

# Conversion And The Law

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Some of the conversion champions quote, with much pompous authority, the statement of Justice Davar, in his judgement in (1909) 11 Bom. L. R. 85, that Zoroastrian Religion enjoins conversion.

The first point to note is that the question whether Zoroastrian Religion enjoins or encourages conversion was not directly and substantially an issue in that case.

To quote from Beaman J's judgment in the very case :

"And this clearly invites a precise statement or the real question we have to answer. **That question is not whether the Zoroastrian Religion permits conversion**, but when these trusts were founded, the Founders contemplated and intended that converts should be admitted to participate in them". (Page 150).

The answer of both the Judges to this question was in the negative. And that was the only binding issue answered in the case. Therefore, the statement that Zoroastrian Religion enjoins conversion, is not laid down as a legal and binding proposition.

The crucial finding of Justice Davar which has a binding effect, is, not that the Religion enjoins conversion, but that the Parsi Community **has never practised conversion** since their arrival in India 1200 years back. Says he at page 109 :

"I also find that such conversion are entirely unknown to the Zoroastrian Community in India, and far from it being customary or usual for them to convert a Juddin, the Zoroastrian Communities in India have never attempted, encouraged or permitted the conversion of Juddins to Zoroastrianism".

Another material point recorded by Justice Davar in his judgment is :

"That the Parsi Community of Bombay at a public meeting held on 16th April, 1905, expressed its disapproval of any conversion being allowed, and are strongly opposed to any such conversion in the present times, and resolved henceforth not to admit even the children of Parsi fathers by alien mothers" (Page 110).

And that Resolution passed on 16-4-1905, has been followed by several other Resolutions from time to time wherein the Community has gone on expressing its disapproval towards conversion, and any genetic mix-up, whether through a Parsi father or a Parsi mother, by a non-Parsi spouse. Such Resolutions were passed inter alia in 1945, 1947, 1977, 1978. They are on record of the Institutions under whose auspices they were passed in public meetings and are also on the record of the Bombay Parsi Panchayat.

This question of conversion and mix-up again entered Bombay High Court in 1945. In 1942, one Priest by name F. A. Bode purported to perform the alleged 'Navojote' of a few persons, in Bansda State, born of Parsi fathers and adivasi mothers and their further mixed-up progeny. There was a great uproar in the Parsi Community. It refused to accept the persons as Parsis. Two of them filed a suit in Bombay High Court claiming entry in a Fire Temple. **Dr. Dhalla appeared as a witness for the plaintiffs.** His evidence was recorded for two days. He championed conversion and genetic mix-up with great zeal in the witness box; but in cross examination he admitted (i) that a large part of the Community was against such Navojotes or conversions; (ii) that therefore he himself would never perform such Navojotes; and (iii) that if a son, born of a Parsi father and non-

Parsi mother, marries a Hindu woman he cannot be admitted as a Parsi. After this damaging evidence from their own witness the plaintiffs had to withdraw the suit. This is recorded by Dr. Dhalla himself in his Autobiography (English translation — Pgs. 698-699).

Dr. Dhalla himself was alive to the truth that the Community does not want any conversion or mix-up. He calls this as "Collective Conscience of the Community" and describes it on page 367 of his same

"Zoroastrian Theology" as :

"The collective conscience of the Community has recently declared that it shall not legalise the marital connection with alien women, it shall not consecrate the investiture with the visible emblem of their faith on the children of alien mothers, it shall not legitimize the conversion of illegitimate children, and for the matter of that it shall have nothing to do with proselytizing at all".