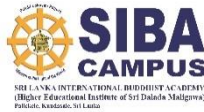


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The Legal Consequences of *Pārājika*

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Introduction

In this article I explore the legal consequences a fully ordained monk (and by implication a fully ordained nun) incurs on violating a *pārājika* rule. I begin with the relevant indications given in the code of rules (*prātimokṣa/pātimokkha*) itself, before turning to the story of a monk who had apparently violated such a rule and still tried to participate in the *uposatha* observance, the fortnightly recital of the code of rules.

Next I take up the difference between being no longer considered part of the community of fully ordained monks and the residential right to live in a particular monastery, since I believe that keeping in mind this distinction can avoid possible confusions about the significance of being “in communion”, *saṃvāsa*.¹ Based on this distinction, I then examine which of these two meanings corresponds to the legal consequences of a breach of a *pārājika* regulation and evaluate the *śikṣādattaka* observance mentioned in a range of *Vinayas*, together with the conclusions that can be drawn from its absence in the Theravāda *Vinaya*.

Reciting the Code of Rules

In what follows I take as my example the case of a fully ordained monk who voluntarily engages in sexual intercourse without having beforehand given up his ordained status. According to a stipulation that forms part of the formulation of the first *pārājika* in the code of rules of the different Buddhist monastic traditions, acting in this way turns a monk into one who is “not in communion”, *asaṃvāsa*.²

The idea of a monk who is not in communion can be illustrated with an episode that depicts an immoral monk seated in a gathering of monks assembled for the recital of the code of rules.³ Below I translate one of two similar *Madhyama-āgama* accounts of this episode.

Versions of this event can be found in several discourses from different transmission lineages, among them also two discourses in the *Aṅguttara-nikāya* and the *Udāna* respectively, and as well in various *Vinayas*, including the Theravāda *Vinaya*. This situation exemplifies a general overlap between discourse and *Vinaya* texts in the Theravāda tradition and elsewhere, which makes it advisable not to consider *Vinaya* literature on its own as the only source for supposed in-house information on what took place on the ground in the Indian Buddhist monastic traditions.⁴ Instead, both types of text are best read in conjunction.

In the present case, the Mūlasarvāstivāda *Vinaya* in fact does not report the episode and instead refers to the *Poṣadha-sūtra* of the (Mūlasarvāstivāda) *Madhyama-āgama* for the full story.⁵

Again, whereas Buddhaghosa’s *Manorathapūraṇī* and Dhammapāla’s *Paramattha-dīpanī* offer detailed information on this episode, this is not the case for the *Vinaya* commentary *Samantapāsādikā*.⁶ This implies that the reciters both of the Mūlasar-

vāstivāda *Vinaya* and of the Pāli commentaries expected their audience or readership to use *Vinaya* material alongside discourse material, rather than in isolation.

Translation (1)

At that time, it being the fifteenth of the month and the time to recite the code of rules, the Blessed One sat in front of the community of monks on a prepared seat. Having sat down, the Blessed One in turn entered concentration and with the knowledge of the mind of others he surveyed the minds in the community. Having surveyed the minds in the community, he sat silently until the end of the first watch of the night.

Then one monk got up from his seat, arranged his robes over one shoulder and said, with his hands held together towards the Buddha: “Blessed One, the first watch of the night has already come to an end. The Buddha and the community of monks have been sitting together for a long time. May the Blessed One recite the code of rules.”

Then the Blessed One remained silent and did not reply. Thereupon the Blessed One kept sitting silently further through the middle watch of the night.

Then that one monk got up again from his seat, arranged his robes over one shoulder and said, with his hands held together towards the Buddha: “Blessed One, the first watch of the night has passed and the middle watch of the night is about to end. The Buddha and the community of monks have been sitting together for a long time. May the Blessed One recite the code of rules.”

The Blessed One again remained silent and did not reply. Thereupon the Blessed One kept sitting silently further through the last watch of the night.

Then that one monk got up from his seat for a third time, arranged his robes over one shoulder and said, with his hands held together towards the Buddha: “Blessed One, the first watch of the night has passed, the middle watch of the night has also come to an end, and the last watch of the night is about to end. It is near dawn and soon the dawn will arise. The Buddha and the community of monks have been sitting together for a very long time. May the Blessed One recite the code of rules.”

Then the Blessed One said to that monk: “One monk in this community has become impure.”

At that time the venerable Mahāmoggallāna was also among the community. Thereupon the venerable Mahāmoggallāna thought in

turn: ‘Of which monk does the Blessed One say that one monk in this community has become impure? Let me enter an appropriate type of concentration so that, by way of that appropriate type of concentration, by knowing the minds of others, I will survey the minds in the community.’

The venerable Mahāmogallāna entered an appropriate type of concentration so that, by way of that appropriate type of concentration, by knowing the minds of others, he surveyed the minds in the community. The venerable Mahāmogallāna in turn knew of which monk the Blessed One had said that one monk in this community had become impure.

Thereupon the venerable Mahāmogallāna rose from concentration and went in front of that monk, took him by the arm and led him out, opening the door and placing him outside [with the words]: “Foolish man, go far away, do not stay in here. You are no longer in communion with the community of monks, since you have now already left it, no [longer] being a monk.” He closed the door and locked it.

Study (1)

After Mahāmogallāna has taken the culprit out, the Buddha explains that he will no longer recite the code of rules for the monks and, in the version translated above, describes how someone might falsely pretend to be a true monk until his companions recognize him for who he truly is.⁷ In most of the versions that I will be considering below, the Buddha instead delivers a comparison of qualities of the monastic community with those of the ocean.

