

POWER AND SOVEREIGNTY FOR IRANIAN ELITES OF EARLY 19TH CENTURY

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ABSTRACT

Before Iran-Russia wars of early 19th century, Iranians had no clear understanding of the concept of “power” and its elements. By then, Iranians, albeit in a limited sense, for the first time became familiar with the issue of modernity. This familiarity was due to wars with Russia which was at that time an emerging colonial power. As a result of this war, some very limited number of Iranian elites collected that the concept of “power” was changing and old conceptualizations which took the emperor as the basis of power were no longer in place. Defeats in war against Russia problematized the concept of power, and studying the rise and fall of powers became an issue worthy of consideration. Moreover, replacements in borderlines entailed a kind of “border consciousness” among Iranian elites and guided them to understand the modern concept of sovereignty for the first time. The issue of sovereignty paved the way for posing the issue of law which was not something important in the empire model of governance in Iran.

Keywords: Power; Modernity; Iran-Russia Wars; Sovereignty

THE FIRST CONFRONTATION WITH THE CONCEPT OF POWER

Before Iran-Russia wars of the 19th century, Iranians had no idea of centuries long debates and discussions among Western theorists on the concept of power and sovereignty. In Iranian traditional perspective, power was perceived to be located in the space between maximalist conceptualization of court clerks and real frontiers of the power itself. For centuries before, and particularly from the revival of Iran-shahr perspective, Iranian kings perceived absolute power for themselves, but, in order to implement their authority, they had to continuously solicit and cooperate with other centers of power.²⁴

In this sense, Iranians were caught in a long and slow temporality in that their concept of the problem of power was left unchanged for Hundreds of years. Although Iranian elites who ruled Iran during early Safavid period had started interacting with European countries and even in some cases they engaged in war with them over islands in the Persian Gulf, for Iranians neither these interactions nor those wars provided the opportunity for the concept of power to become a serious problematic. From one perspective, Iranians’ defeat in Iran-Russia wars was not so much questionable as were previous defeats against Genghis Khan, Tamerlane and first Sultan Salim. But, since the result of this last war was the victory for a previously weak northern country, and it showed that the old way of war was no longer working and countries needed something beyond courage and morale, some few Iranian elites started to cast some questions.

Before that, for various reasons, Iranian had no confrontation with, or connection to, the new world. A great part of Iranian elites’ unawareness about intellectual and social developments in Europe was due to Ottoman’s dominance over Asia Minor and east-west roads that according to Adamiyat like a “Great Wall” deprived Iranians of communication and unmediated confrontation with the West (Adamiyat, *Amirkabir va Iran*, 2010, p. 159). Also, the metaphor of “Great Wall” has been used several times to show how Iranians were trapped in the slow and long traditional way of development: An aide of Claude Matthieu, Count Gardane wrote: “Iranians . . . are so unaware of the state of the world and latest developments of the last century as if they live behind the Great Wall. When I spoke to their high rank authorities about great revolution of France and principles of the republic and human

²⁴ For example Ervand Abrahamian says that Qajar kings were not even able to retain the pomp of the previous kings and they “were Shadows of the Almighty whose writ often did not extend beyond the capital; monarchs who considered them-selves to be God's representatives on earth but were viewed by the main religious leaders to be usurpers of God's authority; sovereigns who sanctified the feet of their thrones but lacked the instruments for enforcing their decisions; shah-in-shahs who ruled not other kings, as they claimed, but through, and so with the kind permission of, "minor kings," such as tribal chiefs, local notables, and religious leaders. In theory, the shahs were omnipotent; in practice, they were politically impotent” (Abrahamian, 1982, p. 41).

rights, they were so astonished as though I was telling stories of *One Thousand and One Nights*" (Malekzadeh, 2002, pp. 83-84).

