



III a. Contract of charity to co-religionists (§§ 44-45).

IV a. Heinousness of false oath (§ 46).

III b. Dignity of wealth; of marriage; of physical weal (§§ 47-49a).

IV b. Heinousness of false oath. Ordeal (§§ 49b-55).

Part of this Fargard has been made unduly obscure by the transposition of § 46) wrongly inserted between the clause on charity (§§ 44-45) and the corresponding development on the dignity of material goods. This transposition is found in all known manuscripts and belonged to the older text from which they are derived.

#### FARGARD 4. Contracts and offenses

##### I.

Notes:

1. He that does not restore a loan to the man who lent it, steals the thing and robs the man<sup>1</sup>.

This he doeth every day, every night, as long as he keep in his house his neighbour's property, as though it were his own<sup>2</sup>.

1. He is a thief when he takes a view not to restore; he is a robber when, being asked to restore, he answers, I will not" (Comm.)

2. Every moment that he holds it unlawfully, he steals it anew. 'The basest thing with Persians is to lie; the next to it is to be in debt, for this reason among many others, that he who is so, must needs sink to lying at last'

(Herod. I, 139) The debtor

in question is of course the debtor of bad faith, 'he who says to a man, Give me this, I will restore it to thee at the proper time, and he says to himself; I will not restore it' (Comm.)

##### Ia.

2. O Maker of the material world, thou Holy One! How many in number are thy contracts, O Ahura Mazda?

Ahura Mazda answered: 'They are six in number, O holy Zarathushtra<sup>3</sup>. The first is the word-contract<sup>4</sup>; the second is the hand-contract<sup>5</sup>; the third is the contract to the amount of a sheep<sup>6</sup>; the fourth is the contract to the amount of an ox<sup>7</sup>; the fifth is the contract to the amount of a man [person]<sup>8</sup>; the sixth is the contract to the amount of a field<sup>9</sup>, a field in good land, a fruitful one, in good bearing<sup>10</sup>.'

3. At first view it seems as if the classification were twofold,

the contracts being defined in the first two clauses by their mode of being entered into, and in the last four by their amount. Yet it appears from the following clauses that even the word-contract and the hand-contract are indicative of a certain amount, which, however, the commentators did not, or were unable to, determine.

4. The word-contract may be a contract of which the object are words: the contract of *j&acirc;dang&ocirc;i* (*ukhdh&ocirc;-vachah*), by which one offers to speak and intervene for some one's benefit, or the contract between master and pupil (for teaching the sacred texts).

5. The contract for hiring labour (?).

6. 'Viz. to the amount of 3 *ist&icirc;rs* [in weight],' (Comm.) An *ist&icirc;r* (*stathr*) is as much as 4 dirhems (*dracmh*).

7. 'To the amount of 12 *ist&icirc;rs* (=48 dirhems),' (Comm.)

8. 'To the amount of 500 dirhems.' The exact translation would be rather, 'The contract to the amount of a human being' (promise of marriage).

9. 'Upwards of 500 *ist&icirc;rs*.'

10. A sort of gloss added to define more accurately the value of the object, and to indicate that it is greater than that of the preceding one.

3. The word-contract is fulfilled by words of mouth. It is cancelled by the hand-contract; he shall give as damages the amount of the hand-contract.

4. The hand-contract is cancelled by the sheep-contract; he shall give as damages the amount of the sheep-contract. The sheep-contract is cancelled by the ox-contract; he shall give as damages the amount of the ox-contract. The ox-contract is cancelled by the man-contract; he shall give as damages the amount of the man-contract. The man-contract is cancelled by the field-contract; he shall give as damages the amount of the field-contract.

5. O Maker of the material world, thou Holy One! If a man break the word-contract, how many are involved in his sin<sup>11</sup>?

Ahura Mazda answered: 'His sin makes his Nabanazdishtas<sup>12</sup> answerable for three hundred (years)<sup>13</sup>.'

11. Literally, how much is involved? The joint responsibility of the family was a principle in the Persian law: 'Leges apud eos impendio formidatae, et abominandae aliae, per quas ob noxam unius omnis propinquititas perit' (Am. Marcellinus XXIII, 6).

