



Recognition of Allameh Naeini's Political Pragmatism in the Constitutional Movement

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Abstract:

Minor tyranny is known as the beginning of the full-fledged struggle of constitutional scholars against the views of legitimists. As from the perspective of the history of political thought, the most coherent and systematic treatises on the defense of constitutionalism were published in the same period, the best of which are the treatise *Tanbih al-Ummah* and *Tanzih al-Mulla* by Allameh Naeini. Naeini based his practical endeavors in politics on religious assumptions, moving in the direction of confronting what he saw as heresy in religion, which is to accompany tyranny; And stated that it was in the interest of the Muslim community to limit tyranny through the constitution. Accordingly, Naeini's association with the constitutional movement is a kind of political pragmatism, and this pragmatism is based on what he has considered a religious duty for the jurists. The present study intends to use the explanatory-analytical method with the help of library documents to answer the main question: what are the principles of Allameh Naeini's political pragmatism in the constitutional era? Allameh Naeini's political thought in defending the constitution based on dynamic *ijtihad* in Shi'a jurisprudence is one of the important examples of political pragmatism, which is based on the observance of public interests in accordance with rational and narrative arguments in the age of absence.

Keywords: Naeini, Constitutional Revolution, Political Pragmatism, Shi'a Jurisprudence

Introduction

Attempts to change authoritarian, absolute and irresponsible governments into constrained, conditional and accountable governments in the history of human socio-political developments, especially in the West, have an ancient and ups and downs lineage. Absolute governments, usually in the past centuries in the form of monarchy, and in the words of Ibn Khaldun, the nervousness of the people and tribes were realized or handed down; It was based on the originality of maintaining political power and dealing fully with opponents and critics of political power and not paying attention to the will and vote of the people. In the political developments of the West and following the socio-political revolutions, especially the glorious revolution of England and the Great French Revolution, a new literature on the way of governing and governing emerged. Social revolutions in the West, however, began with destruction, fear, and insecurity; But in the long run it was able to turn absolute political power into conditional and accountable power; And transform the nation overseeing political decision-making processes into a present and influential nation through the formation of parliament and elections. Public opinion, especially with the expansion of the public media and press to monitor the functioning of political systems, gradually gained a prominent position; To the extent that it can be interpreted as one of the strong pillars of democracy in the contemporary era.

Along with political developments, the teachings and ideas of prominent political thinkers in theories commensurate with the developments formed around the new structure of political systems and the drafting of the constitution as a pact between the government and the people; Also, the strengthening of the parliament as a manifestation of

the national will and the oversight of the exercise of political power by the ruling apparatus, played a prominent role in the emergence of constitutional and democratic governments. For example, John Locke, who is known as the father of the parliamentary system and the father of the architecture of new democracies; In a glorious work called "Two Treatises of Government", he formulated the foundation of the constitutional, legal and electoral system and enumerated its differences with absolute, unresponsive and unelected systems. The essence of the conditional political system, derived from public opinion, is based on the limitation of government power to the boundaries of law, especially the constitution, the formation of government by public opinion, and the formation of a parliament or council. According to Locke's ideas, in such a system, the growth and excellence of all human beings and the inherent indistinguishability of human beings from each other, regardless of race, color, language, and other distinguishing factors, must be considered; And give equal opportunities for growth and development to different sections of society (Lock, 2003, p.101).

In the new constitutional political system, the ruler is the trustee and guardian of the public interest for a certain period of time, and the elected members of parliament will have the task of drafting the necessary laws for a certain period and overseeing the performance of the executive branch. Equality before the law was a major feature of the new constitutional system, and no one was immune from prosecution for violating power or wealth. As the theorists of this new discourse have pointed out in the field of governance; Such a government, which is bound by the legal limits approved by the nation, is achieved when the citizens of a society play a

role in the political process of society and decisions (Oxford and others, 2002, p.120).

The emergence of the constitutional movement in Iran, which began with the flow of justice and the tyranny of the scholars and the people of Tehran. It was the result of a process of growing intellectual developments that had entered Iran from the Western world and in a deconstructive form, a new logic governed the political and social relations of Iranian society (Derakhsheh, 2005, p. 39). Meanwhile, Allameh Naeini, who is known as one of the prominent scholars of the constitutional movement, based his pragmatic endeavor in the field of politics on religious assumptions and in this direction in order to confront what he considered heresy; Which is the same as accompanying tyranny, he moved and considered the interest of the Muslim community to limit tyranny through the constitution. Accordingly, Naeini's association with the constitutional movement is a kind of political pragmatism, and this pragmatism is based on what he has considered a religious duty for the jurists of his time.

In this regard, research has been done in this field, the most important of which can be found in the book of Davood Feyrahi (2016) entitled: "The threshold of modernity"; While paying attention to the punishment of the nation and the purification of the nation, this book is considered as a symbol of the school of jurisprudence and politics, which has provided a religious expression of freedom and democracy in the Shi'a religion. Jalal Derakhsheh (2005) in a study entitled: "The relationship between law and Sharia" in the political thought of Allameh Naeini with a descriptive and analytical method to study the constitutional period and the relationship between Shi'a religious thought and the new system and political thought; He believes that constitutionalism has created a period of in-

tellectual modernity and a kind of religious re-creation, and Allameh Naeini was one of the most prominent who tried to answer various questions about constitutionalism in an argumentative way in his famous work.

