



Received: 30 April 2018  
Accepted: 26 August 2018  
First Published: 05 November 2018

\*Corresponding author: Mahmoud Emami Namin, Department of Law, Allameh Mohaddes Nouri University, Nour, Iran.  
E-mail: [m.emami.namini@gmail.com](mailto:m.emami.namini@gmail.com)

Reviewing editor:  
Saad Twaissi, United Arab Emirates

Additional information is available at the end of the article

## HISTORY | REVIEW ARTICLE

# Legal status of women in the Sassanid's Era (224–651 AD)

Mahmoud Emami Namin<sup>1\*</sup>

**Abstract:** The opaque nature of Iran's ancient history in the Sassanid's era makes it impossible to collect adequate and entirely correct information about women's private rights at that time. Consequently, history and law scholars who have studied women's civil rights in the Sassanid's times expressed remarks, which didn't match the truth. However, referring to the original documents, one can bring to light the status of the conjugal relations, divorce and inheritance rights of the women in ancient Iran during the Sassanid's dynasty.

**Subjects:** Family, Child & Social Welfare Law; Equity and Trusts; Islamic Law; Socio-Legal Studies; Cultural Studies

**Keywords:** wife lending; Padisha-zan (king-wife); Chagar-zan (servant wife); Khevedhvahdas; polygamy

### 1. Introduction

The study of life conditions of people in ancient Iran, their private law and especially civil rights of women in the Sassanid's period is quite significant and useful from diverse perspectives including law stylistics, comparative law and legal sociology of ancient people.

The Zoroastrian religion and the customs and traditions characterizing the Sassanid's empire serve as the original sources for the introduction of "law" including both civil and criminal law at that time. Due to the lack of documents about Iran in the Pre-Islamic period, it is hardly possible to figure out the secret of legal life among the Sassanids as the greatest and most powerful government in Asia and the world for more than 400 years, and provide answers to all the raised questions. However, since "a partial answer is better than no answer", one could extract, albeit in

### ABOUT THE AUTHOR

Mahmoud Emami Namin holds a PhD degree in Law from Aix-Marseille University and is currently assistant professor at Allameh Mohaddes Nouri University where he has established the Department of Law offering BA and MA programs to the students of Private Law, Jurisprudence-Private Law and Jurisprudence-Criminal Law. His current research interests include women's financial rights and private contracts.

### PUBLIC INTEREST STATEMENT

The woman in ancient Iran has been mistakenly assumed to lack a legal entity and often treated as an object or property. The present paper calls into question the researchers and Orientalists' long-held misconception about the women's social and civil rights in the Sassanid's Era (224–651 AD). It clarifies the diverse aspects of marriage, dowry, trousseau, polygamy, type of marriage and financial relations of the spouses at that time. It is argued that the dissolution between husband and wife was officially permitted only in four cases and the children's inheritance varied according to their gender, health conditions (diseases) and parents' type of marriage. Further changes in the civil rights of the woman rooted in Islam and the pure divine sources are also discussed.

a piecemeal form, the legal rules about the women's rights by referring to the original sources and religious books such as *Avesta*, *Zand Avesta* and *Dinkard*, and discover the judicial decisions by reading the historical books and judicial or legal practices reported in the *Madigan-i-hazar Dadistan* (book of a thousand legal decisions) (Modi Jivanji, 1901), *Dadistan-i Dinik* (a book of religious beliefs) (West, 1882), *Rivayat* (Narrations) (Modi Jivanji, 1922), and *Tansar's Letter* (Minovi, 1957).

Orientalists along with Iranian and western scholars who have written prolifically about the Sassanid's history have mistakenly assumed the Sassanid woman to lack a legal entity, claiming that the women in the Sassanid's period didn't have the capacity to enjoy civil rights. Furthermore, they have claimed and expressed opinions about the prevalence of incestuous marriage (next-of-kin marriage) and loan marriage (wife lending) among the Sassanids. In this paper, arguments against these views are raised and discussed.

From the viewpoint of marriage, women in the eyes of the Sassanids are classified into five main types: *Padishah-zan* (king wife), *Chagar-zan* (servant wife), *Yog-zan*, *Sater-zan* and *Khudsar-zan* (self-entrusted, self-dependent), all benefitting from the civil rights differentially. *Padishah-zan* fully enjoyed the civil rights. This wife could sue her husband (Sanjana & Sanjana, 1874–1928) and succeed him after his death, and preside over the family (West, 1882). Sassanid's woman had inheritance rights, half as much as man's (ibid). According to the religious books of Mazdak, the marriage ceremonies were held in different forms. The details of such marriages, their consequences and financial relations between the spouses are examined in this paper. Qualifications of the spouse were such that the husband was not permitted to leave his wife because of sexual temptations towards other women. The Sassanid's man deciding on divorce had to go to the court, and file an evidence of divorce from his wife.

Divorce in the Sassanid's period was possible only under four conditions:

- (1) If the woman committed adultery
- (2) If the woman disguised her menstruation from her husband
- (3) If the woman engaged in magic practice, or taught it to others
- (4) If the woman was barren

(Sanjana & Sanjana, 1874–1928)

Throughout this paper, the baseless writings of orientalist about the rights of the Sassanid's women are critically examined, and then the woman's marriage institution, divorce and inheritance will be briefly discussed.