Confrontation with Russia agitated consciousness of the Iranian elites and disrupted old coordinated Rhythm among social life, political sphere and cultural components (TabaTabaei, 2006, p. 53). Even, we can take Foucault's approach and see this crisis in a more radical perspective. Before Iran-Russia wars, Iranians were unaware of the era they were living in. More precisely, like Europeans during the mediaeval, they were unaware of a stagnant or slow historical temporality they were living in and hence, the idea of advancement was not especially important for them. This issue did not remain hidden from outsiders' eyes. Historical consciousness of the society was Islamic and to some sense, archaic. Anyway, in this period of about thousand years there were Islamic identity-building components which were dynamic and liquid, though these components were re-articulated sometimes, in a way that left the main framework mostly intact. For Fereydoon Adamiyat, before Iran-Russia wars there were two Iranian-archaic and Islamic traditions which were running along each other (Adamiyat, 1968, p. 17).

For grassroots historical consciousness was also a mixture of Islamic and archaic components in which the religion was more nuanced and redefined archaic concepts. But, for both elites and grassroots there is no sign of their awareness of medieval-like slow and long process in which Iran lived. Hence, by the early 19th century some Iranian elites became aware of two different temporalities: slow and long temporality of the tradition in which they had lived for centuries, and fast-paced temporality which had started one or two centuries ago in an unknown geography and was about to uproot and supersede the slow and local temporalities. The first sparks of this consciousness was produced by Iran-Russia wars. French diplomat of the early 19th century in Iran Pierre Amédée Emilien Probe Jaubert mentioned his talk to Mirza Shafi' Mazandarani prime minister of Fath Ali Shah and quoted him:

There is no doubt that we are far away from European civilization while Westerners now push the limits of human knowledge more than ever; whether by God's commandment or because of its moderate weather, people of Iran are now at the end of advancement in knowledge and art and are now used to love lust and comfort; Iranians are now in the same situation as their ancestors were by the time of Alexander. They cannot be proud of themselves because they haven't invented any useful thing, and contemporary novelty which has been introduced to them is like plants which grow somewhere else and when transferred elsewhere will not yield fruits. Russians which we used to denigrate because of their widespread ignorance are now superior to us in many ways (Jaubert, 1969, p. 175).

In this quotation Mirza Shafi' speaks about "end of advancement in knowledge and art" as though he holds a kind of anachronic historical consciousness for Iranians in the previous decades, but, his immediate allusion to "Iranians are now in the same situation as their ancestors were by the time of Alexander" is a reference to this long and slow temporality and also to unawareness of Iranians about the medieval-like temporality they were living in. Needless to say, understanding the idea of development can only happen in the framework of tradition of enlightenment and the will towards novelty and development. It was not accidental that Peter the Great as an "enlightened despot" was praised by some intellectuals because of his endeavors for modernization of the Russia and some Iranian elites took him to be a model for modernization in Iran. This was the way exposure with Russians provided the ground for emergence of a crisis in the historical consciousness of Iranians. At first, this crisis was only in the minds of a limited number of political and military elites but after some decades it emitted to some other parts of the society. We should note, however, that even for these elites there was no integrated and clear picture of this crisis. For many of them, this crisis in historical consciousness was accompanied by ignorance about the nature of enlightenment and idea of development. The same French diplomat when narrates Fath Ali Khan Biglarbeigi of Azarbaijan about scientific advancements of France and their military triumphs quoted him:

There is no doubt that the French are special people because they are most knowledgeable among knowledgeable people and they are the most courageous among courageous people. What is the use of being proud of nobility of our origin and race, or to praise wisdom of our ancestors and glories of our heroes? You've revived the time of glorious Rostam and Khosrow. Your wise people have inherited knowledge of Zarathustra and your warriors are inheritors of martial competency of Alexander (Jaubert, 1969, pp. 125-126).

The first outcome of crisis in historical consciousness was conversion of the concept of power into a real problematic among some pioneer Iranian elites. In other words, "military necessities" and "the art of war" for elites like Abbas Mirza became a demanding question. Before this time, Iranian army was dependent on tribal forces and seasonal soldiers and instead of military and national interests, forces were motivated by possible opportunities for pillage and at best, courage and epic. After first battles with Russia, Abbas Mirza's officers recognized the

importance of new art and facilities of war and hence they collected a set of books about art of war which were either in French or Russian; they tried to get these books translated by the help of Russian officers (Jaubert , 1969, p. 271). Although the first exposures with new conceptualizations of power happened in the frontlines and accordingly these conceptualizations were reduced to application of the art of war and awareness of military necessities, Abbas Mirza and his associates in their headquarter in Tabriz came to conclusion that reformation in the army and application of the art of war was itself a part of the wider political developments. This point was clear in their interest in the personality of Peter the Great and his achievements in the Russia and their endeavor to help Abbas Mirza to play a similar role in Iran. It seems Abbas Mirza had made a preliminary comparative study between tribal system of Iran and modernizing system of Russia and this had helped him to recognize the necessary relationship between reformation in the army and developing new ways of ruling. Abbas Mirza had correctly recognized that new developments in the West had put an end to the age of old empires. In a conversation with Jubert he said:

What made you so superior to us? What are the causes of your strength and our weakness? You know the art of ruling, the art of victory, and the art of employing all human facilities while it seems we have become convicted to be immersed in the mess of ignorance and can barely think about our future. Are lands in the East less fertile and habitable than yours in your Europe? Before getting to you, rays of light have to pass our country, but are they more benevolent to you? Is the beneficent lord who endows different things more inclined towards you? I don't think so . . . ah, you alien! Tell me what should I do to give Iranians a new life? (Jaubert , 1969, p. 137).

In one sense, Iran-Russia wars opened new horizons before the eyes of Iranian elites. Beside opening up some kind of historical consciousness in power, these clashes for the first time made sovereignty and the art of war some important problems. We should note, however, that only a small circle of officers and associates of Abbas Mirza who was crown prince at that time were engaging with this new problematic and grassroots and great majority of elites did not find themselves confronted with this problematic for decades. Therefore, the first confrontation of Iranian elites with modernity shaped around the concept of power and was accompanied by translation of some books on this topic. It was in this context that courtship of the city of Tabriz – which was nearer to Russia and Europe in comparison with other major Iranian cities- started supervising translation of some books about Peter the Great, Napoleon, Alexander and Roman Empire; the main theme of all these books was power. For Fereydoon Adamiyat,

Military defeats of Iran in battles with Russia, and awareness of the power of the Europe made wise people vigilant and they sought to find the secrets of West's advancement and their own misery and weakness . . . advancements of Russia was exemplary in two respects and occupied the minds of those wise people. First, Iranians always knew Russians as barbaric and ignorant; second, the first damage they experienced from the west was on the part of Russians. It was time, therefore, to take lessons from Peter the Great who could guide his country from misery to glory. That is why *History of Charles XII* (by Voltaire) was one of the first books which was translated into Persian and printed. It was the same interest in advancements of Russia that made Abbas Mirza trying to find personality of Peter the Great in himself. And we can recognize the same interest in services of great European men in translation of books about Napoleon, Charles XII of Sweden, and Alexander at this time. Conversely, people like Mirza Reza Mohandes translated *The History of the Decline and Fall of the Roman Empire* by Gibbon into Persian, perhaps in the hope that Iranians can find the mystery of the fall and destruction of their own country ((Adamiyat , 1968, p. 20); Italics added).

Fereydoon Adamiyat has recognized the motivations of the courtship of Tabriz aright. Defeat in war against Russia made the concept of power a problematic. It is obvious that reference to courage, gallantry, and even savageness of the army of Russia could not satisfy their questions about the nature of irresistible power of the Russian army. At Aslanduz on the Aras 2,260 Russians under General P.S. Kotlyarevsky fought a two-day battle with 30,000 Persians under Abbas Mirza, killing 1,200 Iranian soldiers, and capturing 537 at a loss to themselves of only 127 dead and wounded (Fisher, Avery, Hambly, & Melville, 1991, p. 334). About three centuries before, Iranians confronted the firearms of Ottomans in Chaldiran but this did not confront them with such questions. Therefore, it could be said that this issue was beyond quality of weapons used at war and extended to issues of the nature of the modern power and its different applications. Even Ottomans themselves did not find themselves confronted with such questions before centuries of war in the heart of the Europe (Adamiyat , 1968, p. 19). For Abbas Mirza, although developments in Russia after imperative reformations of Peter the Great entailed disastrous consequences for Qajar army, it could, however, be promising if seen from a different angle. Unlike France, Russia was more accessible and seemed more real. If they could capture the nature of modern power and learn how to implement it

to leave their medieval of their own history behind, why should Iranians could not do the same? Moreover, as Jaubert said, Abbas Mirza was aware of precedence of France as compared to Russians in this respect and knew about superiority of France to Russia; he was also familiar with personality of Napoleon and it seems they had recognized that the origin of this new power should be sought somewhere beyond Russia and in a personality different from that of Peter the Great. Translation of Napoleon's biography happened in such a context. As Adamiyat said, Abbas Mirza and like-minded people saw *The History of the Decline and Fall of the Roman Empire* as a mirror which showed fall and destruction of their ancient empire. In one sense, they were looking for some kind of diagnosis in medieval systems and causes for their collapse.