12. The next of kin to the ninth degree.

13. See § 11. This passage seems to have puzzled tradition.

The Commentary says, 'How long, how many years, has one to fear for the breach of a word-contract? -- the Nabanazdishtas have to fear for three hundred years;' but it does not explain farther the nature of that fear; it only tries to reduce the circle of that liability to narrower limits: 'only the son born after the breach is liable for it; the righteous are not liable for it; when the father dies, the son, if righteous, has nothing to fear from it.' And finally, the Rivayats leave the kinsmen wholly aside; the penalty falling entirely upon the real offender, and the number denoting only the duration of his punishment in hell: 'He who breaks a word-contract, his soul shall abide for three hundred years in hell' (Gr. Riv. 94).

6. O Maker of the material world, thou Holy One! If a man break the hand-contract, how many are involved in his sin?  
Ahura Mazda answered: 'His sin makes his Nabanazdishtas answerable for six hundred (years)14.'

14. See § 12. 'His soul shall abide for six hundred years in hell' (Gr. Riv. 1.1.)

7. O Maker of the material world, thou Holy One! If a man break the sheep-contract, how many are involved in his sin?  
Ahura Mazda answered: 'His sin makes his Nabanazdishtas answerable for seven hundred (years)15.'

15. See § 13. 'His soul shall abide for seven hundred years in hell' (Gr. Riv. 1.1.)

8. O Maker of the material world, thou Holy One! If a man break the ox-contract, how many are involved in his sin?  
Ahura Mazda answered: 'His sin makes his Nabanazdishtas answerable for eight hundred (years)16.'

16. See § 14. 'His soul shall abide for eight hundred years in hell.'

9. O Maker of the material world, thou Holy One! If a man break the man-contract, how many are involved in his sin? Ahura Mazda answered: 'His sin makes his Nabanazdishtas answerable for nine hundred (years)16.'

16. See § 15. 'His soul shall abide for nine hundred years in hell.'

10. O Maker of the material world, thou Holy One! If a man break the field-contract, how many are involved in his sin? Ahura Mazda

answered: 'His sin makes his Nabanazdishtas answerable for a thousand (years)17.'

17. See § 16. 'His soul shall abide for a thousand years in hell.'

11. O Maker of the material world, thou Holy One! If a man break the word-contract, what is the penalty that he shall pay? Ahura Mazda answered: 'Three hundred stripes with the Aspahe-ashtra, three hundred stripes with the Sraosho-charana18.'

18. One tanapuhr and a half, that is 1800 dirhems. See Introd.

12. O Maker of the material world, thou Holy One! If a man break the hand-contract, what is the penalty that he shall pay? Ahura Mazda answered: 'Six hundred stripes with the Aspahe-ashtra, six hundred stripes with the Sraosho-charana19.'

19. Three tanapuhrs, or 3600 dirhems.

13. O Maker of the material world, thou Holy One! If a man break the sheep-contract, what is the penalty that he shall pay? Ahura Mazda answered: 'Seven hundred stripes with the Aspahe-ashtra, seven hundred stripes with the Sraosho-charana20.'

20. Three tanapuhrs and a half or 4200 dirhems.

14. O Maker of the material world, thou Holy One! If a man break the ox-contract, what is the penalty that he shall pay? Ahura Mazda answered: 'Eight hundred stripes with the Aspahe-ashtra, eight hundred stripes with the Sraosho-charana21.'

21. Four tanapuhrs, or 4800 dirhems.

15. O Maker of the material world, thou Holy One! If a man break the man-contract, what is the penalty that he shall pay? Ahura Mazda answered: 'Nine hundred stripes with the Aspahe-ashtra, Nine hundred stripes with the Sraosho-charana22.'

22. Four tanapuhrs and a half, or 5400 dirhems.

16. O Maker of the material world, thou Holy One! If a man break the field-contract, what is the penalty that he shall pay? Ahura Mazda answered: 'A thousand stripes with the Aspahe-ashtra, a thousand stripes with the Sraosho-charana23.'