Seyed Mohammad Reza Ahmadi Tabatabaei (2013) in an article entitled: "Rational and Narrative Discourse of Shi'a Authorities and Jurists in Defense of the Constitutional Government in the Age of Absence"; It has examined how the religious and traditional teachings conform or do not conform to modern political and social concepts as the most important concerns of the religious community and religious intellectuals in the constitutional era. Therefore, in this study, which is dedicated to the study of Mirza Naeini's political life, an attempt has been made to provide a description of the formation and developments of Naeini's political life and political thought. After examining the issues of pragmatism, we will first briefly review his biography from Nain to Najaf. Then, we review his religious-political activities and show how he adopted a pragmatic-political action to combat tyranny; He also wrote the book *Tanbih al-Ummah* in line with his political-religious activism. Consequently, the question of this research is what principles are the political pragmatism of Allameh Naeini in the age of constitutionalism? Allameh Naeini's political thought in defending the constitution based on dynamic *ijtihad* in Shi'a jurisprudence is one of the important examples of political pragmatism, which is based on the observance of public interests in accordance with rational and narrative arguments in the age of absence.

Theoretical framework: political pragmatism and religious pragmatism

Pragmatism is a philosophical movement that is closely related to the characteristics of

American culture. But while pragmatism is clearly American philosophy, this does not prove that pragmatist thinking is unique to America; Traces of this thought can also be seen in European and Asian philosophies. The word pragmatism is derived from the Greek root *pragma* meaning action, from which the words practice and practical are derived. The Greek word *pragma* means action.

The formation of pragmatism emerged in the face of purely subjective philosophy as opposed to the stagnant tradition of the metaphysical. Prior to pragmatism, the foundations of essentialist philosophy sought to achieve truth and nature by believing in the existence of central and pre-existing metaphysical or physical truth (Heidegger, 1992, p. 51). But pragmatism as a new philosophy in order to get out of the valley of teleology does not seek to discover the truth and the essence and nature of things, but a philosophical effort to achieve the realities that are imposed on human beings. Undoubtedly, pragmatism has arisen in opposition to the booming philosophical tradition of the American School Valley and the stagnant metaphysical tradition that was manifesting itself in Europe at the time.

Philosophy at that time was so caught up in the complex and heavy abstractions of metaphysical discussions that it was almost impossible to break free from this multi-thousand-year-old tradition. In this philosophical silence, which was held amidst the great fuss of the metaphysicians of European universities, the seeds and sparks of philosophy, which were inspired by the originality of practical expediency, were considered the valley of the ruling of the revolution. The philosophy that he claimed is feasible and the capacity to be implemented, which is undoubtedly new (Rahbari, 2013, p. 127).

Accordingly, pragmatism is known as a philosophical theory and a method of achieving the truth of a new theory that was considered by scholars in the American scientific community in the late nineteenth and early twentieth centuries (Mohammadrezaei, 2013, p. 7).

Therefore, this theory considers the originality of action useful in solving intellectual problems and human progress. In addition to politics, he was also influential in various sciences such as psychology and education. Pragmatism was initially a way of solving and evaluating intellectual problems, but gradually the meaning of pragmatism changed; In a way, pragmatism has now become a theory that says that truth is something that is good from a human point of view. From the point of view of pragmatism, all ideas, concepts, judgments and opinions are rules for "pragma" behavior, but their "truth" lies only in the usefulness of being implemented in life. From the point of view of pragmatism, the measure of truth is usefulness, benefit and result. Early and contemporary pragmatists also reject the idea of discovering absolute truth, either through logical analysis or through discovery and intuition; In contrast, they tend to acquire knowledge gained through a variety of lived experiences. Hence, they place great emphasis on the social contexts of cognitive issues. Due to this understanding of knowledge, ethics and knowledge that is formed by various experiences in the daily life of human beings, pluralism in objectivity and subjectivity is central to this philosophy.

This idea can be considered more than anything else as a way to get out of pure abstract and mental arguments and resolve its issues. Another principle of this philosophical method is that any theory or doctrine should be judged on the basis of the results

obtained from it. To put it more clearly, the pragmatist method is used first and foremost to resolve metaphysical conflicts; Conflicts that, according to the proponents of pragmatism, will remain unresolved and controversial forever if we do not refer to the principles of this idea (Mohammadrezaei, 2013, p. 9). Accordingly, pragmatism, in order to break away from subjectivism, has emerged as a philosophy that seeks not only to arrive at truth and discover the nature of things, but also to overcome the realities imposed on human beings. Pragmatism, however, initially emerged as a purely philosophical and educational idea; But it has had many political and social effects. Pragmatism is only a philosophy that opens the way to politics from within political realities, regardless of pre-existing facts and orientations. This thinking, as an approach alongside other theories, reveals other aspects of politics. Especially for societies that are more abstract and introverted and whose politics are rooted in subjectivism; It has a lot of practicality and can lead to important results (Rahbari, 2011, p. 127).