This point is important in that most of the Iranian elites saw confrontation with the Russian government only in terms of traditional concepts. For example, *Resaleye Jahadiyeh* (Letter of Jihad) by grand clerics still saw everything with dichotomy of land of Islam vs Land of pagans and even knew new secular way of life in Russia as an example of Christian and disbelief way of life.

THE PROBLEM OF SOVEREIGNTY

What Abbas Mirza and his advisers in courtship of Tabriz were seeking was ignored by his untimely death in 1833. His death deeply depressed his father and he died several months later as well. After Fath Ali Shah, Abbas Mirza's brother Mohammad Shah came to power and historical consciousness and necessity of reforms were forgotten for almost two decades, though some works like *History of Charles XII* ordered by Abbas Mirza were printed and distributed (Adamiyat, 2008, p. 53). From the theoretical standpoint, however, we can attribute this delay to other fundamental issues. Abbas Mirza and the like-minded were totally dedicated to understand new military necessities and considered adoption of theory of war, and therefore, they lack the wider perspective on reformation and even issues related to newly emerged Western powers. If the issue could be reduced to mere modern warfare, then the deeper crisis of Ottoman government which was stronger than any other European army until 18th century would have become an unresolvable problem.

In one sense, by that time Iran had no sovereignty in the classical sense and in the absence of a constitutional and pervasive legal system, such a problem was neither practical nor urgent. For centuries only for very short intervals there was a central government which could be sovereign in the whole country and the power of the central government was always conditioned by rebellion and arrogance of local governors. The very term "*mamalek-e mahrooseye Iran*" (countries under the protection of Iran) has important implications. In his book *Iran and Amirkabir*, Fereydoon Adamiyat suggested that this term shows "the political geography form of this vast land . . . in relation to the central government" (Adamiyat, 2010, p. 231). Although elsewhere in this book he wrote "with the establishment of the Safavid government, one of the first national states as the new age after the medieval sees, shaped in Iran" (Adamiyat, 2010, p. 62). However, he kept an eye on religious nature of the Safavid government and saw it as an obstacle to dissolution of Iran in the Sunni world.

It is intriguing that Adamiyat takes the Safavid government as an example of "national state" in the "new age." We know that the shaping of the national states and in the more precise sense, the concept of sovereignty, is the result of continuous critique of, and debate with, the Western tradition. Particularly, the concept of sovereignty was the result of written and immanent critique which was facilitated by Roman legal tradition and at least in the first stages was manifested in theoretical clash between Catholic Church, Roman Holy Empire, and local governors (Hinsley, 1986, p. 89). With no doubt, when Safavid state took shape, and centuries after that, Iranians were highly unaware of these debates. Moreover, even if we assume they were aware of these developments, such arguments did not yield any meaning in the Iranian society. Therefore, accidental simultaneity of the Safavid state with emergence of national states in Europe entail no particular theoretical consequences. Even for the Ottoman empire which witnessed centuries of genesis of new concept of sovereignty and thrive of national states in Europe, such discussions were meaningless until late 18th century.

Adamiyat, however, saw recorded chaos and disorders in the history of Iran as something transient and did not see them as something that could rapture sovereignty of the government or political system of the country. For him, "the right of sovereignty for the government in the mind of people and also practical concept of that" was always in place. He thought the limits of the power and duties of local governors emanated from the central power which itself was tied to charter of monarchy. He even went further to say that the intention of the rebellious commanders to rule the whole country of Iran is an evidence which shows "the representation of the territory of Iran as a unified and integrated political entity had always existed."