Except for the *Madhyama-āgama* tradition, an individually translated discourse, and the Sarvāstivāda *Vinaya*,⁸ other accounts of this episode do not mention that the Buddha had surveyed the minds of the monks in the community, information that is found, however, in the Pāli commentaries.⁹ This concords with a general pattern of a commentarial type of information making its way into some canonical texts during the course of transmission until these texts reach a point of closure.¹⁰

The two Pāli discourse versions that report this episode, together with several parallels preserved as individual translations, a discourse quotation in the *Abhidharma-kośopāyikā-ṭīkā*, as well as the Mahīśāsaka, Mahāsāṅghika, Dharmaguptaka, and Theravāda *Vinayas*, identify the monk who requested the Buddha three times to recite the code of rules as having been Ānanda.¹¹

According to the *Aṅguttara-nikāya* version (together with the *Udāna* discourse and the Theravāda *Vinaya*), an *Ekottarika-āgama* parallel, and a version preserved as an individual translation, Mahāmogallāna had first told the monk to leave, and only when the culprit did not take any action did Mahāmogallāna put him outside forcefully.¹²

In a version preserved as an individual translation the Buddha himself encourages

Mahāmoggallāna to survey the assembly in order to identify the culprit,¹³ and in another individually preserved discourse the Buddha even asks Mahāmoggallāna to take the immoral monk out.¹⁴

Alongside such variations, however, the parallel versions agree on the basic denouement of events. In spite of repeated requests, the Buddha does not recite the code of rules because an immoral monk is present in the community. Mahāmoggallāna spots the culprit and puts him outside of the building in which the *uposatha* ceremony was to be held. The fact that in all versions the immoral monk is removed from the location where the code of rules is to be recited makes it clear that he must have committed a breach of a *pārājika* rule. In fact the Pāli versions, for example, qualify him as one who pretended to be celibate but did not practise celibacy.¹⁵

The account of this episode in the *Aṅguttara-nikāya* version has been taken by Juo-Hsüeh Shih (2000: 144 and 148) to convey the sense that the guilty monk “remained in the community”, a supposed inconsistency that then leads her to the assumption that perhaps

at the very outset of Buddhist monasticism, even the gravest offence may not have incurred expulsion from the *Saṅgha* in the sense of permanent excommunication involving loss of monastic status.

The passage from the *Aṅguttara-nikāya* version on which she bases this conclusion describes that the ocean washes any corpse ashore, comparable to how the monastic community does not associate with an immoral person.¹⁶ The relevant passage states that

even though he is seated in the midst of the community of monks,
yet he is far from the community and the community is far from him.

The idea that this implies some sort of leniency for even the gravest offence appears to be based on a misunderstanding of this passage. It simply reflects the situation that prevailed throughout the night before Mahāmoggallāna took action. In fact the previous part of the discourse employs the same expression “seated in the midst of the community of monks” to refer to the immoral monk spotted by Mahāmoggallāna.¹⁷

Even though this immoral monk was seated among the community of monks, due to his moral failure he was already not in communion and for this reason was far from the monastic community already at that time.

Instead of implying some sort of leniency, the passage rather helps to clarify that not being in communion does not depend on an action taken by others to expulse an immoral monk, but is something that happens as soon as the *pārājika* rule is broken. From that moment onwards, the monk is *de facto* no longer a fully ordained monk and *de facto* no longer in communion, even if he pretends otherwise and goes so far as to seat himself among a congregation of monks at the time of the recital of the code of rules.¹⁸

This is in fact self-evident from the formulation in the different versions of the

pārājika rule quoted at the outset of this article. The condition of *asaṃvāsa* is incurred right at the time of the moral breach. The principle behind this is that communion obtains only for the morally pure with others who are also pure.¹⁹

An additional argument by Shih (2000: 141) involves another discourse in the *Aṅguttara-nikāya*, which according to her assessment implies that “one can make good by atonement even for an offence of Defeat.”

The passage in question states that “one who has committed a *pārājika* offence will ‘*paṭikaroti*’ according to the Dharma.”²⁰ The key for understanding this passage is the term *paṭikaroti*, which I have on purpose not translated in order to leave room for first ascertaining its meaning. Another occurrence of the term *paṭikaroti*, together with the same qualification of being done “according to the Dharma”, can be found in the *Sāmaññaphala-sutta*, after King Ajātasattu had just confessed that he had killed his father. The Buddha replies that in this way the king has performed an action described as *paṭikaroti* “according to the Dharma”.²¹

Although this verb on its own can at times convey meanings like “make amendment for”, “redress”, or “atone”, since the king was not a monastic (in fact previous to this visit not even a lay follower of the Buddha), in the present context the whole phrase cannot stand for making amendments for a breach of a monastic rule. Nor does it seem to imply a successful atoning for the evil done, since as soon as the king has left the Buddha tells the assembled monks that, due to being a patricide, Ajātasattu had become unable to realize even the first of the four levels of awakening.²² Instead, in the *Sāmaññaphala-sutta* the phrase *paṭikaroti* “according to the Dharma” has the simple sense of a confession.²³

The same sense is also appropriate for the *Aṅguttara-nikāya* passage, which on this understanding describes that “one who has committed a *pārājika* offence will confess it according to the Dharma.” This fits the context well, since the immediately preceding part speaks of not even committing a *pārājika* offence. Thus the remainder of the passage conveys the sense that, if such persons should nevertheless commit a *pārājika*, at least they will confess the moral breach according to the Dharma.

Besides, the same *Aṅguttara-nikāya* discourse uses the identical expression also in relation to one who has committed a *pācittiya* or else a *pāṭidesanīya* offence. Since committing a simple *pācittiya* offence only requires confession, as is the case for a *pāṭidesanīya* offence, the phrase *paṭikaroti* “according to the Dharma” here must mean precisely that, namely that the breach is being confessed.

