit{dār al-Islam} either. It was rather \textit{dār al-imām} according to al-Tusi. The \textit{fugaha} of this period made it incumbent upon themselves to accept offices. The state introduced religious posts and institutions which \textit{fugaha} accepted. Shahid al-Thani believed that it is incumbent upon the \textit{mukallifin} to obey the 'ulama' appointed by the state because, in fact they are working on behalf of the imam.\textsuperscript{33}

Although the traditional theory of any government being illegitimate was unanimously accepted, yet there were some 'ulama' who tried to give recognition to the monarch.\textsuperscript{34} Muhammad Baqir Majlisi reiterates the traditional theory and did not regard the rulers to be legitimate. He warns association with the rulers, but permits accepting offices under them on the basis of exercise

\textsuperscript{32} Lambton, \textit{op. cit.}, p. 256.

\textsuperscript{33} \textit{Ibid.}, p. 269.

\textsuperscript{34} See Ali Banu Azizi, \textit{op. cit.}. 
of taqiyya. He however provides rulers some justification on the basis of their righteousness and faith. He says:

"Know that the justice ('adl) of Kings and amirs is one of the greatest thing conducive to the well being of men ... while their disobedience and wickedness (fisq wa fujur) brings disorder into the affairs of the people .... Thus it is related by the reliable sources that Prophet said: There are two classes (sinf) in my community such that if they are righteous and worthy my community will also be righteous, and if they are corrupt, my community will also be corrupt. The Companions asked him who these two classes were. He replied that they were the 'fugahā' and the umarā'. 35

Thus kings should also be paid back with respect and obedience:

"Know that kings who follow the true religion have many claims upon their subjects whom they protect and whose enemy they repel, and whose religion lives, wealth and honour are safe through the protection of the kings. They (the subjects) must pray for them (kings) and must recognize their rights, especially when they act justly. 36

The doctrine of illegitimacy of all the temporal rule also resulted in the oppositional attitude of the 'ulama' towards the government, particularly in case of a tyrant ruler who has little respect for religion and the 'ulama'. This

36 Ibid., p. 284.
oppositional attitude increased during the Qajar period. Simultaneously increased the power of 'ulama' particularly after the triumph of usuli led by Aqa Vahid-e Behbehain (d. 1807) over the akhbaris during the late eighteenth and early nineteenth century. It further increased under the period of Shaykh Mortaza Ansari (d. 1864) as a sole marja'-e-taqlid. A number of juridical formulations took place which enhanced the position of the 'ulama', including the concept of a'lamiyat (the most learned), marja'iyyat and Velayat-e faqih (guardianship of the jurisconsult). The oppositional attitude of 'ulama' and their power as leaders of the community increased during the Tobacco Movement of late nineteenth century and then the constitutional movement of early twentieth century. Thus during the Qajar period we find less efforts in the way of accommodation with the existing authority and more attempts to assert the 'ulama's jurisdictions as the leaders of the community. Hamid Algar whose work is one of the best studies of 'ulama's role and status during the Qajar period says that even upto the nineteenth century a political theory to accommodate the state within the system of belief was not developed. The

37 For this discussion see chapter 7.

'ulama', having established their position as de facto regents of the imams did not allot the monarchy a similar position. Without such a position the monarchy was bound to be regarded as illegitimate. This was the chief cause of most of the friction between the secular and religious powers throughout the nineteenth century. 39

As discussed above the de facto recognition of the existing governments by the Shi'i 'ulama' in the past was legalized under the disguise of safeguarding the community from disintegration and anarchy. It was done under the juristic provision of masaleh-e umma, i.e. for the betterment of the community. As the accommodative theories developed in the later centuries it was thought that monarchy is the best form of government. This theory became more evident during the Safavid period. This discussion is also best manifested in the arguments and counter arguments of the Absolutist and Constitutionalist 'ulama'. The Iranian clergy has been divided into a number of categories on account of their attitudes towards constitutionalism. Apart from the staunch anti-constitutionalist conservative clergy who supported the monarch through and through, there were 'ulama' who although disliked the monarch but did not approve