But this conclusion is not consistent with the works of Western travel writers. As Roksaneh Farmanfarmaeian remarked: "in rethinking and reevaluating the past, the meanings that today's historians attribute to the past events, distort view angle of the eyewitnesses" (Farmanfarmaeian, 2010, p. 7). For example, Jaubert as an eyewitness whose travel writing is full of good judgments about behavior of Iranians and their religious tolerance and respect for women and minorities, has recorded his observation of national consciousness through conversations with people: "if you ask a tribesman, he doesn't say he is Iranian. This universal term is not known here. He would rather say I am Afshar, I am Zand, I am Bakhtiari" (Jaubert, 1969, p. 196). Obviously, for a today's observer, the rise of the Safavids was one of the important moments in genesis of the modern Iranian identity, but, this does not mean that these developments are the likes of what happened in Europe's 16th century. Material and intellectual basis of these two developments have no similarities. Iranian history of 19th century proves this. During 19th century, there was an increasing intention on the part of the Iranian intellectuals and statesmen towards creating a united and national state. Realization of these endeavors, however, needed decades of struggle. The very zeal for such a state shows its lack in the premodern Iran.

There is no doubt that it was because of Iran-Russia wars that Iranian elites became familiar with the issue of sovereignty, integrated political and legal system and accordingly an integrated identity, through a kind of border consciousness experience. Before that, the phenomenon of border or territory lines had no explicit reference in the consciousness of Iranians and was more about the limits of power of a government or state. States were most powerful in the courtship but their power gradually weakened as one distanced himself from the capital. Territory line was a place in which the sovereignty of the central government and its allies gradually, and not suddenly, waned. For example, Avery *et al.* described kingdom under the rule of Fath Ali Shah: "it is claimed that his kingdom was the same as his Safavid predecessors' while they were in their heydays. It is clear that Safavid territory was more vast than the later borders of Iran. . . Power emanated from Tehran, but it gradually became weak. In the most part of Khorasan or farther, in lands of Lurs, the Torkaman, and the Balouch, the king was not even nominally the king" (Avery, Hambly, & Melville, 2010, p. 71).

Needless to say, the sovereignty of the central government in the borderlines was never steady. The ratio of distance to the courtship, the level of sovereignty of the king led into the phenomenon of undetermined borders. In this governance model borders were mainly "wide stripes" in which enforcing sovereignty often necessitated coordination and negotiation with the ruling power across that borders. Therefore, in this wide stripe, the sovereignty of both countries across this region was applied in an intertwined manner in which there was a constant process of cooperation and struggle. In other words, undetermined borders which included all Iranian borders in the north, east and west produced many problems (Avery, Hambly, & Melville, 2010, p. 75). In this very wide stripe which sometimes encompassed vast territories like Kurdish emirates, sovereignty as we know it today did not exist. For example, although an emirate like Babans formally was under Ottoman rule, its persistence and rule necessitated pleasing and cooperating with Iran. According to Richard Schofield, Iranian-Ottoman borders were never settled down in this contradictory region and this situation had helped people who lived in this region to enjoy a kind of local freedoms and autonomy (Farmanfarmaeian, 2010, p. 255).

In the northern territories, frequent incursions of Torkamans had made the concept of border practically meaningless. In that region the emergence of the concept of border only happened as the Russian army advanced deep in the territory and annexed it to the kingdom of the Russian empire. In the southern planes, Iranian kings were unable to subjugate Arab states before Naseraddin Shah's rule by the mid-19th century and basically, after Mongol invasion, Persian Gulf was under the rule of European powers and their trade corporations and Safavids only could establish their sovereignty in the northern shores with the help of the British naval force (Farmanfarmaeian, 2010, p. 214). Even in the states like Georgia which was the farthest reach of the power of Iranian kings by the early Qajar period, loyalty of Bagratid dynasty to the Iran's government had never concrete manifestations. For centuries, Bagrationi dynasty claim themselves as "independent rulers with the power to make independent decisions" (Farmanfarmaeian, 2010, p. 1349). Likewise, in the eastern and north-eastern borders the sovereignty of the central government was often conditioned by local rulers or collided with sovereignty of another government. In some of these emirates, they had their coins on which the local rulers' face was engraved on one side while the King's profile was engraved on the other side. These coins themselves can express undetermined and vague situation of undefinable borders of that time. Moreover, this very issue shows that understanding the concept of sovereignty in the political and intellectual system of that time was not very easy or was at odd with political and intellectual necessities of that time.