## 2. Legal status of the Sassanid's woman in the view of orientalist

Prominent orientalist like Noldeke (1879) and Bartholomae (1924) from Germany, and Christensen (1907) from Denmark conducted researches on the socio-political history of Iran in the Sassanid's period and illustrated the legal character of Sassanid's woman based on their personal interpretation, which has left doubts according to some evidence. Unfortunately, Iranian historians and researchers have accepted and published such ideas, as they were, without assessing the truth of such self-interpreted statements.

In 1924, Professor Christian Bartholomae delivered a speech on 'The woman's rights in the Sassanid's Empire in German university of Heidelberg and remarked some statements under the topics "Lack of capacity of Sassanid's woman to enjoy civil rights, 'consanguineous marriage', 'illegal marriage', and 'loan marriage'. The full text of his speech was published in Germany and its summary has been translated by Professor Arthur Christiansen in his book entitled *L' Iran sous les Sassanides*. The full text of Christian's speech has also been translated into Persian by Dr. Naseraldin Saheb-alzamani, and published in 1958 and 1965 AH with a prelude titled "Iran's

Legal Typology and Sexual Psychology in the Sassanid's Period" contending that this speech is "the only evidence and the most reliable documentary reference on the legal life of the Sassanid's period" (Bartholomae, 1965, p. 1).

### **2.1. Incapacity of Sassanid's women to enjoy civil rights**

Bartholomae states that "in the Sassanid's Empire, women lacked legal identity, that is, the woman was regarded not as a person but an object. In other words, she was not regarded as a person with any right, but as an object to be possessed by someone. In short, the woman had no rights. She was, in any respect, under the tutelage of the head of the family (father or husband). Whatever gifts bequeathed to the woman or children, or any income gained through works or other means belonged to the head of the family and women were treated as slaves (Bartholomae, 1965, p. 12). In another part of his speech, Bartholomae has outwardly forgotten that he had considered the woman as lacking any legal personality, objects or property, stating that: "The girl when marrying took with herself a large and full dowry. The list of such dowry has remained from the Sassanid's period and been handed down to us" (Sanjana & Sanjana, 1874-1928, p. 20). "The suitor was entitled to fix alimony to be paid, in advance or later, to the wife if the divorce took place" (ibid) "The father was not authorized to force his daughter to marry or disinherit her if she refused to marry" (ibid). If the daughter married without her father's permission, the father was eligible to reduce her share from the heritage (ibid, p. 21).

In another part of his speech, Bartholomae talks about woman's right to file a lawsuit in court: "A good example showing that woman had the right to file a lawsuit, or even be sued in the court is that when a man along with his wife were committed to pay off a debt, the creditor had the right to solicit either the husband or just his wife alone to pay off. In such cases, when bringing a claim against the wife, the plaintiff did not have to obtain the husband's consent or disagreement" (ibid, p. 36). "Also in several cases, it has been reported that the husband had officially transferred to his wife the right to possess certain share of the family property, or its price" (ibid, p. 37) and "finally, in another interesting case, we read that a man signs an official agreement with his two wives to establish a joint stock company and all the three members benefited from equal rights" (ibid).

Now the question is: if the Sassanid woman was not eligible to benefit from the civil rights and was considered a property, how did she become the owner of alimony and dowry? What type of *property* was she when she was legally and, as a common practice, assigned a share in the family heirloom and heritage left by the deceased? If the woman lacked a legal entity, how was she able to bring a claim in the court for her own benefit or another person to file a lawsuit against her? How was she able to take the responsibility for paying off a debt or loan? How was a creditor able to sue a married woman to ask for the return of her debt? If the Sassanid woman was deprived of the civil rights, how was she able to sign a firm contract with her husband for establishing a trade company while benefiting from equal rights? Contradictions like these in Professor Bartholomae's speech would in general attest to the inaccuracy of his assertions and dishonesty about the civil capacity of women in the Sassanid's period.

### **2.2. Incestuous marriage**

In his book titled *Iran in the Sassanid's Period* (Christensen, 1966), Professor Arthur Christensen writes about the authorization of incest, that was called "Khvedvaghdas" and cites examples of valid documents to prove it among Iranians in the Sassanid's period. Professor Bartholomae mentions the marriage between sister and brother in the Sassanid's period and assumes it as "weird and offensive" (Bartholomae, 1965).

First, the use of the term "incest" does not literally and legally seem appropriate because being "Mahram" (next-of-kin), or "Na-mahram" (not next-of-kin) remains with the law to be defined, and if the marriage between a sister and brother is authorized within a certain community, it won't be assumed as *Mahram* any more so as to become "weird or offensive". Therefore, the researchers had better talk of *aghareb* (relatives) rather than *mahrms*. Second, marriage with "relatives" (of

the first and second rank) was refuted by Indian Persians as well as Iranian Zoroastrians who literally defined the term “Khvedhvaghdas” differently from the term “close relatives” to some extent. According to some valid historical and religious evidences, “incest” was a common practice among Zoroastrians in the Sassanid’s period, and was never deemed “weird and offensive”.