constitutionalism and tended to divert their attention towards educational reforms such as Ayatollah Sayyed Kazemi Ha'iri-Yezdi.40 There were another group of 'ulama' who initially supported and campaigned for the constitutionalism but they withdrew their support later as they demanded greater role and power of clergy in the government. They included Shaykh Fazlollah Nuri and Mirza Hasan Shirazi, as mentioned above. There was yet another group of 'ulama' who supported and campaigned for constitutionalism towards the end. Most important among them were Sayyed Abdullah Behbehani and Sayyed Mohammad Tabataba'i of Tehran. The Absolutists who supported monarchy at any case launched a counter propaganda campaign against the constitutionalists. The prominent 'ulama' included: Shaykh Zaynuddin Zayani; Sayyed Mohammad Tafreshi, Sayyed Akbar Shah, Sayyed Mohammad Yezdi, Sayyed Ali Aqa Yezdi, Mirza Talib Zanjani etc. They coined such slogans as "We do not want constitutionalism". "We want the religion of the Prophet" (mashru'ta nami-Khvahim, ma din e-nabi Khvahim).42 They published a


number of pamphlets, rana bills, manifestos and leaflets refuting the constitutionalist ideas. Their movement gathered a fresh momentum when Shaykh Nuri joined their campaign in 1907. The literature of this period, produced by the two opposing groups of 'ulama' is mainly polemic.43

43 Ibratnama (the book of warning) Shabnama (the Night paper) Subahnama (the morning paper) Ruznama (the newspaper). A number of other leaflets bear such title as Tadhkira al-ghafil wa Irshad al-jahil (A reminder for the Negligent and a Guide for the Ignorant) Barahin al-Furqan fi Butlan Qawanin Nawasikh Muhkamat al-Quran (The Theorems of the Quran on the Fability of the Laws which Abrogat. the well-Established (verses) of the Quran), Risala-ye Tambih (the Treatise of Admonition), so on and so forth. (For a note of such literature see Abdul Hadi Ha'ri, Shaykh Fazlallah Nuri's Refutation of the Idea of Constitutionalism, pp. 327-29; Ahmad Kasravi, Tarikh-e Mashruta-ye Iran (Tehran, 1938), p. 306 ff. An Indian Journal published from Calcutta also played a very important role in the debate on constitutionalism in Iran see E. Abrahamian, op. cit., p. 136-139; A number of secret societies also emerged during this period such as Amjuwan-e Islam (the Islamic Society), Amjuwan-e Shehr (city council) for detail see E.G. Browne, The Persian Revolution of 1905-1909 (London, 1966).
The constitutionalist 'ulama' argued in support of constitutional government on the ground that it was the best thing for the well-being of people. Molla Mohammad Kazem Khorasani, one of the staunchest supporters of constitutionalism wrote:

"Our aim in taking such trouble is to bring a comfortable life to the people, to remove oppression, to support the oppressed and to give aid to troubled persons. We would also like to carry out God's laws and to protect Islamic land from the infidel attacks. We intend to practice the Islamic concept of *amr bi'l ma'rif wa'nahy' an munkar (to enjoin right conduct and forbid indecency) and Islamic laws which are in the interest of the people." 45

Another proconstitutionalist Mazandarani states his objective for support of constitutionalism in the following words:

"We participated in the movement to protect the territory of Islam and to remove aggression and tyranny, and to apply religious laws." 46

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44 Khorasani was one of the three top ranking *marja'-e taqdid* residing in Najaf who actively participated in the constitutionalist movement. Other two were Shaykh Abdollah Mazandarani and Mirza Hossain Tehrani. The 'ulama' of Iraq played equally significant role in the constitutionalist movement along with the constitutionalists of Tehran. For details see E.G. Browne, *The Persian Revolution of 1905-1909*; Ahmad Kasravi, *op. cit.*, Ha'iri, *Shi'ism and Constitutionalism*, pp. 87-100. Ayatollah Sayyed Ha'iri also supported the standpoint of these mujtahids though not actively. Later on, these 'ulama' gave up active campaign especially after the defection of Shaykh Nuri and his execution subsequently Shaykh Abdol Karm Ha'iri-Yezdi, then came to Qomm where he took up the charge of renovating the *hawza-ye 'ilmiya* of Qomm.