23. Five tanapuhrs, or 6000 dirhems.

Ia.

17. If a man rise up with a weapon in his hand, it is an Agerepta24. If he brandish it, it is an Avaoirishta. If he actually smite a man with malicious aforethought, it is an Aredush. Upon the

fifth Aredush<sup>25</sup> he becomes a Peshotanu<sup>26</sup>.

24. In this paragraph are defined the first three of the eight outrages with which the rest of the Fargard deals. Only these three are defined, because they are designated by technical terms. We subjoin the definitions of them found in a Sanskrit translation of a Patet (Paris, Bibl. Nat. f. B. 5, 154), in which their etymological meanings are better preserved than in the Zend definition itself:--

Agerepta, 'seizing,' is when a man seizes a weapon with a view to smite another.

Avaoirishta, 'brandishing,' is when a man brandishes, a weapon with a view to smite another.

Aredush is when a man actually smites another with a weapon, but without wounding him, or inflicts a wound which is healed within three days.

25. Viz. on the sixth commission of it, as appears from § 28.

26. He shall receive two hundred stripes, or shall pay 1200 dirhems (see Introd.)

18. O Maker of the material world, thou Holy One! He that committeth an Agerepta, what penalty shall he pay? Ahura Mazda answered: 'Five stripes with the Aspahe-ashtra, five stripes with the Sraosho-charana;

'On the second Agerepta, ten stripes with the Aspahe-ashtra, ten stripes with the Sraosho-charana;

'On the third, fifteen stripes with the Aspahe-ashtra, fifteen stripes with the Sraosho-charana;

19. 'On the fourth, thirty stripes with the Aspahe-ashtra, thirty stripes with the Sraosho-charana;

'On the fifth, fifty stripes with the Aspahe-ashtra, fifty stripes with the Sraosho-charana;

'On the sixth, sixty stripes with the Aspahe-ashtra, sixty stripes with the Sraosho-charana;

'On the seventh, ninety stripes with the Aspahe-ashtra, ninety stripes with the Sraosho-charana.'

20. If a man commit an Agerepta for the eighth time, without having atoned for the preceding<sup>27</sup>, what penalty shall he pay?

Ahura Mazda answered: 'He is a Peshotanu: two hundred stripes with the Aspahe-ashtra, two hundred stripes with the Sraosho-charana.'

27. Literally, 'without having undone the preceding.'

21. If a man commit an Agerepta<sup>28</sup>, and refuse

to atone for it<sup>29</sup>, what penalty shall he pay?

Ahura Mazda answered: 'He is a Peshotanu:

two hundred stripes with the Aspahe-ashtra, two hundred stripes with the Sraosho-charana.'

28. Even though the Agerepta has been committed for the first time.

29. Literally, 'and does not undo it.' If he do's not offer himself to hear the penalty, and does not perform the Patet (see Introd.)

22. O Maker of the material world, thou Holy One! If a man commit an Avaorishta, what penalty shall he pay? Ahura Mazda answered: 'Ten stripes with the Aspahe-ashtra, ten stripes with the Sraosho-charana;

'On the second Avaorishta, fifteen stripes with the Aspahe-ashtra, fifteen stripes with the Sraosho-charana;

23. 'On the third, thirty stripes with the Aspahe-ashtra, thirty stripes with the Sraosho-charana;

'On the fourth, fifty stripes with the Aspahe-ashtra, fifty stripes with the Sraosho-charana;

'On the fifth, seventy stripes with the Aspahe-ashtra, seventy stripes with the Sraosho-charana;

'On the sixth, ninety stripes with the Aspahe-ashtra, ninety stripes with the Sraosho-charana.'

24. O Maker of the material world, thou Holy One! If a man commit an Avaorishta for the seventh time, without having atoned for the preceding, what penalty shall he pay? Ahura Mazda answered: 'He is a Peshotanu: two hundred stripes with the Aspahe-ashtra, two hundred stripes with the Sraosho-charana.'

25. O Maker of the material world, thou Holy One! If a man commit an Avaorishta, and refuse to atone for it, what penalty shall he pay?

