CHAPTER 18
Law and Modern Zoroastrians

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Reinventing Zoroastrian Law

In the modern period, the most extensive and well-documented body of law pertaining to Zoroastrians is the Parsi personal law of India. The term disputes among Hindu, Muslim, Christian, Zoroastrian, and other communities in South Asia. Zoroastrian personal law was the creation of elite Bombay Parsis living in British India during the last century of colonial rule. It bears little resemblance to the legal traditions described in the first half of this chapter. It also distinguished itself from English law and from Zoroastrian custom in Persia and Gujarat. Since independence in 1947, Zoroastrian law in India and Pakistan has continued in the colonial mold, building upon legislation and case law developed under the Raj. This examination focuses upon the three areas of law that maintain a distinctly Zoroastrian flavor in modern India: 1) inheritance; 2) marriage; and 3) religious trusts. Inheritance and marriage form the core of Parsi personal law. The law of religious trusts sits outside of the personal law, falling within the general field of Indian trust law. However, religious trusts have been the site of major controversies among Zoroastrians, particularly over conversion and the control of religious properties. The chapter ends with a survey of modern Zoroastrians and law outside of India, particularly in Pakistan, the UK, the USA, Canada, and Australia.

Inheritance

During the early colonial period, a steady flow of Zoroastrian inheritance disputes landed in court in India (Manikhae 1854; Rustomjee 1855; Cowasjee 1855; Dhunjee 1856) (Purdoojee in 1862–1863 Government of India Bill: 11–12; Rana 1934: 156).

The Wiley Blackwell Companion to Zoroastrianism, First Edition. Edited by Michael Stausberg and Yuhin Sobhadi-Dinshaw Vevaina. © 2015 John Wiley & Sons, Ltd. Published 2015 by John Wiley & Sons, Ltd. (Names in italics refer to cases listed at the end of this chapter.) The most famous was a case in which a Parsi son won all of his deceased father’s land by taking advantage of the application of English law to Zoroastrians (Report in 1862–1863 Government of India Bill: 2; Agnes 2001: 130). According to the English principle of primogeniture, the eldest son inherited all of his father’s real estate to the exclusion of other sons. Primogeniture did not reflect Parsi customary practice, according to which real estate was divided equally among sons. Community protest led to the Succession to Parsees Irremovable Property Act of 1837, also known as the Parsee Chattels Real Act. This Act exempted Zoroastrians from primogeniture, albeit by the circuitous route of declaring Zoroastrian real estate to be treated like chattels under inheritance law (Parsee Chattels Real Act, s.1 in Karaka 2002 II: 297). Following the English Statute of Distributions (also known as the Act for the Better Settlement of Intestates Estates 1670–1671, s.ill Lely 1892: 245), a widow received one third of an intestate’s chattels while his children took the rest. Neither this scheme nor the one it replaced reflected Parsi custom, according to which widows and unmarried daughters received maintenance at very least, and a one eighth share each of the estate, at most (Report in 1862–1863 Government of India Bill: 3). Further community organizing led to the creation of the Parsi Law Association, a body that drafted and lobbied for the passage of the two founding statutes of Zoroastrian personal law: the Parsi Marriage and Divorce Act (PMDA) and the Parsi Intestate Succession Act (PISA), both of 1865 (PMDA 1865 and PISA 1865 in Rana 1902, 1934; Irani 1967: 287–288, 295). Together, these Acts created a wholly new regime of substantive personal law for Zoroastrians.

