Women Relatives and Continuity of Family Patrimony in Nineteenth Century Iran: The Case of Fatḥ ʻAlī Khān Donbolī's Mother, Wife, and Daughter-in-Law

ABE Naofumi

Introduction

The idea of "family patrimony"—which I define as property constituted from family members' personal (or legal) property and administered and retained in a consolidated fashion—seems to be a somewhat unfamiliar concept in the framework of traditional Islamic legal theory. Islamic law largely considers personal ownership and scarcely supposes the existence of family ownership, which is certainly a different notion from the idea of simply mitigating legal shares of ownership between/among individuals. This is why the issue of family patrimony has been dealt with so infrequently in the field of Middle Eastern Studies, except in the case of *waqf* property.[1]

In the case of Aleppo's notables, Meriwether mentions family patrimony several times in her monograph.[2] However, she does not define this concept clearly, nor does she provide a concrete explanation of its features or structure, for example, its legal status, system of administration, and strategy for its transference to subsequent generations.[3] Presumably, she means that family patrimony is joint property that results from a delay in the distribution of inheritance.[4]

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[1] In theory, ownership of *waqf* property is dedicated to God. In the case of family *waqf* (*waqf ahlī*), the descendents of the endower of the *waqf* property are beneficiaries of the incomes of that property. This family *waqf* property is not regulated in personal ownership and, thus, it is regarded as a kind of "family property." Following studies are good examples of the study in family *waqf* in Iran: Iwatake, A. 1989 "Niẓām ke no wakufu to 14 seiki no Yazd," *Shirin* 72, no. 3 and Iwatake 2003 "The Waqf of a Timurid Amir: the Example of Chaqmaq Shami in Yazd," In *Persian Documents: Social History of Iran and Turan in the Fifteenth–Nineteenth Centuries*, ed. N. Kondo, London: Routledge Curzon; Kondo, N. 2001, "Manūchehr Khān no shisan to wakufu," *Tōyōshi kenkyū* 60, no. 1; Werner, Ch. 2000 *An Iranian Town in Transition —A Social and Economic History of the Elites in Tabriz, 1747–1848*, Wiesbaden: Otto Harrassowitz.

[2] Meriwether, L. M. 1999 *The Kin Who Count: Family and Society in Ottoman Aleppo, 1770–1840*, Austin: University of Texas Press.

[3] Meriwether sometimes defines the term "patrimony" very literally (i.e., father's property). We must distinguish between the meaning of similar terms in this context; for example, "patrimony," "estate," and "property." Meriwether admits that she did not succeed in presenting the exact amount of the family's or individual's property (Meriwether 1999: 45).

[4] Meriwether 1999: 164.

To my knowledge, no article has directly addressed this issue in the context of Iran. The family *waqf* property can be regarded as a kind of family patrimony, although we cannot suppose that all the founders transformed all their property into the family *waqf* when they established it.[5] In addition, most research on family *waqf* property provides only limited information about the property after its establishment, the status of the endower's descendants, and the system of distribution of its income among beneficiaries.[6] Werner examined the change and continuity of property for generations,[7] which might be situated in this context. He discussed the conflict over the status of administrator (*motavallī*) or *waqf* incomes, rather than the endeavors of family members to sustain property.

Family patrimony should be examined in more detail because it reflects the reality of property rather than its theoretical or legal status. Thus, this study examines the family patrimony system by evaluating the estate (*tarika*/*matrūkāt*) of the late Fatḥ ʻAlī Khān Donbolī (d. 1875) and his ancestors, a local notable family in nineteenth century Iran.[8] Fatḥ ʻAlī Khān was a distinguished member of society in nineteenth century Tabrīz, the center of Azerbayjan in the northwest part of Iran.[9] At least four inventories of his property were drawn up after his death. Due to the limitations of historical material in Iran, especially archival materials, we have little choice but to begin with a case study as a way of understanding how family patrimony worked.[10]

I researched Fatḥ ʻAlī Khān's "property retention" tactics through a comparative analysis on the above-mentioned inventories with other historical materials to verify attempts made to transfer property from generation to generation and to pre-

[5] Iwatake's case study on the Niẓām family in fourteenth century Yazd and Kondo's study on the Manūchehr Khān in nineteenth century Tehrān show that all property was not endowed to *waqf* property (Iwatake 1989: 10; Kondo 2001: 19).

[6] Iwatake verified the continuity of Amīr Chaqmāq's *waqf* property from the fifteenth to the nineteenth century (Iwatake 1993 "Iran niokeru wakufu no keizoku: Yazd niokeru Amīr Chaqmāq no wakufu no zirei," *Islam sekai* 42). However, he did not analyze the family's endeavor or techniques for the continuity of property, perhaps because of the limitation of historical materials.

[7] Werner 2000: 103–22.

[8] I published two articles (in Japanese) about this family, and these articles are related to the present one. See Abe, N. 2009 "Zaisan to sōzoku kara mita 18–19 seiki Tabrīz no Najafqolī Khān Donbolī Ichizoku," *Seinan Ajia kenkyū* 70 and Abe 2010a "Jūkyū seiki Iran no chihōshakai no yūryokusha niyoru "zaisan hoyū" saku," *Tōyō gakuhō* 92, no. 2.

[9] *Tārīkh-e Tabrīz* [History of Tabrīz] gives us a brief biography of Fatḥ ʻAlī Khān Donbolī (Nāder Mīrzā, *Tārīkh va Joghrāfī-ye Dār al-Salṭane-ye Tabrīz*, ed. Gh. Ṭabāṭabāʾī Majd, Tabrīz: Enteshārāt-e Sotūde, 1373sh, 232–33).

[10] All the archival materials that I used for this study are taken from the Amīr Kabīriyān fund and the Zahrā Ḥasanī fund from the National Archives of Iran (hereafter Asnād).

serve it as much as possible.[11] Fatḥ ʻAlī Khān attempted to retain and manage not only his legally-owned real estate but also that of his mother, Mehrjahān, in a consolidated fashion. This constitutes an example of "property retention" not in accord with legal ownership customs.[12] I define all this property as a type of family patrimony.[13]

The late Fatḥ ʻAlī Khān's inventories indicate that his women relatives were counted as creditors as well as heirs. Under the Islamic law of inheritance, women relatives (e.g., mother, daughter, or wife) are entitled as legal heirs to rights of inheritance from the deceased. However, as Meriwether mentions, "whether women realized these rights has been a point of much discussion and debate."[14]

In this article, I focus on women's attitudes toward family patrimony in the case of Fatḥ ʻAlī Khān's family and ancestors, and this topic shall be of importance when we discuss the transference of wealth to the next generation. The women whom I mainly analyze in this study are the late Fatḥ ʻAlī Khān's mother (Mehrjahān Khānom, mainly mentioned as Ḥājīye Shāhzāde), wife (the daughter of Moʻezz al-Dowle),[15] and daughter-in-law (i.e., his son's bride, Tāj Khānom, later called Nozhat al-Dowle, the daughter of Sāʻed al-Molk Mīrzā Aḥmad Khān).[16] These three women held credit with the deceased, which mainly consisted of bridal gifts or dowry, *mahr*, *ṣadāq*, or *mahrīye*, and the inheritance portion.[17] Leaving a "bridal gift" unpaid until the death of the husband may sound odd; however, I explain this issue later. Above all, if these women's portions, either bridal gifts or inheritance portions, are of significance in the deceased's estate, their role in the transference of the family's wealth is worth further consideration.

I am more interested in discussing the importance of women's membership and

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[11] Abe 2010a.

[12] This continued after Fatḥ ʻAlī's death, and his successor Ḥoseynqolī became the *de facto* retainer of all the property, which included Mehrjahān's estate as well as that of his father (Fatḥ ʻAlī), which had been divided *de jure* among many heirs.

[13] For further details on this issue, see Abe 2010a.

[14] Meriwether 1999: 166.