In a chapter of his holy book *Sharh Lom’eh* (Rules and Illumination Expository) on the heritage of the *majus* (Zoroastrians), Shahid Thani quotes Sheikh-E-Toosi and others as saying: “Zoroastrians are entitled to inherit through affinity or consanguinity, be they corrupt or not. The proof of his statement is found in Sokoni’s statement quoting Amir Al-Momenin (AS) that: “if a Zoroastrian marries his mother, sister or daughter, and his wife passes away, he would inherit twice, i.e. once for having a maternal relation and, second, for being her husband. It has also been reported that once someone offended a Zoroastrian for marrying his own mother and Imam Sadegh is quoted to have blamed the offender saying that “don’t know that this is an act of marriage, and any group and sect should be judged within the scope of their own beliefs and faithfulness.” (Shahid Sani, 1931, p. 276)

Additionally, Allameh Tabatabaei and other Qur’an interpreters believe that the children of Adam and Eva married each other. In interpreting the first verse of Surah An-Nisa (وَبَيَّنَّا مِنْهُمْ ذُرِّيَّةَ رِجَالٍ لَّتَنْكِحُوا أَبْنَاءَهُمْ ... *and from them both He created many men and women*), Allameh Tabatabaei states that “marriage of the first class has been observed between brothers and sisters, that is, Adam’s sons married their daughters, since at that time males and females were among themselves only. Such a practice was not forbidden because this is a religious decree authorized by Allah, who may announce it *halal* (permitted/lawful) for sometime or *haram* (prohibited) in another time.” (Tabatabaei, 1985, p. 234)

Ayatollah Makarem Shirazi has considered the marriage of Adam’s children (the brother-sister marriage) *mobah* (permissible), since the decree of prohibition was not issued at that time. (Makarem Shirazi, 1983, pp. 246–247)

### 2.3. Interim marriage

In his speech, Professor Bartholomae points to a certain kind of marriage which is not compatible with the legal logic at all. The Sassanid man may get his main wife marry another man provisionally. The wife is bound to serve in her second husband’s house and the children born out of this kind of marriage belonged to the first husband, rather than to their own father, who is the interim husband of their mother (Bartholomae, 1965, pp. 29–32). It seems that similar to the other points in his previous speech and writings Professor Bartholomae has made the claim that Professor Christiansen cites the aforementioned points about “loan wife”, or “borrowed wife” from the book *Sassanid’s Empire* (Christensen, 1966, pp. 353–354) and admits that his writings on the rights of Sassanid’s women are based on those of Bartholomae (ibid, pp. 346–354). Thus, the mistake made by Bartholomae is again repeated by Christiansen.

In addition, Bartholomae talks of a kind of marriage known as “Illegitimate marriage” saying that if a father intentionally does not permit his daughter to marry on time, the daughter can engage into an “illegal marriage” on her own without the permission of her father. In such cases, the daughter’s rights would be protected without any change in her allowance and heirloom (Bartholomae, 1965, p. 21). It is not clear why Bartholomae considers this type of marriage unlawful while claiming that the constitution protects the right of such daughter. At present, article 1043 of the civil code of Iran protects such marriage.

It is noteworthy that the main sources used by Bartholomae are the writings of the German Noldeke published in 1879 and 1895 which are mostly of historical rather than legal nature. Second, as pointed out in the prelude of his speech, Professor Bartholomae has mostly referred to the books of “Jesubokht” and “Madigan-i-hazar Dadistan”. About the book *Jesubokht*, Bartholomae argues that: “this book was written by a Christian author in the second half of the 8<sup>th</sup>

century and the author has complied it for the Persian-speaking Christians of that time, written on the basis of Iranian law in the Sassanid's period" (ibid, pp. 7–8).

Now the question is: how could a Christian say the truth about the Sassanid's law and even the private rights of the Sassanid's women 200 years after the fall of the Sassanid's Empire. Apparently, the underlying motivation behind this work was to humiliate and despise the Iranian Zoroastrians among Iranian Christians and entice them towards Christianity rather than the newly-introduced supreme Islam.

With respect to the book *Madigan-i-hazar Dadistan*, Bartholomae's knowledge was incomplete and in many cases inaccurate. The English text of this book is extremely complex and written with sophisticated language. Most probably, Bartholomae has mistakenly misinterpreted "bondwoman lease" as "loan wife". Consequently, he made contradictory remarks as pointed out by the interpreter of his speech in the footnote of the book (ibid, p. 31). However, the notion of married loan wife could not be historically and legally accepted, unless we assume that an institution like "milk al-yameen" (female slave) existed in the *Imami* jurisprudence.

Thus, the wittings of Professor Bartholomae on Sassanid's rights that have, unfortunately, been a source of reference for most Iranian and European writers are not that much valid, since he himself admits that his speech has been taken from a nonexpert in law and sees himself in danger. The doubt and hesitation inflicting Bartholomae could be easily figured out in most of his writings.

Now, to present a more vivid picture of the legal status of the Sassanid's woman it seems essential to look more closely at the marriage institution, divorce and heirloom of the women in the Sassanid's period with reference to the religious, literary and historical evidences.

### **3. Marriage**

An overall overview of the significance and terms of marriage, dowry portion, polygamy, types of marriages and financial relations of the spouses in the Sassanid's period is highly important.

#### **3.1. Importance of marriage in the Sassanid's society**

Since the official religion of the Sassanian Empire was Zoroastrianism (Mazdaeism) and in all the religions marriage occupies an important status, marriage was considered as a sacred action among the Sassanians and if somebody died without any child, he or she could not cross the Chinvat Bridge. The bridge would be cut and the soul would rest nowhere and wander around in the world (Modi Jivanji, 1922).

