

RELIGION AND FAMILY LAW IN BURMA

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Burma, recently renamed Myanmar¹ by the present military junta, is the only country in the family of nations where what is termed "Buddhist law" has become family law. We have Hindu family law for Hindus, Christian family law for Christians and Muslim family law for Muslims. Nonetheless, there is no Buddhist law applicable to all Buddhists nor is there Buddhist law that can be actually equated with family law.

Burma was annexed by the British through the three wars in 1824-26, 1852-53 and 1885-86. At the beginning of colonial rule, the policy of the British Government was, as in other British colonies, not to interfere, as far as possible, with the religion, customs and manners of the colonial territories. This policy was adopted so as not to create further confrontations with the subject peoples. Had this policy not been put into force, British rule would surely have fomented more uprisings and more discontent among the people, which would in due course have endangered the British army and treasury. In fact, this policy reflected the experience of the colonial administrators in the gradual conquest and implementation of colonial rule in India in the 18th century. The wisdom gained by their experience was embodied perhaps for the first time in the provision of the Charter of Mayor Courts granted in 1753. This Charter indicates "a reservation to the native resident in our territories in India of their laws and custom."² The policy was repeated in the provision of the Warren Hastings' 23rd rule of 1772, which says with regard to civil rights:

that in all suits regarding marriage, inheritance and caste and other religious usages and institutions the laws of the Koran with respect to Mohammedans and those of the Shaster with respect to Gentus (Hindus) shall be invariably adhered to.³

This guideline, the foundation of colonial policy, was embodied in the Act of Settlement in 1781. The Act directed that all matters relating to inheritance, succession and contract were to be determined "in the case of Mohammedans by

the laws and usages of Mohammedans and in the case of Gentoos by the laws and usages of Gentoos; and where only one of the parties shall be a Mohammedan or Gentoos by the law and usages of the defendant." Thus, the provisions of the Act of 1781 confirmed the preservation of the religious laws of the Hindus and Mohammedans and constituted "the first express recognition of the Warren Hastings rule in the English statute law."⁴

The Charter Act of 1833 referred to such laws and usages, declared that they should be ascertained, enacted, consolidated and amended wherever necessary. In this regard a Law Commission was established, but the task of codification was never completed. To quote MacCaulay:

We do not mean that all the people of India should be under the same law, far from it. We know how desirable that object is, but we also know that it is unattainable. But whether we assimilate those systems or not, let us ascertain them, let us digest them. Our principle is simply this: uniformity where you can have it, diversity where you must have it, but in all cases certainty.⁵

In view of this principle, provisions with respect to religion and usage were found in most of the Acts of the several provinces of India, such as the Bengal, Agra and Assam Civil Courts Act, 1887, s. 37, and the Madras Civil Courts Act 1873, s. 16. Customs having the force of law were also prominently recognized in the Punjab Laws Act 1872, ss. 5 and 6, the Central Provinces Laws Act 1875, ss. 5 and 6, and the Oudh Laws Act 1876, s. 3. This policy was again put into force in the Government of India Act 1914, s. 112, and the Government of India Act, 1935, s. 223. Thus the preservation of laws in the areas of family affairs and religious usages was not a new concept when colonial rule began in Burma. It was, therefore, not a matter of wonder, when the Civil Code of the Province of Pegu was sanctioned in two parts in 1859 and 1860, that the colonial practice in India was reflected in it. Thus the Courts of Pegu "have always professed to ad-

minister Burmese Law, when the litigants belong to that race, on all cases of marriage, seduction and adultery, divorce, adoption, inheritance, immovable property."⁶

However, when the scheme of administration of civil justice was developed further, Buddhist Law rather than Burmese customary law first appeared in section 6 of the Burma Courts Act 1872. This was repeated in section 4 of the Burma Courts Act 1875. This section made Buddhist Law the *lex fori* of the British courts regarding succession, inheritance, marriage or caste or any religious usage or institution in cases where the parties were Buddhists, except in so far as such law had been altered or abolished by legislative enactment or was opposed to any custom having the force of law in British Burma. Similar provision was again made in the Burma Act of 1889. However, in all these Acts no provisions were made with respect to other religions. This is presumably because two important Acts, the Christian Marriage Act and the Miscellaneous Marriage Act, also Known as the Special Marriage Act, had already been brought into operation in 1872.⁷

In this regard, it is also worthy of note that colonial rule brought with it a large number of people from other countries, chiefly India and China.⁸ The resulting plurality of diverse creeds and beliefs necessitated accommodation in laws. Such accommodation apparently materialized only in 1898 when the Burma Laws Act was promulgated.