Inheritance law operated along two separate tracks. Where a valid will existed, the law of testamentary disposition (i.e., the law of wills) applied. All other situations were governed by the law of intestacy, a body of default rules for the distribution of property when a person died intestate (i.e., without a valid will). The Parsi Acts on inheritance created a special intestacy regime for Zoroastrians. The PISA of 1865 was intended to create an inheritance scheme that was true to Parsi custom, albeit in 1837 Act. However, the eventual principle enshrined in the 1865 Act was not a reflection of Zoroastrian practice in the mofussil or provinces, understood in this context to mean Gujarat. The draftsmen and lobbyists for the Act were elite Bombay Parsis. They created an inheritance scheme that sat partway between English law and mofussil tradition. Contrary to the most conservative depictions of mofussil custom, women would inherit something (Report in 1862–1863 Government of India Bill: 7). However, a widow received only a half share and a daughter, a quarter share, for every full share inherited by a son (PISA 1865; s.1 in Rana 1902: 130–136; s.1 also Rana 1934: 130–136). The PISA 1865 was absorbed into the Indian Succession Act of 1925, and then revised in the Indian Succession (Amendment) Act of 1939. The 1939 Act decreased the entitlement of widowers in relation to their children, and increased widows’ portion to a full share (like sons), with daughters receiving a half share (ISA Act 1939, ss.51–52 in ISA Act 1939 Papers). Controversially, it also gave parents a share in inheritance (ISA Act 1939, s.51(2) in ISA Act 1939 Papers; Opinions 1936–1939: 13–14). Colonial intestacy suits arose most commonly over the entitlement of widows (Darur 1877; Narrelwal 1910; Pestonji 1929) and widowers (Surul 1887; Motiwala 1906).
Under the law of testamentary disposition, Parsi testators could bequeath their estate to anyone by will, and could disinherit family members (Rana 1934: 156; Erinshaw 1880). The validity of Parsi wills was at times challenged on the basis of mental incompetence and undue influence. Inheritance suits also targeted executors. Plaintiffs demanded greater transparency and accountability (Dwivedi 1903), questioning executors' competence (Ginwala 1913) and accusing them of mismanagement (Marker 1908; Kathole 1912). Testators often set aside part of their estate for Zoroastrian religious purposes, usually to fund ceremonies that continued in perpetuity (Jehangirji 1887). The senior appointment of an orthodox Zoroastrian judge led to the increased validation of such charitable bequests. Bombay High Court Judge Dinabah D. Davar (Jing 1912; Sharafi 2014) preserved trusts that funded annual mukhtad death commemoration ceremonies and that continued in perpetuity (Tarachand 1909, reversing Banaji 1887). He also saved at-risk bequests (Soonawalla 1907; Warden 1908).

Since independence, the Indian Succession (Amendment) Act 1991 has abolished the distinction between legitimate and illegitimate children and equalized the entitlements of male and female heirs (Agnes 2009). Since pre-1947 Parsis were affluent, particularly in inheritance- and trust-related suits. Colonial Parsi plaintiffs usually won their suits. Because so many plaintiffs were non-elite women, the colonial PCMC essentially functioned as a court for poor wives (Sharafi 2014: 193–236).

In 1936, a revised PMDA made significant changes to Zoroastrian marriage law (Irani 1967: 288–294). The most important among these was the equalization of grounds for divorce between husbands and wives. Under the earlier Act, a husband had to prove one thing: that his wife had committed adultery (PMDA 1865, s.30 in Rana 1934: 45). A wife, by contrast, had to prove that her husband had committed cruelty plus adultery or fornication, adultery plus bigamy or desertion, the rape of another woman, or an unnatural offense, defined by the Indian Penal Code as “carnal intercourse against the order of nature with any man, woman or animal” (PMDA 1865, s.30 in Rana 1934: 45–56; Indian Penal Code [IPC] 1860, s.377 in Ranchhodas and Thakore 1926: 322–323). The 1936 Act also added new grounds for divorce, including non-consummation within one year, mental un soundness from the time of marriage, premarital pregnancy (of the wife) by a third party, the communication of venereal disease, forced prostitution (of the wife by the husband), desertion or judicial separation for three years, failure to comply with an order of restitution of conjugal rights for a year, and the spouse’s ceasing “to be a Parsi” (PMDA 1936, s.32 in Wadia and Katpitia 1939: 66–69). Parsi critics argued that the Act (particularly its desertion provisions) moved Zoroastrian marriage toward no-fault divorce. They claimed that Zoroastrian marriage was supposed to be a sacrament, not an ordinary contract that could be terminated at will (Opinions in PMDA Papers 1936: I, 3, 32; IV: 74). The new Act abolished the prostitution exception: under the 1865 statute, husbands’ relations with prostitutes had not constituted adultery as a ground for divorce (Manusukh 1888: 72–9; PMDA 1865, s.30 in Rana 1934: 45, 50; PMDA 1936, s.32 in Wadia and Katpitia 1939: 67; Sharafi 2014: 173–178). It also made “grievous hurt” a ground for divorce, but defined the required harm so narrowly that husbands could inflict certain types of injury—including a criminal offense—without it being grounds for divorce (PMDA 1936, s.2(4) in Wadia and Katpitia 1939: 11, 13; Sharafi 2014: 187–191). For instance, putting one’s wife in “severe bodily pain” through injury for at least twenty days or permanently impairing any of her members or joints constituted “grievous hurt” under the Indian Penal Code (IPC 1860, s.320 in Ranchhodas and Thakore 1926: 283). Neither provided grounds for divorce under the PMDA 1936.