What happened in the 19th century and took decades was development of the concept of border in the consciousness of Iranian people, and emergence of a kind of border consciousness that on one hand saw border as real lines which were precise and Insurmountable based on which sovereignty and power of two governments was evenly distributed, and on the other hand, it literally detached inside and outside of the country. We said earlier that borders were not explicit until 19th century and after the Safavids, Iranian borders were dependent on the power of the king. There is no doubt that Agha Mohammad Khan Qajar and other Qajar kings tried to get to the borders of the Safavid (Avery, Hambly, & Melville, 2010, p. 44), yet, there is hardly evidences that show their conceptualizations of border was much different from what was rampant during their time. Abbas Mirza's conversations with Napoleon's envoy, however, shows signs of such consciousness. He lamented about shifts in borders at expense of Iran (Jaubert, 1969). According to Avery *et al.*, Russians had sought permanent borders with Iran long before and they were considering Aras river as the border; therefore, symbols of Iranian sovereignty were inevitably wiped out in the north of Aras (Avery, Hambly, & Melville, 2010). Yet, compulsory and even humiliating conversion of wide northern border stripe into a marked border had more important implications and consequences. Making Aras river borderline meant severance of Iran's connections with territories that used to be under the Iranian rule for centuries. This is important in the sense that according to some contemporary commentators, in absence of defined and Insurmountable borders, and without solid differentiation of inside/outside, sovereignty is unimaginable.

After Iran-Russia wars, Mohammad Shah of Iran and the Ottoman empire decided to make their wide stripe border into a thin and precise border with the mediation of Russia and Britain. This issue was raised because both countries continuously struggled over sovereignty in this stripe. This stripe encompassed several cities and emirates and therefore, it was not easy at all to convert it into a thin, precise and Insurmountable borderline. This is why negotiations between two countries took 4 years and it was not until 1914 that precise borders were determined (Farmanfarmaeian, 2010, p. 284). Before that, several pacts were made between both countries but because the situation of borderlines was itself dependent on the power of both countries, and loyalty and belonging of local emirates was dependent on particular exigencies, situations of emirates like Baban and Sulaymanieh remained vague. On the other hand, determination of borderlines was not only dependent on the contested geography, but, as we can see in the words of Mushir-al-Dawlah, there were people in this geography and the issue of citizenship of these people exacerbated the complexities.

Like Turkmanchai treaty, this negotiation's goal was to determine and mark precise borderline. Unlike the previous negotiations in which negotiators resorted to vague and universal criteria, this negotiation was based on more or less precise criteria and was highly technical. *Resale-ye Tahghighat-e Sarhadiyeh* (treatise of border studies) by Mushir-al-Dawlah was one of the most precise geographic studies of that time and described the problems of Arzanat-al-Room treaty. It also shows the change in the concept of border for the Iranian elites and describes how border became a precise and Insurmountable line around the modern concept of sovereignty. In this tract Mushir-al-Dawlah thinks Amirkabir was unable to complete his mission because he had "no enough facilities to measure border territories" (Mushir-al-Dawlah, 1969, p. 38).

The most of this tract include precise and technical conversations on determining a precise borderline. Based on the article two of this treaty both parties denied any rights to lands inside the other country and accepted to "immediately assign engineers and clerks" to determine borders based on article one of the treaty. Article eight was about nomads who lived on both sides and "their owner is not determined [!]" and therefore this article says these nomads were free to decide where they wanted to live and after they decided on this, they "will be forced to assume" the citizenship of their chosen country (Mushir-al-Dawlah, 1969, p. 44). A review on this treaty which is the result of four years of discussions about the future of nomads points to a kind of border consciousness that is tightly linked with the concept of sovereignty in its initial manifestations.

What is now called separation of Herat, Baluchistan, and Torkaman territories can only be understood in the framework of mutual relationship between border consciousness and decline of the power of the Iranian empire. Except for particular periods, Herat and Torkamanistan were never practically belonged to Iran. In most cases, these regions were part of border stripe in which the power and influence of the Iranian king was at its minimum level. Coining and declaring sovereignty in the name of the Iranian kings were the only manifestation of sovereignty of Iranian kings in those regions.

