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ZAND Ī FRAGARD Ī JUD-DĒW-DĀD

ZAND Ī FRAGARD Ī JUD-DĒW-DĀD "A Commentary on Chapters of the Vidēvdād" (hereafter: ZFJ), a sixth-century Zoroastrian text. It has been preserved more or less intact as 240 pages of MS TD2. It resembles a *rivāyat* rather than a *zand*, that is, a collection of *responsa* rather than a commentary, since it is made up of about 540 sections, each devoted to a query and its answer; it is further divided into roughly 40 chapters, with a summary at the end, and covers those chapters of the *Pahlavī Widēwdād* (hereafter: PV) which are more legalistic (i.e., 3, 5, 6, 7, 8, 9, 13, 15, 16, 17).

Its close relationship to PV can be ascertained by merely comparing the two: even discounting the half of ZFJ that has a direct parallel in PV, PV often remains ZFJ's point of departure. However, although this indicates that ZFJ is later than PV, it does not indicate *how much later*.

That date may be estimated by comparing the authorities it cites with those of PV, which Alberto Cantera (2004, pp. 207-229) has dated to the late fifth century, and which is certainly the major source for ZFJ. Thus, Sōš(y)āns, probably the earliest authority in the Pahlavi books of whom we have a sizeable corpus of statements, appears 28 times in PV, but only 17 times in ZFJ; likewise, Kay-Ādur-Bōzēd appears 18 times in the PV, but only 7 times in ZFJ. Again, Gōguš(n)asp appears 20 times in the PV, but only 10 times in ZFJ. This telescoping of earlier authorities is a natural effect of the passage of time and

indicates that ZFJ is later than PV. On the other hand, some names that *never* appear in the earlier compilations do appear in ZFJ. Examples are , which is rendered here as Pēšagsīr, after an authority of the Sasanian Lawbook (Mādayān ī Hazār Dādestān); Māh-Ohrmazd; Mardbūd son of Dād-Ohrmazd; and Weh-šābuhr, *hērbed* of Sagestān (= Sīstān). This is the other side of telescoping, wherein later authorities, closer to the time of redaction, replace earlier ones.

There is another clue to dating ZFJ. One of the most striking features of ZFJ is the existence of three schools, or groups of authorities, two of which are named for *dastwar*s (see DASTUR) who are relatively well known—the Abargites and the Mēd(y)ōmāhites, who are also mentioned in, the Sasanian Lawbook (MHD 52.3), and a third, named for the aforementioned Pēšagsīr, who is mentioned in MHD 42.19 and 61.10, and may or may not be the same scholar. According to *Šāyast-nē-šāyast* (hereafter: Šnš) 1.4, Abarg was a student of Sōš(y)āns and Mēd(y)ōmāh was a student of Gōguš(n)asp, both of whom are well-represented in PV; the schools named after the first two were presumably founded in the fifth century. The formation and rise of three such schools must have been the work of more than a generation. If, following, Cantera, we date Sōš(y)āns and his generation to the end of the fourth century, and Abarg and his to the first half of the fifth, we must allow another generation or two, as well as yet another generation for the redaction of PV, and then allow time for the rise of the schools and the redaction of ZFJ. However, this then raises a serious question: if the schools—or at least the Abargites and the Mēd(y)ōmāhites—were active in the second half of the fifth century, why is there no mention of them in PV?

There are several possibilities. Although comparing the views of the Abargites and Mēd(y)ōmāhites and their founders, or indeed comparing the views of the founders and the schools, reveals no great legal controversy that would account for enmity between the various schools; as usual, political or personal factors may have come into play. Or perhaps PV was redacted toward the end of the generation of Abarg and Mēd(y)ōmāh and before the rise of the schools.

Indeed, the real innovations in ZFJ are the work of ZFJ's redactor and of a late interpolator/commenter, who prefaces his remarks with the phrase *az man* "in my opinion," and who often presents quite innovative views. ZFJ contains at least two later collections of interpolations: one by Az Man, as we shall call him, and someone who objected to ZFJ's rather liberal view of questions

relating to non-Zoroastrians, and who added four pages of text to the chapter on sexual relations (ZFJ 593-597 [34.19-22], referring to our tentative chapter and section headings).