Ahura Mazda answered: 'He is a Peshotanu: two hundred stripes with the Aspahe-ashtra, two hundred stripes with the Sraosho-charana.'

26. O Maker of the material world, thou Holy One! If a man commit an Aredush, what penalty shall he pay? Ahura Mazda answered: 'Fifteen stripes with the Aspahe-ashtra, fifteen stripes with the Sraosho-charana;

27. 'On the second Aredush, thirty stripes with the Aspahe-ashtra, thirty stripes with the Sraosho-charana;

'On the third, fifty stripes with the Aspahe-ashtra, fifty stripes with the Sraosho-charana;

'On the fourth, seventy stripes with the Aspahe-ashtra, seventy stripes with the Sraosho-charana;

'On the fifth, ninety stripes with the Aspahe-ashtra, ninety stripes with the Sraosho-charana;

28. O Maker of the material world, thou Holy One! If a man commit an Aredush for the sixth time, without having atoned for the preceding, what penalty shall he pay? Ahura Mazda answered: 'He is a Peshotanu: two hundred stripes with the Aspahe-ashtra, two hundred stripes with the Sraosho-charana.'

29. O Maker of the material world, thou Holy One! If a man commit an Aredush, and refuse to atone for it, what penalty shall he pay? Ahura Mazda answered: 'He is a Peshotanu: two hundred stripes with the Aspahe-ashtra, two hundred stripes with the Sraosho-charana.'

30. O Maker of the material world, thou Holy One! If a man smite another and hurt him sorely, what is the penalty that he shall pay?

31. Ahura Mazda answered: 'Thirty stripes

with the Aspahe-ashtra,  
thirty stripes with the Sraosho-charana;

'The second time, fifty stripes with the Aspahe-ashtra, fifty stripes with the Sraosho-charana;

'The third time, seventy stripes with the Aspahe-ashtra, seventy stripes with the Sraosho-charana;

'The fourth time, ninety stripes with the Aspahe-ashtra, ninety stripes with the Sraosho-charana;

32. If a man commit that deed for the fifth time, without having atoned for the preceding, what penalty shall he pay? Ahura Mazda answered: 'He is a Peshotanu: two hundred stripes with the Aspahe-ashtra, two hundred stripes with the Sraosho-charana.'

33. If a man commit that deed and refuse to atone for it, what penalty shall he pay? Ahura Mazda answered: 'He is a Peshotanu: two hundred stripes with the Aspahe-ashtra, two hundred stripes with the Sraosho-charana.'

34. O Maker of the material world, thou Holy One! If a man smite another so that the blood come, what is the penalty that he shall pay? Ahura Mazda answered: 'Fifty stripes with the Aspahe-ashtra, fifty stripes with the Sraosho-charana;

'The second time, seventy stripes with the Aspahe-ashtra, seventy stripes with the Sraosho-charana;

'The third time, ninety stripes with the Aspahe-ashtra, ninety stripes with the Sraosho-charana;

35. If a man commit that deed for the fourth time, without having

atoned for the preceding, what penalty shall he pay? Ahura Mazda answered: 'He is a Peshotanu: two hundred stripes with the Aspahe-ashtra, two hundred stripes with the Sraosho-charana.'

36. O Maker of the material world, thou Holy One! If a man smite another so that the blood come, and if he refuse to atone for it, what penalty shall he pay? Ahura Mazda answered: 'He is a Peshotanu: two hundred stripes with the Aspahe-ashtra, two hundred stripes with the Sraosho-charana.'

37. O Maker of the material world, thou Holy One! If a man smite another so that he break a bone, what is the penalty that he shall pay? Ahura Mazda answered: 'Seventy stripes with the Aspahe-ashtra, seventy stripes with the Sraosho-charana;

'The second time, ninety stripes with the Aspahe-ashtra, ninety stripes with the Sraosho-charana;

38. If he commit that deed for the third time, without having atoned for the preceding, what penalty shall he pay? Ahura Mazda answered: 'He is a Peshotanu: two hundred stripes with the Aspahe-ashtra, two hundred stripes with the Sraosho-charana.'