45 Ha'iri, *Shi'ism and Constitutionalism in Iran*, p. 29.

46 Ibid.
These 'ulama' did not try very much to theorize their ideas on constitutionalism. As pointed out by Abdul Hadi Häiri, it is necessary to study their ideas under the political circumstances of their time, the tyrannical regime of the Shah and direct threat perception from the foreign aggressors - Russia and Britain. The oppositional attitude of the 'ulama' was partially determined by what was going on in Iran at that time, as described by Hamid Algar.

47 See ibid., pp. 88 ff.

48 Hamid Algar, however, believes that to study 'ulama's oppositional role under the political circumstances of the time will be a partial one. He says that 'ulama's opposition to tyranny and demonarchism had ideological bases. He says: The interpretation offered have largely centered upon the historical situation of nineteenth-century Iran, implicitly regarding the support extended by the 'ulama' to the liberal cause of constitutional government as the outcome of a certain conjunction of circumstances and almost as an anomaly. Doctrinal and ideological motives for opposition to tyranny have been regarded as secondary and the 'ulama's support for the constitution is thought indeed to have proceeded from confusion and shortsightedness. There are, however, grounds for discerning a stance of opposition to tyranny as one of the fundamental and most pervasive characteristics of Ithna' Ashari Shi'i Islam and this stance was not inspired exclusively by the defects of Qajar rule. Further more, an almost unbroken line of descent connects the oppositional role of the 'ulama' in Qajar Iran with the present struggle of an important group of the Iranian 'ulama' against the Pahlavi regime'. Hamid Algar "The Oppositional Role of the Ulama in Twentieth Century Iran" in Keddie (ed.), Scholar's Saints and Sufis (Berkeley, 1972), p.231.
'ulama' as istebdad-e-Saghir ("Minor Autocracy"). Sayyed Mohammad Tabatabai's 49 defuse for constitutionalism seem to be guided more by the tyranny of the Shah and the threat of foreign occupation than the support of the constitution as such on theoretical ground. On the one hand he demanded the establishment of 'adalatkhana ("a house of justice") and a assembly (majlis) so that "the corruptions be remedied" and "justice be given to all people", but on the other hand, he clearly stated that he was not 'fighting for constitutionalism' as such for he believed that a constitutional regime was not suitable for Iran 'because constitutionalism can operate only amongst a people who understand nationalism and are literate and knowledgeable'. 50 He thought reforms should take place through the king with the participation of people and 'ulama'. He wrote: 'We have not demanded anything from the government but justice, the execution of Islamic law, and an assembly in which the king and the poor may be treated according to law, we do not talk about constitutionalism and republicanism'. 51 He,


50 Ha'iri, cp. cit., p.80

51 Ibid., p. 84.
however, improved his position later and supported constitutionalism. Ahmad Kasravi says that Tabataba'i previously tried to hide his bold ideas regarding constitutionalism and parliamentarianism, because he feared the conservative clergy who were strongly against western ideas. He rejected the concept of kingship which considered the king as God's shadow on earth. He ever envisaged a sort of secular monarchy by considering the Shah an authority who may be obeyed as long as he served his people. Attempts were also made to prove the compatibility of these ideas with the established Twelver Shi'i doctrines. In this connection two such attempts are worth mentioning: Al-La'ali al-Marbūta fi Wağūb al-Mashrūta by Shaykh Isma'il Mahallati and Tanbih al-Umma wa Tanzih al-Milla by Mirza Mohammad Hossein Na'ini. The latter is more important as Naini exerted great influence upon the 'ulama' of his time. Na'ini's description is

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52 See Kasravi, op. cit., p. 49.