Another consequence of pragmatist thinking is the attention to consequentialism, which is very important for pragmatists in removing obstacles to human happiness and solving the objective and real problems of society. From their point of view, ideas and beliefs that must be practical must be accepted. They believe that an idea (which will always be a hypothesis) must be experienced first, and if it has useful and convincing results, it must be implemented (Lacoste, 2004, p. 129). On this basis, it can be emphasized that pragmatism is known philosophically and methodologically as a school whose emphasis is on the originality of action. Instead of engaging in metaphysical and theoretical challenges, these theorists achieve truth by using the principle of utilitarianism and the

relation of belief to action. The only test of the probability of truth in the philosophy of pragmatism is that which, on the one hand, best accomplishes man; On the other hand, it is more compatible with human life and needs. Undoubtedly, this compatibility and appropriateness must be proven experimentally for humans. In fact, the pragmatic method proves the truth of any concept through its practical and useful results. In such a view, truth is relative and conditional, and changes through societies and, consequently, cultures. In fact, the truth depends on different situations and it is possible that the truth about a concept is completely different at any time and place.

The Constitutional Movement and the Clergy: The Formation of Religious Pragmatism

The Qajar era is considered to be the era of the emergence of new concepts in the political space and thought of Iran and the serious acquaintance of Iranians with Western civilization and culture. As a result, innovative ideas entered the scope of social and political issues of that time. As a turning point in Shi'a political thought. It is clear that the constitution paves the way for the entry of Shi'a political literature into a stage of recognition, rehabilitation and response to the new conditions of society.

Before the arrival of new ideas in the field of practice, most jurists acted only in order to implement the Shari'a, enjoining the good and forbidding the evil and the religious duties of the government, but with the entry of Iran into the new era, the clergy faced very complex issues. Prior to this, the historical moment of scholars' confrontation with problems had already appeared within the system of religious thought about fundamentalism or news making or sheikhdomism. From then

on, however, the scholars' greatest encounter with issues was external, which included the introduction of modern teachings such as constitutionalism and rationalism.

During the Qajar period, although some clerics, especially the Friday Imams, were appointed by the government and government clerics showed interest in the court, many mujtahids and the scholars with the influence of religion stayed away from the court and the government; In some cases, while dealing with the government, they left a sensitive and distinct historical role. During this period, the Qajar kings also failed, despite extensive efforts to gain divine sanctity and legitimacy; Because according to the basic Shi'a view of government, the leadership of society has never been left to non-religious leaders. But what was proposed in this period, beyond the conflicts of layers of Shi'a scholars with the government and the existence of inter-religious issues, and for the first time seriously attacked the theoretical departure of Shi'a politics; It was a growing discourse that had entered the world of Islam and Iran within the framework of the characteristics of Western civilization. This discourse quickly gained a large audience, even among religious people and religious scholars, and its components were accepted by many. Although these components did not penetrate the text of the masses, they were uninterruptedly influential in the minds of the thinkers of society; Eventually, an important part of it became part of Iran's political and legal reception during the Constitutional Revolution; Which acted as a challenging factor against the historical traditions of Iranian society.

It also sparked a heated debate between opposing and different ideologies, both old and new. The content of many ideas related to constitutionalism challenged the basis of

religious-political consensus as well as the cultural harmony of the traditional system, and created divisions and divisions among the elites. The emergence and spread of various ideas in the Qajar era will eventually lead to the formation of constitutionalism. Scholars provoked different reactions among the representatives of Shi'a political thought, who were confronted with a new and strange concept called "constitution" and "rule of law."

It should be noted that according to the history of political thought in Iran until the Nasserite era, there was no known system of government except independent and absolute monarchy. And this was one of the main reasons for opposing a new way of governing such as constitutionalism with a new and innovative institution. Decades before the victory of constitutionalism, with the arrival of new ideas, the new era had shaken the concepts of the traditional system. But this earthquake and eventually the victory of constitutionalism became part of the reality of social and political life in Iran and disrupted the traditional system. With the victory of the constitutional movement, the presence of concepts was transferred from the realm of thought to the realm of social and political life in Iran, and many of those concepts became institutions that had nothing to do with the traditional system. With the progress made in the discussions and efforts to establish new institutions, the adherents of the ancient tradition increasingly realized that the system of new concepts was new; And it is obvious that the efforts of the supporters of the new system to explain the compatibility of the new institutions with the spirit of the ancient tradition did not go anywhere. Until the victory of the constitutional movement and with the beginning of the new era, the tremor that had fallen on the old tradition

system; With the victory of constitutionalism and the clarity of the content of the debates and its expansion, this tremor became a breach in the foundations and foundations of the legitimacy of the traditional system that the supporters of this traditional system became aware of the dangers of these new themes. Ever since the first reforms in the Sultanate of Tabriz began, there has been a weakness in the foundations of the ancient Sunni system. But its proponents, whose hardening of the intellectual system did not allow them to tunnel into new intellectual systems, did not pay attention to its dangers (Tabatabaei, 2006, pp. 374-373).