39. O Maker of the material world, thou Holy One! If a man smite another so that he break a bone, and if he refuse to atone for it, what is the penalty he shall pay? Ahura Mazda answered: 'He is a Peshotanu: two hundred stripes with the Aspahe-ashtra, two hundred stripes with the Sraosho-charana.'

40. O Maker of the material world, thou Holy One! If a man smite another so that he give up the ghost, what is the penalty that he shall pay? Ahura Mazda answered: 'Ninety stripes with the Aspahe-ashtra, seventy stripes with the Sraosho-charana;

41. If he commit that deed again, without having atoned for the preceding, what is the penalty that he shall pay? Ahura Mazda answered: 'He is a Peshotanu: two hundred stripes with the Aspahe-ashtra, two hundred stripes with the Sraosho-charana.'

42. O Maker of the material world, thou Holy One! If a man smite another so that he give up the ghost, and if he refuse to atone for it, what is the penalty he shall pay? Ahura Mazda answered: 'He is a Peshotanu: two hundred stripes with the Aspahe-ashtra, two hundred stripes with the Sraosho-charana.'

43. And they shall thenceforth in their doings walk after the way of holiness, after the word [manthra] of holiness, after the ordinance of holiness.

IIIa30.

44. If men of the same faith, either friends or brothers, come

to an agreement together, that one may obtain from the other,  
either goods<sup>31</sup>, or a wife<sup>32</sup>, or knowledge<sup>33</sup>,  
let him who desires goods

have them delivered to him; let him who desires a wife receive  
and wed her; let him who desires knowledge be taught the holy  
word [manthra spenta],

30. We return here to contracts; the logical place of §§  
44-45 would be after § 16.

31. The analysis of the Vendidad in the  
Denkard has here: 'a proof that one  
professes the Religion well is to grant bountifully to  
the brethren in the faith any benefit they may ask for.'

32. Woman is an object of contract, like cattle or fields: she is  
disposed of by contracts of the fifth sort, being more valuable  
than cattle and less so than fields. She is sold by her father  
or her guardian, often from the cradle. 'Instances are not wanting  
of the betrothal of a boy of three years of age to a girl of two'  
(see Dosabhoj Framjee's work on The Parsees, p. 77; cf. 'A Bill  
to Define and Amend the Law relating to Succession, Inheritance,  
Marriage, &c.,' Bombay, 1864).

33. On the holiness of the contract between pupil and teacher, see  
Yt10.116. Cf. above, p.35, n. 4.

45. during the first part of the day and the last, during the  
first part of the night and the last, that his mind may be increased  
in intelligence and wax strong in holiness. So shall he sit up,  
in devotion and prayers, that he may be increased in intelligence:  
he shall rest during the middle part of the day, during the middle  
part of the night<sup>34</sup>, and thus shall he continue until he can say  
all the words which former Aethrapaitis<sup>35</sup> have said.

34. He sleeps 'the third part of the day and the third part of the  
night' (Yasna 62.5).

35. A teaching priest (Parsi Herbad).

IVa.

46. Before<sup>36</sup> the boiling water publicly prepared,  
O Spitama Zarathushtra! let no one make bold to deny having received  
[from his neighbour] the ox or the garment in his possession.

36. This clause is intended against false oaths taken in the so-called  
Var-ordeal (see § 54 n.) It ought to be placed before §  
49 bis, where the penalty for a false oath is given.

IIIb.

4737. Verily I say it unto thee, O Spitama Zarathushtra! the man who has a wife is far above him who lives in continence<sup>38</sup>; he who keeps a house is far above him who has none; he who has

children is far above the childless man<sup>39</sup>; he who has riches is far above him who has none.

37. §§ 47-49 are a Sort of commentary to the beginning of § 44.

38. What king Yazdgard found most offensive in Christianity was 'that the Christians praise death and despise life, set no value upon fecundity and extol sterility, so that if their disciples would listen to them, they would no longer have any intercourse with women and the world would end' (Elisaeus).