Section 13 of this Act, incorporating the required provisions, determined the life and validity of Burmese Customary Law which is still in force today. According to this section:

1. Where in any suit or proceeding, it is necessary for any Court to decide any question regarding succession, inheritance, marriage or caste or any religious usage or institution, (a) the Buddhist Law in cases where the parties are Buddhists; (b) the Mohammedan Law in cases where the parties are Mohammedans; and (c) the Hindu Law in cases where the parties are Hindus, shall form the rule of decision, except in so far as such law has by enactment been altered or abolished or is opposed to any custom having the force of law.

Subsection 3 of the Act lays down that, in cases which are not provided for in sub-section 1, or by any other enactment, the decision shall be according to "justice, equity and good conscience."⁹ It can be seen that the principle of Warren Hastings' rule, as made use of in India, was extended to Burma in the context of this section.

As in India, the preservation of Buddhist Law was not complete and exhaustive. In the case of India, Sir Courtenay Illbert remarks:

It will be observed the Warren Hastings' rule and the enactment based upon it apply only to Hindus and Mohammedans. There are, of course, many natives of India who are neither Hindus nor Mohammedans,

such as the Portuguese and Armenian Christians, the Parsees, the Sikhs, the Jains, the Buddhists of Burma and elsewhere and the Jews. The tendency of the Courts and of the legislatures has been to apply to these classes the spirit of Warren Hastings' rule and to leave them in the enjoyment of their family law except so far they have shown a disposition to place themselves under English law.¹⁰

Here the term "Buddhist" and the phrase "the Buddhist law where the parties are Buddhist," and "except so far as it is opposed to any customs having the force of law," were complicated and somewhat misleading.

In fact "Buddhist" is a wide term and may include many nationalities other than Burmese; there are Chinese, Japanese, Tibetan, Sinhalese, Thai, Laotian, Khmer and many other Buddhists. In the cases of Mohammedans and Hindus, though there may be different schools for different sects or castes, there is still one body of Mohammedan law for all Mohammedans and of Hindu law for all Hindus. In the case of Buddhists, however, there is no Buddhist law for all Buddhists. That body of Buddhist law known as the Vinaya Pitaka mainly deals with rules and regulations which the Buddha promulgated, as occasion arose, for the future discipline of the Order of monks (Bhikkhus) and nuns (Bhikkhunis). Even though it also reveals indirectly some interesting information about ancient Indian history, customs, arts and sciences, it is not concerned with matrimonial law. Hence, as Justice May Oung remarks, the term "Buddhist" in reference to the customary law of the Burmese, "is a misnomer, but its use in connection with matrimonial law is not only misleading, but even incongruous."¹¹ This remark is correct partly because the Vinaya is not concerned with matrimonial law, and partly because in practice Buddhist monks keep strictly aloof from family and other mundane affairs. Again, if the Buddhist law of which the Courts of Burma took cognizance was "Burmese Buddhist law," then, whether it was obligatory on the part of the courts in Burma to apply it to Buddhists from Thailand, China, or elsewhere was a difficult legal question.

Another question concerns the difference between the two terms, Burman and Burmese. An appropriate terminology to distinguish between the Buddhist ethnic majority of central Burma and other peripheral groups had not been developed. The English terms "Burman" and "Burmese" were used interchangeably. It was probably only in the 1930s, when a distinction arose not only within the Burmese language itself but also in Burmese politics, that "Burman" came to be the accepted designation of the ethnic majority and "Burmese" that of inhabitants of the country as a whole. When the Burma Laws Act of 1898 was promulgated, British judges in Burma as well as the Privy Councillors in England had difficulty not only in interpreting the term "Buddhist Law" but also, and especially, in determining to whom the law should apply. In 1927 a Full Bench of the High Court at Rangoon ruled that the term "Buddhist Law" was to be interpreted as "Burmese Buddhist Law."¹² A further ruling in 1956 stated that it was to be interpreted as "Customary Law of the Burmese Bud-

dhists."¹³ It was only in 1969 that the law was changed to read Burmese Customary Law.¹⁴ This law does not apply to the whole of Burma, but only to cases involving Buddhists. Mixed marriages are governed by both this Burmese Customary Law and the Buddhist Women's Special Marriage and Succession Act 1954.