Such confession then marks the difference compared to the monk in the *Madhyama-āgama* passage translated above, who did not confess and instead pretended to be still in communion by joining the community for the recital of the code of rules. In such a case an “expulsion” is required, as quite vividly exemplified by the course of action undertaken by Mahāmoggallāna. The same is not the case for one who confesses “according to the Dharma” a breach of a *pārājika* rule. In other words, such a breach invariably entails loss of communion, but does not necessarily require expulsion.²⁴ As explained by Hüsken (1997: 93),

if an offender is aware of his *pārājika* offence and leaves the order on his own initiative, the *Vinaya* describes no concrete act of expulsion.

The commentary on the *Aṅguttara-nikāya* discourse explains that a monk who confesses according to the Dharma in this way will be able to continue the monastic life by establishing himself in the condition of being a novice.²⁵ The commentary does not mention other alternatives, giving the impression that this was considered the appropriate course of action in such a situation.

In sum, the suggestions by Shih are not convincing. Contrary to her presentation, a monk who has committed a breach of a *pārājika* rule is indeed “not in communion”, as indicated explicitly in the various codes of rules, and such loss of communion has been incurred at the very moment of the breach of morality. Even if such a monk should be seated among the community, as in the passage translated above, in actual fact he is far away from it in the sense of no longer being in communion with them. The question of expulsion is relevant to such a case, not to one who honestly confesses and in this way acts “according to the Dharma”.

The idea that a breach of a *pārājika* rule somehow should have only limited consequences has also inspired Kovan (2013: 794), who proposes that “the *pārājika* rules (initiated in and) structured around a communal body are attenuated in solitude.” Kovan (2013: 794 note 27) bases this suggestion on contrasting individual suicides of monks like Channa to a mass suicide of monks disgusted with their own bodies.²⁶ In the case of the mass suicide, according to his assessment

in that communal monastic context the Buddha’s condemnation of suicide is unequivocal and suggests nothing of the ‘particularism’ of the responses he appears to bring to the solitary monks in the other cases.

Now the *pārājika* rule common to the different *Vinayas* concerns killing someone else as well as inciting someone else to commit suicide or actively assisting in it, and this sets the context for the story of the mass suicide of monks and their receiving assistance in killing themselves. In contrast, Channa as an example of “the solitary monks in the other cases” only killed himself. Thus cases like Channa cannot reflect a restricted scope of *pārājika* rules, simply because what he did was not a breach of a *pārājika* offence in the first place. Kovan’s idea turns out to be as groundless as the suggestions by Shih.

The Community of the Four Directions

The idea that somehow the *pārājika* rules must have a more limited scope than usually believed leads me on to a suggestion made by Clarke (2009b), according to which committing a *pārājika* offence might only result in a loss of communion with a specific local community.²⁷

His main case study is a tale from the Mūlasarvāstivāda *Vinaya* about a matricide whose status as a fully ordained monk is revoked by the Buddha when this becomes known. The matricide decides not to return to lay life, but goes instead to a remote place, where a lay supporter builds a dwelling for him that is subsequently also used

by other monks.²⁸

Clarke (2009b: 135) interprets this story as implying that the matricide monk was only

no longer a member of the Buddha's local monastic community. His membership in the Community of the Four Quarters, however, seems not to have been revoked. Accordingly, he was able to go down the road and join (or even start) another (local) monastic community, a place in which he would be 'in communion'.

When evaluating such stories, it needs to be kept in mind, as pointed out by Silk (2007: 277) in his study of this tale, that

caution would suggest that such stories be read and interpreted in terms other than as reports of actual incidents which historically led to the promulgation of particular rules of the Buddhist monastic codes.

This pertinent observation reflects a basic requirement when studying *Vinaya* narrative, namely a clear recognition of the type of information that such literature can and cannot yield. As I have argued elsewhere, *Vinaya* narrative is not comparable to a record of case-law precedents in modern judicial proceedings, but much rather serves teaching purposes in the context of legal education in a monastic setting.²⁹ Keeping this function in mind helps appreciate why in *Vinaya* literature legal discussions and *jātaka* tales go hand in hand.³⁰

This in turn implies, however, that caution is indeed required before taking such tales as reliable records of what actually happened on the ground and then drawing far-reaching conclusions, based on them, regarding the significance of being in communion.

Moreover, it seems preferable not to base any conclusions on what is found in a single *Vinaya* only. As succinctly formulated in a different context by Kieffer-Pülz (2014: 62), "general statements on the basis of only one *Vinaya* should belong to the past" of the academic field of Buddhist Studies.

Besides the need for caution when drawing conclusions based on a single *Vinaya* narrative, even taking the tale of the matricide at face value does not give the impression that it was acceptable for a monk who had lost communion to settle this by just proceeding to another local community. The point rather seems to be that the matricide on his own and without any explicitly mentioned precedent or permission decided to go to a distant place, quite probably just because nobody there would know him as a matricide. That a lay supporter builds a *vihāra* for him has no implications regarding the matricide's status as a fully ordained monk, nor does it imply that he is truly in communion with other fully ordained monks.

The same holds for the circumstance that other monks come to dwell in that *vihāra*. All this could equally well have happened if he simply pretended to be a regular monk in front of his supporter and the visiting monks, similar to the monk in the passage from the *Madhyama-āgama* translated above, who pretended to be still in

communion.³¹

If loss of communion had indeed applied only to a local community, one would expect stories reflecting this understanding to be reported in the different *Vinayas*. Take for example a monk obsessed with seducing women, who could continue having sex with any women he is able to approach as a monk by simply moving from one local community to the next, as soon as he is discovered. Records of such monks, together with the vexation their behaviour caused to well-behaved monks and the outraged reaction of the husbands in particular and the laity in general would surely have stood good chances of inspiring the narrative imagination of the reciters of the different *Vinayas*.