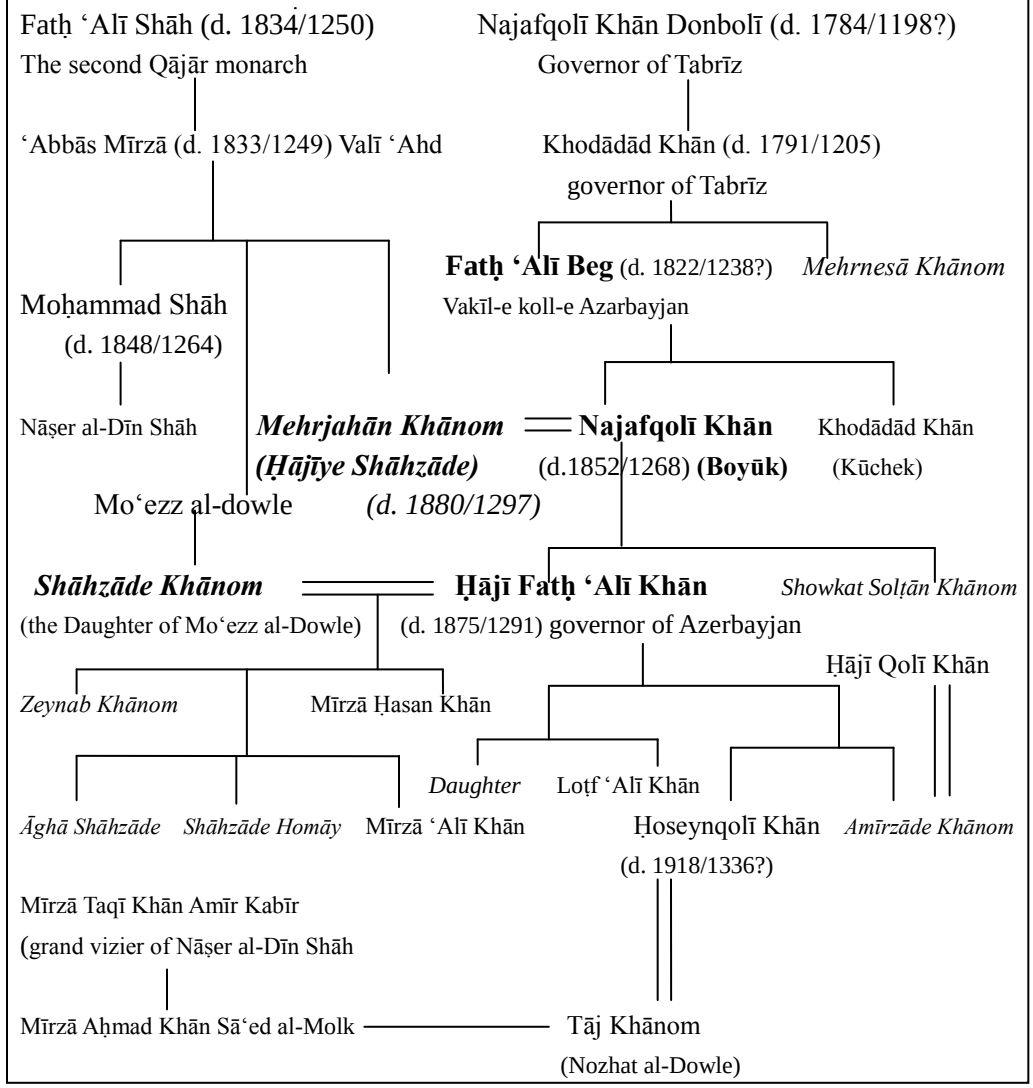
[15] Until now, I could not find her name. In all the documents, she was known as Shāhzāde Khānom (i.e., "princess") or the daughter of Moʻezz al-Dowle.

[16] In this study, I do not consider female descendants of the deceased. I presume that whether the woman's relation to the family and kin group is inherent or acquired results in a difference in her actions.

[17] In this article, I translated *mahr* or *ṣadāq* (in Persian *mahrīye*) as "bridal gift." Some scholars translate it to mean dower, dowry, bride wealth, and so on. "Dowry" usually refers to property from the bride's family rather than property contributed from the groom to the bride. The "dower" is much more suited for the legally secured property of a widow after her husband's death in today's English and other European languages. Thus, in my understanding, the term "bridal gift" (or "bride wealth"/"bride-price") is more compatible with the original meaning of *mahr* or *ṣadāq* in the theory of Islamic law than is "dower" and "dowry."

cooperation in Fatḥ ʻAlīʼs family, rather than the litigation or struggle within the family. We can easily assume that after the death of the husband, if the successor is the widowʼs son, her bond with the family firmly remains. Some research on the history of Arab women tends to emphasize women's claims for rights rather than the membership that they sustained in families even after the deaths of their husbands.[18]

Figure 1: Genealogy of Fath ʻAlī Khān Donbolī (Italics: women)



[18] For example, Tucker's discussion tends to be dichotomous (Tucker, J. 1985 *Women in Nineteenth-Century Egypt*, Cambridge: Cambridge University Press). I discuss this issue more elaborately in Section III.

In this study, I first analyze Fatḥ ʻAlī Khān's inventories and debts to confirm the impact of women's portions, especially bridal gifts, *mahr*, on his estate. Second, I consider the maturity date of payment of a bridal gift and the payment that remained in the estate as debt. Third, I investigate the background of the women's portions that remained undistributed in the cases of Fatḥ ʻAlī Khān and his ancestors. We found only a few socio-economic historical studies on Iranian women prior to the pre-modern period, and these limited works deal mainly with the relationship between the *waqf* and women, confirming their influence on society and the rights to simply dispose of their own rights.[19] The following discussion should also be meaningful in this field of research.

I: Debts and Women's Credits in Fatḥ ʻAlī Khān's Inventory

(1) Probate inventory and debt

The four inventories of the late Fatḥ ʻAlī Khān's estate were divided into two groups. One group comprised the probate inventory (*ṣūrat-e matrūkāt*), which was compiled under the theory of Islamic inheritance law. The other comprised a general inventory (*ṣūrat-e amlāk*), which recorded not only his estate but also that of his mother. This general inventory was supposed to be a "draft" of the probate inventory. The four documents are written in *siyāqat*/*siyāq* script, which was used mainly in the financial bureaucracy and was even applied to *sharīʻa* documents in Iran.[20]

Probate inventories drawn up by Qāḍī (i.e., in *sharīʻa* court) required credit and

[19] For example, Werner 2000; Werner 2003 "Ein Vaqf für meine Töchter : Ḥātūn Ǧān Bēgum und Qarā Quyūnlū. Stiftungen zur 'Blauen Moschee' in Tabriz, *Der Islam* 80, no.1; Werner 1378 (2000) "Zanān-e vāqef dar Tehrān-e 'ahd-e Qājār," trans. N. Majīdī Qahrūdī, *Mīrāth-e Jāvīdān* 28; Kondo 2004 "Nijūno wakufu" soshō: Jūkyū seiki Iran no sharia hōtei," *Nihon Chūtō gakkai nempō* 19, no. 2. In reality, to the best of my knowledge, there are no specialists in the field of the history of Iranian women from the viewpoint of socio-economic history prior to the twentieth century. Most of the studies on this topic were derivative results of socio-economic historical studies about Iranian society. For example, Werner analyzed several *waqf* endowments established by women (Werner 1378) and concluded that it is very hard to find some specific features in the usages of *waqf* benefits, conditions of administrators of *waqf* property, and so forth in *waqf* endowments established by women when they are compared with those established by men (Werner 1378: 122). His attitude indicates that he himself does not intend to investigate more deeply the relation between society and women or property and women in Iran.

[20] In my research, I define contractual deeds (i.e., marriage bond, sale deed, lease deed, *waqf* related deed, etc.) and legal opinion drawn up by 'ulamā*'* (sg. 'ālim, i.e., Islamic legal and religious authority) under the rule of Islamic law as *sharīʻa* document (Islamic legal document).

debit/debt of the deceased as well as an estimation of his or her immovable and landed property.[21] Nagata explained the contents of a typical probate inventory as consisting of (a) an introduction, (b) a list of estate, (c) the debt of the deceased, which is to be deducted from the estate, and (d) the balance of the estate.[22]

I investigate Fatḥ ʻAlī Khān's debts for women relatives evident in the probate inventory, which is drawn up under principle of the *sharīʻa*.[23] I sometimes refer to the general inventory.[24] The comparison between these two inventories sometimes effectively communicates to us the meaning of women's portions.

(2) A brief survey on the late Fatḥ ʻAlī Khān Donbolī's debts[25]

The probate inventory shows that the total amount of Fatḥ ʻAlī Khān Donbolī's legal estate (*tarika/ matrūkāt*) was valued at 41,349 toman, 1,950 dinar, and that his debts were 24,026 toman, 6,025 dinar with seventy-one items.[26] This indicates that his debts reached 58 percent of his total estate. We do not have other examples of the debts of elites or notables in nineteenth century Iran, however, this rate seems to be high. When we classify the seventy-one items of debt, we find women's portions as well as loans, payments for certain goods, and funeral expenses.

I classified these seventy-one items of debt and constructed two tables indicating the amount of debt and variety of creditors, respectively. Table 1 shows the range of the amount of debts.

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[21] Establet and Puscual explained the procedure of the compilation of probate inventory in Ottoman Syria in detail (Establet, J. and J. Puscual 1994 *Familles et fortunes a Damas: 450 foyers damacains en 1700*, Damas: Institute français de Damas, 35–41). With regard to the *sharīʻa* court system in the Ottoman dynasty, Ze'evi surveys the importance of this historical material as well as the method of its use appropriately (Ze'evi, D. 1998 "The Use of Ottoman Sharīʻa Court Records as a Source for Middle Eastern Social History: A Reappraisal," *Islamic Law and Society* 5, no. 1).

[22] Nagata, Y. 1976 "Osman teikokushi kenkyū niokeru isan-mokuroku-monjo no jūyōsei" *Tōyō gakuhō* 57, nos. 3-4: 268–69.