With the issuance of the constitutional decree by Muzaffar al-Din Shah Qajar and then the action of the modern constitutionalists to regulate the laws, the above-mentioned conflicts arose, which eventually led to war and bloodshed. In this regard, there were major differences among the clergy over the formulation of laws and cooperation with other constitutionalists, which eventually led to the formation of two groups of legitimists and constitutionalists. Therefore, in response to the question of what was the position of the clergy in the face of new developments, it can be hypothesized that; The arrival of modernity in Iran and the subsequent occurrence of the Constitutional Revolution led to the formation of fundamental differences and new fronts between the religious currents and the Shi'a clergy, that is, the same legitimists and constitutionalists. On the other hand, gradually, with the formulation of laws and the division of responsibilities, the gap between the clergy deepened.

Mirza Naeini: Religious pragmatism and the struggle against tyranny

Mirza Mohammad Hassan Naeini (1860-1936) was born in the famous clerical family

of Nain. His father, Haji Mirza Abdul Rahim, and his grandfather, Haji Mirza Mohammad Saeed, were both clerics in Nain one after another. Naeini received his first education in Nain and at the age of 17 went to Isfahan to continue his education, which at that time still had a large seminary. During his stay in Isfahan, Naeini studied philosophy with Mirza Abu al-Ma'ali al-Kalbasi, and with Sheikh Jahangir Qashqa'i and Sheikh Muhammad Hassan Hezar Jaribi of philosophy and theology. Among his most prominent professors in jurisprudence and principles, Ayatollah Agha Mirza Mohammad Hassan Najafi and Haj Sheikh Mohammad Baqer Isfahani, the father of the great Allameh Agha Sheikh Mohammad Taqi Isfahani Najafi known as Aghanajafi, were influential clerics.

The fact that Naeini lived and studied with the members of this family and witnessed each of their authoritarian and anti-popular acts; This strengthens the possibility that these events provoked an opposite reaction in him and gradually led him to fight against the tyranny of both the clergy and the government. In other words, the Naeini was raised in the family of the Shaykh al-Islam, those who took their title from the court of the kings and depended on them. After leaving Isfahan, he separated from his main class and became a cleric who was the natural leader of the Shi'a people, especially the middle class, the national merchants and the owners of local professions and guilds.

Naeini left for Iraq in 1885 to continue his education and made a short stop in Najaf and then went to Samarra. In those days, in addition to the importance of its historical past, this city had become a major center of spirituality and religious sciences and was of special interest to the Shi'a world. Because the greatest authority of imitation of the time and the owner of the fatwa banning tobacco,

namely Mirza Hassan Shirazi, lived there for several years. There, he was promoted to the level of a prominent student of Mirza Shirazi, and at the end of his stay, he became his mentor. Therefore, it can be said that Ayatollah Naeini, from the beginning of the changes and enlightenments that led to the constitutional movement, was associated with Ayatollah Mirzai Shirazi, the leader of the movement, and Seyed Jamaluddin Asadabadi, the leader of the Enlightenment and modern historians. Naeini continued his education until 1898 in Samarra with Mirza Shirazi and other mujtahids such as Ismail Sadr and Seyed Mohammad Fesharaki Isfahani. After the death of Mirza Shirazi in 1894, Naeini continued his research under Sadr in Samarra. In 1896 Naeini went to Karbala with Sadr and stayed there until 1898 and then returned to Najaf. There, Naeini joined the special student group of Mullah Mohammad Kazem Khorasani, who at that time was entering the world of infamy as a great source of imitation; And it was a few years after the mullahs led the Iranian constitutional revolution (Haeri, 2014, pp. 153-154).

Naeini was in Najaf Ashraf to consult with his old friend, the late Ayatollah Akhund Mullah Mohammad Kazem Khorasani, who at that time was the head of the Najaf Ashraf seminary after the death of Mirza Shirazi; In this direction, accompanied by the late Ayatollah Khorasani, he led the constitutional movement in Iran. After the death of the great verses of Agha Seyed Mohammad Kazem Yazdi, the owner of Orwat Al-Wathqa and Akhund Khorasani, as well as Ayatollah Mirza Mohammad Taghi Shirazi, Allameh Naeini became one of the most famous imitators of his time and became the greatest mujtahid of the time.

Reasons for writing *Tanbih al-Ummah*: A backbone analysis of the treatise, religious pragmatism

In this section, which emphasizes the "text" which is the book of *Tanbih al-Ummah* and *Tanzih al-Mulla*, we seek to show how important Naeini in this book has theorized the constitution and has taken a pragmatic move towards the establishment of the constitution.

Allameh Naeini, after receiving the views, analyzes and fatwas of the religious authorities of his time, who were debating about this new political system and how it conforms or does not conform to the Shiite Islamic teachings; In order to have the necessary religious authority to support or not to support the constitutional movement. In such a sensitive and difficult situation, Allameh the Great, Naeini, who was himself the master of many prominent jurists and authorities in later periods; He wrote an important and influential book called "*Tanbih al-Ummah va Tanzih al-Mulla*" in defense of constitutionalism during the absence of Imam Mahdi.