In 1940, a short amending statute enabled courts to vary a divorced woman’s alimony —not an ordinary contract that could be terminated at will (Opinions in PMDA Papers 1936: I, 3, 32; IV: 74). The new Act abolished the prostitution exception: under the 1865 statute, husbands’ relations with prostitutes had not constituted adultery as a ground for divorce (Manusukh 1888: 72–9; PMDA 1865, s.30 in Rana 1934: 45, 50; PMDA 1936, s.32 in Wadia and Katpitia 1939: 67; Sharafi 2014: 173–178). It also made “grievous hurt” a ground for divorce, but defined the required harm so narrowly that husbands could inflict certain types of injury—including a criminal offense—without it being grounds for divorce (PMDA 1936, s.2(4) in Wadia and Katpitia 1939: 11, 13; Sharafi 2014: 187–191). For instance, putting one’s wife in “severe bodily pain” through injury for at least twenty days or permanently impairing any of her members or joints constituted “grievous hurt” under the Indian Penal Code (IPC 1860, s.320 in Ranchhodas and Thakore 1926: 283). Neither provided grounds for divorce under the PMDA 1936.

In 1940, a short amending statute enabled courts to vary a divorced woman’s permanent alimony if she had remarried or had “not remained chaste” since the divorce (PMDA(A) 1940, s.2). The Parsi Marriage and Divorce (Amendment) Act 1940 allowed upon the controversial Vachha case in which a divorced woman’s alimony was not clearly cancelled by her remarriage (Maneklal 1936; Vachha 1937). The woman’s marriage
second husband earned less than her first, and the first husband's adultery and cruelty had triggered the divorce. A harsher version of the Bombay statute was enacted in Aden. It made the cancellation of alimony mandatory where a woman had remarried (Parsi Marriage and Divorce Ordinance 1938). Since 1947, two important matrimonial cases have featured Irans, a sub-community of Zoroastrians, who arrived in India from the 18th to the 20th centuries. Reversing Yendlar (1950), J. A. Irani (1966) established that the Parsi Acts apply equally to Irans (and Zoroastrian Iranian citizens), although framed explicitly for Parsis. It provided a historical and ethnographic account of the Irani community, as D. M. Petit (1909) had done earlier for the Parsis. In 1988, an amended version of the PMDA revolutionized Zoroastrian law by allowing divorce by mutual consent (PMDA 1988, s.32b in Shabhir and Munchanda 1991: 138–139). The post-1988 reported case law has focused on child custody, a common phenomenon in jurisdictions permitting no-fault divorce (Kalyanvala 1973; Dellar 1984).

Religious Trusts

Some of the most acrimonious Zoroastrian litigation has involved trusts, the legal device that governs religious funds and properties. The lawyers and judges in these cases have often been Parsis themselves, enabling them to shape the legal system's interpretation of Zoroastrian history and theology (Davar in Tarachand 1909; M. D. Petit 1909; Cojuaje in Yendlar 1950; Vachha in J. A. Irani 1966). These suits turned upon the conversion debate, powers struggles for religious authority and control, and disputes over governance and taxation.