[23] Asnād 296011258.

[24] Asnād 296010015.

[25] The late Fatḥ ʻAlī Khān Donbolī's probate inventory does not have the heading "debt," while in his general inventory we see the heading "the people's credits which should be attested first and after that they can acquire them (*ṭalab-e mardom ke bāyad modallal karde baʻd be-gīrand*)." Here, I understand "people's credits for the late Fatḥ ʻAlī Khān" as "Fatḥ ʻAlī Khān's debts" for the sake of convenience.

[26] In some cases, an item of debt consists of several creditors. In such cases, the portion of each creditor is also written.

1: Range of Fatḥ ʻAlī Khān's Debts in Probate Inventory				
Amount (toman)	number	total (toman)	dinar	/24,036*t*.6025*d*.
2,000	3	8,653	8,050	36%
1,500	2	3,182	9,875	13.24%
1,000	4	4,502	8,500	18.73%
750	3	2,532	5,275	10.54%
500	3	1,652	1,925	6.87%
250	3	1,235	6,250	5.14%
100	10	1,329	1,625	5.53%
50	5	342	8,850	1.43%
10	26	545	7,825	2.27%
1	12	58	8,350	0.24%

Although in the category of ten to fifty toman we find twenty-six items, which account for 36.6 percent of the items, the total amount of these twenty-six items reached only 545 toman, 7,825 dinar, which is 2.27 percent of the total debt. There were 56 cases of items under 500 toman, or 14.6 percent of the total debt. On the other hand, there are only three items that were greater than 2,000 toman, but these account for 36 percent of the total debt. It is worth noting that five items of debt that were greater than 1,500 toman covered apprximately 50 percent of his total debts, although more than half of his debts were lesser than fifty toman. I list these five items in (1) to (5) below:

1. The bridal gift (*mahr*) of Fatḥ ʻAlī Khān's mother, Mehrjahān Khānom (4,200 toman).
2. The loan for Mīrzā Javād Khān (2,453 toman, 8,050 dinar).
3. The bridal gift of Tāj Khānom, Fatḥ ʻAlī's daughter-in-law (his son's bride) (2,000 toman).
4. Mehrjahān's inheritance from her late husband (1,682 toman, 9,875 dinar).
5. The bridal gift of his wife, the daughter of Moʻezz al-dowle (1,500 toman).

Thus, four out of the highest five items of debt are shared by women relatives of Fatḥ ʻAlī Khān.

On the basis of the above survey, we note that the highest five items shared half of the deceased's total debt, while most of the debt was small. In addition, four out of the five largest debts were related to women relatives of the deceased.

I classify the seventy-one items of debt into eleven groups by the type of creditor. Table 2 shows the distribution.

2: Variety of Creditors in Fatḥ ʻAlī Khān's Debts				
Type of creditors	Number	Total (toman)	dinar	/ 24,036*t*.6025*d*.
Women relatives	4	9,382	9,875	39%
Money changers, big merchants	6	3,525	3,075	14.67%
Retail dealers	10	2,493	25	10.37%
Artisans	18	434	9,825	1.81%
Funeral and religious ceremonies	5	244	1,950	1.00%
Food	3	240	1,200	1%
Housekeeping	6	76	2,500	0.32%
Goods	4	72	9,900	0.30%
Military services	3	60	5,000	0.25%
Governmental taxes	1	1,077	8,500	4.48%
Other creditors	11	6,428	4,675	26.74%
Total amount	71	24,036	6,525	100.00%

Like Table 1, Table 2 confirms that the impact of women's credits, 39 percent of the total amount, is considerable.

Second, money changers (*ṣarrāf*) and big merchants (*tājer*) were also big creditors for the late Fatḥ ʻAlī Khān (3,525 toman, 3,075 dinar = 14.67 percent of the total amount / six persons).[27] He was also in debt to retail dealers, especially clothing retailers (e.g., clothiers (*bazzāz*), shawl retailers (*shāl forūsh*), and so forth). Presumably, the deceased did not complete payments for the merchandise that he bought during his lifetime. Rewards for artisans, funeral and religious expenses, and taxes to the government are also included. Furthermore, debts to unspecified individuals also comprise a considerable amount; 6,428 toman, 4,675 dinar (for eleven individuals), which is 26.74 percent of the total.

Who liquidated these debts, and how did they do it? This question also invokes another topic. Among the Amīr Kabīriyān fund, the Asnād 296011163 file includes claims from creditors, and on the reverse side of these documents, the completion of liquidation is mentioned. In the course of my research, I determined that it was Mehrjahān, the mother of the deceased, who became the executor (*vaṣīye*, i.e., feminine of *vaṣī*) and the guardian (*qayyeme*, i.e., feminine of *qayyem*) of the minors,

[27] For further details about the money changer (*ṣarrāf*) in late nineteenth century Tabrīz, see Mizuta, M. 2003 *Kindai Iran kinyūshi kenkyū*, Kyoto: Mineruva shobō.

and proceeded to liquidate the debts of the deceased.[28]

Returning to the main subject, the women's portion, which was valued at 9,382 toman, 9,875 dinar, comprising 39 percent of the total debt, stands out in Tables 1 and 2. In Section I (3), I calculate the women's total portion (those of Mehrjahān and Mo'ezz al-Dowle's daughter) as it figured in the total estate of the late Fatḥ 'Alī Khān.

(3) Women's portions in the total estate

In addition to receiving old credits, Mehrjahān and the daughter of Mo'ezz al-Dowle were allocated inheritance from the deceased. I explain their total portion below.

In addition to 5,882 toman, 9,875 dinar of credit (i.e., the bridal gift and inheritance from her late husband), Mehrjahān received one-third of his estate as a legacy (testimony) (5,774 toman, 1,975 dinar) and one-sixth (*sodsīye*) as a legally-secured portion (1,924 toman, 7,325 dinar), which was valued at 13,581 toman, 9,175 dinar, 32.8 percent of the total estate (41,349 toman, 1,950 dinar).[29]

The daughter of Mo'ezz al-Dowle, the wife of the deceased, acquired her legally-secured portion (i.e., one-eighth (*thomnīye*) or 721 toman, 7,747 dinar) and the inheritance allocated to her late son (1,369 toman, 5,212 dinar), which added up to 3,591 toman, 2,959 dinar with her bridal gift (i.e., 1,500 toman), 8.9 percent of the total estate.[30]

The total portion allocated to women (Mehrjahān, the daughter of Mo'ezz al-Dowle, and Tāj Khānom) equaled 19,173 toman, 2,134 dinar, 46 percent of the total estate. Indeed, the women's portion constituted a considerable amount of the total estate left behind by the late Fatḥ 'Alī Khān.

II: Background of Bridal Gift Payments in Fatḥ 'Alī Khān's Estate

Among the four cases outlined in the previous section, three involved the payment of bridal gifts. In this section, I investigate the background of these claims in greater

[28] In the Asnād 296011163 file, there is also a piece of an invoice (*barāt*) style document titled "What was paid as a loan in this year, Year of the Pig (*ānche az bābat-e qorūżī dāde shode dar hāẕih-i al-sane-ye Tonkūz 'īl*)," which registered the liquidation of debts in 1875/1292. According to this document, in the year 1292AH (1875.2–76.1), 14,312 toman, 2,550 dinar was paid from total debts.

[29] Legacy (testimony) and legally-secured portions are calculated after the payment of debts.

[30] The late son was Mīrzā Ḥasan Khān, who died after the death of his father Fatḥ 'Alī and before the distribution of inheritance.

detail. It is best to check the adequacy of value of the bridal gifts recorded in the inventories. I begin with additional information on the bridal gift in the probate inventory and then collate them with other documents.

First, I list three bridal gifts in order (1) to (3) below.

1. The bridal gift of Mehrjahān (in two inventories of Ḥājīye Shāhzāde): 4,200 toman
2. The bridal gift of Mo'ezz al-Dowle's daughter: 1,500 toman
3. The bridal gift of Tāj Khānom: 2,000 toman

I collate these amounts with other materials to prove the basis of the claims and their propriety.

a. The bridal gift of Mehrjahān: 4,200 toman

The probate inventory describes it as follows:

> The bridal gift of Ḥājī Shāhzāde [*sic*] (= Mehrjahān): 4,200 toman
> The bridal gift (*mahrīye-ye Ḥājī Shāhzāde* [*sic*]): 3,000 toman
> Difference in property (*tafāvot-e melk*): 1,200 toman

Fortunately, among the Amīr Kabīriyān fund, I found one verifying the marriage bond (*'aqd-nāme*) of Mehrjahān and Najafqolī Khan, her groom, and the father of Fatḥ 'Alī Khān.[31] This document was compiled on November 18, 1829 (21 Jumādā al-avval 1245), and the bridal gift was settled at 3,000 toman. This marriage bond coincides with the probate inventory. "Difference in property" (1,200 toman) suggests that the amount of 1,200 toman was added in accordance with the increase in the price of commodities that took place in the forty-five years from the marriage settlement to the division of the estete. In addition, a private correspondence written around the days of compilation of the probate inventory describes this 1,200 toman as a "difference in the price of currency."