The treatise on the punishment of the nation, which is the most important theoretical work in explaining and applying the Shari'a of constitutionalism to the standards of Shiite and Islamic jurisprudence, has been written (Ajoudani, 2004, p. 319). It was first published in Iraq and then in Iran in 1906, which is known as a turning point in the history of Shiite political thought. This valuable work is adorned with the ornaments of two prominent leaders of the Najaf constituency, namely Akhund Khorasani and Molly Saleh Mazandarani, and the strong interpretations of those two prominent jurists have added to the credibility and strength of this work.

Allameh Naeini, one of the constitutionalists in the name of this period, writes in the introduction of the mentioned treatise that; Whereas the compilation of a treatise to in-

form the Islamic Ummah about the necessities of Shari'a and to purify and dress the nation's thoughts from the instincts of the opposition and the heretics; The name of this treatise has been chosen as *Tanbih al-Ummah and Tanzih al-Mulla* (Allameh Naeini: 1909, p. 4). Akhund Khorasani, who was one of the leading religious' leaders in Najaf, wrote about this work at the beginning of the treatise:

The honorable treatise "*Tanbih al-Ummah va Tanzih al-Mullah*" which is one of the transgressions of His Excellency Mustatab Shariat Madar Safwa al-Feqh and Mujahidin Tiqah al-Islam and the Muslims of the world Aqa mirza Muhammad Hussein al-Naeini is the culmination of its transgressions. Deserves praise and, God willing, he uses the Shari'a of the scholar to teach, understand and comprehend that the principles of constitutionalism are derived; And to understand the truth of the blessed word "with your masters, the scholars of God, the teachers of our religion, the righteous, the place of corruption in my world" with certainty, God willing.

In the month of Rabi' al-Awwal 1327 (April 1909)

Edited by the least offender, Muhammad Kazim al-Khorasani

Molly Abdullah Mazandarani also wrote a similar sermon following the sermon of the Khorasani cleric in confirmation of the said treatise.

Allameh Naeini in the introduction of the above-mentioned treatise states that, since the compilation of the treatise is to inform the Islamic Ummah about the necessities of Shari'a and purification and to dress the nation's thoughts from the instincts of the opponents and heretics; The name of this treatise has been chosen as *Tanbih al-Ummah and Tanzih al-Mulla* (Allameh Naeini: 1909, p. 4). This valuable treatise of Allameh

Naeini with the choice of normative words such as authoritarian government, constitutional government, constitution, National Assembly, separation of powers, freedom, equality, etc., which were considered as the pillars of modern political thought; Explained their meaning and adapted these new teachings in governance to the religious teachings. Relying on the original sources of jurisprudence, such as the following as the theoretical foundations of the socio-political issues of Islam, Naeini paved the way for the Shiites' readiness for social transformations appropriate to the new age. And explained the ability of Islam to respond to contemporary political and social issues and challenges. The Qur'an, the hadiths of the infallible, the intellect, the consensus and consensus of Muslims, as well as the use of custom, governmental rulings, secondary rulings, the principle of respect for obligations and contracts, *Velayat-e-Faqih*, *Hesbeh*, etc. are among these cases. According to him, the political system, the constitution does not need to already exist in the same format in Sharia. In the legitimacy of these laws, it is enough that they are based on certain interests and their provisions are not incompatible with the rules of Sharia. And this is evidence for the claim that the punishment of the nation and the purification of the nation is not just a treatise containing only a theoretical discussion; Rather, it should be considered an invitation to try to fight against political and religious tyranny in order to achieve the public and supreme interests of the Islamic society in the modern era.

Accordingly, Naeini, as a pro-constitutional Shariat scholar, tries to prove the legitimacy of the constitutional system by proving the necessity of limiting the powers of the government by stating three religious preambles and relying on these preliminaries;

And he states that because in the age of absence, it is not possible to form an Islamic monarchy headed by an Infallible Imam. Therefore, inevitably, the scope of government authority should be limited as much as possible by using all the tools that Sharia provides to the people. In this regard, the task of enjoining the good and forbidding the evil is the most important of them. And it is obvious that defending the unity of the country, in the language of Sharia, is interpreted as preserving the banner of Islam, it is one of the typical provinces or areas of public interest that is in the duties of the jurists during the period of absence. On the other hand, if usurpation takes place and it is not possible to eliminate that usurpation, we must limit the usurper's possession by any means, as much as possible, and prevent the loss of his unbridled desire. He considers the necessity of this elimination or restriction of occupation as a necessity of the Shari'a and even considers it as one of the axioms of " Infidels rations".

Tanbih al-Ummah is a political treatise within the scope of the Shiite theory of the oppression government in the period of absence. According to this view, any government that is not headed by the Infallible Imam cannot be considered legitimate; According to this principle, Mirza Naeini, as a Shiite jurist, legitimizes any government that was headed by a just ruler during the absence of Imam Mahdi. But he does not consider it legitimate. Every political power comes from God and is given to those who are chosen or appointed by him. In this respect, all types of governments, whether headed by a just king or an authoritarian, are considered a kind of government (Tabatabaei, 2006, pp. 493-494).