According to Mazdaeism religion, marriage is an indication of prosperity in both worlds, and the couples feel jointly responsible for their good and bad actions. Upon marriage, the couples say to each other "share in my good acts" (Unvala & Manockji, 1922). Not only did the couples enter into a contract morally and spiritually upon marriage, but they also shared all their properties financially, an activity which is to be further discussed below.

As in the Achaemenians, to maintain the generation was extremely important among the Sassanids. Like the Achaemenians who gave gifts to the families with more children, marriage was compulsory in the Anoushirvan's empire and a financial aid from the government's treasury was given to the poor families. (Herzogenberg, 1869, p. 32)

The ancient Iranians considered themselves as an elite species by God, and a nation superior to others (Sanjana & Sanjana, 1874–1928). Marriage of a Mazdae with a non-Iranian or non-Mazdae, known as pagan, was in principle forbidden. Marriage with close relatives (Khvedhvaghdas) i.e. between brother and sister can't be considered as impermissible because the Mazdae in the Sassanid's period believed that marriage between brother and sister lights up God's *farrah* (glory), moves away the demons, and erases the capital sins. (Christensen, 1907)

In addition, in the eyes of the Sassanids, marriage between the family members brought about blood purity and safeguarded the genuineness of their race.

### **3.2. Conditions of marriage**

The necessary condition for marriage among the Sassanid's boys and girls was reportedly the age of 15, and more precisely, 14 years and 3 months. Because the Sassanid's Mazdaei assumed the man's age to begin at conception and the baby was born after nine months (Unvala & Manockji, 1922), the girls and boys in the Sassanid's period were betrothed at the age of 9 and 13–14, respectively. An engagement ceremony being held officially was necessary and irreversible (ibid).

Marriage in the Sassanid's period was not possible without the consent of parents or tutor. The terms of marriage were negotiated between the parents or tutors of the girls and parents of the prospective groom and finally fixed up. The marriage proposal was offered to the girl's parent (father) and, in his absence, to her brother. If the daughter had no father or brother, her tutor who was not an immediate member of the family should have expressed his consent (West, 1882).

In the course of marriage, the daughter had no option but to expressly declare her consent and agreement, and if she disagreed to marry a man picked out for her, she was treated as if she had committed a capital sin which was against the religious values. In one of the Mazdaei texts, it was cited: "if father, mother or tutor wants to betroth the daughter to a man and the daughter does not express her consent, no one can force her to marriage. But, if the girl intends to marry someone against the will of her parents she can do so. In such cases, the girl is called *Khusdsar-zan*' (self-entrusted), and deprived of her father's fortune". (Unvala & Manockji, 1922)

The boys, like the girls, must have obeyed their parents in the course of marriage. The father could disinherit a son who disobeyed his father's will during marriage (ibid). In the book *Rivayat*, it has been asserted that the mother's or any other person's wills played no role in the marriage declaration (ibid). However, as for *'Padishah-zan* (king-wife), there was an exception. "*Padishah-zan*" was a privileged woman who had the right to succeed her husband and even betroth her daughter to marriage if her husband died and left no son or brother to supersede. (ibid)

### **3.3. Dowry and trousseau**

Studying the Mazdaean texts, one can find out that a man at the time of marriage had to give a property to his future father-in-law, just like a property which he had to give to his prospective wife. Likewise, the daughter's father offered her daughter a property as dowry at the time of marriage.

According to "*Vandidad*", the girl who gets married must go to her husband's house with precious jewelry (Kellens, 1989). If a man passes away, his debts must be repaid to the creditors and his wife's portion must be paid in full. Then, the will of the deceased husband was executed, and if anything remained from the properties, at first his widow took the property she had brought from her father's house and the remaining heirloom was divided among the heirs (Unvala & Manockji, 1922).

Also in the book *Rivayat*, there are reports about the properties to be transferred from the man to his wife, and from the father to her daughter at the time of marriage. In another narration, we also read that the wife bestows a portion of her promised dowry upon her husband at the time of marriage. (ibid)

According to the text of the book *Dinkard*, the amount of *Shah-Zan's* (king-wife) dowry was not equivalent with that of a *Chagar-zan* (servant wife) (Sanjana & Sanjana, 1874–1928). According to this religious book, if a wife didn't receive any dowry from her husband, the wife's father was entitled to restore the trousseau (ibid, p. 79). In sum, the marriage institution stipulated that the man give some property as a gift to his wife, and in return, the wife's father gifted his daughter some property as trousseau.

### 3.4. Remarriage and Polygamy

According to a chapter from “Dinkard”, a man or a woman who loses his/her spouse should not marry again, to the extent possible, since this is an act of indecency according to the religion (ibid, p. 627). On the country, “Rivayat” says the widow can remarry (Unvala & Manockji, 1922). In fact, according to the aforementioned narrations, if a woman does not bear a child and is separated from her husband, she is allowed to marry another man, in which case half of the second husband’s children must be given to the first husband (ibid).

According to some scholars, Avesta prohibited polygamy (Sanjana, 1892, p. 44) for all the men while in the view of other scholars, Avesta prohibited polygamy for all except for the man whose wife was barren (Frank, 1881). This view has also been stated in the work of other researchers (Lafont, 1897). The belief in non-polygamy by the Sassanids is totally unacceptable and contrary to fact because the historical and literary texts mostly attest to the fact that polygamy was in vogue in the Sassanid’s period. Ammien Marcellin, the Greek historian of the fourth century, whose writings are unanimously accepted by the recent historians in terms of originality, writes that: “Iranian men have wives depending on their wealth and the rich have so many wives” (Marcellin, 1849, p. 208).

