

PART V
INSTITUTIONS

In spite of their importance to the historian, Iranian institutions in pre-Islamic times have been more difficult to grasp than the political history, mainly on account of the problems that the interpretation of the meagre available sources present. The subject, therefore, has been given particular attention.

Chapter 18 deals with the law, especially in Sasanian times, and with the picture gained from it of the social structure and organization of Parthian and Sasanian Iran. A discussion of the extended patriarchal family as the basic social unit, the agnatic groups and their prerogatives and obligations, the social estates, and the institution of slavery is followed by a careful exposition of the family law (marriage, guardianship, succession), property law (private and family property, endowments, inheritance) and the law of obligations. Chapter 19 takes up first the institution of kingship and the sources and limits of royal authority, the categories of the nobility, their social and political status and their titles, with particular attention to contemporary epigraphic, numismatic and iconographic evidence. It then moves to a discussion of the administration in the city-states, royal cities, provinces and districts; looks at state officials and their functions; and closes with a consideration of trade, taxes and monetary system.

Chapter 20 is concerned with the geographical and administrative divisions of the empire, patterns of settlement, urban centres, routes and travel, taking in its stride also a survey of the economy, produce and trade.

Time-reckoning was important not only for the regulation of religious observances and festivals, but also for the collection of taxes and the proper functioning of the administrative apparatus. Calendar reforms in Iran have entailed therefore far reaching consequences in the social and religious life, creating on the side thorny problems of chronology for future historians.

Chapter 21*a* examines calendar and chronology and Chapter 21*b* deals with the festivals, which constituted the highlights of religious observances, as well as Sasanian calendrical reforms and their consequences. Editor.

CHAPTER 18

IRANIAN SOCIETY AND LAW

I. SOURCES¹

For the questions dealt with in this chapter the available sources are markedly uneven in quality: evidence for the Parthian period is extremely meagre and fragmentary when compared with the information provided by the written sources of the Sasanian period.

Historical records in the Iranian language for the Parthian period, if such ever existed, have not survived. Some information, very scanty and inadequate, can be gathered from the works of Greek and Roman writers who lived in that period, and also from later Syriac and especially Armenian texts which sometimes refer back to events of the Parthian period and preserve a number of social and legal terms. Of incomparably greater value is the Parthian epigraphic evidence, the three private-law documents of the 1st century B.C. and the 1st century A.D. from Avroman (the earlier two are in Greek, the third in Middle Iranian), and some parchments from Dura-Europos which belong to the period of Parthian rule. During excavations of the Parthian fortress Mihrdātkart (at Nisā in modern Turkmenistān) Soviet archaeologists found about 3,000 potsherds inscribed in Parthian. The inscriptions cover the period from the end of the 2nd century B.C. to the middle of the 1st century A.D. They are mostly accounts, and the majority of them were found in the wine-storehouse where contributions in kind from neighbouring vineyards were assembled. Many of these documents have been published, but full publication is still in the preparatory stage.

No Iranian historical texts have survived from the Sasanian period;² *Kār-nāmak ī Artaxšēr ī Pāpakān* (“The Book of the acts of Ardashīr Pāpakān”) must be classed as a literary document and was probably written when the Sasanian period was over. Western sources, though valuable for the political history of Iran, are almost valueless for the country’s social history, which is what we are concerned with here. In this connection the Syriac texts and Armenian historical works con-

¹ In this chapter the author has employed an earlier, more archaic form of Middle Persian words and names than prevailed in late Sasanian times; thus *Mātakdān*, *Dēnkart*, *nāmak*, Artaxšēr, *rat*, rather than *Māitgān*, *Dēnkard*, *nāmag*, Ardašīr, *rad*. Ed.

² That a Sasanian historical chronicle, *Xvatāy-nāmak*, did once exist is known to us through Arab writers (Ṭabarī, Tha’ālibī) who used it, or paraphrases of it. See pp. 359ff.

SOCIETY AND LAW

temporary with the Sasanians are considerably richer in content. The Armenian written tradition is of very great interest to the Iranist, owing to the close resemblance between Armenian and Iranian state and social organization and legal institutions and also because the Armenians borrowed social and legal terminology from Iran. The Sasanian period is much better represented than the Parthian in respect to epigraphic monuments, in particular by the great inscription (in Middle-Persian, Parthian and Greek) of Shāpūr I from Naqsh-i Rostam (Ka'ba-yi Zardusht), the inscriptions of the priest Kartīr, the inscription of King Narseh from Paikuli, and the inscription from Firūzābād of the *vazurg-framātar* of Iran, Mihr-Narseh, all of which contain valuable information on social and legal institutions. But the most important, the fundamental source of information about these institutions is, of course, the Sasanian Law-Book.