In spite of the fact that the expression for Burmese Buddhist Law has undergone changes, the original spirit and content of Burmese customary law, formed when the administration of civil justice began in Burma, remained basically the same. It is also worth mentioning that this law, particularly under colonial rule, did not extend beyond the areas of the Buddhist peoples to whom it applied. Many of the peripheral groups were under a separate judicial and administrative system and had their own substantive and procedural customary laws in contradiction to the laws that applied in Burma proper. For example, by the Burma Laws Act of 1898 in the civil, criminal and revenue administration of each of the Shan States was vested in the Chief of the State (Sawbwa), subject to any restriction specified in the *sanad*, the order of appointment granted to him. The same Act declared that "the law to be administered in a Shan State shall be the customary law of the State in so far as the punishments which may be awarded thereunder, or the practices which are permitted thereby, are in conformity with the spirit of the law in force in the rest of British Burma."¹⁵

The administration of civil justice in the peripheral regions and in each of the Shan States was relatively easy primarily because the Sawbwaws in those places were well equipped with the knowledge of the prevailing local customs and traditions. The few British officers assigned to maintain law and order in these areas were not required to be well versed in existing local customs.¹⁶ On the other hand, those British judges responsible for the administration of civil justice in Burma proper did not understand Burmese customary law. Among the important references for those judges were Sangermano's *Description of the Burmese Empire*, which contains an abstract of the *Manusara Shwemyin dhammathat*¹⁷ (1833), D. Richardson's translation of the *Law of Menoo*¹⁸ (1847), Major Spark's *Civil Code of the Province of Pegu* (1860), W. De Courcy Ireland's *Digest of Buddhist Law* (1874), and the *Manu Wunnana Dhammathat*, edited by Maung Tet Toe with preface by Colonel Horce (1878). *A Digest of Burmese Law*, better known as *Thirty-six Dhammathats*, which was compiled into two volumes by Kinwun Mingyi U Gaung during the period from June 1893 to February 1897 for the Judicial Commissioner of Upper Burma, was the most readily accessible repository of Burmese legal treatises.¹⁹

Perhaps equally important was the *Notes on Buddhist Law* by Sir John Jardine, Judicial Commissioner of British Burma and a great scholar. He was convinced that most Europeans had very slight knowledge of Burmese customs; that the judges were therefore rather like blind men feeling their way with a staff, and that the duty of the Judicial Commissioner was to smooth the way as much as possible by supplying even an imperfect guide.²⁰ By virtue of his position as well as his scholarship his series of works influenced

the British judges in Burma and the Privy Councillors in England. In his law research he found that the *Manugye* was fuller than most of the Dhammathats.²¹

It was partly due to the influence of Jardine's works and mainly on the authority of Dr E. Forchhammer, Professor of Pali at Rangoon College, that the Privy Council decided to attach preeminence to the *Manugye* among all Dhammathats. This Dhammathat, having the advantage of being written in Burmese prose, was translated into English by Richardson, Principal Assistant to the Commissioner of Tenasserim, and published in 1847 in both English and Burmese versions. It was thus the first translation in English and one of the fullest compilations of Burmese customary laws, existing even before the occupation of Lower Burma. In fact the Privy Councillors in England did not know Burmese and they had to judge the civil appeal cases from Burma mainly in the light of the *Manugye*. Hence, it was held in one appeal case, "The *Manugye* has held a commanding position since the time of King Alompra and is still to be regarded as of the highest authority. Where it is not ambiguous other Dhammathats do not require to be referred to."²²

Though the courts in Burma had to follow loyally, the Privy Counsellors' judgement did not go absolutely free of timid challenges from some British judges.