Professor Arthur Christiansen reiterates Ammien Marcellen’s idea drawing upon the historical events and contends that “polygamy was conceived as the foundation of the family. In practice, the man could get as many wives as he could afford. The poor men ostensibly had, in general, no more than one wife. The master of house had many wives. One of the wives was the favorite who enjoyed full rights, and was called “Padishah-zan” (king-wife) or “privileged wife”. Standing inferior to her was a wife titled “servant”, or “Chagar-zan” (servant wife). The legal rights of these two wives were different. Apparently, the captive women and bondwomen belonged to the lower class i.e. “Chagar wife” (Christensen, 1966, p. 346). Professor Bartholomae confirmed this view with reference to the literary and historical books, claiming that decision on polygamy depended, in practice, on the man’s volition, and above all, on his financial potential. An ordinary man was destined to live with only one wife but the royals could have wives as much as the number of prayer beads in their haramsara (a section for court ladies). According to the Greek’s reports, we find that this number amounts to hundreds (Bartholomae, 1924, p. 23). Of course, there is no doubt that Bartholomae’s view was flavored with some exaggeration and the term “haramsara” was specific to the Islamic periods. However, the act of polygamy in the ancient societies and among the Sassanid’s was not unusual.

### 3.5. Types of matrimony

Although the renowned Danish orientalist, Arthur Christiansen, reports the prevalence of only two types of matrimony i.e. “Padishah-zan” and “Chagar wife” (Christensen, 1966, p. 346), the documents remaining from the Sassanids attest to the existence of five types of matrimony in that period, namely *Padishah-zan*, *Yog-zan*, *Chagar-zan*, *Star-zan*, *Khudsar-zan*.

#### 3.5.1. Padishah-zan or privileged woman

This referred to a girl who got married with the consent of her parents or tutor provided that she was not the only child of the family (West, 1882). “Padishah-zan” is the ideal woman a Mazdaei wishes to have; such a woman would be his wife both in this world, and in the other world (Unvala & Manockji, 1922). “Padishah-Zan” (privileged wife) enjoyed much more rights than the other women. The portion dedicated to “Padishah-zan” is more than that of the widow (Sanjana & Sanjana, 1874–1928). “Padishah-zan” is the mistress of the house and cooperates with her husband in the family management and children’s training. Upon the death of husband and absence of a male child, she succeeded to the throne and managed the family properties and minor children’s affairs. Moreover, “Padishah-zan” was the only woman liable for inheritance from her husband (West, 1882) and the heirloom of ‘Padishah-zan’s children was twice as much as that of other women’s children (Unvala & Manockji, 1922).

#### 3.5.2. Yog-zan

If the only child of a family was a girl and she married, she was named “Yog-zan”. Yog-zan was bound to bequeath her first male child to her father (rather than her husband) (Unvala & Manockji,

1922). In Mazdaeism ceremonies, this custom helped to prevent the destruction of family circle. The Sassanids believed that a man must be the heir to, and guardian of, the family as well as the executor of religious ceremonies. In this way, the male child of the daughter was considered not only as the first-rank child of his father, but also the first-rank child of his maternal grandfather.

After Yog-zan gave her first son to her father's family, she was exempted from commitment and changed into a "Padishah-zan" (ibid). However, if Yog-zan gave birth to girls only, one of the girls married as a Satar-zan (star-zan) for her maternal grandfather and another girl as Satar-zan (star-zan) for her own father. (ibid)

### 3.5.3. *Satar-zan (star-zan)*

If a man (matured boy) died before marriage, his parents picked out a woman and gave her in marriage to a man with some dowry, while stipulating that half the children born out of this wedlock belong to the deceased bachelor and this woman is to be the wife of the deceased bachelor in another world. This woman was called Satar-zan i.e. adopted woman (like adopted daughter). The principal aim of being an "adopted woman or adopted wife" was to survive the generation and the family of the man who died as a bachelor.

### 3.5.4. *Chagar wife (Kakar-zan)*

The widow who married for a second time was called "Chagar-zan" or servant wife. If the widower got married, his second wife was called "Chagar-zan" too and according to the Mazdaism religion, the second wife will occupy the same status as a Chagar wife (servant of Padishah-zan) in another world. In fact, in the eternal world, the first wife is Padishah-zan and the second wife is his servant. Of course, if the first wife (Padishah-zan) was barren, and the man chose a second wife, this wife would get the title of "Chagar wife".