Law was not codified on an all-Iran scale in Sasanian times and this document is not actually a code but a collection of law-cases embracing all branches of private law. The title of the collection is "The book of a thousand judicial decisions" (*Mātakdān ī haẓār dātastān*). It was intended for practical use in legal proceedings and was compiled in the reign of Khusrau II Aparvēz (Parvīz) by a man named Farraxvmar̄t ī Vahrāmān, who lived in Fārs, in the town of Gōr (Firūzābād), in the district (*tasūk*) of Artaxšahr-Xvarreh (Ardashīr-Xurra). A brief survey of the materials used by the compiler of the Law-Book will give the reader a clearer idea of the nature of this monument, the richness of the information it contains and its value as an historical source.

Ancient Iranian law, like all ancient law, was sanctified by a religious ethic and constituted a part of this ethic. The canon of the Avesta included a number of legal nasks which have not survived but which are mentioned in the *Dēnkart*, the Pahlavi Zoroastrian "encyclopaedia" of the 9th century A.D. Book VIII of the *Dēnkart* contains epitomes of these nasks in the form of indexes or subject-lists.

In the Sasanian period, too, the legal nasks of the Avesta were used in legal proceedings, but not directly. The language barrier was not the only reason for this. The law of the Avestan nasks was certainly primitive in comparison with the level of development which had been reached by the society this law was serving. During the centuries that had elapsed since they were compiled (in approximately the 6th century B.C.) Iranian law had gone through a considerable evolution, along with Iranian society. And though the authority of the legal nasks was as

SOURCES

sacred as ever, they could not satisfy the requirements of the new conditions. It is clear that very early, long before the Sasanian period, the practice of making oral commentaries on these nasks had become widespread. It is not known when the first written commentaries appeared, but probably this also happened under the Arsacids. According to the Law-Book, written commentaries on the legal nasks of the Avesta provided the basis for legal proceedings as early as the middle of the Sasanian period. They were called *Čāštak* (“Precepts”, “Teachings”) and references to them, with mention of their authors, the commentators on the Avesta, together with actual quotations from them, are fairly frequent in the Law-Book. Some of the authors of commentaries on the non-legal nasks of the Avesta, such as Sōšyans, Martak, Mētō(k)māh and Aparak, also wrote legal commentaries, but a number of authors’ names appear now for the first time. These legal commentaries were written at different times, the earliest of those used in the Law-Book dating probably from the end of the 3rd century or the beginning of the 4th. There were also law “schools” composed of followers (Aparakikān, Mētō(k)māhikān) of one or other of these commentators, the *dastabars*. It was through these commentaries that certain legal terms from the Avesta found their way into Sasanian legal practice. Comparison of the articles quoting or expounding these commentaries and the 8th book of the Dēnkart shows that the 9th-century epitomes were made from the Pahlavi commentaries, and not directly from the Avestan nasks.

Besides these commentaries, the compiler of the Law-Book also refers to and quotes from “collections of judicial decisions”, evidently put together for the special purpose of helping judges – in particular, the *Dātastān-nāmak*.

There are also direct indications of the activities of the high priests (*magupatān magupat*) in the field of legislation and judicial organization. Thus, in four articles of the Law-Book mention is made of the “Memorandum” (*aByāt-kār*) of Veh-Shāpūr, the magupatān magupat. This is the same Veh-Shāpūr who under Khusrau I Anūshīrvān headed the commission on the canon of the Avesta. Veh-Shāpūr’s “Memorandum” deals with procedural questions and, in particular, the drawing-up of records of interrogation during the investigation of capital offences. This document was written down from Veh-Shāpūr’s dictation and reproduced in copies which, authenticated by his seal, were then circulated to the provinces.

SOCIETY AND LAW

Other sources used by the compiler were the “Book (or Instruction) regarding the duties of magupats” (*Xvēškārīh-nāmak ī magupatān*) and the “Book about the duties of officials” (*Xvēškārīh-nāmak ī kār-framānān*). The latter contained, notably, the instruction of the *rat* (spiritual master) Mahraspand (evidently the father of Āturpāt ī Mahraspandān, a figure in the Zoroastrian “church” well known for his fanaticism in the reign of Shāpūr II, 309–379) concerning the confiscation for the King’s treasury of the property of Manichaeans and persons spreading their doctrine.

A special work or instruction on procedure for appeals was called *Mustaḡar-nāmak*.

The Law-Book also cites decrees issued by certain Sasanian kings, with interesting details. For example, decrees by three kings, Bahrām V, Yazdgard II and Pērōz about the punishment of the *vazurg-framātar* of Iran, Mihr-Narseh, and the orders issued by the kings Kavād and Khusrau I about seals. Perhaps the most interesting of them, despite the fact that it is not completely clear, is the decree of Khusrau I on judicial reform and a general review of judicial procedures and sentences.