The general inventory calculated Mehrjahān's bridal gift at 4,000 toman and stated that "she (Mehrjahān) must prove that her bridal gift still remains (*baqā-ye ān rā modallal konad*)." The difference in the amount of Mehrjahān's bridal gift indicates that the calculation of "difference in price" was inconclusive. What is important to note is that the probate inventory confirms that Mehrjahān did not receive a

[31] Asnād 296011298.

single portion of her 3,000 toman bridal gift until 1875 because the amounts in the inventory and old marriage bond are compatible.

b. The bridal gift of Mo‘ezz al-Dowle’s daughter: 1,500 toman

The daughter of Mo‘ezz al-Dowle was a wife of the late Fatḥ ‘Alī Khān. Unfortunately, I could not find any evidence verifying their marriage contract. Her bridal gift of 1,500 toman is lesser in amount than those of the other two women. Curiously, her bridal gift is not listed or calculated in the general inventory (Asnād 296010015). This does not indicate a shortcoming of the general inventory, but rather, that the payment of her bridal gift was closely related to the litigation and division of inheritance among the heirs.

c. The bridal gift of Tāj Khānom: 2,000 toman

The probate inventory describes a “bridal gift of the daughter of Sā‘ed al-Molk (i.e., Tāj Khānom) guaranteed by the late governor-general (i.e., Fatḥ ‘Alī Khān).” Here, it is necessary to explain the relation between Tāj Khānom and the late Fatḥ ‘Alī Khān. Tāj Khānom, the daughter of Sā‘ed al-Molk married Ḥoseynqolī Khān, a son and the *de facto* successor of Fatḥ ‘Alī. Their marriage bond is dated June 13, 1874 / 27 Rabī‘ al-thānī 1291.[32] In this bond, the bridal gift was fixed at 2,000 toman, which accorded with the amount written in both inventories. This evidence also indicates that she had not yet received a single toman of the bridal gift. Moreover, in the general inventory, there is a note saying, “show the guaranty bond of the late governor-general” (*bāyad ebāz-e żemānat nāme-ye marḥūm Beygarbeygī namāyad*), which indicates that the payment of the bridal gift by the third person (even the groom’s father) required a guaranty bond.[33]

I succeeded in collating the background of the bridal gift payment with marriage bonds in the cases of Mehrjahān and Tāj Khānom. Here, one important question arises: why were the bridal gifts of these three women claimed for and calcu-

[32] Asnād 296011301.

[33] Sunni legal theory also assumes that in the case of the groom’s inability to pay the bridal gift, the guardian was burdened with the payment of it if he submitted the guaranty bond (Yanagihashi, H. 2001 *Isuramu Kazokuhō*, Tokyo: Sōbunsha, 227). According to the Faẓl Allāh Nūrī’s *sharī‘a* document registry, I checked a single case of bridal gift payment by a groom’s father (*Dar Maḥżar-e Sheykh Faẓl Allāh Nūrī: Asnād-e Ḥoqūqī-ye ‘Ahd-e Nāṣerī*, ed. M. Ettehādīye and S. Rūhī, Tehrān: Nashr-e Tārīkh-e Īrān, 1385sh (hereafter *Maḥżar-e Sheykh Faẓl Allāh*) vol. 2, 471). I explain this registry in Section III.

lated in the inventories? A bridal gift (*mahr*) is to be paid at the moment of marriage settlement, namely and in theory. Why was Fatḥ ʻAlī Khān burdened with the payment of his late father's bridal gift, which had resulted from a marriage settlement forty years earlier? Why did Fatḥ ʻAlī himself not pay the bridal gift to his wife, the daughter of Moʻezz al-Dowle? And why was not the bridal gift of Tāj Khānom, his son's bride, paid on June 13, 1874? In addition to the circumstances surrounding the payment of these three bridal gifts, we must also analyze Mehrjahān's claim for inheritance from her late husband at the moment of her son's death.

Referring to other cases will be helpful to understand this particular case in context, which I do in Section III.

III: On the Maturity Date of Bridal Gift (*mahr, ṣadāq*) Payment in Nineteenth Century Iran

(1) Payment of bridal gift (*mahr, ṣadāq*)

In Section II, I examined the propriety of the amount of bridal gifts related to three women relatives (Mehrjahān, the daughter of Moʻezz al-Dowle, and Tāj Khānom) seen in the late Fatḥ ʻAlī Khān's probate inventory. I verified that their bridal gifts remained unpaid until the division of his property. It goes without saying that to understand the meaning of the present case, we must account for the legal principle and social customary context of bridal gift payments in nineteenth century Iran by exploring the legal texts and *sharīʻa* documents of that period.

The payment of a bridal gift (*mahr*/*ṣadāq*) in Muslim society is a well-known custom that is ordered in the Holy Qur'ān. The chapter "The Women" (*al-nisā'*) refers to the bridal gift several times, such as in the following passages:

> Give to women their dowers (i.e., bridal gift) willingly, but if they forego part of it themselves, then use it to your advantage. (verse 4, "The Women")
>
> Then give those of these women you have enjoyed, the agreed dower (i.e., bridal gift). It will not be sinful if you agree to something (else) by mutual consent after having settled the dowry (i.e., bridal gift). (verse 24, "The Women")
>
> The one of you is of the other; so marry them with the consent of their people, and give them an appropriate dowry. (verse 25, "The Women")

The bridal gift payment is well studied by western researchers in Islamic Studies. By contrast, in Iran, very little scholarship has focused on practices of bridal gift trans-

actions. Guity Nashat briefly explains marriage in the Qājār period but does not provide much information about bridal gifts.[34] She emphasizes women's exclusive legal ownership of these gifts and points out that a bridal gift was divided into two parts, of which a portion remained unpaid. In her view, a husband could not choose to divorce easily because he was obligated to pay the rest of the bridal gift if he terminated the marriage.[35] This practice of dividing the bridal gift, and the existence of an unpaid portion of it, is consistent with the case of the late Fatḥ ʻAlī Khān's estate.

Historical studies on women and family in the Arab regions also confirm the practice of dividing a bridal gift into two parts. The portion that is paid at the moment of marriage is called a *mahr muqaddam* (i.e., prompt bridal gift), and the latter is called a *mahr mu'akhkhira* (i.e., delayed/deferred bridal gift). There has been much research conducted and many discussions on this issue from a variety of perspectives, such as the geographical, temporal, and hierarchical differences among Muslim women.

Yanagihashi and Rapoport tell us that early Islamic legal texts show the variation of payments and determination of their maturity date among legal schools, and they both mention the local customs of the bridal gift payment.[36] On the maturity date of payment of a bridal gift, in general, there were no unified and common legal opinions in the early Islamic period. For example, Rapoport pointed out that in ninth century Egypt, husbands did not pay for the bridal gifts until the termination of marriage, i.e., the divorce or death of either husband or wife.[37] We can similarly assume that differences in regulations of the bridal gift among early Islamic legal texts reflect the variations of local customs.

As for studies on the eighteenth and nineteenth century Arab regions (especially Egypt and Greater Syria), Tucker, Meriwether, and others published much of their research using the *sharī'a* court records of the Ottoman period.[38] Tucker pointed out that in eighteenth and nineteenth century Nablus, the prompt bridal gift was larger

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[34] Nashat, G. 2004 "Marriage in the Qajar Period," in *Women in Iran: from 1800 to the Islamic Republic*, ed. L. Beck and G. Nashat, Urbana and Chicago: University of Illinois Press. Nashat's explanation is as brief and conventional as that of a typical reference book. For example, an article on "mahr" in the Japanese dictionary on Islam, *Islam jiten*, is more detailed than is Nashat's article.

[35] Nashat 2004: 41.

[36] Rapoport, Y. 2000 "Matrimonial Gifts in Early Islamic Egypt," *Islamic Law and Society* 7, no. 1; Yanagihashi 2001: 229.

[37] Rapoport also examined marriages of the Mamlūk period on the basis of narrative sources and explained the bridal gift custom of that period (Rapoport, Y. 2005 *Marriage, Money and Divorce in Medieval Islamic Society*, Cambridge: Cambridge University Press; reprint, 2007).

[38] Tucker 1985 and 1988; Meriwether 1999.

than the delayed gift.[39] Meriwether agreed with Tucker regarding the larger ratio of the prompt bridal gift in the case of eighteenth and nineteenth century Aleppo.[40]

In addition, Tucker emphasizes the dichotomous view between women and the family or husband's male agnates concerning the share of inheritance, to some extent intentionally. Presumably, she understands that in many cases, women (i.e., wives or widows) were also members of the family.[41] In her analysis, the *shar'īa* court supported women's rights, and women's claims for their rights to inheritance caused disputes and litigation with families.[42] Her analysis tends to focus on women's exertion of proper legal rights and their influence on society as independent individuals.