In a case decided by Page, C.J. and U Mya, J. in 1936, the authority of the *Manugye* was criticised:

That the time has come when some Judge should be courageous enough to point out, albeit with diffidence and the utmost respect, that while great value is attached in Burma to the rulings in the *Manugye*, Burmese jurists do not regard this Dhammathat as sacrosanct, and that from time to time some embarrassment has been created as the result of following the *Manugye* in the teeth of what has been laid down elsewhere in the Dhammathats. One not insignificant reason why the Dhammathat is so frequently cited is because the *Manugye* was the first, if not the only, Dhammathat to be wholly translated into English, and thus it is the authority to which those unversed in the Burmese tongue most readily, if not inevitably, turn.²³

In 1951 the reliability and viability of the *Manugye* were finally challenged in a classic case. The Supreme Court pointed out errors in the translations of it and also discovered that it was as difficult to appraise its authority as to determine its borrowing from different sources.²⁴

With respect to mixed marriages, the principle of the *lex loci contractus* is accepted, but the importance of mixed marriages is not clear in the law. If the marriage was valid when contracted, any other subsequent change of law could not make it invalid, except when there had been a statutory provision invalidating such marriage. When Burma was included in India as a part of the British empire, there was a question as to whether the principle of international law vis-a-vis the Buddhist law would apply in deciding the validity of *de facto* marriages between Burmese Buddhists and

Mahomedans, Hindus, Christians or Chinese. The answer was beset with difficulties, primarily due to lack of a provision regarding mixed marriages in section 13 of the Burma Law Act 1898.

The courts in Burma, therefore, had been frequently called upon to decide the validity of *de facto* mixed marriages, especially when questions arising from divorce, succession, or partition of property were involved. In fact, no marriage is legally possible between a Mahomedan man and a Buddhist woman, or between a Buddhist man and a Mahomedan woman. This is mainly because, under Mahomedan law, a Mahomedan man or woman cannot contract a legal marriage with a person who does not believe in a heavenly or revealed religion and who is not *kitabîs*. In other words, a Mahomedan, who professes faith in Allah, all His Angels, all His Books, all His Prophets, the Day of Judgment, and the idea that the power of doing good and bad actions proceeds from Allah and Allah alone, cannot marry a person who disbelieves in these.²⁵ However, if there is a conversion to Islam, and a customary ceremony is performed according to Islamic rites, a legal marriage can be contracted with any person irrespective of his or her previous religion. The Holy Quran permits polygamy as a legal institution, and sets forth the limits that a man may not have more than four wives.²⁶ In Burma particularly, during colonial rule, most Mohammedan men who could afford the maintenance of more than one wife took Burmese women as their wives in addition to their Mohammedan wives who might live with them in Burma or who might live in India. In such cases Burmese wives had to change their Burmese names to Mahomedan names. The offspring of a Muslim father and Burmese Buddhist mother were known as Zerbadi and tended to identify with the people of their father's race. Just before the second world war these Zebardis preferred to be called "Burmese Muslims" and they are known by this name in present Burmese society.

In such mixed marriages, the validity of *de facto* marriages did not, as a rule, raise any legal questions at the time they were first contracted, despite the fact that the Burmese wives lost all rights which they legitimately had as Burmese women, such as joint ownership of property, a preferential right to inherit and the like. The legal questions only arose when the cases of divorce were brought to the courts. The Holy Quran, of course, makes no provision for wives to divorce their husbands—a right normally reserved to husbands—except when they fear abuse. The Mahomedan law formed the rule of decision. According to it,

A Mahomedan can divorce his wife whenever he desires. He may do so without a talaknama or written document, and no particular form of words is prescribed. If the words used are well understood as implying divorce, such as "talak", no proof of intention is required; otherwise the intention must be proved. It is not necessary that the repudiation should be pronounced in the presence of the wife or even addressed to her.²⁷

In mixed marriages between Burmese Buddhist women and Hindus, Burmese women were in a worse position. Many Indians, both Mahomedans and Hindus, migrated to Burma where many of them became wealthy. Burmese women, having no knowledge of Hindu law and custom, took Hindu husbands and subsequently lost all the rights conferred on them by Burmese customary law because they were mere mistresses. Worth noting is that a born pariah who was not within the pale of caste Hinduism could contract a legal marriage with a Burmese woman. In one case it was held:

The frequency of permanent alliances between Tamil cultivators and Burmese women in this province tends to show that Tamils of the lower orders do not consider themselves bound by a rule of Hindu law which Hindus of the recognized castes regard as one of the essentials of their religion and system.²⁸

In addition, a legal marriage between a Burmese woman and a Kalai, the offspring of a mixed marriage between Hindu and Burmese, is possible because the man is not regarded as Hindu. In a case decided by the Privy Council it was held:

If a twice-born Hindu emigrates across the sea to Burma and marries a Burmese woman that in itself may not necessarily deprive of his Hindu status in the eye of the law, but if he has descendants who have been born and have always lived in Burma and who have intermarried with its people, then, even though they may form a community of their own which inherits many traces of Hindu usage, if the usages and religion are of a character so divergent from Hinduism as those of the Kali community are, the community cannot be regarded as Hindu.²⁹

As regards Christians, the Christian Marriage Act (XV of 1872) was first promulgated to apply to matrimonial matters arising among the Christians. Section 13 of the Burma Laws Act 1898 therefore says nothing of the law applicable to the Christians. However, according to the Christian Marriage Act, a legal marriage between a Burmese Buddhist and a Christian can be contracted in two ways: by means of a Christian religious ceremony or by civil contract before a Registrar or licensee. Conversion is not necessary but a Buddhist cannot sue a Christian for a divorce under the Indian Divorce Act. In fact,

where conversion had taken place prior to a marriage with a Christian, a re-conversion to Buddhism, does not free from the Christian marriage and a man cannot claim the liberty of having more wives than one as a Buddhist under the Buddhist Marriage Law so long as he remains bound by a Christian marriage and his wife is still alive.³⁰

Nevertheless, in cases where the parties are married as Christians, and the husband alone has apostatized, the wife may

divorce him under the Indian Divorce Act. As the Christian Marriage Act does not prescribe that both parties should be Christians, a mixed marriage between a Christian and a Buddhist raises few social problems.

The case of Chinese taking Burmese wives seems not to have been considered when the Burma Laws Act 1898 was drafted and enacted, although a sizeable Chinese community was in Rangoon even before the annexation of Upper Burma in 1885.³¹ In the Act, the expression, "except in so far as it is opposed to any customs having the force of law," was by no means comprehensive. It left uncertainty concerning the rule of decision particularly when questions arose as to the validity of a mixed marriage between a Chinese and a Burmese. In this regard, the principles of the *lex loci contractus quod solemnitatus*, which determined the validity of a marriage, and of the *lex domicilii*, which decided the question of the capacity of the parties to marry, were to be taken into account.

In Burma, the ambiguous expression embodied in the Burma Law Act and the principles of the *lex loci contractus* and the *lex domicilii* conflicted. There were thus conflicting judgments and as a result the legal position was far from satisfactory for quite a long time during colonial rule. It was only in 1927 that a case decided by a full bench confirmed the rule of the law regarding a mixed marriage between a Chinese and a Burmese Buddhist. By this decision it was held:

[a] the Burmese Buddhist law regarding marriage is prima facie applicable to Chinese Buddhists as the *lex loci contractus*; and [b] to escape from the application of Burmese Buddhist law regarding marriage a Chinese Buddhist must prove that he is subject to a custom having the force of law in Burma and that custom is opposed to the provisions of Burmese Buddhist law applicable to the case; and [c] in case the matter in issue is the marriage of a Buddhist Chinaman with a Burmese Buddhist woman he must show that the application of the custom having the force of law will not work injustice to the Burmese Buddhist woman.³²

This judgment is still valid in Burma up to the present time.

Whether due to the ignorance of the English concerning the relationship between customary law and the Buddhist religion, or due to the deliberate plan of colonial masters, Burmese customary law became the Buddhist law by section 13 of the Burma Laws Act 1898. Consequently, Burmese society was divided into a number of religious enclaves as well as being geographically bisected by other Regulations. As the society was thus divided, community was strongly entrenched by religion. The result was that antagonism among the diverse religious communities, though not apparent in the beginning when the Act was put into force, eventually gathered strength as questions of maintenance, divorce or inheritance arose, and as Burmese women, albeit embracing new religions, and adopting new names when they took Indian husbands, found themselves mere mistresses and their offspring bastards, both legal nonentities.

This situation was known to the colonial government

as well as to Burmese nationalists and judges. Accordingly, the Special Marriage Act was amended in 1923. This amendment, though going some way toward rectifying the position of Burmese women, was far from satisfactory. There had been some suggestions that Burmese customary law should be codified, and attempts were made in this direction. A Codification Committee, with Sir Guy Rutledge as its chairman, worked for a few years beginning in 1924, and a Committee on the Buddhist Will was also appointed in 1938. The work of these committees could not go very far because of division of opinion regarding approaches to the solution of the existing situation.³³ One approach conceded that Burmese customary law should be codified in order to meet the needs of Burmese society, particularly concerning the position of Burmese women. This approach was almost impossible to put in action, primarily because the muscles and bones were too old to cure the running sore of both social and legal problems. The other approach argued that Burmese customary law had attained its maturity naturally, and a complete tidy code would fail to encompass much of the living fabric of Burmese customary law, and would be incompatible with the changing customs and norms of Burmese society.