This does not, however, exhaust the range of sources utilized – and frequently quoted – in the Law-Book. The compiler had access to the archives of the *tasūk* of Artaxšahr-Xvarreh and also the court records of the town of Gōr. He quotes from entries in court records, from the minutes of interrogations, from a decision by the *rats* and *kār-framāns* (officials) of Artaxšahr-Xvarreh.¹ Farraxvmart ī Vahrāmān also quotes the wills, to which he was given access in the archives, of Veh-Shāpūr, the magupatān magupat, and Dāt-Gušnasp, of the noble family of Šahr-Zapalakān (both of whom were contemporaries of Khusrau I), and other private documents.

The sketch of Iranian society and law offered in this chapter is based mainly on the Sasanian Law-Book. Although this document is by far the richest source of information on our subject, other sources help us to understand certain passages in the Law-Book, and sometimes provide additional information. Among these other sources, besides those already mentioned, are later Pahlavī documents, especially *Dāstastān ī dēnik* (9th century A.D.) and *Rivāyat ī Ēmēt ī Ašavahištān* (10th century),

¹ The quotation from this decision gives us an idea of the opening formula used in documents of this kind: they begin by giving the date, in terms of the king’s reign, and the *ōstikānship* of such and such a person, and then comes the phrase – “it has been decided by the *rats* and *kār-framāns* of Artaxšahr-Xvarreh”.

SOCIAL ORGANIZATION

and also a Pahlavi specimen of a marriage-contract which reproduces the pattern of Sasanian documents of this type. An important supplement to the Law-Book is provided by Book VIII of the *Dēnkart*, and also by a legal compilation made for the Christians in Sasanian Iran, the Law-Book of Yišō'boxt, which has come down to us in a Syriac translation. In so far as the Christian communities of Iran were brought into contact with the Zoroastrian population through disputes involving the law of property and obligations, it was inevitable that they should adopt Iranian legal norms in this sphere. The same may be said of the Babylonian Talmud, a collection of law cases and norms compiled for use by the Jewish communities of the Sasanian realm.

Of the documents in Persian those most useful for our purposes are the "Letter of Tansar" and the "Persian Rivāyats".

2. SOCIAL ORGANIZATION

The structure of the society to be discussed in this chapter evolved through a process of social and property stratification which began under Achaemenians and even earlier. Although the centuries that elapsed between the foundation of the Parthian state and the downfall of the Sasanians saw some change and development, this factor will be disregarded here, since social (and legal) institutions are fairly conservative and slow to change, and also the present state of the sources does not enable us to trace the course of these changes and bring out their dynamic with any degree of precision.

The complexity and variety of the Iranian social scene at this time have long been a commonplace of historical writing. Besides the members of the king's family, the vassal rulers, courtiers and high officials of state, all of whom were persons of considerable wealth, there were the middle and petty service nobility (who received from the treasury, in payment for their service, both rations and allotments of land in hereditary conditional possession), a priesthood, urban middle strata made up of merchants and craftsmen, a mass of country people living in village communities, and also slaves. Finally, there was a quite numerous nomadic population, who still retained gentile-tribal forms of organization and a primitive patriarchal economy. Accordingly, Iranian society may be studied in a number of different aspects, of which four will be discussed in this chapter: (*a*) the division into social estates; (*b*) citizenship and lack of citizenship; (*c*) class and

SOCIETY AND LAW

legal status (non-slaves and slaves); (d) organizational structures (i.e. social units).

Social estates. There is no mention in sources of the Achaemenian and Parthian periods of the ancient division of society into estates of which we learn from the Avesta, and there is no evidence that such a division existed in the first half of the Sasanian period. That such a division existed in the subsequent period (from the 5th century on) we know from Pahlavī sources, from the works of Byzantine writers (Procopius of Caesarea) and Arab writers, and from Persian tradition.

It is equally difficult to assume either that the lack of evidence in the earlier sources (especially in the Greek sources) is merely accidental or that the well attested division of Iranian society into social estates in the later period was an entirely artificial creation of that period, with no real roots in the past. Evidently, with the appearance of a state in Iran and the emergence into the foreground of other forms of social organization, the rôle of this ancient division into estates markedly declined.

On the other hand, there can have been no special social-estate administration, nor did this exist in the society reflected in the Avesta. The estate-terms found in the Avesta left no trace in the living language of later times. The ancient estate of “priests” (Av. *āθravan-*) apparently came very early to be denoted by the term “magian” (Iran. *magu-* > *moy*), and the ancient estate of “warriors” or “charioteers” (Av. *raθaēštar-*) was replaced by the new noble estate, *āžātān* (in Greek documents from Iran representatives of this estate were called *ἐλεύθεροι*, by association with the homonym *āžāt*, “free”). This estate might also include the “horsemen” (*asaβarān*) of non-noble origin who served in the regular cavalry and received from the treasury allotments of land in conditional possession. The development of urban life, the crafts and trade, and the appearance of a bureaucracy must have led to still greater changes affecting the third estate, (*ram*, “flock”), the ancient “cultivators” (Av. *vāstryō.fšuyant-*).