In contrast, I wish to account for the importance of women's membership and cooperation within Fatḥ 'Alī's family rather than emphasizing any struggles within the family. The bond between the mother and her own son remains even after the death of her husband. At any rate, in pre-modern Arab regions, a portion of the bridal gift seemed to be paid at the moment of the marriage contract, and the remaining balance was paid in the event of divorce or death of either member of the couple.

(2) Regulations on bridal gifts as noted in Persian legal texts: The nineteenth century translation of *Sharāye' al-eslām*

In contemporary Iran, the payment of a bridal gift depends on the agreement between the groom and bride and is theoretically based on *'inda al-muṭāliba*, which means that the groom pays it whenever the bride demands it. In general, the bridal gift is required at the moment of divorce. Here, I examine the Persian translation of *Sharāye' al-eslām*.[43] This text is originally written in Arabic by Muḥaqqiq Ḥillī (d.

[39] Tucker's research using *sharī'a* court records shows that in eighteenth and nineteenth century Nablus (part of Palestine), most of the prompt bridal gifts (*mahr muqaddam*) were two-thirds or four-fifths of the total amount, paid to brides at the moment of marriage or a short time later. The remaining balance was owed by the groom and was paid from his property at the termination of marriage (Tucker 1988 "Marriage and Family in Nablus, 1720–1856: Toward a History of Arab Marriage," *Journal of Family History* 13, no. 2: 169).

[40] Meriwether states that for the majority of women, one-third to one-fifth of the bridal gift was deferred (Meriwether 1999: 118).

[41] Tucker sometimes emphasizes the dichotomous aspect of the situation. For example, she points out that if the woman claimed her inheritance or bridal gift from the late husband's family, she could never live with them (Tucker 1985: 47). We can assume from her argument that if a widow did not claim her portion, she remained a member of her late husband's family.

[42] Tucker 1985: 44–46.

[43] Moḥaqqeq Ḥellī, *Tarjome-ye Fārsī-ye Sharāye' al-eslām*, 4 vols, trans. Abū al-Qāsem b. Aḥmad Yazdī, ed. M. Dāneshpazhūh, Tehrān: Enteshārāt-e Dāneshgāh-e Tehrān, 1368sh.

1278), one of the most famous Shī'ite legal scholars, and became a very popular text in Shī'ite law. At the request of Moḥammad Valī Mīrzā, the governor of Khorāsān province (eastern Iran), Abū al-Qāsem ibn Aḥmad Yazdī, translated this text into Persian with commentary reflecting the legal discourses and traditions of his period.[44]

Although several pages in the text address cases of the bridal gift, the author and translator dealt very little with the maturity date of its payment. The original author Ḥillī explains this matter as follows:

> Question one: If the groom had sexual intercourse (*dokhūl*) with his bride, the obligation of payment remains with him (*bar ẕemme-ye ū bāqī ast*). The obligation of payment [of the bridal gift] shall not vanish with sexual intercourse, whether it takes a long time or not, and whether the bride demands it or not. There are other opinions on this matter, which are not respected any more (*matrūk ast*).[45]
>
> The original author says that *dokhūl*, which creates the obligation of complete bridal gift payment, means sexual intercourse whether the payment is made before or after it.[46]

This means that the timing of the bridal gift payment was established by consensus of both groom and bride and was not strictly regulated.

Next, I discuss the commentary of the translator, Abū al-Qāsem ibn Aḥmad Yazdī, on the above sentence:

> The translator says that most of the legal scholars have followed the legal opinion chosen by the original author (*mokhtār-e moṣannaf rah jomhūr-e foqahā' be sū-ye ān rafte and*). The basis of their argument depends on the propriety of the groom's remaining obligation of a bridal gift payment as well as on the literal interpretation of the Qur'anic verse "Give to women their dowers (i.e., bridal gift) willingly" (verse 4, "The Women") and many oral traditions.[47]

The commentator and translator of *Shāraye' al-eslām* indicates that the author's legal opinion on this issue constituted mainstream views among Shī'ite legal scholars

[44] The translator Yazdī remarks in his introduction that most people do not have sufficient ability to read the Arabic text, so Moḥammad Valī Mīrzā ordered him to translate the text into Persian (*Sharāye' al-eslām*: 2).
[45] *Sharāye' al-eslām*: 605.
[46] *Sharāye' al-eslām*: 606.
[47] *Sharāye' al-eslām*: 605.

in nineteenth century Iran.[48] Hence, we can say that in that period in Iran, the bridal gift payment was based on the consensus between the groom and bride in legal theory.

However, it is necessary to consider the social customs and traditions of nineteenth century Iran. In Section III (3), I investigate the Fażl allāh Nūrī's *shar'īa* document registry (*Maḥżar-e Sheykh Fażl Allāh*), which was discovered and published in 2006.[49]

(3) Payment of bridal gifts in the Fażl allāh Nūrī's *shar'īa* document registry

Manṣūre Etteḥādīye and Sa'īd Rūḥī published the Fażl allāh Nūrī's *shar'īa* document registry (compiled at the end of the nineteenth century), which may change the study of *shar'īa* documents in Iran.[50]

In the examination of social customs such as the payment of bridal gifts in the nineteenth century, an analysis on the *shar'īa* document registry's information will

[48] However, Yazdī introduces other minor legal opinions in this matter. For example, the oral traditions of Imām Bāqir or Imām Ṣādiq state the following: the right to claim the bridal gift shall vanish with sexual intercourse (*dokhūl*) (*Sharāye' al-eslām*: 605); ten years after the marriage settlement, a bride loses her right to claim the bridal gift (*Sharāye' al-eslām*: 606); and if a groom gave something to his bride before sexual intercourse (*dokhūl*), even without saying that it was a bridal gift, this something shall be regarded as a bridal gift, and the bride loses her claim (*Sharāye' al-eslām*: 607).

[49] Reżā'ī located and published a part of the Āqā Sayyed Ṣādeq Ṭabāṭabā'ī Sangelajī's *shar'īa* document registry as well a facsimile edition, which was written in the second half of the nineteenth century, prior to the Nūrī's registry (*Asnād-e Maḥkame-ye Sayyed Ṣādeq Ṭabāṭabā'ī (Sangelajī) Mojtahed-e 'Aṣr-e Nāṣerī: Marbūṭ be sālhā-ye 1284 va 1285 (hejrī qamarī)*, ed. O. Reżā'ī, Tehrān: Nashr-e Ābī, 1387sh).

[50] Werner and Kondo state that in nineteenth century Iran, *shar'īa* court, which was under the strong influence of central government, did not exist (Werner 2000; Kondo 2004), and we cannot suppose any institutionalized system for the preservation of court record documents and contracts. It is worth noting that in the mid-nineteenth century (1845 or 1846 / 1262AH) a "commercial court" (*Dīvānkhāne-ye Tejārat*) was established in the city of Tabrīz. Although the date of its operation is unclear at present, this court registered the documents for the acknowledgement of private rights and settled litigation between Russian subjects and Iranians and even between Iranian Muslims and Christians. For more details about this court, see Abe 2010b "Who Acknowledges His Rights?: Prelude to the "Modernization" of the Judicial System in Mid-nineteenth Century Iran as seen in Persian Legal Documents," in *Secularization, Religion, and the State*, ed. M. Haneda, Tokyo: The University of Tokyo Center for Philosophy. On the other hand, Reżā'ī analyzed documents related to the Sheykh al-Eslāmī-ye Tamāmī family in Fārs province and pointed out that at least from the beginning of the Qājār period (i.e., the early nineteenth century), some of the Shī'ite legal authorities kept copies of the contracts that concerned them for their own records (Reżā'ī 1384 "Selsele-ye Sheykh al-Eslāmī-ye Tamāmī-ye Shīrāz, Pīshgām-e thabt-e neveshtejāt-e shar'īye," *Mīrāth-e Jāvīdān* 54).

be more persuasive than that on separate documents. An analysis on the registry is expected to provide us with statistical data, even though it is restricted geographically and temporally. The Nūrī's introductory note, which was written on the first leaf, tells us two characteristics of the registry.[51] First, in this registry, not only the documents that Nūrī himself drew up but also the documents that he certified and sealed were recorded. Second, he started to record documents immediately after he came to Tehrān, which suggests that at the time, legal authorities generally recorded contracts and lawsuits in which they were involved.

The oldest contract is dated as October 30, 1885 (21 Muḥarram 1303) and the most recent is dated as July 19, 1889 (21 Ẕū'l qa'da 1306). The registry includes 1452 contract documents. Through the analysis on the registry, we see that contracts relating to the payment of a bridal gift can be categorized roughly into three groups: marriage bond, agreement on payment of the bridal gift, and documents related to inheritance. My explanation of the custom of the bridal gift payment is drawn from these records.