Moreover, given the peregrination of monks from one monastery to another, the idea of communion with a local community would not be particularly practicable. In concrete terms it would mean that the culprit would be barred from staying at the monastery in which he was dwelling when committing his breach of conduct. A ruling which envisages only loss of residential rights in the local monastery for one who has committed a *pārājika* offence would have failed to fulfil its purposes, which the *Vinayas* indicate to be restraining badly behaved monks and protecting well-behaved monks, inspiring non-Buddhists and increasing the faith of Buddhists.³²

In sum, the consequences that Clarke's suggestion entails on a practical level make it safe to conclude that the idea that a *pārājika* offence only entails loss of communion with a local community is unconvincing.

Besides, the present tale is not even a case of having committed a *pārājika* offence, as noted by Clarke (2009b: 126) himself. The killing of the mother took place when the protagonist of the tale was still a lay person. Therefore he had not committed an infraction of any *pārājika* rule, which only applies to fully ordained monastics. The present case thereby seems similar in this respect to the suggestion by Kovan, which was also based on drawing conclusions about the scope of *pārājika* based on stories that do not involve a breach of a *pārājika* rule.

In the present case, as a matricide the monk was held unfit for higher ordination, presumably due to not standing a chance of realizing awakening (comparable to Ajātasattu as a patricide). This leaves hardly any room for considering this story as hinting at loss of communion being only relevant to a local community.

Instead of the approach taken by Clarke, it seems to me that a proper appreciation of the significance of loss of communion for a monk who has committed a *pārājika* offence lies in the opposite direction, namely by setting aside as irrelevant to this topic the issue of being allowed to live in a particular monastery. This has no direct bearing on the question of being considered a full member of the community of the four directions, since these two are distinct matters. As explained by Nolot (1999: 59f note 9),

absolute *a-saṃvāsa* is incurred by monks and nuns who have committed a Pār[ājika] offence and are, as a consequence, deprived of

their very status: they are said not to belong to the (universal) Saṃgha anymore.

When Clarke (2009b: 132) reasons: “whether or not one can be expelled from the Community of the Four Quarters is not clear, at least to me”, then perhaps a simile from the modern living situation of an academic might help to clarify the situation. Suppose someone passes his PhD exam and starts teaching as an assistant professor, but then is found out to have plagiarized his thesis, whereupon he loses degree and position. Expressed in *Vinaya* terminology, he is not in communion with the community of PhD holders of the four directions. He no longer has the right to apply for a teaching or research position at a university anywhere in the world, claiming to hold a PhD degree, not only at the university where he originally received his degree.

Nevertheless, this does not mean he is forbidden to enter the university grounds. Even at his own university he could still use the library or listen to lectures; if the university has a hostel he might stay overnight or even live there for an extended period of time. But he will not be recognized as holding a PhD degree. Conversely, someone else can be barred from entering the university grounds for a variety of reasons that need not be related at all to undertaking PhD research or to the degree to be obtained on properly carrying out such research.

The rather distinct situation of residential rights in a local monastery can be further illustrated with an excerpt from another discourse in the *Madhyama-āgama*, which I translate below as a complement to the passage rendered in the first part of this article.³³ Whereas the first discourse showcases loss of communion with the universal community of the four directions, the present passage rather concerns loss of residential rights in a local community.

Translation (2)

At that time the venerable Dhammika was an elder in his native region, being in charge of the *stūpa* and in a position of seniority towards others. He was fierce, impatient, and very coarse, cursing and condemning other monks. Because of this, all the monks of his native region left and went away; they did not enjoy staying there.

Thereupon the male lay disciples of his native region, seeing that all the monks of his native region left and went away, that they did not enjoy staying there, thought in turn: ‘What is the reason that all the monks of this native region leave and go away, that they do not enjoy staying here?’

The male lay disciples of his native region heard that the venerable Dhammika, who was an elder in this native region, being in charge of the *stūpa* and in a position of seniority towards others, was fierce, impatient, and very coarse, cursing and condemning other monks. Because of this the monks of his native region all left and went away; they did not enjoy staying there. Having heard it, the male lay

disciples of his native region together approached the venerable Dhammika and expelled him. They evicted Dhammika from all monasteries in his native region and made him depart.

Then the venerable Dhammika, having been expelled by the male lay disciples of his native region, having been evicted from all monasteries in his native region and made to depart, took his robes and bowl and went travelling.

Study (2)

A parallel to this discourse preserved in the *Aṅguttara-nikāya* differs in so far as Dhammika is first told by the lay disciples to go to another monastery still within his native district.³⁴ Once he is there, he behaves as earlier, so that the same happens again and again, and this eventually results in him being expelled from all monasteries in his native region. Another difference is that the *Aṅguttara-nikāya* version does not refer to *stūpas*, a topic to which I will return at the end of this article.

Although Dhammika had been expelled from all monasteries of his native region, he remained a fully ordained monk. Expressed in *Vinaya* legal terminology, he remained “in communion”. In whatever monastery outside of his native region he went to stay next, he had the right to act as a fully ordained monk and would have been not only allowed, but even expected to participate in the recitation of the code of rules. Although what he had done led to his expulsion from the monasteries of his native region, his behaviour as such did not involve a breach of any *pārājika* rule.

Another noteworthy feature of this case is that those who expelled the monk Dhammika were laymen. In other words, not only are residential rights in a local monastery quite different from loss of communion, but decisions regarding such residential rights need not even be taken by monks, as according to the present episode the laity can do so as well.