Also if a widow had no child from her late husband and got married, half the children of the second husband belonged to her first husband (ibid). In fact, she was treated as having the status of a Satar-zan. In addition, a widow who had no child from her late husband married again received the title of "Chagar wife" and her first male child became the adopted child of her late husband in order to survive his generation. (West, 1882)

### 3.5.5. *Khudsar—zan*

The girl who happened to marry without the consent of her parent or guardians was called "Khudsar-zan" meaning "obstinate and acting of self" (Unvala & Manockji, 1922). "Khudsar-zan" was usually deprived of inheritance; therefore, if she bore a male child and the very child confirmed his mother's marriage to be a true one, his mother changed from Khudsar-zan to Padishah-zan and would take advantage of its benefits. According to Rivayat written by Darab Hormoz Dyar, after the male and mature child of the Khudsar-zan declared his agreement as to his mother's prior marriage, the marriage ceremony of such woman with her husband was held again but this time as "Padishah-zan". (ibid)

## 4. Financial relations of the spouses

In principle, the properties of the husband and wife were considered as a single and common asset. However, during the marriage contract, or later throughout the matrimonial life, the couples could make an agreement and rewrite their financial relations in a different form. According to different narrations, upon the husband's death, at first one must put aside the debts and the wife's portion of marriage agreed upon by the deceased as an obligation to his wife, and the remainder would be apportioned according to the "will". Without the "will", the wife of the deceased first takes the properties she had brought from her father's house and the remainder was split up as the heirloom (ibid). From this narration, it can be inferred that the whole property of the couple was deemed to be a common asset held by the husband and in cases of dissolution of marriage, the woman was not entitled to put aside and seize the property she had brought from her father's house unless she paid off all of her husband's debts and executed his will.

In the meantime, the husband was not considered the full owner of his wife's properties because after the dissolution of marriage, the woman put aside and seized her own dowry and personal assets which were separable from the common property. Besides, there is a statement in the "Madigan-i-hazar Dadistan" claiming that a man, in the case of having two wives, must have concluded a contract with his wives such that the property of each wife and the husband formed a common property but the properties of the wives didn't integrate with each other's. Such a community relationship could be broken only by the husband (Modi Jivanji, 1901). This section of Madigan-i-hazar Dadistan indicates that; firstly, the couple's financial contract is different from the marriage contract and; secondly, this contract is mandatory for the women but permissive for men and thirdly, there has been a common ownership in the spouses' property in such a way that the man could make any material and legal possession in his wives' property and, in return, the wives could enjoy the interests accruing from the common ownership of the property.

So far, we have reviewed the issues related to the marriage and now it is time to shed some light on dimensions of marriage dissolution.

### 5. Marriage dissolution

Since marriage was presumed as an important, holy and religious institution among the Sassanids, it was natural not to give the couple absolute rights to decide on their dissolution. Therefore, the couples were not given absolute freedom to divorce. If divorce was not forbidden, its proceeding was extremely difficult and limited to exceptional cases. The texts of religious and literary books on the Sassanids confirm this claim. As an example, in the text of Dinkard we read: "If a man decides to cut off a conjugal bond out of malice, a claim would be brought before the court asking the state to interfere in the matter. According to the court order, if the husband accepted the conjugal relationship, he would not be sentenced to prison" (Sanjana & Sanjana, 1874–1928, p. 639). This statement indicates that the husband was not absolutely free to abandon his wife and to divorce, and in order to cut off the marriage bond, court's intervention and order was essential. Furthermore, it can be inferred that the court had even the right to imprison the husband being guilty of conjugal misbehavior to life sentence.

To the Sassanids, abandoning the wife was a big crime liable to capital punishment. In the book *Rivayat*, four types of divorce have been reported beginning with a prologue, which reads: "According to the good religion of Ahura Mazda, one is not allowed to abandon and keep away from his wife, and divorce is allowed under four conditions only ..." (Unvala & Manockji, 1922, p. 189). Having stated the four conditions, it continues to say: "There remains no reason for the man to abandon his wife and if he does so for reasons other than the aforesaid, he will be liable to face a death sentence" (ibid). There is another text in the Sassanid's literature providing evidence as a justification for executing capital punishment for a woman who abandons her husband for no reason, which reads: "Any woman who tells her husband that she doesn't want him and is not his wife while repeating it four times and insisting on it throughout the day deserves death" (ibid).

In the translation of some parts of the book *Madigan-i-hazar Dadistan* (report of 1000 judicial orders), which is one of the main sources of the Sassanid's law, Professor Bartholomae writes that: "If a woman who has earned some property from her husband during their matrimonial life wants to get divorced with the consent of her husband must leave that property to her husband" (Bartholomae, 1910–1911, p. 8). This institution might be equivalent to the "divorce of khula" (self-initiated divorce with compensation) existing in the jurisprudence of Imamieh and Iranian civil code (article 1146 of civil code) according to which the wife who hates her husband divorces him while remitting some property to him as compensation. Hence, if we accept this part of Bartholomae's writing, we should believe that the wife had the right to divorce in one case and under the condition that she had given some property to her husband and received his consent.

In the translation of one part of *Madigan-i-hazar Dadistan*, Professor Bartholomae has described the couple's separation. Professor Arthur Christiansen has directly quoted it in the book *The Sassanid's Empire* as follows: "whenever a husband told his wife "you are free from now on and

fully authorized”, the wife would not be fully abandoned, but entitled to marry another man as a Chagar wife. If the husband abandoned his wife without granting her full authority to leave, and the woman married another man, the children born out of this new marriage during the first husband’s life belonged to the first husband. (Christensen, 1966, p. 353)

Referring to the text of *Madigan-i-hazar Dadistan*, one can infer that beyond these four reasons, the husband could abandon his wife. Some scholars of the law have attributed, though doubtfully, the four reasons which are to be explained below to the Ashkanian period.