Meanwhile, as early as the end of the 3rd century A.D., the process had begun of transforming the Zoroastrian priesthood into a state “church”, which from the reign of Shāpūr II onward began to play an ever greater rôle. The strengthening of its economic power and internal organization, which proceeded in close alliance with the monarchy, was accompanied, of course, by a tremendous growth in its

SOCIAL ORGANIZATION

ideological influence. The prestige of the Avesta became especially great. For this reason, when a new division into estates was introduced, not later than the beginning of the 5th century A.D. (this reform was a purely bureaucratic one), on the one hand the real situation was taken into account, on the other, the nomenclature of the Avesta was revived (in the Pahlavī “learned” version).

The reform established four main estates (*pēšak*). First, as before, came the “priests” (*āsrōn*, *’srwn*, Pahl. transcription of Av. *āθravan-*), with which the “judges” (*dātaβarān*) were also associated. In the second place stood the estate of “warriors” (*artēštarān*, transcription of Av. *raθaēštar-*). The third place was assigned to a new estate, the “scribes” (*dīpīrān*), comprising the numerous members of the bureaucracy. The “cultivators” (*vāstryōšān*, transcription of Av. *vāstryō.šūyant-*) formed the fourth estate, along with the “craftsmen” (*butuxšān*, literally “diligent”, “zealous”, an artificial term, perhaps an adaptation of the phonetically similar Av. *hūiti-*).

Subdivisions were also introduced within the estates. The fourth estate included “cultivators”, “craftsmen” and “merchants”, while the first was apparently subdivided into “magians” (“magupats”), *ēhrpats* (< Av. *aēθrapati-*) and “judges”. Membership of a particular estate was hereditary and movement from one to another was extremely difficult. Each estate was also given a bureaucratic administration covering the whole empire, and the person appointed to be head of an estate did not need to belong to that particular estate. Thus, of the three sons of the “prime minister” of Iran, Mihr-Narseh (5th century), one, Zurvandāt, was *ēhrpatān-ēhrpat*, head of the *ēhrpats*, while the second, Māh-Gušnasp was head of the “cultivators” (*vāstryōšānsālār*) and the third, Kardār, headed the estate of “warriors” (*artēštarānsālār*).

But this reform, which sought in a bureaucratic way to enhance the significance in Iran of the division into estates, did not dislodge the stress laid on the social antithesis between those who had rights of citizenship and the rest, and, among the citizens, between the “nobility”, who held a privileged position in the field of public law, and the rest, and finally, between all these social groups and the slaves, who had no civic rights.

Civic status. Only a member of a civic community (of whatever estate) was a legal person in the full sense. The position of a freeborn man who was outside a community was similar to that of a pariah;

SOCIETY AND LAW

the advantages enjoyed by a member of a civic community were closed to him. Every member of a community could not only inherit within his community but also acquire real property and make use of what-ever belonged to the community as a whole. A system of mutual responsibility and solidarity also operated within the community. Membership of a community conferred the right to take part in social life and religious worship, guaranteed security of succession and ensured the protection of widows and orphaned minors. In other words, the status of a citizen enabled a man to take full and active part in economic, social and religious life and offered him and his family definite safeguards.

As will be shown later in the section on “agnatic groups”, the road to citizenship was opened by entry into one of the structures which made up the community. The whole of the subsequent exposition in this chapter is aimed at giving an idea of the forms in which civic rights existed in Iran and the standards which guided social practice.

For the present, in connection with legal personality, it should be noted that the scope of a person’s legal capacity and competence varied with sex and age: women and minors had a limited (passive) legal capacity. Greater or lesser loss of rights, even complete loss, could result from conviction for crime.

A Zoroastrian who adopted another religion was deprived of his position in his former family and community and, consequently, of all the rights linked with that position, but he kept his rights as regards contractual obligations and his personal property. When he entered another, non-Zoroastrian, community he did not cease thereby to be a civic person.

In Middle-Persian documents we find used to define a person’s membership of a civic community, in addition to the expressions *āzāt* and *hamnāf* (literally, “agnate”), also the expressions *ādēhik* (literally, “fellow-countryman”; cf. Av. *ādahyav-*) and *mart ī šahr* (“citizen”).

Non-citizens. Slaves. The inhabitants of Iran who were without civic rights included other groups besides the slaves. These were persons who, though formally free, were not members of civic communities, “aliens”, casual settlers, or persons who had been expelled from a community, and their descendants (Middle Persian *uzdēh*, *uzdēhik*). Also in this category were the illegitimate children of full-right members of the community and, apparently, their descendants, who lived in the