The two leading cases on conversion occurred in the early 20th century. In Petit and others v. Jibibai and others, trustees of the Bombay Parsi Panchayat were accused of being improperly appointed following their opposition to the attempted conversion to Zoroastrianism of a French woman (D. M. Petit 1909; Sharafi 2007). Suzanne Brière married Ratanji Dadabhai Tata in a Zoroastrian wedding ceremony, having allegedly undergone her initiation into the religion (navjote) shortly before. Against the plaintiffs (led by Mr Tata), the trustee-defendants claimed that juddins (here understood to mean ethnic outsiders) were ineligible for initiation and could not benefit from Parsi trust funds and properties. After enabling an alternative procedure to rectify the trustees' appointment, the judges discussed conversion (technically obiter dicta, or non-binding upon future cases) (Staunberg 2002: 56–57; Gae and Kanga 2005: 265–271; Sharafi 2007: 176, fn. 2). Unusually, the case was decided by a "special bench" of two judges, namely the senior judge Dinshah Dhanjibhai Davar, who was a Parsi, and a blind British judge named Frank Clement Offley Reaman. Both judges favored limited conversion for the first half of the proceedings. Later, they changed their views (Sharafi 2007: 164–170). Both ultimately asserted that the Parsi community had not accepted juddins converts to their religion since migrating to India, and that custom trumped scriptural endorsements of conversion. Davar stressed that even if juddins could convert, they would become Zoroastrians (a religious label), not Parsis (an ethnic one). On this basis, juddins like the French Mrs Tata were excluded from the benefit of trusts created for "Parsis."

The sequel to Petit v. Jibibai was Saktat and others v. Bella, a case that arose among the tiny Parsi population of Rangoon in Burma (Sharafi 2004: 285–289). Bella Captain was allegedly an orphan girl whose birth mother was possibly Parsi and whose father was Goan Christian. Bella was adopted by a Parsi couple. She was raised as a Zoroastrian, had her navjote performed, and entered the Rangoon fire-temple. Orthodox trustees of the Rangoon Zoroastrian trust, led by her adoptive uncle, went to court to get an injunction prohibiting Bella's entry. On the basis of Petit v. Jibibai, they argued that Bella could be kept out. The trusts were for the benefit of Parsis, not Zoroastrians. Ironically, it is most likely that Bella's natural father actually was Parsi. Oral history sources and the circumstances surrounding her birth suggest that Bella was not a random orphan, but the extramarital child of her adoptive father's younger brother. This aspect of the case was never officially acknowledged. The technical legal question was whether the trustees were obliged to allow Bella into the temple. The case began at the Chief Court of Lower Burma, involved a commission that collected evidence in Bombay, and was appealed to the Privy Council. In London, the judges ruled that Bella was not entitled by right to enter the temple. However, if the trustees felt that her entry would not cause harm to others, they had the discretionary power to let her in. At the start of the litigation, the sole trustee was the man who was probably Bella's natural father, and who favored her entry. By the final resolution of the case, the composition of trustees had changed. Orthodox Parsis who opposed Bella's entry then dominated. They prohibited her entry on the basis of the Privy Council ruling. Although Petit v. Jibibai is the best known case on juddin admission, Bella's case was the more extensive judicial investigation of the question "Who is a Parsi?" That said, the Privy Council judges in Bella's case relied heavily upon Davar's Petit v. Jibibai judgment. Their ruling contributed to the fact that, even a century later, Davar's judgment remains the leading judicial statement on—and against—juddin admission.