In his pamphlet titled “History of law in Iran” (Parthians and Achaemenids), the late Dr. Mohammad Hossein Aliabadi writes that: in the Parthian period, man could divorce his wife in the following four cases only:

- (1) Being barren
- (2) Getting engaged in magic works
- (3) Being morally corrupt and
- (4) Hiding her menstruation period from the husband

(Aliabadi 1966–1967, pp. 140–1)

His reference is the writings of the late Moshirodolleh Pirnia in the book *History of old Iran*. Since the late Purina has not mentioned his source, one can accept these four reasons conservatively and with skepticism unless we believe that this was the situation during the Parthian times and was transferred to the Sassanid’s period as it were with no changes. Or, these four reasons existed in the Sassanid’s era and the writers have mistakenly extended them to the preceding era (i.e. Parthia).

Based on the provisions of the book *Rivayat* (Unvala & Manockji, 1922, p. 266–7) which is an authoritative source among the researchers, divorce was permitted in the Sassanid’s period only for four reasons:

- (1) If a woman committed adultery, the husband had to divorce her since adultery endangered the purity of conjugal relationship. However, if she repented, the man could keep her
- (2) If the woman hid her menstruation from her husband.
- (3) If the woman did magic works or taught it to others.
- (4) If the woman was barren, in which case the man could give her wife in marriage to another man through propitiation, and marry another woman just like a man who could marry another woman without divorcing his barren wife. It is also noteworthy that if a man suffered from sexual impotence after marriage, he could not declare it as the reason for divorce.

Some of the modern historians cited eight reasons or conditions for marriage dissolution in the Sassanid’s period. (Rezai, 1999)

However, since the author has not cited the source of his writings and the mere claim may not be legally justifiable, to accept it is far beyond prudence.

## 6. Woman’s heirloom

First, it should be noted that if a married woman or a widow passed away, the woman’s parents did not inherit from her. In other words, when the daughter married, she changed her family circle and the legal bond between her and her family was cut off. The daughter and parents did not inherit from one another. The death of husband did not reconnect the interrupted legal bond either, and the widow was not deemed as belonging to her father’s family. Thus, upon the woman’s death, the only heirs were the husband and the children.

Upon the death of step father, his heirloom was divided into four parts after paying off the debts and executing the will and then distributed among the heirs i.e. the children, Padishah-zan, brothers/sisters and clergymen.

### **6.1. Children's heirloom (daughter and son)**

If the deceased husband didn't leave behind a privileged wife (Padishah-zan), the sisters and the sons divided the full heirloom among themselves, but their shares depended on the following factors:

#### *6.1.1. Gender of the child*

If the inheritors consisted of boys and girls born from the same mother, the girl's inheritance was half of that of the boy. According to the text of *Didistan-i-dinik*, the girl would lose her right of inheritance after marriage.

#### *6.1.2. Type of Marriage*

The inheritors' share changed according to the type of marriage of the mother from whom they were born. If the boy or girl was born from a Padishah-zan or privileged wife, s/he would inherit twice as much as the boys and girls of a Chagar wife (servant wife). Of course, the inheritance of the boy (i.e. twice as much as the girl) was applied according to the cases.

It is worth noting that if the deceased left behind only two daughters and the heirloom belonged to these two daughters, a boy from the deceased's relatives was chosen and appointed as an "adopted son" of the deceased, and given a share out of the heirloom according to the tradition. Then, the remainder was divided into three parts: one part was given to the clergymen to be spent for the shrine, and the remaining two parts were equally divided between the daughters (Unvala & Manockji, 1922).

#### *6.1.3. Health Conditions*

According to the provision of "Rivayat" and "Dadistan-i Dinik", the heirloom of a girl or boy with blind eyes, paralyzed legs or amputated hands amounts to twice as much as a healthy person (ibid, p.56).

In fact, the Mazdaism law-maker has recognized the financial needs of the disabled to be more than that of the healthy people.

### **6.2. Padishah-zan's heirloom**

Among the deceased wives, only the Padishah-zan (privileged wife) enjoyed the right to take advantage of the husband's heirloom. She ranks first parallel to the children and receives an inheritance share twice as much as the girls and equal to the boys. If the deceased didn't leave behind any children, the Padishah-zan took ownership of the whole heirloom as the heritage, and neither the brothers and sisters nor the other relatives of the deceased could claim a share in the heirloom. (ibid, p. 188)

To finalize our discussion on the heirloom of the Sassanid's woman, it is incumbent to add that referring to the literary and religious evidences apparently the clergymen officially interfered in the execution of the deceased's will and division of the heirloom. In the famous letter by Tansar, it is written that after the death of someone with a property left behind, Ardeshir commissioned some guardians to make the Mobeds (Mazdaei clergymen) informed so as to divide the heirloom among the heirs. The letter reads: "... [God] appointed proctors among people so that if someone died and left behind a property, Mobeds (clergymen) were informed to divide the property among the heirs and posterity in accordance with the tradition and will" (Minovi, 1957, p. 67)

## **7. Conclusion**

A review of the historical, literary and religious sources in the Sassanid's era reveals that women's rights system among the Sassanids reflected the religious system rooted in the social norms and judicial proceedings. In this paper, it was observed that contrary to the common view by some

western scholars who depicted the Sassanid's woman as lacking a legal entity treated as objects or property and attributed infelicitous traditions to the Sassanid's women and men, Iranian woman in the Sassanid's era had the capacity to enjoy and exercise her social and civil rights. She could own a property, dowry and trousseau, engage into joint venture in her husband's property, bring a claim against someone before a court, and enjoy the right of inheritance. The Sassanid's laws with regard to the woman's marriage and divorce have predicted some rules, all confirming the importance of woman's status in the society at that time. Finally, with the advent of Islam in Iran, the civil rights of the woman with inspiration from the pure divine sources have changed and expanded.