53 Ha'iri, op. cit., p. 86.

54 According to S.A. Arjomand the earliest pro-constitutional treatise written under the impact of Nuri's propaganda was written by one Emadul 'ulama' Khalkhali titled "Resala-ye Ma'na-ye Mashruta" in 1907, Arjomand, "The 'ulama's Traditionalist opposition to Parliamentarianism" Middle Eastern Studies, Vol. XVII, No. 2 (1981), p. 156.
detailed systematic and scholarly. His work was first published in 1909 in Iraq. This was the time when the constitutionalist movement was showing signs of defeat as the constitution was already abrogated.

The problem with Na'ini was to prove that in Islam tyranny has been condemned and a moderate, limited and constitutional form of government has been advocated. He divides the government into two types: the ideal type and the actual type.

55 Hamid Algar, art, "Islah", The Encyclopaedia of Islam, p. 164. He describes it as "a coherent and serious statement on question of political and social reform, ... from Shi'i point of view it delineates the positive doctrinal reason for their support of constitutionalism firmly grounded in Kur'an and Sunna. See also, Hairi, op. cit., p. 155; Ha'iri has thoroughly studied Na'ini's life and ideas, based on his book Tambih. He has translated and reproduced considerable matter from Tambih in his study.

56 Second edition was published in 1910 from Tehran the third edition appeared after a lapse of fortyfive years that is in 1955 at Tehran. This edition of the book played a significant role in influencing the development of Shi'i thought of 1950s-1970s.

As ideal type of government is impossible during the absence of imams the choice is restricted to the second type. Now there are broadly two types of governments existing in the world: tamallukiyya (Propietership, possessorship) and velayatiyya (supervisorship). The former type is that of monarchy which is tyrannical by nature. The second type is desirable according to reason and according to the spirit of the Shi'i religion. He defends the constitutional form of government in following words:

In this type of government there is absolutely no state of possessorship, subjugation and despotism. Rulership here is based on the performance of certain duties in the interests of the public. The ruler's authority is limited to those duties, and he has no right to transgress this limit .... For this reason, his authority is of the type of benevolent supervisorship (velayat). Every one of the people, in such a state, is equal to the ruler and shares with him in all affairs, financial or otherwise. Those responsible for any office are only public trustees, not possessors or lords, and all are responsible to the people and are liable to be questioned by them. Everyone has the right to protest and is not to be subjugated or subdued by the ruler. Such government is called bound, (mugayyadah), limited (mahdudah), just ("adilah), constitutional (mashrutah, dusturiyyah) and responsible (mas'ulah). The person who rules in such a state is called custodian (hāfiz), vigilant (hāris), justice giver (gā'im bi gist), responsible (mās'ul) just ("adil). The people who enjoy such government are accountants, (mutasibin), free (ahrar) and alive (ahya). Since this government is a trusteeship or guardianship, it is bound to be void of any transgression and dissipation, and like other trusteeships, it has to be accountable, subject to which, and be based on responsibility.

58 Ibid., p. 166.
59 Ibid., p. 189.
As regards monarchy, he says that it usurps three fundamental rights of the Imam, while democracy usurps only one:

The monarchy consists of three sets of usurpations and oppression (1) It is usurpation of the authority of God and injustice to Him, (2) it is usurpation of the Imam's authority and oppression of the Imam; (3) it also involves oppression of the people. By contrast, constitutional system is only oppression of the Imam.... Thus a constitutional regime limits three sets of oppression to one; consequently it is necessary to adopt it.  

However, the oppression of the Imam, can be removed and parliament can be legitimized if it gets sanction of the lawful authority, i.e. the 'ulama'. He favoured the supervision of 'ulama' over the parliament; only then the constitution and the parliament can be conceived legitimate. Na'ini gave the parliament legislative power which was strongly criticized by the anti-constitutionalists.