The second important vein of trust cases reflects power struggles over religious authority between priests (led by the Parsis) and lay Zoroastrians (see Staunberg and Karmarkar, "Parsis," this volume). Two major cases occurred in the colonial period. The first arose between trustees and priests at the most sacred Zoroastrian fire-temple in India, the Iransāh Ānā Bahram in Udwada, Gujarat (M. M. Wadia 1904) (see Choksy, "Religious Sites and Physical Structures," this volume). Trustees began closing and locking an internal door at particular times, claiming they were doing so for security reasons. Temple priests objected: the closure obstructed their ritual duties and worshipers' movement. In the second case, every adult male Parsi in Secunderabad was a party to the suit, itself appealed to the Privy Council (Jijibhai v. Petit 1908). The decision involved a commission that collected evidence in Bombay, and was appealed to the Privy Council. It is the best known judicial statement on religious properties ("Who is a Parsi?"). That said, the Privy Council judges in Bella's case relied heavily upon Davar's Petit v. Jibibai judgment. Their ruling contributed to the fact that, even a century later, Davar's judgment remains the leading judicial statement on—and against—juddin admission.

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In 1936, the Bombay Presidency legislature passed the Parsi Public Trusts Registration Act. By requiring registration, publication, and inspection of audited accounts, the Act aimed to make Parsi trustees more accountable and their purposes better known (PPTR Act Papers 1936). In 2007, a lawsuit challenged the undemocratic basis of the system for electing BPF trustees. Until then, BPF trustees had been elected by a limited body of Parsi voters (many of whom were donors) and through an indirect voting scheme. The court required that a system of universal adult suffrage and direct election be introduced (Mistree 2008).

Since independence, most trust-based litigation has been against the state. There was a thriving tradition of Zoroastrian suits against the colonial state, especially regarding licensing (Banaaji 1882; R. J. Irani 1902; Ghivalla 1923) and eminent domain (Trustees 1909; Municipal Commissioner 1912; H. F. Petit 1915). Since the 1920s, tax suits have dominated Zoroastrian trust litigation. With a few exceptions (Trustees 2002), the courts have sided with Zoroastrian trusts, minimizing the tax payable by them (Commissioner of Income Tax 1948; Commissioner of Wealth Tax 1965; Official Trustees 1969; Garnadisa 1986; Trustees 1996; Assistant Director 1998). They have also sided with trustees who have challenged decisions of the charity commission, a government body that regulates charitable trusts in India (M. H. Irani 2001).

Intra-community controversies have also been litigated in the post-colonial period. In recent years, debate over the exclusivity of Property relations and taxation disputes have produced the greatest number of trust-based litigation. With a few exceptions (Trustees 2002), the courts have sided with Zoroastrian trusts, minimizing the tax payable by them (Commissioner of Income Tax 1948; Commissioner of Wealth Tax 1965; Official Trustees 1969; Garnadisa 1986; Trustees 1996; Assistant Director 1998). They have also sided with trustees who have challenged decisions of the charity commission, a government body that regulates charitable trusts in India (M. H. Irani 2001).

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Beyond India

Most statutes enacted for Parsis in colonial India were retained in Independent Pakistan. Property relations and taxation disputes have produced the most litigation involving Pakistani Parsis. Parsi tenants have sued their landlords in order to prevent rent increases, losing against the Karachi city government (Avari 1963) but winning against private landlords (Mehta 1963). Parsis in Pakistan have also sued to preserve the character of residential areas, successfully preventing the construction of a school (Covasjue v. Nawab 1993) and high-rise (Covasjue v. Multiline 1993). The largest body of Parsi case law relates to taxation. Parsi plaintiffs have challenged the taxation of Zoroastrian trusts (Dubash 1960; Trustees of Mount Nepean Trust 1987), inheritance (Kandawali 1967), and corporations (Maneckji 1979; Julian 1981; Covasjue 1988). The state has won in most of these cases. Parsi plaintiffs have been more successful in constitutional suits against the state. In one case, the plaintiffs won the right to increased compensation following the state’s taking of their shares (Kandawali 1989). In another, the court ruled that Parsis were entitled to produce, sell, and possess alcohol for religious, medicinal, scientific, industrial, or “similar other purpose” (Pakistan 1988).