However, the evidence for the activities of these schools, as important as it is, is not the most striking aspect of ZFJ, for the schools merely continue the work of their founders in predictable ways. The work of ZFJ's anonymous layer represents a qualitative leap in systematization and analytic power over the approaches of the schools or the authorities who preceded them, as we will detail below. As noted, ZFJ's topical interests are determined by those dealt with in the legal/ritual chapters of the PV, divided into forty chapters. These chapters vary in size, from chapter 33 on menstrual pollution, which has as many as 70 of these subsections/inquiries, and chapter 15, on the obligation to examine land or streams for dead matter, which has 43, or chapter 34, on forbidden sexual relations, which has 32, to some that have as few as two (chapter 11) or even one, on non-Zoroastrian corpses (chapter 7).

ZFJ presents us with a view of the intellectual landscape of the sixth century, where three schools disputed various points of ritual law, building on the work of their predecessors. Of these schools, the Mēd(y)ōmāhites are mentioned over 50 times, but since, as we shall see, the redactor of ZFJ is far more innovative than any of them, it is bootless to trace his affiliation to any of them. Despite all this intellectual activity, the real innovative thought in ZFJ has to be credited to the redactor and to Az Man.

As noted, despite ZFJ's close relationship to PV, about half of its inquiries do not have parallels in the latter text, but rather carry forward in a more systematic and detailed manner the task that the redactor of PV had set: to construct an internally consistent system of Zoroastrian ritual law. As a result, although the 22 chapters of PV run to 55,000 words, ZFJ, which concentrates on only nine of those chapters, still runs to 34,500 words.

ZFJ's systematic, abstract, legalistic approach is manifest in a series of questions sprinkled throughout, questions which touch on the fundamental parameters of the Zoroastrian ritual system whose analysis and construction was in process. For example:

What is the care that must be of 15 steps? (ZFJ 574 [33.37])
What is the law of the shadow? (ZFJ 509 [18.12])
What is *hixr ī murdagān* (filth from the dead)? (ZFJ 500 [16.12])

Note that the first two queries involve operative rules or laws governing certain situations; only the last one involves the question of *categorizing*. But these categories are not defined. For example, a large part of the opening section of ZFJ deals with various ways in which *nasā* and *hixr*, different states of dead matter in which the latter is less polluting, impinge on vegetation that is moist, dry, rooted and uprooted, and so on (ZFJ 435-437 [1.5-1.13]). But, unlike, say, the *Institutes* of Justinian, which, under the influence of Greek philosophy on Roman law, is full of conceptual definitions of legal institutions, ZFJ does not define the difference between these two basic forms of dead matter, an issue that is basic to an understanding of the laws of pollution. This is in spite of the author/compiler presumably having a precedent in PV 5.3-4, where, in a dispute between Abarg and Mēd(y)ōmāh, one type of *hixr* is defined as *nasā* which has either been ingested or digested by an animal. Although ZFJ 523-524 (23.12) suggests that a change of state might purify a polluted substance, it does not deal explicitly with *nasā* and *hixr*. (For these terms, see also BURIAL iii. In Zoroastrianism; CLEANSING i. In Zoroastrianism.) ZFJ, like PV (and later on, Šnš), prefers *operational* definitions, not *conceptual* ones.

These queries, characteristic of ZFJ, are far less common in PV, although the beginnings of interest in such questions can be found there; thus, while ZFJ represents a departure of sorts from the program of PV, which is more exegetical, ZFJ is still part of the Pahlavi intellectual tradition. Still, an index of just how innovative it is may be gathered by the fact that about half of its queries do not have parallels in PV.

Space considerations limit our discussion of ZFJ's intellectual program; we will thus deal with only two innovations. ZFJ attempts to determine the parameters of the various categories of pollution, the minimum measures of polluted substances (often *hambun-iz*), the effect of the interaction of pollution with other substances that are important to humans (crops, water, fire, firewood, tools and containers, etc.). ZFJ 564 (33.10) is a good example of this. While PV 16.1 attempts to define the character of the onset of the menstrual flow primarily in terms of color, ZFJ asks more pointedly: "A woman who is in menses, then she has marks of menstruation and what, how much, and how (are they)?"

ZFJ's answer is a restatement in more exact terms of PV 16.1-2: a *blood* flow is considered the most severe; then comes a flow with "the least amount of yellowness (*hambun-iz zardīh*)," and then some sort of moisture with a reddish

tinge, again, "even the smallest amount." Whether the latter use of *hambun* refers only to the *amount* of the flow, or also to the *degree* of red tinge is not clear, but in any case, the redactor/author is clearly concerned with defining the minimal amount of flow in various ways.