(Marriage contractual bonds)

Forty-two marriage bonds that are recorded in Nūrī's registry state the amount of bridal gifts, including the prompt payment and remaining balance.[52] I describe some features of bridal gifts on the basis of these forty-two bonds. I mention the amount of the bridal gift briefly because this is a secondary issue in this study. The highest amount among the bridal gifts is 6,000 toman, and the lowest one is five toman. The average amount of these bridal gifts, excluding the highest and lowest, is 471 toman. I set out the following views from the analysis on the forty-two records of marriage

[51] The translation of the introductory note is as follows:

> Rabbī' al-thānī, 1303.
> Summary of notes that I sealed shall be recorded in this ledger (*ketābche*), if God wishes it. The beginning of this register is dated from Rabī' al-thānī 1303AH (January or February of 1886) , this date is approximately forty days after I entered Tehrān; May God protect me! (*Maḥżar-e Sheykh Fażl Allāh* vol. 1: 49).

[52] In the case of eighteenth and nineteenth century Aleppo, Meriwether argues that the amount of bridal gift written in marriage bonds are just a delayed bridal gift that remains after the marriage settlement (Meriwether 1999: 118). In Iran, probably both the amount of the prompt bridal gift and the remainder were stated in nineteenth century marriage bonds. In addition to Nūrī's registry, for example, some marriage bonds of nineteenth century Kāshān make both the amount of the prompt bridal gift and the remainder (*Majmū'e-ye Asnād-e Ketābkhāne-ye Afshīn 'Āṭefī (Kāshān-Īrān)*, ed. Ṣ. Ḥoseynī Eshkevarī, Qom: Ẕakhā'er-e Eslāmī, 1385sh. vol. 2: doc. nos. 66, 67, 83, 110).

contracts in Nūrī's registry.

1 There is no marriage contract that does not include some amount attributable to a bridal gift (only one contract referred to the amount without writing the term "bridal gift").
2 Four contracts do not refer to the payment of a prompt bridal gift.
3 In three contracts, the total amount of the bridal gift was paid at the moment of marriage settlement (including the transmission of real estate as the same amount as the bridal gift from groom to bride).
4 In at least thirty-five contracts, the grooms did not pay the whole amount of the bridal gift.

Table 3 shows the ratio of bridal gift payment left unpaid in the forty-two marriage contracts:

3: Ratio of Bridal Gift Payment Left Unpaid	
Ratio of bridal gifts left unpaid (%)	Contracts (42)
0	3
1〜25	0
26〜50	5
51〜75	16
76〜100	14
Unclear	4

In at least thirty-five out of the forty-two marriage contracts, the grooms did not pay the whole amount of the bridal gift. In thirty cases, more than 50 percent of the bridal gift amount remained unpaid, and in fourteen cases, more than 76 percent of the amount was unpaid. In ten cases, more than 90 percent of the bridal gift amount remained unpaid, and in half of these ten cases, the grooms did not give any money or real estate, but, instead, gave just a Qur'ān, whose price ranges from one to fifty toman. Presumably, the gift of a Qur'ān in a marriage settlement was a social tradition of that period.

Granted, we cannot say with certainty that majority of the amount of the bridal gift was unpaid at the moment of marriage settlement;[53] however, the average of

[53] For example, the groom in the marriage with the highest bridal gift (6,000 toman) paid all of it at the moment of marriage settlement. In this case, the bridal gift consisted of real estate (*Maḥżar-e Sheykh Fażl Allāh*, vol. 1: 347). Besides, in two contracts, grooms paid 51 percent of the 1000 toman bridal gift, twice as high as the average, to the brides (*Maḥżar-e Sheykh Fażl Allāh*, vol. 1: 227, 228). Curiously, in these two marriages, the groom's father (contract

these ten cases (in which more than 90 percent of the bridal gift remained unpaid) is 750 toman, which is much higher than the average of all forty-two cases. This simple analysis reveals that in more than 70 percent of marriages, less than half the value of the bridal gift was paid at the moment of contract. The higher the amount of the bridal gift, the smaller was the portion of it paid at the moment of marriage.

(Divorce and payment of the bridal gift)

There are seventeen contracts related to payment of the bridal gift that derived from divorce,[54] and all are written in the format of the contract of settlement (*moṣāleḥe*).[55] In each case, the original sum of the bridal gift is unknown; however, we can say that at least some portion of the bridal gift in these cases remained until the divorce.

(Payment of bridal gifts on the distribution of inheritance)

Thirteen cases of distribution of inheritance refer to the payment of the bridal gift. Eight cases resulted from widows' claims for bridal gifts or their receipt of them, including the husband's testament/will (*vaṣīyat*) after death. Five cases resulted from deceased wives' heirs' claims for their bridal gifts. I could not find any contracts for payment of the mother's bridal gift at her son's death, as in the case of Fatḥ'Alī Khān.

I conclude the explanation of the payment conventions for the bridal gift in nineteenth century Iran from the vantage points of legal opinion and social tradition. First, in the Shī'ite legal opinion of nineteenth century Iran, the maturity date of payment of a bridal gift was not strictly regulated. Second, based on Nūrī's registry, the social tradition and customs regarding the payment of bridal gifts were in accord with contemporary legal opinion. The majority of grooms did not pay bridal gifts completely at the moment of the marriage contract. Thus, it is not unique that until the death of either husband or wife, the bridal gift, perhaps more than half of the total, remained unpaid. In addition, it is worth noting that the high ratio of delayed

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no. 415) and bride's father (contract no. 417) were the same person.

[54] There are two contracts of bridal gift payment whose reasons are unknown in Nūrī's registry (*Maḥżar-e Sheykh Fażl Allāh*, vol. 1: 236; vol. 2: 545–46). In each case, the wife received a portion of the bridal gift, not its total amount.

[55] This contract became the most popular in nineteenth century Iran and can replace other legal contract such as sale, rent and so forth. See Werner 2000: 111 (n.).

bridal gift in nineteenth century Tehrān significantly contrasts with the cases of Arab women described in Tucker's and Meriwether's studies.

IV: Residual Bridal Gifts and Shares of Inheritance: Avoidance of the Division of Estate

(1) Significance of women's portions and their claims: Fatḥ ʻAlī Khān's case

I now return to the case of the late Fatḥ ʻAlī Khān. We observed how the bridal gifts of his mother, wife, and daughter-in-law were accumulated as debts in his probate inventory. The cases of the latter two are suited to the research of the previous section in terms of legal opinion and social custom. The problem here is why the bridal gift and inheritance share of the deceased's mother, Mehrjahān, remained for many generations. In other words, why did Mehrjahān claim her bridal gift and share of her inheritance from her husband after the death of her son, rather than after the death of her husband, Najafqolī Khān? Here, I compare Najafqolī's postmortem treatment with that of his son's.

A marginal note on a bond of Najafqolī's debt dated 1852/1268 refers to Fatḥ ʻAlī as an administrator (*vaṣī*) of the deceased's estate (*tarika*), after Najafqolī's death in 1852.[56] The remaining balance of Mehrjahān's bridal gift and share of inheritance indicates that she did not claim for her portion at the moment of her husband's death. We can say that Fatḥ ʻAlī, the son of Najafqolī and Mehrjahān, although he was young, succeeded his late father's entire estate without its division among heirs.[57] The inheritance right of Fatḥ ʻAlī's sister was not respected at the time.

Hence, I presume that Mehrjahān did not claim her portion from the estate to preserve and sustain it in its entirety as family patrimony.[58] She did not find it necessary to distribute the inheritance by seeking her portion because her husband's successor was her son. This is a case of undivided inheritance.[59] Furthermore, my recently conducted research reveals that Mehrjahān's property and that of Fatḥ ʻAlī were well combined and administered in a consolidated fashion.

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[56] Asnad 296010595.

[57] Meriwether sometimes uses the term "undivided patrimony" to mean the "undivided estate of the late father" in her work (Meriwether 1999: 159, 165).

[58] Meriwether points out that her research revealed no specific regulations about when the division of inheritance had to take place (Meriwether 1999: 159).

[59] Meriwether also briefly points out the strategy of leaving all or most of the estate undivided for a long period (five to thirty years) in the eighteenth and nineteenth century Aleppo (Meriwether 1999: 160, 164–66).

When the time came to divide the late Fatḥ ʻAlī's estate among his eleven heirs, Mehrjahān claimed her portion. On this occasion as well, she was supposed to act in the interests of continuity of family patrimony as much as possible. The larger the portion that she received from her son's estate, the lesser was the remaining property distributed among other heirs. Her actions clearly contrast with those of Moʻezz al-Dowle's daughter when she claimed her portion. In the case of the latter, her late husband's successor was not her son, and there is no doubt that she did not hope to maintain her relationship with his family. Her lawful request resulted in the division of her late husband's estate after litigation with Mehrjahān, her mother-in-law.[60] Although both women claimed their portions, their intentions were obviously different.

Tucker also mentioned that "we lack hard evidence that the bride always received the *mahr* and was free to dispose of it."[61] It is necessary to inquire more precisely into the reason why women did not claim their portions after a relative's death.