In Iran, the personal law principle theoretically applies to Zoroastrians. Under Islamic law, non-Muslim minorities deemed ‘People of the Book’ (Arab. dhimmis, NP ahl-e ktb) are entitled to follow their own laws and religious practices, particularly in the areas of marriage and inheritance (An-Na’im 1987: 11–13; Tasdik 2007: 24–25). The Iranian Constitution (Art.13) declares that “within the limits of the law,” Zoroastrians shall be “free to carry out their religious rites and practice their religion in personal status and religious education” (Samimi Kia 1995: 14) (see Stauberg, “Zoroastrians in Modern Iran,” this volume). Iranian law permits recognized religious minorities (i.e., Zoroastrians, Jews, and Christians) to consume alcohol, for instance, and to resolve intra-community disputes through their own semi-autonomous religious authorities (Sanasarian 2000: 74–75, 91). However, legal disabilities also apply. In criminal law, the compensation due for causing the death of a person (Arab. diya, NP diye or di† ‘blood money’) was historically half the sum due for a Muslim when the victim was Zoroastrian, Jewish, or Christian (Sanasarian 2000: 133; Afshari 2001: 134). Despite the abolition of differential blood money rates in 2003 (Sanasarian and Davidi 2007: 63–65), Zoroastrians claim that the old rule is still applied (Tait 2006). For centuries, Iranian inheritance law has encouraged conversion to Islam by dhimmis: such converts inherit their fathers’ entire estates, to the exclusion of other family members (Amighi 2003: 63–65). In another, the court ruled that Parsis were entitled to produce, sell, and possess alcohol for religious, medicinal, scientific, industrial, or “similar other purpose” (Pakistan 1988).

Parsis living in countries like the UK, the USA, Canada, and Australia have been involved in litigation, particularly regarding immigration and religious buildings. As British subjects and commonwealth citizens, Parsis could settle freely in Britain until 1962 (Hansen 1999; Himmels 2005: 422). It was harder to become an American citizen. In the first half of the 20th century, New York courts held that Parsis were ineligible for American citizenship. Parsis were not “white persons” according to “common sense,” despite being “probably the purest Aryan type” according to ethnologists of the period (Balfour 1909; D. Wadia 1939). More recently, Parsis have tried unsuccessfully to claim asylum in the USA on the grounds of religious persecution in South Asia. One Pakistani Parsi claimed asylum on the basis that he would be denied the right to hold a government job or political office in Pakistan because of his religion. The court rejected his application: Employment-based discrimination was insufficient to constitute persecution for asylum-related purposes under American law (Miwavilla 1983). Other Parsis have claimed that they would be persecuted by Hindu extremist organizations (Covasjue v. Nawab 1993) and high-rise (Covasjue v. Multiline 1993). The largest body of Parsi case law relates to taxation. Parsi plaintiffs have challenged the taxation of Zoroastrian trusts (Dubash 1960; Trustees of Mount Nepean Trust 1987), inheritance (Kandawali 1967), and corporations (Maneckji 1979; Julian 1981; Covasjue 1988). The state has won in most of these cases. Parsi plaintiffs have been more successful in constitutional suits against the state. In one case, the plaintiffs won the right to increased compensation following the state’s taking of their shares (Kandawali 1989). In another, the court ruled that Parsis were entitled to produce, sell, and possess alcohol for religious, medicinal, scientific, industrial, or “similar other purpose” (Pakistan 1988).
like the Shir Sena if they returned to India. The courts found the petitioners’ fear of persecution unfounded, ruling that Zoroastrians are not generally persecuted on religious grounds in India (Bholia 2004; Colabawalla 2006).

Asylum cases have also been founded upon claims of conversion to Zoroastrianism. In particular, asylum-seekers of Muslim background from Iran have claimed to be converts to Zoroastrianism. They have asserted that their lives are at risk in Iran, where conversion from Islam to another religion is punishable by death. This argument has been made unsuccessfully in Australia (Ferhadighi 2001; Saadat 2001; WADW 2002) and in the UK (Ghetsari 2004). Canadian courts have shown greater willingness to grant asylum on the basis of religion to Iranians who convert to Zoroastrianism (Razmi 1999). Many Iranians born into Zoroastrian families have migrated to Euro-American jurisdictions by successfully claiming asylum (for example, see Jelvehkar 1998) and with the support of Parsi and Zoroastrian organizations (Choksy 2006b: 176-177).