Shaykh Fazlollah Nuri, on the other hand described constitution as completely incompatible with the tenets of Islam as well as Twelver Shi'i doctrines. He called the constitutionalist the Khawary of Nahravand and innovators. According to

60 Ibid., pp. 193-94.
him the constitution will create a conflict in the source of legal authority in Islam. He accused the constitutionalists of changing the shari'a:

'First of all, (both the writing of) a constitutional law and the following of the opinion of the majority are against Islam. The idea of depending on the majority even though it is originally allowed in permissible affairs (umur-i-mubah), is an unlawful legislation, it is an innovation in religion because it made as a law to be obeyed. (And of course) every innovation is a straying from the right path. Also, it is unlawful to make a permissible action as a person's duty to be obligatorily performed and to punish the person for his refusal of performing that duty'.

He further says:

Strangest of all is that they (i.e. the constitutionalists) say that the articles of the law can be changed. Is this change from Islam to infidelity, or from infidelity to Islam? Both alternatives are obviously wrong. One may argue that this change (only) consists of a change from Islam to Islam; that is to say, from a permissible (action) to another permissible (action). Although this (kind of) change can be conceived, it is wrong to make and put into effect a law which regulates a permissible action, the performance and non-performance of which is all the same to the founder of the Shariah (It is wrong especially if) a punishment may be given to those who do not obey such laws.

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63 Cited in Ha'iri, op. cit., p. 333.

64 Ibid., pp. 334-35.
He thus proposed a "mashruto-ye mashru" - constitution based upon shari'a. He condemned the draft constitution as mashruto-ye ferangi, i.e., the constitution based upon European laws. So far as the question of justice was concerned, Nuri says that the absolute justice will prevail only when the Imam would re-emerge. Upto that time the community cannot enjoy absolute justice whether in a monarchy or constitutional monarchy. Nuri proposed the following points in order to legitimize the parliament:

1. That the word "legitimate" be added after the word 'constitution'.
2. That during the assembly's terms, there must be five religious scholars of the first rank to supervise legislation, to ratify certain laws and to ensure that these laws are in agreement with Islamic decrees.
3. Fixing the penances and execution of religious verdicts concerning the Babis, Baha'is, other atheists and enemies of Islam.
4. Amendment of the law pertaining to the press and publication, in the early form of which it was prohibited to publish deviating books and papers which were offensive to the holy religion, prophets and Imams.

Later on, when Reza Khan proposed the idea of republicanism in 1924 it was strongly rejected by the 'ulama'.

65 V.A. Martin, op. cit., p. 184.
66 Aqiqi Bakhsheshi, op. cit., p. 77.
basic cause of their opposition was nothing but the fear of the
influence of Western culture. This was best manifested in the
attitude of Ayatollah Modarres. He opposed Reza Shah as he feared
that fate of Islam in Iran would be similar to that of Turkey due
to extensive secularization. Madarres introduced the concept of
"Negative Balance" (tavazun-e ‘adami) by which he meant that the
‘ulama’ had a different sphere of their activities while the
monarch has his own sphere of jurisdiction; both should not
interfere into each others jurisdictions. 57

Thus three different currents are discernible in the
thoughts of post-constitutional revolution of Shi'i hierarchy:
one, open support to monarchy, the constitutional demand and
limitation of the power of the monarch owing to the heritage of
Na'ini and three, traditional quietist opposition of the Kings,
but no pronounced political activism. It is very interesting to
note that those ‘ulama’ of later decades who followed the first
line of action were mostly the imam-e jom'a (imams of Friday
prayers) and rural mollahs. Those who had shown certain degree of
political action belonged to second rank of the clerical
hierarchy; while those who followed the last line of action

67 See Abol-Hasan Bani Sadr, Magiyyat-e Iran va
Nagsh-e Modarres (n.p., n.d.); Abol-Fazl Ezzali, The Revolutionary
belong to the ranks of clergy. For example, Hai'ri (d. 1936) Isfahani (d. 1945) and Boroujerdi (d. 1961) all dominated the Shi'i hierarchy but kept themselves away from politics. On the other hand, Kashani, Taleqani, Khomeini all politically active 'ulama' belonged to the second rank.