Fatḥ ʻAlī's case demonstrates the following two issues. First, a woman may have refrained from claiming her bridal gift and share of the inheritance when her own son succeeded her husband's property. When claiming their legal portions, women considered the continuity of family patrimony as well as their own rights. We can conceive that it is likely that there was a delicate balance to be maintained between the continuity of family patrimony and claims for women's legal rights.

(2) Women's residual inheritances in the postmortem treatment of Fatḥ ʻAlī Khān's ancestor

In this last part, I examine the postmortem treatment of Fatḥ ʻAlī Khān's grandfather, Fatḥ ʻAlī Beg (hereafter, "Beg") in the first half of the nineteenth century, which is another case on undistributed women's portions of a given estate. It took approximately fifteen years to divide the late Beg's estate after his death in 1822. The inheritance remained undistributed and was shared by his two sons, Najafqolī and Kūchek until 1837; thus, this property was called "shared property" not "inheritance from a father," probably because it took more than ten years to be passed. The document detailing the division of shared property, dated May 15, 1837 / 9 Ṣafar 1253,[62]

[60] I described this matter in more detail in the previous article (Abe 2010a).
[61] Tucker 1988: 173.
[62] In Asnād 296010919 file, there is a copy from the original document. For further information about the main contents of this document, see Abe 2009: 62f.

includes a few short marginal notes (*sejelle*) sealed by the deceased's wife[63] and sister Mehrnesā. Here, I introduce these notes.

1 A marginal note sealed by the mother of the two sons is as follows:
"I agree to the division of the light of my eyes, Najafqolī and Kūchek, and admit it," with her seal.[64]

2 A marginal note sealed by the aunt of the two, Mehrnesā Khānom, is as follows:
"I transfer my claim and right in the property written in the main text to the two lights of my eyes, and I agree to the division of shared property if God wishes it," with her seal.

In addition to their declarations, there are notes written by legal authorities with high prestige, such as *mujutahid* (high-prestige legal authority) and the prayer of Friday mosque of Tabrīz (emām jomʿe-ye Tabrīz), that certify the lawfulness of the above declarations.[65] These notes by legal authorities indicate that Najafqolī and Kūchek wanted to invest great credibility in the document.

The existence of these marginal notes tells us that in addition to the two brothers, their mother and paternal aunt Mehrnesā were also rightful claimants for the shared property, which originated from the late Beg's estate. For this reason, the division of the shared property required the transference of their right to share legally, even though it was called "shared property" in the main text of that document.

The right of their mother (i.e., Beg's wife) to inheritance from the late Beg is easily assumed, consisting of both a legally-secured portion (*thomnīye*) and a bridal gift. On the other hand, we must consider the reason why the deceased's sister, Mehrnesā, had a right to the inheritance. If the deceased left sons, his sister had no right to share in the inheritance without a testament. Thus, naturally, Mehrnesā had a right to the inheritance from her father, the late Khodādād Khān.

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[63] She is a daughter of Mīrzā Moḥammad Ebrāhīm, the vakīl of Tabīz in the beginning of the nineteenth century. I cannot find her name.

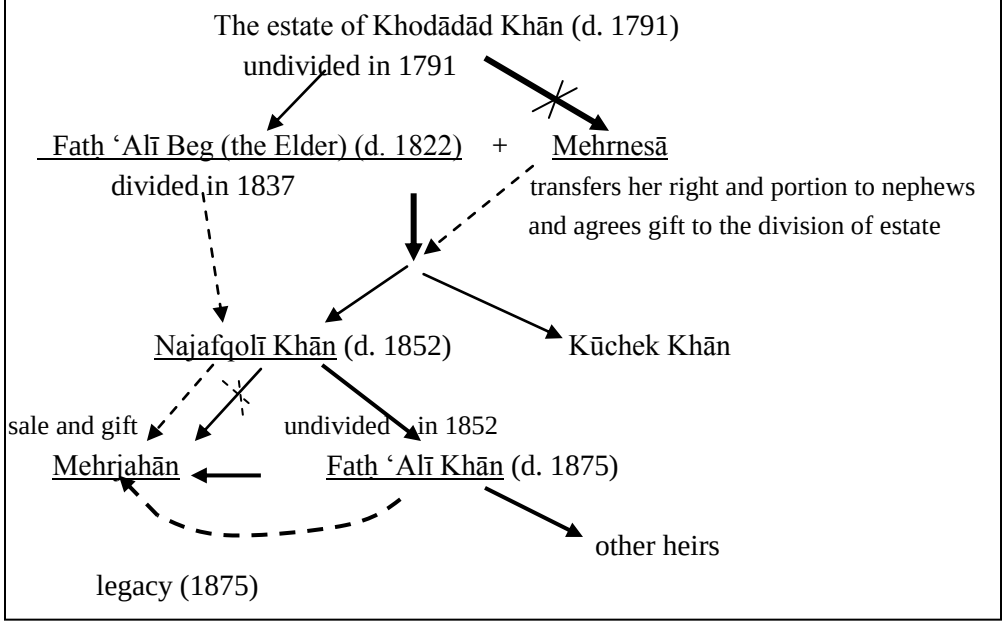
[64] This document is a copy of the original. In the original place of her seal, the following notice appears: "the place of the seal of the late mother of the late Najafqolī Khān—May his grave be scentful!" (*maḥall-e mohr-e vālede-ye māżīye-ye marḥamat va ghofrān panāh-e Najafqolī Khān ṭāba tharāhu*). This notice informs us that this copy was drawn up after the death of both the mother and Najafqolī Khān, her son.

[65] Mīrzā Loṭf ʿAlī, the congregational prayer of Friday mosque, and Mīrzā Aḥmad, the *mujtahid*, certified Mehrnesā's declaration. A marginal note by Mīrzā Aḥmad is dated May 27, 1837 (21 Ṣafar 1253), ten days after the compilation of the original document. For more details about the role and influence of the congregational prayer of Friday mosque of Tabrīz in the nineteenth century, see Werner 2000: 231f.

Khodādād, the governor of Tabrīz at the time, was killed in battle with Ṣādeq Khān Shaqāqī in 1791. His unexpected death caused great disruption among his family, and his brother seized some parts of his assets. It is difficult to expect that in this confusion, postmortem treatment of Khodādād and distribution of his inheritance were legally executed in proper occasions.[66] Hence, Khodādād's estate remained undivided and was administered and retained by Beg *de facto* in his life.

Based on these discussions, we conclude that after Khodādād died in 1791, the distribution of the inheritance did not take place, and the legal shares of his daughter Mehrnesā remained untouched until Mehrnesā's nephews decided to divide the shared inheritance in 1837.

Figure 2: Transference of family property [inheritance ⟶ / gift and sale - - →]



Najafqolī and Kūchek, successors in the 1837 case, had blood ties with both Mehrnesā, their paternal aunt, and their mother. Presumably, they were Mehrnesā's only male relatives. As for the 1852 case, i.e., the death of Najafqolī, his son Fatḥ ʻAlī Khān, his daughter (Showkat Solṭān), and his wife (Mehrjahān) were counted as

[66] Fatḥ ʻAlī Beg (his son), Mehrnesā (his daughter), and ʻEṣmatnesā (his wife) were counted as heirs of Khodādād Khān. Mehrnesā and ʻEṣmatnesā were related to each other by blood, although Fatḥ ʻAlī and ʻEṣmatnesā are not supposed to have been so, according to terms used in the endowment document (Asnād 296011088). In this document, ʻEṣmatnesā called Mehrnesā "my uterine daughter" (*ṣabīye-ye baṭnīye-ye khod*); however, there is no specific appellation to Fatḥ ʻAlī Beg that indicates their filiations.

heirs. It is plausible to say that the male successors of his late father who had blood relations with female heirs could easily win agreement from them for the postponement of the distribution of inheritance or even transference of legal portions, sometimes, perhaps, under pressure.

Finally, I would like to compare two postmortem treatments in 1875 and 1837, and draw some concluding ideas.

1: The distribution of inheritance (i.e., the division of the deceased's estate) was not always executed immediately after one's death.
2: When the distribution of inheritance took place, all the rightful claimants appeared in the main text or margins of *sharī'a* documents, indicating their positions even though they may have ceded their own portions.
3: A legal share of inheritance and a bridal gift do not disappear, but rather, remain for generations until that person cedes it legally.
4: Women decided to claim, or not claim, their portions in consideration of the relationship between themselves and their successors as well as of family patrimony.

These views explain that when family members did not divide an estate at the moment of the head of a family's death, the estate remained undivided as family patrimony, including many rights and claims of relatives. Endurance of legal rights and bridal gifts supported the formation of family patrimony, which needed the cooperation of female relatives.

In addition, the background of women's claims for their portions also differed in some cases. Mehrjahān's claim in 1875 was supposed to be a supportive action for the continuity of patrimony, as I mentioned above. Certainly, all the women relatives could not agree easily to the transfer of their legal portion or postponement of the distribution of inheritance. For example, the daughter of Mo'ezz al-Dowle was not responsible for, or even concerned with, the continuity of family patrimony because her son did not become the successor of the late Fatḥ 'Alī Khān. Her claim for the bridal gift and the legally-secured portion (*thomnīye*), which clearly indicates her position in relation to the family, separated herself from this family.[67]

Conclusion

[67] Mo'ezz al-Dowle's daughter remarried Ebrāhīm Khān, probably immediately after the distribution of inheritance.