The word *hambun* appears four times in PV (2.5C, 3.14I, and 3.40F), but not in this sense; in contrast, it appears some 19 times in ZFJ as denoting a minimal measure in the legal/ritual sense (439 [2.1, twice], 475 [10.10], 487 [15.2], 495 [15.39], 496 [15.40], 505 [18.2], 515 [21.4], 537 [28.5], 563 [33.10, four times], 632 [37.8], 654 [39.1], 658 [40.1], 663 [40.5], 666 and 670 [Summary]).

In its concern with minimal measures ZFJ introduces three such measures beyond the smallest amount (*hambun*); two of them relate to the amount of dead matter that constitutes a violation of the prohibition against "chewing dead matter," at least in the opinion reported in the name of the Mēd(y)ōmāhites. According to this school, the amount is either such that *mizag dānēd*, its taste may be discerned, or *ōgārēd*, it may be swallowed, which perhaps refers to an amount small enough to be swallowed at one go, so according to ZFJ 654 (39.1).

There is a fourth measure, based on PV 6.10C, where the Avesta prohibits leaving dead matter even "as little as the foremost *joint of the smallest finger" in a field in which a human or a dog has died. ZFJ 486-487 (15.2) converts this to a minimal amount so that each finger's-size constitutes a sin. It should be noted that Šnš does not use *hambun* in this technical sense at all, though the word does occur in Šnš 2.28-2.32.

ZFJ's concern with minimal measures becomes a concern with multiple levels of sin, or, as PV 6.5E already noted, multiple counts of sin per violation(s) of a prohibition, depending on how such violations are calculated.

Thus, according to ZFJ 486-487 (15.2), if one has not removed the dead body of a human or dog from a field and thus allows water to reach various polluted substances, the degree of sin is proportional to the degree of the pollution. Moreover, ZFJ adds another level of complexity to the question of liability. By Avestan law, the measure is such that each finger-sized piece of flesh that is not removed from a field is itself accounted as a sin (V-PV 6.10), but, according to ZFJ, the *pōryōtkēšān*, the original Zoroastrian teachers, have decreed that the minimum is the usual *hambun-iz*, "even the smallest amount." Here then we have a distinction between an *Avestan* prohibition that is more lenient, and

one instituted by the *pōryōtkēšān* which is more stringent, a distinction familiar from rabbinic law. Still, the severity of the sin depends on the degree of pollution. Contact of dead matter (*nasā* or *hixr*) with water, which is more severe, incurs a *margarzān*-sin; severe *hixr*, which is somewhat less severe than *hixr* itself, incurs a *tanāpuhl*-sin; lesser degrees (*xwartar*) incur a *yāt*-sin.

A second innovation on the part of ZFJ involves the conception of pollution as occupying three-dimensional space, and the consequent formulation of numerous hypothetical cases regarding the polluting potential of a dead body in various geometrical configurations: a tent within a house, two houses adjacent to one another, etc. The clearest enunciation of this principle is in the summary chapter at ZFJ 667, where the redactor writes: "If a body dies in a house, the entire house and the empty space (inside it) are polluted." The 34 sections of chapter 8 are all devoted to this subject, and, but for two passages, they are all anonymous. The exceptions are ZFJ 459-460 (8.8) and ZFJ 462 (8.16). In the first, the redactor parses a dispute between the two schools of Abargites and Mēd(y)ōmāhites in regard to a complex of three houses with a doorway/vestibule, where the issue concerns the conditions under which the doorway functions as a barrier to pollution. In the second, the question concerns two adjacent houses, or one house that has been partitioned but in which there is a hole in the wall, with a dead body on one side, and the opinion of Pēšagsīr is recorded, though its exact import is as yet unclear.

Were these true traditions, and thus the concept of pollution occupying space originated with the schools, or were these retrojections on the part of the redactor, who assumed that the schools agreed with his view on this? Since these are the only passages in which the schools relate to three-dimensional pollution, it is likely that their presence is due to the redactor's assumption rather than reality, but we can hardly be certain. What is certain, however, is that this turn to Euclidean "solid geometry," as well as the systematically analytic approach of ZFJ, is due to the Hellenization of Iranian intellectual life that is so apparent in the *Dēnkard* and, *mutandis mutandi*, as documented by Leib Moscovitz, in the Babylonian Talmud.

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