Outside of India, disputes over the management of religious properties have also produced litigation. Zoroastrians from Pakistan and Zanzibar (Hinnells 2005: 234, 275-279) to New York (Rustom Goh Foundation 1990) have resolved internal power struggles by going to court. There have also been external disputes. In Ontario and Virginia, Zoroastrian organisations have won the right to establish religious buildings in residential areas where Christian churches were permitted (Winston 1978; Keats 2004).

Transnational cases have also arisen. Zoroastrian testamentary bequests often cross national boundaries (Framer 1969; Batliwalla 1999; Gagrat 2009), but matrimonial suits are the most common sites for international forum-shopping. Forum-shopping is the attempt to move one’s suit into a jurisdiction promising an optimal result where there is ambiguity over the controlling jurisdiction. In the colonial period, suits arose pitting the law of British India against that of England, the princely state of Baroda, and Persia (E. Wadia 1914; Sharafi 2010). The parties’ strategic relocations generally failed, except when fleeing a jurisdiction permanently. More recently, courts facing jurisdictional contests between India and Pakistan (F. H. Irami 1964), and between India and New Hampshire (Varzifar 1988) have found in favor of their own jurisdiction, against India.

Final Remarks

Pre-modern Zoroastrian law was an exhaustive legal system covering most areas of social life—from criminal law to the law of property. This was particularly true before the Arab Muslim conquest of Persia. By contrast, the only areas of law in modern South Asia with a distinctly Zoroastrian character are matrimonial, inheritance, and religious trust law. There is little, if any, continuity between pre-modern and modern Zoroastrian law. The latter was something new: it was invented by elite male Parsis of colonial Bombay, who excelled as lobbyists, lawyers, and judges (Sharafi 2014: 84-123). Through legislation and litigation, they created a body of law that differed both from English law at critical points, and from the customary Zoroastrian norms of Persia and Gujarat. This reinvention of Zoroastrian law set the foundations for Zoroastrian law in India and Pakistan today.

In Western jurisdictions, Zoroastrians appear most frequently in immigration-related litigation, and in suits about the establishment of religious buildings. In Iran, Zoroastrians have limited legal autonomy over intra-community disputes, but continue to labor under many of the legal disabilities imposed upon the recognized religious minorities.

Abbreviations

IS(A) Act Indian Succession (Amendment) Act
PISA Parsi Intestate Succession Act
PMDA Parsi Marriage and Divorce Act

Further Reading


Cases

Assistant Director of Inspection (Income Tax Exemption) v. Premi Shrovaksh Antirbaag and Shrovaksh Rustomji Antirbaag Charitable Trust (and cross-suit) 1998 (60) Tax Tribunal Judgments (India) 91.


1860 Indian Penal Code (XLV of 1860). In Ranbhirkhand and Thakore (1926).

1862-1863 Government of India Bill to amend law for Parsees, IOR/L/PJ/5/400 (India Office Records); draft legislation for the Parsi Intestate Succession Act and the Parsi Marriage and Divorce Act, both of 1865. Includes “List of Cases of Bigamy (as far as ascertained)” (1860-1861); “Minute by Mr. Rustomji Khoorsheedji Dawur, or Modee of Surat, with reference to the proposed report to Government of a majority of the Parsi Law Commission” (1862); “Mr. Nowrojee Furnoonjee’s Letter to the Parsi Law Commission with Petition of Calcutta Parsee Inhabitants to the Legislative Council of India” (1862); and “Report into the usages recognized as laws by the Parsee Community of India, and into the necessity of special legislation in connection with them” (1862).

1865 Parsi Marriage and Divorce Act (XV of 1865). In Rana (1902, 1934).

1865 Parsi Intestate Succession Act (XXI of 1865). In Rana (1902, 1934).


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