In fact, dwelling in a monastery is not an exclusive privilege of fully ordained monks (or fully ordained nuns in the case of a nunnery). Monasteries can also serve as a residence for novices, for example, and at times lay people also live in a monastery. Due to the restrictions placed on fully ordained monastics by their rules, they require the assistance of the laity for certain tasks that they cannot perform themselves, which makes it convenient if such a lay helper also stays in the same monastery.³⁵

Thus a fully ordained monk who has lost his status of being in communion can still continue to live at the very same monastery in which he was staying when his breach of morality happened. His being no longer in communion only refers to his inability to function any longer as a fully fledged member of the monastic community in legal matters, such as participating in the recital of the code of rules, to stay with the earlier example. Having lost the right to consider himself a fully ordained monk, he can either live at the monastery as a lay disciple or else, as mentioned in the commentary on the *Aṅguttara-nikāya* passage related to the phrase *paṭikaroti* “according to the Dharma”, he can do so having become a novice.

Clarifying the basic distinction between residential permit in a particular monastery and legal permit to perform legal actions as a fully ordained monk also helps to put into perspective the *śikṣādattaka* observance, a provision found in the Dharmaguptaka, Mahāsāṅghika, Mahīśāsaka, Mūlasarvāstivāda, and Sarvāstivāda *Vinayas* applicable to the case under discussion in this paper, namely a monk who has committed a breach of the *pārājika* rule on celibacy.³⁶

Clarke (2009a: 27), to whom we are indebted for a detailed study of this topic, reports that the “*śikṣādattaka* is effectively reduced to a position of subservience and humility”. In several *Vinayas*, such

relegation to a lowly, but still clearly monastic, position is likewise evident in the requirement that he sit below the most junior of the monks, and above the novices ... he is not to take charge of a novice, ordain a monk, or admonish nuns ... [or else] not permitted to discuss the *Vinaya*, recite or listen to recitations of the *Prātimokṣa*.

If this is the case, then it is not clear why Clarke (2009a: 8) concludes that the *śikṣādattaka* “is most certainly not expelled (or ‘no longer in communion’ [*asaṃvāsa*]”)”. As I hope my earlier discussion would have clarified, being expelled needs to be differentiated from being no longer in communion. The former only applies to certain cases, the latter to all instances of a breach of a *pārājika* rule. Regarding the latter, restrictions of the type mentioned in the quote above do imply that the *śikṣādattaka* is no longer in communion, *asaṃvāsa*.³⁷

Since the status of being *śikṣādattaka* does imply a loss of communion and a demotion in status, this in turn means that, if a fully ordained monk voluntarily engages in sexual intercourse, this still results in his loss of being in communion. Such loss in turn affects the institutional reality of Buddhist monasticism in its internal and external dimensions, inasmuch as he can no longer legitimately perform the function of perpetuating this monastic institution by conferring valid ordination on others and would also no longer be reckoned a meritorious recipient of individual gifts by lay donors comparable to the way in which this was the case before he had broken a *pārājika* rule.

Now as Clarke (2009b: 116) rightly notes, “a monk who has sex does not necessarily commit a *pārājika* offence.” An example would be when a monk is mentally deranged or possessed and therefore not considered accountable for what he does. But when Clarke backs up his statement in his note 6 by stating: “Take, for instance, the case of the *pārājika* penitent or *śikṣādattaka*”, followed by reference to his paper on this topic, then this does not seem to work as a case of sexual intercourse not being considered a breach of the respective *pārājika* rule.

The *śikṣādattaka* observance, in the way summarized by Clarke based on what is common among the different *Vinayas* that recognize this procedure, only institutionalizes the way in which a monk who has offended against a *pārājika* rule can continue to live in robes at a monastery in a position situated between novices and fully ordained monks. It does not change the nature of the *pārājika* offence itself.³⁸ One who has actually committed a *pārājika* offence is still no longer considered a

fully ordained monk according to these *Vinayas*. In fact, if these *Vinayas* did not recognize that having sex, etc., entails a breach of the *pārājika* rule, there would hardly have been any need for them to get into devising the *śikṣādattaka* option in the first place.

The institution of the *śikṣādattaka* is in this respect comparable to the option of becoming a novice, mentioned in the Pāli commentary, by confessing that one has lost one's status as a fully ordained monk. In its treatment of the first *pārājika*, the Pāli *Vinaya* mentions that one of several ways a fully ordained monk can disavow his status is by declaring himself to be a novice.³⁹ Since at the time of ordination he had received first the going forth, corresponding to novice ordination, and then the higher ordination as a monk, this means he is giving up only the higher ordination, not the going forth. This straightforward option does not appear to have been felt to be in need of further legislation.

The same option is found in the Dharmaguptaka, Mahāsāṅghika, Mahīśāsaka, Mūla-sarvāstivāda, and Sarvāstivāda *Vinayas*.⁴⁰ All of these *Vinayas* recognize that a fully ordained monk, if he wishes to disavow his higher ordination, can do so simply by declaring himself to be a novice from now on.

This is similar to what can happen when a fully ordained monk confesses according to the Dharma that he has violated a *pārājika* rule. The main difference is that when a monk just decides to become a novice, for whatever reason, he can in principle at a later time take full ordination again and thereby become once more one who is in communion. If he becomes a novice after having committed a breach of a *pārājika* rule, however, the option of becoming a fully ordained monk again is not open to him. He will no longer be able to become one who is fully in communion.

Thus what happened with the *śikṣādattaka* observance appears to be that some *Vinayas* carved out a more institutionalized version of the basic option of remaining in robes at a level below that of a fully ordained monk. This might have occurred in response to an increase in the number of such cases, leading to a felt need for more explicit legislation that also ensures that one who is willing to confess and thereby incur the resultant loss of status as a fully ordained monk can ensure that, following his demotion in status, at least he will be placed within the monastic hierarchy above the level of a novice. In several *Vinayas* the attractiveness of admitting a breach of a *pārājika* seems in fact to have been increased by offering a few additional privileges, while at the same time keeping the *śikṣādattaka* observance still clearly distinct from the condition of being fully in communion.

