

mostly members of non-Muslim confessional communities, to adopt a European passport, was paradoxically revived. Numerous Tunisian Jews, for example, and also Muslims, obtained British and Italian consular protection at the end of the nineteenth century. This led populations that the colonizers saw as “natives” to be treated like Europeans. Even more paradoxical was the situation, evoked by the author, of Algerians in Tunisia, who, although originating from a former Ottoman province submitted to a violent colonial occupation, could pretend, because of article one of the 1865 *Senatus Consulte* that gave Algerians French nationality (but not citizenship and the rights attached to it), to be treated as French protégés in another French colony. This point raises interesting questions on the nature of colonization. The fourth chapter is about the years 1912–22, when France profoundly modified the previous system. It begins with considerations of the legal consequences in Tunisia of the Italian occupation of Libya in 1911, which modified the status of Libyans in the country. Lewis also examines how the “affair of the false Maltese” (trafficking of false Maltese birth certificates that gave Tunisian Jews access to British protection) was used by the French as a pretext in order to restrict “divided rule,” first with a 1914 decree. She illustrates convincingly how the context of such legal debates was a decisive element in the growth of the Tunisian national movement. The book ends with a chapter on the 1930s, with a focus on how controversies on nationality grew around the question of burial rites. The author shows how the Destour independence party of Habib Bourguiba successfully used such controversies in order to extend its influence in the country.

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Mitra Sharafi, *Law and Identity in Colonial South Asia: Parsi Legal Culture, 1772–1947*, New York: Cambridge University Press, 2014. Pp. xxiii + 343. \$99.00 cloth (ISBN: 978-1-107-04797-6).  
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Mitra Sharafi’s monograph on the legal culture of the Parsis, a community of ethnic Zoroastrians, is an invaluable contribution to the fields of legal history and Parsi studies. It is arguably the most important work to date in the latter field. Although the Parsis’ long association with the domain of law is well documented and part of the popular imagination, Sharafi offers an in-depth and provocative analysis of the extent of the community’s investment in colonial law in British India and Burma. As she notes, “the Parsis sank deep into the colonial legal system itself” (5).

The book is organized into three parts and traces the community's thorough engagement with colonial law. Part 1 explores how Parsis both *used* and *made* law. They chose to go to court to resolve a range of disputes among themselves in matters of debt, housing, inheritance, and matrimony, rather than turn to their own religious bodies for resolution. Sharafi proposes that for the Parsis, this culture of going to court blurred the distinction between "the inside and outside," the private and public realms. She therefore challenges a dominant strain in South Asian historiography, that Indians increasingly imagined the inner, domestic realm as a space that had to be separated and shielded from the outer, public one.

Sharafi explains that Parsis *made* law by two routes. From the 1830s they organized themselves into lobby groups that drafted and pushed for the passage of legislation pertaining to Parsi marriage and inheritance that would come to replace the doctrines of English law that had been applied to them. Parsis also made law in a less obvious way, by entering it as a profession. Although the impetus for entering the profession were the personal rewards of income and status, the large number of Parsi lawyers and judges who came to populate the legal system impacted the course of intragroup litigation and the legal entity of the community as a collective. Part 2 and Part 3 of the book examine the products of Parsi law, set up in Part 1, in the stages of their full operation. The application of the Parsi inheritance and matrimonial acts of 1865, the functioning of the Parsi Chief Matrimonial Court as well as the ways in which Parsi judges came to preside over and control Parsi charitable trusts suits in the upper colonial courts in the early 20th century are discussed in separate chapters. Sharafi broadly argues that these products of Parsi law reconfigured male privilege in the community. Elite Parsi men increasingly determined the outcome of marital disputes between lower class and poor Parsi litigants as well as what the criteria were for membership to the community.

Sharafi's thesis overturns the popular association of the Parsis with Anglicization and intermediacy. Parsis have long been regarded as the most Anglicized of Indians—determined practitioners of Western social mores, the closest local collaborators with the British. They also exemplified model middlemen, commercial intermediaries who had early and firm hold over the trade between the European colonial powers and Indian hinterland. Sharafi reverses these associations. She describes the processes by which Parsi lobbyists replaced the doctrines of English law with a body of Parsi personal law as the "de-Anglicization of the law." Second, she notes that as Parsi judges came to play a crucial intermediary role within the community by presiding over intragroup disputes, they drew on their own personal knowledge and some, on an increasingly orthodox vision of Parsi identity, to craft the judicial ethnography of their own community. The concept of the "comprador tradition" is used to describe a Parsi intermediacy that was inward both because it was intragroup and often orthodox, rather than outward, intergroup,

and cosmopolitan, as exemplified by the figure of the Parsi middleman in trade.

Her argument about de-Anglicization could have benefited from giving the reader more of a sense of how the lobbyists or other community members contemporarily presented and described the changes that were being orchestrated in colonial law. For example, the substantial changes in Parsi cultural life in the second half of the nineteenth century were legitimized by developing a number of discourses and intellectual tools that were presented as drawing heavily from the “West.” Sharafi’s discussion on how Parsis understood the notion of reputation, especially given the how public their means of dispute resolution were, takes contemporary Parsi discourses and the colloquial language used by Parsi litigants in court into account, and is a richer analysis.

For the legal historian as well as for the historian of South Asia, the value and novelty of Sharafi’s work will lie in its excellent introduction to and examination of the investment Parsis made in the colonial legal system. For the scholar of Parsi studies, the strength of the work lies in tackling a well-established area of community life in new, thorough, and transformative ways.

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Herbert Hovenkamp, *The Opening of American Law: Neoclassical Legal Thought, 1870–1970*. New York: Oxford University Press, 2015. Pp. 460. \$49.95 cloth. (ISBN: 078-0-19-933130-7).  
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A quarter century after the publication of his acclaimed *Enterprise and American Law, 1836–1937* (1991), Herbert Hovenkamp has produced a sequel that extends that earlier work. Both works explore “intellectual ideas behind legal movements” (5). Hovenkamp maintains that legal theory reflects concepts of political economy. He posits a model of classical political economy that was superseded after 1890 by marginalism, a radically different economic theory that identified value as a function not of the past accumulation of capital but as an anticipation of future profits and costs. Marginalism diverted economic thought from backward-looking assumptions such as the wage fund theory, toward planning based on expectations of future performance. These economic concepts found their way into legal thinking within a generation, influencing, if not determining, fundamental changes in legal theory.

Classical political economy, originating with Adam Smith, exalted free markets as the surest way to increase national wealth. The market functioned as the only reliable pricing mechanism for both goods and labor. Classical