The conclusion is that in any government, two rights must be considered. First of all, the government is the divine right that has been delegated to its messengers to manage

the affairs of the people in accordance with the public interest; But the second right belongs to those people whose affairs must be managed within the bounds of Sharia. According to this, the observance of these two rights will be possible only when the infallible rule. In other words, the infallibility of the Prophet and the Imam is the only condition for rejecting the divine trust and the trust of the people, because the infallible does not act except within the limits of Sharia. On the other hand, this does not mean that there is no difference between illegitimate governments. Any government that is not headed by an innocent person is considered political usurpation and its occupation cannot be considered legitimate. But the difference between legitimate and illegitimate government is that they do not correspond to the truth of Sharia from a religious point of view. But if a just government is at the head of the government, it is a legitimate government, as Naeini had legitimized Anushirvan's government.

So, if the infallible Imam does not rule, that government is illegitimate, but the point that Naeini makes is one of the main points of his thought. That in any illegitimate government two usurpations take place on the basis of the double trust mentioned. However, although the ruler of the period of absence has committed the expropriation of the robe of rule and oppression in the sanctuary of oneness and usurpation of the position of governor and oppression of the infallible Imam; But authoritarian rule, apart from the first usurpation, has also committed the second usurpation, which is tyranny against the people. The important point of Naeini's view is that the just ruler has committed a usurpation of the tyrannical ruler; In the first case, his government is also illegitimate. But in the second case, he did not suffer from usurpation, which is the justice of the people.

Therefore, the government of such a government can be considered a legitimate authority. But more fundamentally, the justification for legitimacy and constitutionalism is that Naeini believes that a government that commits one usurpation can be preferred to a government that commits two usurpations. And this is a preference for intellectual independence and is not merely a rule of Sharia.

Therefore, according to the third premise mentioned in the previous lines, if iodine cannot be removed from the usurper, according to the intellect, the usurper's possession should be limited in such a way as to prevent the loss of the same property, which is the purpose of constitutionalism. But the truth of constitutionalism is not to replace the sultan with a tyrant, but to remove the usurpation of the people's trust. That is, the first usurpation, which is the infallible right, has no solution in the age of absence, but the second usurpation is the solution, and that is to free the government from the clutches of the tyrannical king who has usurped the trust of the people.

Naeini also goes a step further, comparing the usurping tenure of the government to that of the usurper. And considering the representation of the jurists by the Infallible in the period of absence, he writes that if the Constitutional King is on behalf of the Infallible Imams, his government can also wear the garment of legitimacy; And he can be removed from usurpation and oppression to the position of Imamate and Velayat by the will of God (Tabatabaei, 2006, p. 495). Therefore, in the era of absence, Naeini ignores the first usurpation, which is the right of the innocent, and considers the constitution as an attempt to eliminate the second usurpation, which is the responsibility of the people. And if he imposes the permission of the jurist on it, it will somehow eliminate the first usurpation

or the infallible right, that is, the legitimacy of the constitutional monarchy. Naeini uses the permission of the jurist in line with the same exclusive right of the jurists on behalf of the infallible in the time of absence, and in this way delegates his right (the jurist) to the ruler on behalf of the Imam.

Political struggles on the return to Iran

Some believe that by looking at Naeini life, it can be divided into three periods; First, he stood up against tyranny with his pen and foot and collaborated with the Iranian constitutionalists. In the second phase, Naeini, as one of the national leaders of Iraq, rose up against the British-sponsored government in that country and worked with other scholars to gain Iraqi independence. At that time, the British and King Faisal mistreated Naeini, deporting him from Iraq and leaving him homeless. In the next stage, Naeini had come to the conclusion that cooperation with those in power, especially those who participated in the governing body of Iran, was more beneficial than fighting them. It was based on this connection that he became the leader of the Shiite world.

In any case, in the first period of Naeini's political life, after settling in Najaf, he gained a privileged position scientifically and politically. And certainly, the thoughts and ideas of Seyed Jamal al-Din Asadabadi were also effective in the structure of his political and reformist thoughts (Beheshti, 2007, p. 31). In other words, Naeini had a serious and active presence in the socio-political arenas. Friendship with Jamal al-Din Asadabadi (1896-1896), inclination towards Mirza Shirazi and his presence in the circle of his students, and joining the constitutional movement and accompanying the Khorasani clergy show the socio-political thinking of Naeini and his character in this field. After the proclamation

of the constitution in Iran (August 6, 1906), he was considered one of the greatest supporters of the constitution; By writing the famous and valuable book *Tanbih al-Ummah* and *Tanzih al-Mulla*, which was approved by the constitutional leaders - Akhund Khorasani and Mullah Abdullah Mazandarani -, he played a significant role in this movement (Feyrahi, 2016, pp. 4-5).