This in turn gives the impression that the difference between the Theravāda *Vinaya*, which does not know the *śikṣādattaka* observance, and the other *Vinayas*, which do contain this option, is mainly one of increasing degrees of institutionalization. It does not appear to be a difference in principle.

Therefore Clarke (2009a: 26) is probably right when he envisages, as one of several possibilities, that

the Pāli *Vinaya*'s apparent ignorance of this ecclesiastical provision

may, in this case, reinforce the premise that it represents an older tradition, one which was transmitted to Sri Lanka prior [to the arising of the *śikṣādattaka* observance].

Clarke (2009a: 31) compares the case of the *śikṣādattaka* observance to that of monastic regulations related to *stūpas*. Similarly to the discourse on Dhammika translated above, where the Pāli version did not mention the role of its monk protagonist in relation to *stūpas*, the Pāli *Vinaya* also has no reference to regulations in this respect. This has led Schopen (1989: 95) to the proposal that

the total absence of rules regarding *stūpas* in the Pāli *Vinaya* would seem to make sense only if they had been systematically removed.

This suggestion earned him immediate criticism.⁴¹ Instead, the absence of any such reference rather shows that the Theravāda *Vinaya* was already closed by the time *stūpas* acquired sufficient importance to require monastic legislation. The same suggests itself for the *śikṣādattaka* observance, in that the move to institutionalize the monastic status of a monk who had broken a *pārājika* rule would have occurred only at a time when the Theravāda *Vinaya* was already closed.⁴²

Lest I be misunderstood, with the foregoing suggestion I do not intend to promote the attitude of considering the Pāli *Vinaya* as invariably earlier than its parallels. In fact in my comparative studies of the narratives related to the first and third *pārājikas* I have argued that the Theravāda account has incorporated later elements and is therefore definitely not the earliest version at our disposal.⁴³

However, these are narratives shared by the different *Vinayas*, which thus stand good chances of representing a common early core, unlike stories found only in some *Vinayas*.⁴⁴ Such instances show that the Theravāda *Vinaya* is as much a product of the appropriation of later ideas and the embellishment of stories as the other *Vinayas*. Yet, due to the idiosyncrasies of its transmission, in the case of this particular *Vinaya* the process of incorporation appears to have come to a comparatively earlier point of closure than in the case of its Indian brethren.

This in turn is significant for evaluating material not found in the Theravāda *Vinaya* at all, such as regulations concerning *stūpas* and the *śikṣādattaka* observance. Recognizing the significance of such absence makes it possible to construct a reasonable chronology of developments in Indian Buddhist monasticism.

In other words, it seems fair to conclude that rules on *stūpas* and the *śikṣādattaka* observance are not found in the Theravāda *Vinaya* quite probably because they reflect comparatively later concerns. They can certainly be considered as later concerns than, for example, the notion that committing a *pārājika* offence equals immediate and definite loss of communion with the community of fully ordained monastics in the four directions, a notion reflected explicitly already in the code of rules of the different *Vinaya* traditions.

Conclusions

A fully ordained monk who willingly engages in sexual intercourse, without having

given up his ordained status, is no longer in communion. Such being no longer in communion happens right at the time of the moral breach and does not have a necessary relationship to the monk's residential rights in a particular monastery. It is only when the distinction between residential rights and membership in the community of the four directions is lost sight of that the clear-cut connection between a breach of a *pārājika* and the ensuing loss of communion becomes blurred.

The *Aṅguttara-nikāya* does not recognize a form of atonement for *pārājika*, just as the *śikṣādattaka* observance does not imply a re-evaluation of the nature of a *pārājika* offence. Instead, the latter only involves an institutionalization of an option already available earlier, namely to continue to live at a monastery in robes but without all the privileges that come with full ordination.

Similarly to the case of *stūpa* regulations, the absence of references to the *śikṣādattaka* observance in the Theravāda *Vinaya* points to the relatively later date of the corresponding legislations.

Abbreviations

AN	<i>Aṅguttara-nikāya</i>
D	Derge edition
DN	<i>Dīgha-nikāya</i>
MĀ	<i>Madhyama-āgama</i> (T 26)
Mp	<i>Manorathapūraṇī</i>
Q	Peking edition
Sn	<i>Sutta-nipāta</i>
T	Taishō edition (CBETA)
Ud	<i>Udāna</i>
Ud-a	<i>Paramatthadīpanī</i>
Vin	<i>Vinaya</i>

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End Notes

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¹ On *samānasaṃvāsa* and *nānāsaṃvāsa* cf. Kieffer-Pülz 1992: 52–54.

² Dharmaguptaka, T 1429 at T XXII 1015c7: 不共住, Kāśyapīya, T 1460 at T XXIV 659c26: 不應共住, Lokottaravāda-Mahāsāṅghika, Tatia 1975: 6,21: *na labhate bhikṣuḥi sārddha saṃvāsam*, Mahīśāsaka, T 1422 at T XXII 195a10: 不共住 (cf. also T 1422b at T XXII 200c22: 不應共事, and on this differing code of rule the remarks in Clarke 2015: 70), Mūlasarvāstivāda, Banerjee 1977: 14,6: *asaṃvāsyah*, Sarvāstivāda, von Simson 2000: 163,7: *asaṃvāsyah*, and Theravāda, Norman and Pruitt 2001: 8,7: *asaṃvāso*.

