



AZIŠMĀND

AZIŠMĀND, one of the few Middle Persian exclusively legal terms designating “obstructed or hampered justice” (see Shaki, “The Obstruction of Justice,” *Archív Orientální* 45, 1977, pp. 48-53). The *Mādayān ī hazār dādestān*, our only source of information, offers various instances of this juridical case and its judicial consequences in twenty-odd paragraphs, all of which seem to have originally been included in its chapter 22, entitled *Dar ī azišmānd*. Apart from the *Mādayān* the word occurs in connection with legal terminology once in the *Nīrangestān* (ed. D. D. P. Sanjana, Bombay, 1894, fol. 110r.4) and once in the *Dēnkard* (ed. Madan, p. 706.14-15: *zamān ī rāyēnišn ud pād ud azišmānd ud ēraxtagīh padīš* “the time of process . . . and its observance and obstruction and the sentence thereby”).

The evidence for the fundamental meaning of the term is provided by a few unambiguous passages of the *Mādayān*. In pt. 1, p. 12.9-13 the *azišmānd* is occasioned by the defendant’s unwillingness to identify his own property; in pt. 1, p. 75.11-12 it is caused by the advocates (*ǰādag-gōw*) of one party contradicting each other. However, the conclusive support for the interpretation of the term as “obstructed or hampered justice” comes from the *Nīrangestān*, in which Av. *aḏāiti frāraiθyanqm* “denial of right” (see *AirWb.*, col. 1020) rendered by Pahlavi *adahišnīh ī frāz dādestān* “not according access to justice, i.e., the hampering of justice,” is in turn glossed by its parallel expression *aziš mānd*. The relational pattern of the syntagm thus resolves into *az-iš mānd*, where the verb *māndan* is used in the sense of “to be hindered, hampered,” and *-iš* refers to the legal process. Other, untenable,



interpretations of the term include “interdictum” (A. Pagliaro, “Aspetti del diritto sāsānidico: *hačašmānd* “interdetto”,” *RSO* 24, 1949, p. 120) and “contumace” (A. Perikhanian, “Le contumace dans la procédure iranienne et les termes pehlevi *hačašmānd* et *srā*,” in *Memorial Jean de Menasce*, ed. Ph. Gignoux and A. Tafazzoli, Louvain, 1974, pp. 305-26).

In its extended sense *azišmānd* is employed in relation to the juridical implications of withholding a promised grant (*Mādayān*, pt. 2, p. 9.3-5). It may also result from the default of one party (*pasēmāl ō gōw nē šawēd* “the defendant fails to appear in the court,” *Mādayān*, pt. 1, pp. 73.13-74.1; *az pasēmāl nē *šudan azišmānd bawēd* “the process becomes obstructed because of the defendant’s default,” pt. 1, p. 73.10-12). It is also used to denote the prejudicing of one’s right, a person’s claim to the possession of a property (*azišmānd pad dārišn*, pt. 1, p. 10.12-13), or of one’s claim to the ownership of his private property (*azišmānd pad xwēših dāštan wizūdan*, pt. 1, pp. 10.16-11.2).

The court may concede one to three instances of *azišmānd*, in accordance with the gravity of the case, beyond which it rules in favor of the offended party (*Mādayān*, pt. 1, pp. 10.12-13, 10.16-11.2, 11.16-12.9).

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