It is interesting that those familiar with Naeini's life believe that he even wrote the text of the telegrams and public statements of Mr. Khorasani, Mr. Tehrani and Mr. Mazandarani about the Constitutional Revolution. He was assigned this task because he was aware of the history and the course of thought of his time. In addition to Naeini's possible acquaintance with Assadabadi's ideas, he was exposed to other enlightening elements of his environment. Naeini was fully trusted by the first religious leaders and because of his closeness to those scholars, he was both in their good name and was not safe from criticizing and expressing hostility to the enemies of the constitution. At the same time that many groups were fighting for constitutional rule, there were groups among the clergy and others who were trying to paralyze the liberation and constitutional movement. Among the activities of these groups was the establishment of secret societies in Iran and Iraq; Naeini's activities were not hidden from the eyes of the enemies of the constitution, and he himself was the target of slander and lies by such associations. It is normal for a person to be insulted and slandered in such a situation. Naeini at that time, as a great mujtahid, had reached such a level of knowledge that he did not need to attend the general lessons of Khorasan. He was one of the special companions and friends of Khorasan who participated only in the important and sensitive scientific and religious

discussions mentioned above (Haeri, 2013, pp. 156-157).

Therefore, his political and pragmatic activities were due to the special intelligence he possessed. In such a way that political and social events followed the time carefully. Along with learning religious sciences and knowledge, he thought about the fate of Muslims and the causes of their decline and suffering and sought a solution; Therefore, during the formation of constitutionalism, he did not spare any effort and gave his scientific and writing power to the movement.

Some believe that it is not known when Naeini started writing the book *Tanbih al-Ummah* and when he finished it; But without a doubt, he wrote the book after migrating to Najaf and at the same time with the constitutional movement. And since the date of the sermon of Ayatollah Khorasani and Ayatollah Mazandarani is April 1909; It is possible to understand the date of writing the book to some extent, and this was two years before the demise of the late Ayatollah Khorasani and one year before the assassination of the late Ayatollah Behbahani by the agents of Seyed Hassan Taghizadeh (Beheshti, 2007, pp. 31-32).

Examining the stages of Naeini's life shows well that we are facing a vigilant and chronological jurist, a scholarly mujtahid, and a persistent political activist who is fighting against tyranny in all its aspects, from political to religious. The first period of his political-scientific activity shows how much he has been in the struggle against political and religious tyranny and in favor of constitutionalism. Therefore, it can be said that the writing of *Tanbih al-Ummah* during the first period of his struggles should be evaluated in terms of his *ijtihad* and political pragmatism. An *ijtihad* that challenged religious tyranny or what he called "heretics,"

and his political pragmatism was an attempt to challenge political tyranny. The combination of the two forms a kind of "political theology" that seeks to establish constitutionalism on a religious basis with full-fledged *ijtihad* under the headings of freedom and equality.

An analysis of the verses from the treatise *Tanbih al-Ummah* can also show how Naeini denounces the passivity of religious scholars in the face of tyranny and considers "pragmatism" to achieve constitutional rule with the *ijtihad* he performs as a "following of the tradition of the prophets." Naeini writes: For the victory and following this tradition and biography is derived from the prophets, which in this auspicious era, which is the era of happiness and awakening and the end of the period of captivity and the end of the regressive course of its Islam, should be considered as excellence. The clerics and religious leaders have made the same diligent effort in using the freedom and usurped rights of Muslims and purifying their rivals from the humiliation and captivity of their neighbors in accordance with the same holy tradition. And according to the order prescribed in the pure *Shari'a* that what is not done to the end should not be abandoned; In handing over the usurper monarchy in the first way, which, in addition to all the obvious destructions, has also led to the immediate extinction of the principle of the Islamic State; In a second, which destroys most of the materials of corruption and prevents the domination of infidelity over the country, they commit and command the necessary struggle and struggle to preserve the principle of Islam. It is obvious that punishing the honorable people of Islam for the freedom of their friends from rivals and their participation and equality in all kinds of countries with the usurpers and realizing the dangers of tyranny and the au-

tonomy of the oppressors, is the greatest means and effort for their desire. (Naeini, 1909, p. 53)

The second and third periods of Naeini's political life took a different turn, but we are still witnessing his struggle against tyranny. With the untimely and suspicious death of Akhund Khorasani, the hanging of Sheikh Fazlullah Nouri, the assassination of Tabatabaei, Naeini, he was at the forefront of the struggle and monitored the course of events in Iran. The killing of the freedmen, the torture and deportation of the constitutionalists, and the disfigurement of the clergy were all far from Naeini's sharp and realistic vision. With an open mind and the power of analysis and thinking, he assessed the political and social situation. And by examining the important ways and considering the interests of the *ummah* and the Muslim people, he came to the conclusion that he should refrain from interfering in the constitutional affairs, so that the perversions would not be endorsed. The main motive for Naeini's discouragement of constitutionalism was that he saw that what he and other religious leaders intended did not materialize; And what is there is the opposite of what the religious constitutionalists and the militant clerics wanted. (Untitled, Allameh Naeini the theorist scholar, 2007, p. 264)

In other words, the scholars became disillusioned with the constitution following the events that took place. After receiving the telegram, the Iraqi scholars decided to go to Kazemineh and from there to Iran, where he also participated in this movement. The Russian and British military invasion of Iran took place at the same time as the Italian occupation of Libya. With the arrival of the Italian occupying forces in Libya, there was a cry of protest and opposition from Muslims around the Islamic world. When the issue of the uni-

ty of Islam and the general struggle against colonialism was raised, the scholars pursued their struggles with greater unity and cooperation, and the issue of constitutionalism almost disappeared from the minds and plans of the clergy. Naeini, who was one of the most active participants in the community of scholars in Kazemeyn, gradually not only withdrew from constitutional activities, but also did not even mention the name of the constitution. When he retired from politics, he pursued his scientific life independently. (Ansari, 1990, p. 31)