³ The translated extract is found in MĀ 122 at T I 610c25 to 611a22. The same episode occurs in MĀ 37 at T I 478b16 to 478c13.

⁴ Cf. in more detail Anālayo 2014.

⁵ Dutt 1984: 107,2 and its Tibetan counterpart in D 1 *ga* 182a3 or Q 1030 *nge* 174b5; Chung and Fukita 2011: 18 report that this Mūlasarvāstivāda discourse version is “not yet known to exist in any language”. Dhirasekera 1982/2007: 300f seems to have misunderstood this reference in the Sanskrit version, leading him to conflate it with the ensuing text that concerns another episode and then to conclude that the Mūlasarvāstivāda *Vinaya* account differs substantially from the other versions. Shih 2000: 142 note 40 repeats these mistaken conclusions, even though p. 146 note 49 she shows awareness of the fact that the Mūlasarvāstivāda *Vinaya* does not report the episode.

⁶ Cf. below note 9. Regarding the authorship of the *Samantapāsādikā*, von Hinüber 2015: 425 explains that, “though attributed to Buddhaghosa, his authorship can be safely ruled out. The form and content of the introductory verses are quite different from the beginning of both the *Sumāṅgalavilāsinī* and the *Atthasālinī*, and so is the method followed in this commentary”; cf. also Kieffer-Pülz 2015: 431. On aspects of the interrelation between the *Samantapāsādikā* and the commentaries on the four *Nikāyas* cf. Endo 2013: 244–247.

⁷ This part of MĀ 122 has parallels in AN 8.10 at AN IV 169,1 (preceded by a different episode) and T 64 at T I 862c20 (preceded by the same episode); cf. also SHT IV 412 fragments 1 to 5, Sander and Waldschmidt 1980: 21–23.

⁸ MĀ 37 at T I 478b17, T 64 at T I 862b10, T 1435 at T XXIII 239b8; for a juxtaposition of MĀ 37 and the relevant part in T 1435 cf. Chung and Fukita 2011: 320f.

⁹ Mp IV 112,5 and Ud-a 296,14.

¹⁰ For a more detailed study cf. Anālayo 2010b.

¹¹ AN 8.20 at AN IV 204,23 (= Ud 5.5 at Ud 51,21 and Vin II 236,4), T 33 at T I 817a10, T 34 at T I 818a13, T 35 at T I 819a8, D 4094 *ju* 223a2 and Q 5595 *tu* 254b2, T 1421 at T XXII 180c27, T 1425 at T XXII 447b16, and T 1428 at T XXII 824a8; cf. also Gangopadhyay 1991: 46.

¹² In AN 8.20 at AN IV 205,26 (= Ud 5.5 at Ud 52,19 and Vin II 237,2) and EĀ 48.2 at T II 786b21 Mahāmoggallāna told him three times to leave; in T 35 at T I 819a14 he did so only once. In T 1421 at T XXII 181a8 and T 1428 at T XXII 824a29 Mahāmoggallāna also first told him to leave and then took him outside, but as the narrative does not mention that the culprit did not react to the verbal

command to leave, it remains open to conjecture whether this should be seen as implicit in the narration.

¹³ T 34 at T I 818a23.

¹⁴ T 33 at T I 817a28.

¹⁵ AN 8.20 at AN IV 205,23 (= Ud 5.5 at Ud 52,15 and Vin II 236,25): *abrahamacāriṃ brahmacāri-paṭiññāṃ* (or *brahmacārīpaṭiññāṃ*); although in T 1425 at T XXII 447b15 he has rather committed a theft, as already noted by Shih 2000: 146.

¹⁶ AN 8.20 abbreviates, wherefore the required passage needs to be supplemented from AN 8.19 at AN IV 202,2; the same is found in Ud 5.5 at Ud 55,14 and Vin II 239,10.

¹⁷ AN 8.20 at AN IV 205,24 (= Ud 5.5 at Ud 52,16 and Vin II 236,26).

¹⁸ The nuance of pretending things are otherwise is reflected in the commentarial explanation, Ud-a 297,25, which glosses the expression “seated in the midst of the community of monks” by explaining that he is seated among them “as if he belonged to the community”, *saṅghapariyāpanno viya*.

¹⁹ Cf. Sn 283: *suddhā suddhehi samvāsaṃ*.

²⁰ AN 4.242 at AN II 241,22: *āpanno vā pārājikaṃ dhammaṃ yathādhammaṃ paṭikarissati*.

²¹ DN 2 at DN I 85,23: *yathādhammaṃ paṭikarosi*. This passage and the significance of *paṭikaroti* have already been studied in detail by Derrett 1997 and Attwood 2008.

²² DN 2 at DN I 86,2; cf. also Attwood 2008: 290f.

²³ Rhys Davids 1899: 94 translates the phrase as “confess it according to what is right” and Walshe 1987: 108 as “confessed it as is right”; cf. also Radich 2011: 19. In his detailed study of the present episode in relation to the significance of confession, Derrett 1997: 59 explains that those in front of whom such *paṭikaroti* according to the Dharma takes place “do not forgive or pardon him, nor is the offence atoned for, or washed away. No ‘amends’ are made ... [even] condonation is not in point here ... [but] an acceptance occurs like a creditor’s issuing a receipt.”

²⁴ This goes to show that there is no need to consider the lack of explicit reference to expulsion in *pārājika* rules problematic, as done by Shih 2000: 132ff, in reply to which Heirman 2002: 439 clarifies that “the idea of an exclusion is prominently present ... [which] the use of the image [of] ‘decapitation’ further points to as being ... permanent”; as noted by Nāṇatusita 2014: cv, the image of decapitation indeed conveys the gravity of a *pārājika* breach.

²⁵ Mp III 216,14: *sāmanerabhūmiyaṃ ṭhassatī ti attho*.