#### Funding

The author received no direct funding for this research.

#### Author details

Mahmoud Emami Namin<sup>1</sup>

E-mail: [m.emami.namini@gmail.com](mailto:m.emami.namini@gmail.com)

ORCID ID: <http://orcid.org/0000-0001-8191-9243>

<sup>1</sup> Department of Law, Allameh Mohaddes Nouri University, Nour, Iran.

#### Citation information

Cite this article as: Legal status of women in the Sassanid's Era (224–651 AD), Mahmoud Emami Namin, *Cogent Arts & Humanities* (2018), 5: 1540962.

#### References

- Aliabadi, M. H. (1966–1967). *History of Iranian law: Achaemenids and Parthias*. Tehran: Tehran University Press.
- Arthur Emanuel, C. (1966). *L'Iran sous les sassanides*, translated by: Rashid Yasemi (10th ed.). Tehran: Donyaye Ketab.
- Bartholomae, C. (1910–1911). *Über ein Sassanidisches Rechtsbuch*. Heidelberg University Publishing.
- Bartholomae, C. (1924). *Die Frau im sasanidischen Recht*. Heidelberg: Heidelberg University Publishing.
- Bartholomae, C. (1965). *Women in Sassanid's law*. Translated by Naseraldin Sahebazzamani (2nd ed.). Tehran: Ataei Press.
- Christensen, A. E. (1907). *L'Empire des sasandeis*. Copenhagen: Copenhagen Press.
- Frank, A. (1881). *Eastern studies*. Paris: French text.
- Herzogenberg, H. V. (1869). *History of Tabari, French version* (Vol. 2). Paris. ed.
- Kellens, J. (1989). "Avesta". *Encyclopedia Iranica* (Vol. 3). New York: Routledge & Kegan Paul.
- Lafont, C. (1897). *Great religions: Mazdaism, Avesta*. Paris: Paris Publishing.
- Makarem Shirazi, N. (1983). *Tafsir Nemooneh* (Vol. 3). Tehran: Islamic Library Publications.
- Marcellin, A. (1849). *Auteurs Latins, translated from par D. Nissard*. Paris: Paris Publishing.
- Minovi, M. (1957). *Nāma-ye Tansar (Letter of Tansar)* (2nd ed.). Tehran: Kharazmi Press, Tehran University Press.
- Modi Jivanji, J. (1901). *Mādigān-i-Hazār Dādīstān*. Bombay: Bombay Publishing.
- Modi Jivanji, J. (1922). *Darab Hormozdyar: Introduction*. Manuscript available at Paris national library, Bombay.
- Noldeke, T. (1879). *Geschichte der Perser und Araber zur Zeit der Sasaniden. Aus der arabischen Chronik des Tabari übersetzt und mit ausführlichen Erläuterungen und Ergänzungen versehen*. Leiden: Leiden Press.
- Rezai, A. (1999). *The treasure of Iranian history: The Sassanids* (Vol. 8). Tehran: Atlas press.
- Sani, S. (1931). *Sharhe-e Lam-eh* (Vol. 2, pp. 276). Abdolrahim: Abdolrahim Press.
- Sanjana, B. (1892). *The position of Zoroastrian women in remote antiquity*. Bombay: Bombay Press.
- Sanjana, B., & Sanjana, P. (1874–1928). *The Dīnkard. The original Pahlavi text* (Vol. 19). Bombay: Bombay Press.
- Tabatabaei, S. M. H. (1985). *Tafsir al-Mizan*, trans. (2nd ed., Vol. 4). Allameh Tabatabaei Scientific and Intellectual Foundation Press.
- Unvala, R., & Manockji, E. (1922). *Darab Hormozdyar's Rivayat*. Bombay: British India Press.
- West, E. W. (1882). *Pahlavi texts, part II: The Dadistan-i Dinik and the Epistles of Manuskihar, SBE 18 [ & 5, 24, 37, 47]*. Oxford: Clarendon Press, reprinted 1965.



© 2018 The Author(s). This open access article is distributed under a Creative Commons Attribution (CC-BY) 4.0 license.

You are free to:

Share — copy and redistribute the material in any medium or format. Adapt — remix, transform, and build upon the material for any purpose, even commercially.

The licensor cannot revoke these freedoms as long as you follow the license terms.

Under the following terms:

Attribution — You must give appropriate credit, provide a link to the license, and indicate if changes were made.

You may do so in any reasonable manner, but not in any way that suggests the licensor endorses you or your use.

No additional restrictions

You may not apply legal terms or technological measures that legally restrict others from doing anything the license permits.

**Cogent Arts & Humanities (ISSN: 2331-1983) is published by Cogent OA, part of Taylor & Francis Group.**

**Publishing with Cogent OA ensures:**

- Immediate, universal access to your article on publication
- High visibility and discoverability via the Cogent OA website as well as Taylor & Francis Online
- Download and citation statistics for your article
- Rapid online publication
- Input from, and dialog with, expert editors and editorial boards
- Retention of full copyright of your article
- Guaranteed legacy preservation of your article
- Discounts and waivers for authors in developing regions

**Submit your manuscript to a Cogent OA journal at [www.CogentOA.com](http://www.CogentOA.com)**