Furthermore, the threat of "the Indian peril" turned from words to acts when communal conflict broke out in Rangoon in 1938. This incident, combined with the demands of Burmese nationalists, made way for speedy enactment of the Buddhist Women's Special Marriage and Succession Act, Burma Act XXIX of 1939, in the House of Representatives. This Act came into operation on April 1, 1940, just before the Second World War spread over Burma. By this Act, the position of Burmese Buddhist women contracting marriage with non-Buddhists was improved.

In spite of this more advantageous position, the war crippled the full play of the Act. Hence, a new Act called the Buddhist Women's Special Marriage and Succession Act was drafted and passed by the Parliament in 1954. Since then, the position of the Buddhist woman who contracts a matrimonial alliance with a non-Buddhist has been greatly improved. Provisions in the Act are made for the registration of marriage.³⁴ If a non-Buddhist man and a Buddhist woman live together in such manner as would raise the presumption that they are man and wife by Burmese custom, the Act establishes the presumption that they are lawfully married from the time they started to live together. In such a case, they can formalize the marriage by registration or can live together as presumed by the Act. Either way, their marriage is governed by Burmese customary law.³⁵ If the husband divorces her or seeks to nullify the marriage on the ground that his personal law does not allow him to contract a legal marriage with a Buddhist woman, he must forfeit all his interest in the joint property of the union and must lose the right to be guardian of the children, for whom he must nonetheless pay maintenance through the years of their minority. The wife is also entitled to compensation.³⁶

As regards conversion, the Act also prescribes the following. If a woman who is a citizen of Burma becomes a convert to Buddhism while her marriage exists, then the fam-

ily comes under Burmese customary law. If a Hindu, Jain or Sikh who is a member of a religiously undivided family contracts a legal marriage with a Buddhist woman, any member of such an undivided family must be deemed to have become divided. Thus, if the husband seeks to divorce her on account of the fact that his personal law and custom prohibit a legal marriage with a Buddhist wife, he must maintain her in the standard of life to which she was accustomed before her conversion to Buddhism. Furthermore, all matters of her proprietary rights should be vested in her, and the children for whom she is responsible should be maintained in the years of their minority.³⁷ All case law on marriage and its effects for relations between Buddhist women and non-Buddhist men

are made obsolete by operation of this Act and its effect. Cases of Buddhist women contracting marriage with Buddhist men of foreign races will remain unaffected.³⁸

In conclusion, the continuity of the provision of the Warren Hastings' rule was found in section 13 of the Burma Laws Act of 1898. This Act was not comprehensive but made "Buddhist Law" [Burmese Customary Law] a statutory, religious and non-territorial law. Due to this Act, the position of Burmese Buddhist women in mixed marriages was very handicapped, particularly during colonial rule. Thus came the birth of the Buddhist Women's Special Marriage and Succession Act 1954—the only Special Marriage Act which protects the rights of Buddhist women in Asia.