²⁶ For comparative studies of the case of Channa cf. Delhey 2006 and Anālayo 2010a; on the mass suicide of monks cf. Anālayo 2014.

²⁷ I already expressed my reservations in this respect in Anālayo 2012a: 418f note 42.

²⁸ Nāther 1975: 49,2, with the Chinese and Tibetan counterparts in T 1444 at T XXIII 1039b22 and Eimer 1983: 312,23.

²⁹ Cf. Anālayo 2012a.

³⁰ For a case study cf. Anālayo 2016b.

³¹ In fact Silk 2007: 281 reports that the story continues with one of the disciples, after the death of this monk, trying to ascertain through supernormal powers where his teacher “has been reborn. Using his supernatural sight he is able to survey the realms of transmigration (*saṃsāra*), beginning with that of the gods and, when he does not locate him there, descending through the realms of humans, animals and hungry ghosts. It is only when he examines the lowest realm, that of hell, that he discovers his teacher in the great Avīci hell, and upon seeking the cause of his fate learns of his master’s earlier crime of matricide.” This denouement of the narrative makes it fair to assume that the monk hid his matricide and pretended to be a fully ordained monk.

³² Cf. the Mahīśāsaka *Vinaya*, T 1421 at T XXII 3c1, the Mahāsāṅghika *Vinaya*, T 1425 at T XXII 228c25, the Dharmaguptaka *Vinaya*, T 1428 at T XXII 570c4, the Sarvāstivāda *Vinaya*, T 1435 at T XXIII 1c17, the Mūlasarvāstivāda *Vinaya*, T 1442 at T XXIII 629b22 and D 3 ca 28b5 or Q 1032 che 25a6, and the Theravāda *Vinaya*, Vin III 21,17.

³³ The translated extract is taken from MĀ 130 at T I 618b21 to 618c5.

³⁴ AN 6.54 at AN III 366,23.

³⁵ One example, discussed in Silk 2008: 42ff, is the accepting of donations.

³⁶ On the *śikṣādattaka* observance cf. also Greene 2017.

- ³⁷ This has already been pointed out by Sujato 2009: 122 note 192: “the *sikṣādattaka* (*sic*) is not, contra Clarke, ‘in communion’.” Wood 2012: 157f and Kaplan 2016: 261, however, unreservedly accept Clarke’s conclusions.
- ³⁸ This would also hold for the case story related to the *sikṣādattaka* observance in the Mūlasarvāstivāda *Vinaya* where, according to the detailed study by Clarke 2009a: 16, the narrative unfolds in such a way that the monk is not considered to have committed a full breach of the *pārājika* in the first place. Therefore his being depicted as eventually becoming an arhat and with such attainment then being reinstated from the *sikṣādattaka* level to that of a fully ordained monk would have no consequences for our understanding of what an actual *pārājika* breach implies, comparable in this respect to the matricide story from the Mūlasarvāstivāda *Vinaya* discussed earlier. Since neither involves a breach of a *pārājika*, they have no direct bearing on what such a breach entails. The present story only implies that in the Mūlasarvāstivāda *Vinaya* the *sikṣādattaka* observance could also be conferred on those who, due to the circumstances of their deed, were not reckoned as having committed a full breach of the *pārājika* rule prohibiting sexual intercourse.
- ³⁹ Vin III 27,7: *sāmaṇero ti maṃ dhārehī ti*, preceded at Vin III 24,28 by the expression *sāmaṇera-bhāvaṃ pathayamāno*. Thanks to the discussion by Kieffer-Pülz 2015/2016 of the different situation for nuns in this respect, I became aware of the proposal by Paṇḍita 2016 of two modes of disavowal of one’s higher ordination, of which the supposedly earlier one did not involve any of the ways described in the passage under discussion. Now the function of a word explanation (*padabhājanīya*) in the *Vinaya* is to explain and define, not necessarily to promulgate something new. Thus the present word explanation only implies that the listed ways of disavowal of one’s higher ordination are from now on those considered legally valid from the viewpoint of *pārājika* casuistic. It does not imply that these ways had never been in use earlier and only came into existence with the arising of this commentary. Besides, the two examples Paṇḍita 2016: 2f gives for the supposedly earlier mode of disavowal concern a monk who mistakenly believes he has lost communion and a nun who has lost communion and concealed it; neither is a case of a successful disavowal of the higher ordination.
- ⁴⁰ The Dharmaguptaka *Vinaya*, T 1428 at T XXII 571b19, the Mahāsāṅghika *Vinaya*, T 1425 at T XXII 236a1, the Mahīśāsaka *Vinaya*, T 1421 at T XXII 4c2, the Mūlasarvāstivāda *Vinaya*, T 1422 at T XXIII 630b10 and D 3 ca 31b4 or Q 1032 che 27b6, and the Sarvāstivāda *Vinaya*, T 1435 at T XXIII 2c2.
- ⁴¹ Gombrich 1990, Hallisey 1990, and von Hinüber 1990; cf. also Dhammadinnā 2016: 44ff for a critical appraisal of a to some extent related suggestion by Schopen 1996 on the supposed absence of references to *stūpas* for nuns.
- ⁴² Sujato 2009: 234–237 comes to the same conclusion regarding *stūpa* regulations and the *sikṣādattaka* training. However, he also brings in the *sikkhamānā* training in this conclusion, where I find his overall treatment of this topic unconvincing; for two points of disagreement cf. Anālayo 2015: 412 note 11 and 2016a: 97f note 23.
- ⁴³ Cf. Anālayo 2012a and 2014.
- ⁴⁴ On the principle that parallelism points to a common early core, contrary to the position taken by Schopen 1985, cf. Anālayo 2012b.