39. 'In Persia there are prizes given by the king to those who have most children' (Herod. I, 136). , He who has no child, the bridge (of Paradise) shall be barred to him. The first question the angels there will ask him is, whether he has left in this world a substitute for himself; if the answer be, No, they will pass by and he will stay at the head of the bridge, full of grief and sorrow' (Saddar 18; Hyde 19). The primitive meaning of this belief is explained by Brahmanical doctrine; the man without a son falls into hell, because there is nobody to pay him the family worship.

48. And of two men, he who fills himself with meat receives in him Vohu Mano<sup>40</sup> much better than he who does not do so<sup>41</sup>; the latter is all but dead; the former is above him by the worth of an Asperena<sup>42</sup>, by the worth of a sheep, by the worth of an ox, by the worth of a man<sup>43</sup>.

40. Vohu Mano is at the same time the god of good thoughts and the god of cattle.

41. 'There are people who strive to pass a day without eating, and who abstain from any meat; we strive too and abstain, namely, from any sin in deed, thought, or word: ... in other religions, they fast from bread; in ours, we fast from sin' (Saddar 83). -- '

The Zoroastrians have no fasting at all. He who fasts commits a sin, and must, by way of expiation, give food to a number of poor people' (Albiruni, Chronology, p. 217).

42. A dirhem.

43. Or: 'is worth an Asperena, worth a sheep, worth an ox, worth a man,' which means, according to the Commentary: 'deserves the gift of an Asperena, of a sheep's value, an ox's value, a man's value.'

49. This man can strive against the onsets

of Asto-vidhotu<sup>44</sup>; he can strive against the well-darted arrow; he can strive against the winter

fiend, with thinnest garment on; he can strive against the wicked tyrant and smite him on the head; he can strive against the ungodly fasting Ashemaogha<sup>45</sup>.

44. Asto-vidhotu, the demon of death (Vd5.8).

The man who eats well has greater vitality.

45. The Commentary has: 'like Mazdak, son of Bamdat,' the communistic heresiarch who flourished under Kobad (488-531) and was put to death under Noshirvan.

IVb.

49 (bis). On the very first time when that deed<sup>46</sup> has been done, without waiting until it is done again,

46. The taking of a false oath. Cf. § 46.

50. down there<sup>47</sup> the pain for that deed shall be as hard as any in this world: even as if one should cut off the limbs from his perishable body with knives of iron,<sup>47b</sup> or still worse;

47. In hell.

47b. Dar: brass. -JHP

51. down there the pain for that deed shall be as hard as any in this world: even as if one should nail<sup>48</sup> his perishable body with nails of iron,<sup>48b</sup> or still worse;

48. Doubtful.

48b. Dar: brass. -JHP

52. down there the pain for that deed shall be as hard as any in this world: even as if one should by force throw his perishable body headlong down a precipice a hundred times the height of a man, or still worse;

53. down there the pain for that deed shall be as hard as any in this world: even as if one should by force impale<sup>49</sup> his perishable body, or still worse.

49. Doubtful.

54. Down there the pain for that deed shall be as hard as any in this world: to wit, the deed of a man, who knowingly lying, confronts the brimstoned, golden<sup>50</sup>, truth-knowing water with an appeal unto Rashnu<sup>51</sup> and a lie unto Mithra<sup>52</sup>.

50. The water before which the oath is taken contains some incense, brimstone, and one danak of molten gold (Gr. Riv. 101).

51. The god of truth (Yt12). The formula is as follows: 'Before the Amshaspand Vohuman, before the Amshaspand Ardwahisht, here lighted up . . . &c., I swear that I have nothing of what is thine, N. son of N., neither gold, nor silver, nor brass, nor clothes, nor any of the things created by Ohrmazd' (1.1.96). Cf. above, § 46.

52. He is a Mithra-druj, 'one who lies to Mithra.'

55. O Maker of the material world, thou Holy One! He who, knowingly lying, confronts the brimstoned, golden, truth-knowing water with an appeal unto Rashnu and a lie unto Mithra, what is the penalty that he shall pay<sup>53</sup>? Ahura

Mazda answered: 'Seven hundred stripes with the Aspaehe-ashtra, seven hundred stripes with the Sraosho-charana.'

53. In this world.

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