In this article, first, I confirmed the significance of women's portions of inheritance, mainly by evaluating the bridal gift as debt in the probate inventory of Fatḥ ʻAlī Khān. Then, I verified that leaving a portion of a bridal gift unpaid was widely accepted *de jure* and *de facto* in nineteenth century Iran. Based on these results, I examined the postmortem treatments of Fatḥ ʻAlī Khān and his ancestors from the end of the eighteenth to the late nineteenth century. I have come to understand how some women cooperated with male relatives to maintain the continuity of family patrimony through the cession of their rights to inheritance by refraining from making claims and requests. On the occasion of Fatḥ ʻAlī Khān's death, his mother Mehrjahān received legal portions to reduce the drain of property from the patrimony as much as she could. Mehrjahān clearly acted to sustain the family patrimony as much as possible. The flexibility of the right to request bridal gifts and legal portions helped secure the formation of family patrimony.

Lastly, I indicate again that the division of estate and distribution of inheritance did not always take place immediately after one's death. Certainly, Meriwether, for example, briefly mentioned this issue; however, this type of situation demands further research. Thus, investigations into the background and meaning of leaving an estate undivided are of great significance for the understanding of succession of Muslim people's property. Related to this matter, women relatives' attitudes toward their legal portions and bridal gifts should be also examined from the broad context of continuity of family patrimony and kinship structure. In the case of the present study, the continuity of family patrimony depended on the kinship and blood ties to a great extent. This bond seems to be strong, but, in reality, it is very fragile because it is subject to the crisis that can take place upon the death of relatives. I assume that this fragility is a crucial element in nineteenth century Iranian notable families.

References

-Primary sources

Asnād: Documents from National Archives of Iran (Sāzmān-e Asnād va Ketābkhāne-ye Mellī-ye Īrān).

Asnād-e Maḥkame-ye Sayyed Ṣādeq Ṭabāṭabā'ī (Sangelajī) Mojtahed-e ʻAṣr-e Nāṣerī: Marbūṭ be sālhā-ye 1284 va 1285 (hejrī qamarī). Ed. O. Reżā'ī, Tehrān: Nashr-e Ābī, 1387sh.

Maḥżar-e Sheykh Fażl Allāh: *Dar Maḥżar-e Sheykh Fażl Allāh Nūrī: Asnād-e Ḥoqūqī-ye ʻAhd-e Nāṣerī*. Ed. M. Ettehādīye and S. Rūhī, Tehrān: Nashr-e Tārīkh-e Īrān, 1385sh.

Majmūʻe-ye Asnād-e Ketābkhāne-ye Afshīn ʻĀṭefī (Kāshān-Īrān), vol. 2. Ed. Ṣ.

Ḥoseynī Eshkevarī. Qom: Ẕakhā'er-e Eslāmī, 1385sh.

Sharāye'al-eslām: Moḥaqqeq Ḥellī. *Tarjome-ye Fārsī-ye Sharāye' al-eslām*. 4 vols. Trans. Abū al-Qāsem b. Aḥmad Yazdī, ed. M. Dāneshpazhūh, Tehrān: Enteshārāt-e Dāneshgāh-e Tehrān, 1368sh.

Tārīkh-e Tabrīz: Nāder Mīrzā. *Tārīkh va Joghrāfī-ye Dār al-Salṭane-ye Tabrīz*. Ed. Gh. Ṭabāṭabā'ī Majd, Tabrīz: Enteshārāt-e Sotūde, 1373sh.

-Secondary works

Abe, Naofumi 2009 "Zaisan to sōzoku kara mita 18–19 seiki Tabrīz no Najafqolī Khān Donbolī Ichizoku"[Najafqolī Khān Donbolī's Lineage in the 18–19th Century Tabrīz from the Viewpoint of the Property and the Inheritance]. *Seinan Ajia kenkyū* [Bulletin of the Society for Western and Southern Asiatic Studies] 70: 48–75.

———.2010a "Jūkyū seiki Iran no chihōshakai no yūryokusha niyoru "zaisan hoyū" saku" [A case of "property retention" tactics in nineteenth century Iran]. *Tōyō gakuhō* [The journal of research department of Tōyō bunko] 92, no. 2: 1–30.

———. 2010b "Who Acknowledges His Rights?: Prelude to the "Modernization" of the Judicial System in Mid-nineteenth Century Iran as seen in Persian Legal Documents." In *Secularization, Religion, and the State*, ed. M. Haneda, 43–52. Tokyo: The University of Tokyo Center for Philosophy.

Establet, Colette, and Jean-Paul Pascual 1994 *Familles et fortunes a Damas: 450 foyers damacains en 1700*. Damas: Institute français de Damas.

Iwatake, Akio 1989 "Niẓām ke no wakufu to 14 seiki no Yazd" [The waqfs of the Niẓām family in fourteenth-century Yazd]. *Shirin* [The journal of history] 72, no. 3: 1–46.

———. 1993 "Iran niokeru wakufu no keizoku: Yazd niokeru Amīr Chaqmāq no wakufu no zirei" [The continuity of waqf in Iran: A case of Amīr Chaqmāq's Waqf]. *Islam sekai* [The world of Islam] 42: 1–19.

———. 2003 "The Waqf of a Timurid Amir: the Example of Chaqmaq Shami in Yazd." In *Persian Documents: Social History of Iran and Turan in the Fifteenth–Nineteenth Centuries*, ed. N. Kondo, 87–105. London: Routledge Curzon.

Kondo, Nobuaki 2001 "Manūchehr Khān no shisan to wakufu" [Private property and vaqf of Manūchehr Khān Mo'tamad al-Dowle]. *Tōyōshi kenkyū* [The journal of oriental researches] 60, 1: 1–33.

———. 2004 ""Nijūno wakufu" soshō: Jūkyū seiki Iran no sharia hōtei" [A case of "doubled waqf": A study on Qajar Sharia courts]. *Nihon Chūtō gakkai nempō* [Annual of Japan association of middle east studies] 19, no. 2: 117–42.

Meriwether, L. Margaret 1999 *The Kin Who Count: Family and Society in Ottoman*

Aleppo, 1770–1840. Austin: University of Texas Press.

Mizuta, Masashi 2003 *Kindai Iran kinyūshi kenkyū* [Financial history of modern Iran]. Kyoto: Mineruva shobō.

Nagata, Yuzo 1976 "Osman teikokushi kenkyū niokeru isan-mokuroku-monjo no jūyōsei" [The importance of probate inventories in socio-economic history of Ottoman empire]. *Tōyō gakuhō* [The journal of research department of Tōyō bunko] 57, nos. 3-4: 265–70.

Nashat, Guity 2004 "Marriage in the Qajar Period." In *Women in Iran: from 1800 to the Islamic Republic*, edited by Los Beck and Guity Nashat, 37–62. Urbana and Chicago: University of Illinois Press.

Rapoport, Yossef 2000 "Matrimonial Gifts in Early Islamic Egypt." *Islamic Law and Society* 7, no. 1: 1–36.

———. 2005 *Marriage, Money and Divorce in Medieval Islamic Society*. Cambridge: Cambridge University Press; reprint, 2007.

Reżā'ī, Omīd 1384/2005 "Selsele-ye Sheykh al-Eslāmī-ye Tamāmī-ye Shīrāz, Pīshgām-e thabt-e neveshtejāt-e shar'īye." *Mīrāth-e Jāvīdān* 54: 77–94.

Tucker, Judith E. 1985 *Women in Nineteenth-Century Egypt*. Cambridge: Cambridge University Press.

———. 1988 "Marriage and Family in Nablus, 1720–1856: Toward a History of Arab Marriage." *Journal of Family History* 13, no. 2: 165–79.

Werner, Christoph 2000 *An Iranian Town in Transition ―A Social and Economic History of the Elites in Tabriz, 1747–1848*. Wiesbaden: Otto Harrassowitz.

———. 2003 "Ein Vaqf für meine Töchter : Ḥātūn Ǧān Bēgum und Qarā Quyūnlū. Stiftungen zur 'Blauen Moschee' in Tabriz." *Der Islam* 80, no. 1: 94–109.

———. 1378 (2000) "Zanān-e vāqef dar Tehrān-e 'ahd-e Qājār." Translated by Nasīm Majīdī Qahrūdī. *Mīrāth-e Jāvīdān* 28: 115–22.

Yanagihashi, Hiroyuki 2001 *Isuramu Kazokuhō* [Islamic family law]. Tokyo: Sōbunsha.

Ze'evi, Dror 1998 "The Use of Ottoman Sharī'a Court Records as a Source for Middle Eastern Social History: A Reappraisal." *Islamic Law and Society* 5, no. 1: 35–56.