From early 19th century, as border consciousness became gradually important for Iranian elites, and after endeavors to turn wide border stripes into thin and precise lines which happened mostly during Amirkabir's administration, the decaying power of the Iranian empire could not cope with modern power of Russia and Britain

and therefore negotiations on border stripes most of the time culminated into Iran's withdrawal of this whole contested stripe. One of the reasons this border consciousness shaped among Iranian elites was the Britain's endeavor to convert border stripes into a shield zone to defend India; Britain also tried to evict Iran's loosely rule in this border regions. From one aspect, Iran's endeavor to change undetermined and wide borders into precise ones and implementing its sovereignty over those regions entailed reverse and disastrous consequences. Paris Treaty and separation of Herat from Iran happened in such context (see for example Avery *et al.*). Conversely, Iran willingly accepted Akhal Treaty (1881) to give away Khanat of Khiveh and Bukhara to Russia because it was decades that Iran had no sovereignty there and Torkamans of this regions had resorted to sectarian justifications to declare that lives and properties of the Shia were *Halal*; they frequently attacked Iranians in the interior territories of Iran and took many Iranians captive, killed many other and plundered their homes. During 19th century Qajar kings had several wars with Torkamans and 11 years of futile war finished only by presence of Russia and formation of Akhal Treaty (Sykes, 1984, p. 515). This treaty in which Iranians were supposed to get rid of Torkaman fighters, separated the very regions in the wide stripe which were out of Iranian control.

Hence, before 19th century, a border were a wide stripe which was inhabited and lived by many people. It was a slice of a geography, or more precisely, a real geography and place in which lives of thousands of people were ongoing and the only different it had with other parts was that this region was the locus were two powers nullified each other's influence which meant there would be a powerful local and sovereign power which ruled over the region. In new conceptualization, border is not part of the geography, but an assumptive line which is at the same time real and separates two different territories. Now, the border is a dotted line in which no life exists. A border is a very "line" that detaches the interior and the exterior, and the compatriot and the alien.

One other direction in premodern models of governance in Iran could be recognized in the problem of law, or more precisely, legal law. Before the constitutional revolution, governance system of Iran was based on a particular empire model in which the ruler did not need laws. For centuries, Iran had no proper legal infrastructure to organize relationship of the king with the subjects. This was the assumption of the first generation of Iranian intellectuals confronting the issue of development and modernization. Some of these intellectuals like Malkom Khan thought all historical periods of Iran witnessed arbitrary rule of the Kings (Malkum Khan, 2010, p. 40) while Akhundzadeh and Agha Khan Kermani, without providing much evidences, held that the lack of legal order was due to Arab dominance over Iran and therefore, they took the concept of cultural pact to claim Iran had some sort of laws before Arab invasion in the 7th century (Akhundzadeh, 1985, p. 10). The special model of Iran was thoroughly different from the governance model of Roman Empire which by the end of the medieval became a model of new sovereignties. In Roman Empire there was a developed and written legal order which the empire could only change it in urgent circumstances while for the Iranian kings there was no need to respect the law and they were completely free of everything; their actions were dependent on level of loyalty of local states and kings made decisions out of their own personal will or sometimes after consulting their advisers. Each order from king was an impromptu law until the next order abrogated it. Even in a despotic regime, issuing contradictory order-laws prevented any legal order to take shape.

Yet, in parallel with this exemption of king from all laws, in all historical periods of Iran there has been a kind of jurisprudence; however, because of the scattered nature of political power, there was never a well-integrated jurisprudence in this country. The existence of this loosely judicial system was due to the need for management of relationships among citizens and making this relationships predictable. Before the Constitutional Revolution, or more precisely before the Reza Shah's reformations, Iran had no integrated jurisprudence and instead there was a coexistence between two civic and religious jurisprudences.

