Chapter 3

The 1905 Constitutional Revolution: Shi’i Jurisprudence and Constitutionalism

The Constitution: 1906 Fundamental Law and 1907 Supplementary Law

It is an established fact that the 1905 Constitutional Revolution, like every other constitutionalist revolution, was an anti-despotic revolution aimed at restricting the ruler’s power. By all historical accounts, Iranians’ first major experience in constitutionalism in the modern sense was intended to restrict the unbridled tyranny of the Qajar dynasty’s monarchs who had become even more corrupt by being praised as “the shadow of God” and “the possessor of the subjects.” Such anti-despotism, theoretically and practically, represented a renewed interpretation of the relationship between the state and society—which was advocated by some of the elites and many of the then famous Usuli jurists—and resulted in the victory of the national movement, at least in its early stage, against the monarchy.

Under the heavy political pressure of the jurists and their lay supporters (who had taken refuge in the British Embassy, to protest against the government’s oppression), the then ailing Qajar king Muzzaffar al-Din Shah (d. 1285/1906) finally acquiesced to the people’s and the jurists’ demands for the establishment of a “House of Justice.” In his farmān (Royal Proclamation), issued in August 1906, the king declared that an Assembly of delegates elected by the Princes, the “ulamā,” the Qajar family, the nobles and notables, the land-owners, the merchants, and the

A. Boozari, Shi’i Jurisprudence and Constitution © Amirhassan Boozari 2011
guilds shall be formed and constituted, through elections by the classes mentioned above in the capital, Tehran; the Assembly shall carry out the requisite deliberations and investigations on all necessary subjects connected with the important affairs of the State and the Empire and the public interests, and shall render the necessary help and assistance to our Cabinet of Ministers in such reforms as are designed to promote the happiness and well-being of Persia, and shall, with complete confidence and security, through the instrumentality of the first Lord of the State, submit their proposals to Us, so that these, having been duly ratified by Us, may be carried into effect. (Emphasis mine)4

The king issued two other prerequisite proclamations: one on the Electoral Law (in September 1906), and the other on the Fundamental Laws (submitted to the Majlis in December 1906). The First Majlis was inaugurated in October 1906 and within two years, inter alia, enacted different laws on the abolition of fiefs and the ratification of tax reforms (March–April 1907), the establishment of provincial councils (May 1907), the mayoral law (May 1907), the press law (April 1908), the formation of provinces and the governors’ duties (1908), along with two annual budgets, and the establishment of a national bank. However, most important of all, the First Majlis amended the Fundamental Laws and passed a Supplement that transformed it to a full scale Constitution (October 1907). The First Majlis also encountered the political impact of the Anglo-Russian Treaty5 (signed in August 1907 by the British and Russian Empires) in which Iran’s territory had been divided between the two powers; this occurred alongside an unsuccessful coup attempt by the new despot king Muhammad Ali Shah (December 1907). The king finally succeeded in bombarding and demolishing the building of the Majlis in June 1908 with the assistance of the Russian-trained Cossack Brigade. This was followed by the persecution and execution of progressive constitutionalist intellectuals, which practically put an end to the peaceful stage of the Constitutional Revolution. The Second Majlis convened in November 1909 only after a civil war broke out between the pro-constitution revolutionary forces and the Russian-backed government troops in July 1908 during which the despot king was defeated and deposed of in July 1909. He retreated to St. Petersburg in September 1909; shortly after, his twelve-year-old son was crowned. Suffocated by the sociopolitical implications of incompetent and unstable governments from November 1909 until December 1911, the Second Majlis had to deal with unduly issued British and Russian political ultimatums and military threats (October 1910–November 1911), to which the Majlis did not allow any concessions, as well as a failed coup attempt by former king that was also heavily supported by the Russian Empire (July–August 1911).6 The