NOTES

- 1 Early evidence of use of this name is found in a Burmese inscription dated A.D. 1090 [Taungguni Inscription of Pagan].
- 2 V B.S. Sinha, "Custom and Customary Law in Indian Jurisprudence" *Indian Sino-Legal Journal*, Vol. 2, 1976, p. 89.
- 3 Rutledge, C.J. In *Ma Yin Mya and another vs. Tan Yuak Pu and Others*, AIR, 1927, Ran., 265 FB.
- 4 The Publications Division, *Social Legislation: Its Role in Social Welfare*, New Delhi, 1956, p. 16.
- 5 *Ibid.*, p. 18.
- 6 Maung Maung, *Law and Custom in Burma and the Burmese Family*, The Hague, Martinus Nijhoff, 1963, p. 32.
- 7 John Jardine, *Notes on Buddhist Law*, Rangoon, Govt. Printing and Staty., 1953, Book I, p. 1; May Oung, *A Selection of Leading Cases on Buddhist Law with Dissertations*, Rangoon, British Burma Press, 1926, pp. 12-13.
- 8 See Michael Adas, *The Burma Delta: Economic Development and Social Change on an Asian Rice Frontier, 1852-1941*, University of Wisconsin, 1974.
- 9 John Jardine, *op. cit.*, Book I, p. 1; Rutledge, C.J., in *Ma Yin Mya and Another vs. Tan Yuak Pu and Others*, AIR. 1927, Ran., 265 FB.
- 10 Cited from Sir Courtenay Ilibert, *Government of India*, by Rutledge, C.J., in *Ma Yin Mya and Another vs. Tan Yuak Pu and Others*, AIR. 1927, Ran., 265 FB.
- 11 May Oung, *op. cit.*, p. 2.
- 12 *Ma Yin Mya and Another vs. Tan Yuak Pu and Others*, AIR. 1927, Ran., 265 FB.
- 13 *Lin Chin Noe vs. Lin Gok Su*, 1956 Ma Ta Ca, 247.
- 14 *Na Si Ti vs. Ah Phu Si*, 1969 Ma Ta Ca, CC 155 FB.
- 15 Report on the Administration of Burma for the year 1921-22, pp. 14-15.
- 16 See Saw Khin Gyi, "History of the Cis-Salween Shan State 1886-1900," M.A. Thesis, Department of History, Arts and Science University, Mandalay, 1973; see also Aye Kyaw, "Economic Change in the Shan States 1886-1940" in Prakai Nontawasee, *Changes in Northern Thailand and The Shan States, 1886-1940*, Southeast Asian Studies Program, Singapore, 1988, pp. 209-47.
- 17 See Rev. Father Sangermano, "Abstract of the Burmese Code entitled Damasat or the golden rule," in *A Description of the Burmese Empire*, Rangoon, MCMXXIV, pp. 178-224.
- 18 D. Richardson, (tr.) *The Damathat or the Laws of Menoo, translated from the Burmese*, XIV Vols in One, Rangoon, Hanthawaddy Press, 4th Edition.
- 19 *Kinwunmingyi Digest*, II, preface.
- 20 John Jardine, *op. cit.*, Book, p. 1.
- 21 John Jardine, *ibid.*, Book, II, p. iii.
- 22 *Ma Hnin Bwin vs. U Shwe Gon*, (1915-16) 8 LBR., 1 PC.
- 23 *Ma Hnin Zan and Others vs. Ma Myaing and Others*, AIR 1936 Ran., 31.
- 24 *Dr Tha Mya vs. Daw Khin Pu*, 1951 BLR., 102 SC.
- 25 See *The Light of Revelation*, Manila, Convislam Press, n.d.; Naser Makarem Shirazi: *Me'ray and Prophet of Islam* (Tr. by Maktab E. Qoran), Tehran, Islamic Great Library, 1977; Ustaz Iljas Ismail: *Fundamental Teachings of Islam*, Manila, Maharlika Village, 1981.

- 26 Michael J. Dimond and Peter G. Gowing: *Islam and Muslim: Some Basic Information*, Manila, New Day Publishers, 1981, p. 66.
- 27 *Ma Mi and another vs. Kallander Ammal (NO 2)*, ILR 1927 Ran., PC, p. 18; *Ma Saing vs. Kader Moideen*, 8 BLR., 16.
- 28 *W.R. Vanoogopaul vs. R. Kristnasawamy Mudaliar*, 3 LBR., 25.
- 29 *Ma Yait vs. Maung Chit Maung*, 1922 BLJ., 146/47 PC.
- 30 *Maung Kyaik vs. Ma Gyi*, II UBR (1897-19010, 488).
- 31 See Chen Yi-Sein: "The Chinese in Rangoon during the 18th and 19th Centuries," in Ba Shin, Jean Boisselier, A.B. Griswold ed., *Essays Offered to G.H. Luce*, Vol. I, Artibus Asiae Publishers, MCMLXVI, pp. 107-111.
- 32 *Ma Yin Mya and another vs. Tan Yuak Pu and Others*, AIR 1927 Ran., 265 FB.
- 33 U E Maung and U Thein Maung were among the members of this committee; U E Maung served as secretary of the committee on Buddhist Will. See Maung Maung: *Law and Custom in Burma and the Burmese Family*. The Hague, Martinus Nijhoff, 1963, p. 68.
- 34 *The Buddhist Women's Special Marriage and Succession Act 1954*, s. 21.
- 35 *Ibid*, s. 20.
- 36 *Ibid*, s. 25.
- 37 *Ibid*, ss. 23, 25.