From this period on, Naeini follows another path to fight against tyranny. Naeini turned away from the constitutionalists and those who had gathered at the table ready and behaved against the wishes of the landlord and were tyrants in constitutional clothes. He did not want any trace of him in such a constitution and the approval of such a constitutionalist to remain in his record. But in various political arenas, where the interests of the Muslims demanded, he was in the forefront and came to the fore with all his might. Including:

1. Fatwa to boycott the Iraqi elections.
2. Participation in the wars of Iraqi Muslims against Britain.
3. Detaining Reza Khan from the Republican plan. (Untitled, Allameh Naeini, the theorist scholar, 2007, p. 265)

In addition to the constitutional movement, during the Russian and British invasion of Iran and the occupation of the northern and southern parts, the scholars of Najaf decided to resist their invasion. Naeini was one of them and played an important role and was one of the leading scholars. In addition to his direct involvement in Iran's socio-political issues, Naeini also played a key role in the Iraqi political process. When Iraq was occupied by the British (1914), the Najaf clerics

declared jihad against the invasion, mobilized the people's forces, and joined the battlefield. In this process, Naeini was one of the scholars who not only participated in the holy jihad; Rather, he was one of the most active elements of jihad, who, through his persistent efforts, encouraged first-rate scholars to adopt military and tactical tactics. (Feyrahi, 2016, p. 5)

At that time, due to the British influence in Iraq and the Russian invasion of Iran, jihad fatwas were issued by the scholars, and the office of Akhund Khorasani was the center of important political meetings where British officials and Turkish and Iranian personalities visited Khorasani. But during this period, people like Sheikh Fazlullah Nouri were more strongly opposed to colonization. The British at that time were trying to bring the Saudi dynasty to power in Saudi Arabia, the Sharif Hussein dynasty in Jordan and Iraq. King Faisal was an agent and affiliated with the British, and the Iraqi people, led by Naeini, resisted. At that time, the Iraqi king decided to deport him to Iran, and Ahmad Shah and then-Foreign Minister Mossadegh al-Saltanah sent greeting telegrams to scholars in Kermanshah. When the clergy arrived in Iran, anti-British propaganda increased in the country. Naeini and other scholars arrived in Qom in 1923 after a 45-day journey. Naeini believed that if governments united in the Islamic world, then colonialism would not succeed. Naeini believed that colonialism would not succeed if governments were reformed. This was, in fact, the thesis of Seyed Jamal al-Din al-Asadabadi that Islamic governments should be reformed and lifted out of petrification. Naeini was opposed to colonialism, but because he saw that colonialism still could not penetrate into the Islamic world, he believed that the fight against tyranny was more important. He matured abroad in Najaf

and Karbala. Once Naeini's eldest son, Haji Mirza Ali Naeini, met with Reza Shah and gave him Naeini's letters and gifts, which included a ring and some Karbala soil. He finally died in Najaf at the age of 76.

Conclusion

According to the presented topics, we can speak of a kind of political-religious pragmatism that instead of focusing on theoretical issues, with pragmatism and innovative reading of religion and politics; Its goal is to fight authoritarian regimes and achieve democracy. A prominent example of such pragmatism was formed in the idea of constitutionalism in Iran. In such a way that many constitutional scholars, by passing through the theoretical conflicts between religious thought and democracy, with a new reading of religion and politics, proposed a kind of religious democracy that tried to provide the ground for the establishment of the constitutional system. This pragmatism was formed during the political struggles as a religious duty. The prominent and famous example of this kind of pragmatism was Mirza Naeini. In such a way that in the existing studies, the focus is mainly on the study of the book *Tanbih al-Ummah* and its interpretation is provided. However, by highlighting Mirza Naeini's pragmatism during his political struggles with the dictatorial regimes, which he considered a religious duty, it was at the heart of his pragmatism that the book *Tanbih al-Ummah* was presented as a theoretical justification. In other words, it was Mirza Naeini's pragmatism in the struggle against tyranny that led to his new theory. This new theory was the result of his pragmatism and theoretical response to it.

Therefore, Naeini pragmatism can be considered before the book of *Tanbih al-Ummah*, which is a process of pragmatism in which

Naeini begins to write the book of *Tanbih al-Ummah*. In such a way that before presenting the book, he had practically fought against tyranny by passing from mental and theoretical issues in order to resolve the conflicts between religious thought and democracy; And with this pragmatism he was able to form a kind of political pragmatism in the religious sphere that introduced the struggle against tyranny as a religious duty. Therefore, the implementation of this religious duty and in order to lay the theoretical foundation for it, the book *Tanbih al-Uma* was a religious justification in the direction of that pragmatism. Therefore, by reading this Nain pragmatism that occurred in his political life, instead of focusing on the punishment of the nation, by focusing on his political life, we showed that the book is nothing but the result of Nain pragmatism.

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