According to Willem Floor and Amin Banani, this judicial system took shape in early days of Islamic empire. They say after this period there has always been a simultaneous presence of both religious and civic judicial systems. Moreover, they say this system was rooted in Sasanid judicial system (Floor and banani, 2009: 5-6). For Floor and Banani, during the first centuries of the Islamic civilization and after the development of Islamic jurisprudence (or *fiqh*), there was enough resources for courts and after that the Iran-shahri perception of a just and divine king was taken up and revived by Muslims (*ibid*, 9). Khaje Nezam Al-Molk, unlike Floor and Banani, held that justice is not only examination of the law, but, we can only know a system just, when a just king is at its top and therefore, justice of a king, and not compiling and implementing a just law, guarantees justice of a system (Khaje Nezam Al-Molk, 1985). In the states, this role were taken by the governor. During Safavids, the head of the jurisprudence was a civic post while religious courts under the clergies more worked with the issues of status.

Jurisprudence system of Qajar era, like jurisprudence system of the Safavids was based on differentiation of civic and religious courts which means rulers and the clergy mutually recognized each other. Nevertheless, Iranian jurisprudence during the Qajar era had some specific characteristics as compared with the Safavid jurisprudence. On one hand, by giving the right of capitulation to the Western citizens, the Qajars breached the legitimacy of judicial courts, and on the other hand, the mainstream clergies superseded the Akhbarioon (a Shia sect which negates reasoning and thinks Quran and hadiths are enough for all conclusions) and this increased the number of clergies who claimed they could lead people and solve their problems (Amin, 2007, p. 388). Differentiation of these two judicial systems was based on their uses for different kinds of laws, though sometimes overlaps happened. Religious courts often dealt with complains about private and civil rights and individual status and on the other side, civic courts dealt with public rights and criminal laws and therefore whatever had any connection with public order or life and property of the people was in the realm of the judges who were appointed by the government (Amin, 2007, pp. 388-389). Law enforcement department was the only institute which linked these two courts. Clerks and state authorities were responsible to implement verdicts of both courts.

In comparison, the religious jurisprudence was more developed and articulated than civic jurisprudence because the former was rooted in *fiqh* which has clear and articulated legal conclusions for different aspects of procedural law while the later had no integrated and well-articulated and therefore predictable procedures. Flaws of civic jurisprudence was more due to the lack of legal order in the country, or more precisely, lack of any legal relations between the ruler and the ruled. Therefore, the rulers could issue any verdict parallel with procedural system or even without any legal procedures. The lack of independence for legal system left scant hope for realization of the justice (ibid, 391). Because of the lack of legal order, a public insecurity ensued and this along with despotism of the king had made the Iranian legal system highly inefficient. Ehteshamo-Saltaneh says people owned properties, jewels or commercial firms but it was possible that over a night “they lose their property and wealth along with their honor. Nobody actually owned nothing and there was no protection or warranty for wealth, honor and even people’s wives, daughters and sisters. The king had the right to freely issue an order to confiscated personal properties” (Ehteshamo-Saltaneh, 1987, p. 124). Ehteshamo-Saltaneh added that rulers governors and feudals each did the same in their kingdom and therefore he thought the only law in premodern Iran was the law of “the eater and the eaten” because the king and the state did not tolerate legal courts and their religious and written laws. Ehteshamo-Saltaneh thought the greatest misery of Iranians was the lack of legal security and social justice.

From Abbas Mirza to the Iranian Constitutional Revolution, Iran witnessed an endeavor by reformists to integrate legal system of the country and marginalize religious jurisprudence; they wanted all legal procedures to be taken up by judges who were appointed by the government. A study on government documents and particularly on writings about characteristics of the government we can recognize this dichotomy as one of the many signs of lack of sovereignty in its common meaning. Actions of Abbas Mirza, Ghaem Magham Farahani, Amirkabir, Sepahsalar and Mostasharo-dowleh are all expressions of this unfinished struggle. Even there are evidences that despite these reforms, the legal chaos during the end of the Qajar reign has been intensified. Mohammad Ali Katouzian says that during 1910-1920 the corruption in the religious jurisprudence skyrocketed and bribery was openly rampant. For one same case, often there was contradictory verdicts. Civic courts also took this opportunity and tried to benefit from the chaos (Katouzian, 2000, p. 103). Finally, after the success of the Constitutional Revolution, an integrated jurisprudence was –though on paper- formed in Iran. Yet, dichotomy still persisted in the article 27 of the amendment of the constitution which tried to conceal the nature of this dichotomy in a single system.

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