


Article

Intention, Action, and Outcome: Sanctioning Patterns in the Four *Pārājikas* of the Vinayas

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Abstract: The sanctions for prohibited behavior in Vinaya texts are based on the precepts. It is, however, in the *padabhājanīya* (commentaries on the *prātimokṣa*) and the *vinītaka* (case-law sections) that these sanctions are further developed and explained. In the Vinayas, intention (the monk's motivations while committing an act), action (the action that the monk carried out), and outcome (the effect of this action on others) are generally understood to be the three factors that affect the sanctioning principles. Intention is considered the most essential factor because a monk who has performed, without motivation, a negligent action is often declared innocent in the Vinayas. However, some scholars argue that the requirement of intention pertains only to misdemeanors, not to serious offenses, and is not an overriding factor. This article investigates the logic informing the sanctions concerning intention, action, and outcome in the *vibhaṅgas* for the four *pārājikas*, including the precepts, the *padabhājanīya*, and the *vinītaka*. It is shown that this principle of conviction in fact applies to serious offenses as well as misdemeanors, although there are exceptions, such as cases in which the monk is forced to commit adultery (by being raped), etc. Although the precepts and their associated sanctions vary considerably, this article argues that an underlying logic informs them. This paper provides a typology for these sanctions by investigating the four *pārājikas* of the Vinayas.

Keywords: Vinaya; *pārājika*; sanctions; intention; action; outcome



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1. Introduction

The Buddhist monastic codes of discipline consist of two main parts. The first part is the *vibhaṅgas*, which are the itemized lists that analyze the *prātimokṣasūtras* (*boluotimucha jing* 波羅提木叉經), the precepts guiding the behavior of both monks and nuns, including the *nidāna* (the origin story), the rule, the *vinītaka*,¹ etc. The second part is the *khandhakas*, which are the rules that govern the daily activities of the monastic community (Clarke 2015).

A majority of the sanctions for proscribed behavior in the monastic codes may be found in the *padabhājanīya*² (word analyses) and in the *vinītaka* (case-law sections) of the Pāli Vinaya. The word analyses of the precepts (*prātimokṣa*) include highly detailed explanations related to the language in the precepts, examples of wrongful acts, and hypothetical cases related to these wrongdoings. In the 1930s, Nishimoto compared the cases in the *vinītaka* and their position in each of the Vinayas (Nishimoto 1932). Later, Hirakawa Akira conducted a more in-depth study of the relationship of the *vinītaka* passages to their relevant precepts and proposed that the *vinītaka* section in the Pāli Vinaya must have been a later addition to the text. Moreover, the *vinītakas* in the Chinese translation of the *Sifen lü* 四分律, the *Wufen lü* 五分律, the *Shisong lü* 十誦律, and the *Mohesengqi lü* (摩訶僧祇律) are included in the Appendix (*parivāra*) or the *vastu* (Pāli *khandhaka*, chapters) (Hirakawa 1960, pp. 66–67). Yinshun expresses the same opinion and describes the sentence for proscribed behavior in the *padabhājanīya* as *yueyifenbie* 約義分別, while he refers to the *vinītaka* as *yueshifenbie* 約事分別. These two are collectively called *fanxiangfenbie* 犯相分別. Yin

states that the older and newer strata of each Vinaya can be determined based on elements such as the similarity of the text and the number of instances in the *fanxiangfenbie* (Yin 2009, pp. 189–95). Clarke expands on Hirakawa's scholarship, describing the *Vinītaka* of each Vinaya in greater detail (2016). He also points out that the *Vinītaka* part of the *Uttara-grantha* in the Tibetan translation of the *Mūlasarvāstivāda-Vinaya* (*Genben shuo yiqie youbu lü* 根本說一切有部律) is consistent with *Sapoduobu pini modeleqie* 薩婆多部毘尼摩得勒伽 (Clarke 2016, pp. 49–149).³ While studies of the textual history of the *vinītaka* have provided valuable insights, they often overlook the principles informing the sanctions outlined in these case-laws. In a more recent study, Hirakawa covers every section of the Vinayas, including the *padabhājanīya*, the *vinītaka*, and the corresponding four *pārājikas* (1993). Works such as Hirakawa's concentrate more on the content of the precepts than on the logic that underlies the code of law.

The *padabhājanīya* provide a multitude of hypothetical scenarios. Every Vinaya text provides a graded system for its rules, ranging from the most severe punishments to lesser sanctions, based on the specific circumstances of a particular violation. For example, in the Pāli Vinaya, it is stated that when a monk contemplates murder and prepares for the act, it is considered *duṣkṛta* (misdemeanor: wrong-doing); when the victim is harmed by the monk, it is classified as *sthūlātyaya* (grave offense). Finally, when the victim is killed, it is regarded as a *pārājika* (defeat) punishable by excommunication from the saṅgha.⁴ In the *Sifen lü* (四分律), committing homicide is considered *pārājika*, while preparing to do so without actually carrying out the act is still *sthūlātyaya*.⁵ This system of gradation is found in all Vinayas. However, in the more concrete examples of guilty verdicts provided in the *vinītaka*, this system is not always followed. Instead, the *vinītaka* texts record the acts performed by various monks and the Buddha's response to the verdicts regarding these actions (Li 2019b). There are certain parallels between the Buddhist codes of discipline and modern-day law. For instance, both systems consider the motivations of the accused and the resulting outcomes of their misconduct. However, the most significant difference between these two systems is how they approach the issue of intention in relation to punishment (*mens rea*). For instance, the Vinayas deal with cases of involuntary manslaughter in a way different from most current systems of law, in which it is always considered a crime. If a monk throws a stone down a mountain without malicious intent, and it lands on someone below, causing the person's death, this would not be deemed an infringement of the monastic codes of discipline. Some scholars consider this emphasis on intention in the rules to be a characteristic feature of Buddhist law, advocating the Vinayas' emphasis on motivation (Sasaki 2011b, p. 76; Tu 1996, p. 37). However, other scholars hold different views. For instance, the Japanese scholar Mori Shōji analyzes some rules, proposing that in order for *pārājika* to occur, all three requirements of having the will to murder (intention), carrying out the crime plan, and achieving the intended objective must be met. Mori states that intention is not actually very important because in cases in which there is ill intention without action or outcome, the accused is punished for *duṣkṛta*, the least severe sanction in the codes (Mori 1993, pp. 76–77).

Support for both these positions can be found in the Vinayas, and this speaks to the fact that the logic underlying these rules is certainly more nuanced. To delve deeper into this area of research, this paper develops on the logic underlying codified sanctions by studying them in terms of three primary factors: intention, action, and outcome. The sanctioning patterns in the precepts, the *padabhājanīya* to the *pratimokṣa*, and the *vinītaka* texts are examined, with a focus on the cases of the four *pārājika* offenses entailing expulsion from the community, since they provide the most comprehensive explanations of the rules.

2. Sanction Patterns in the Four *Pārājikas*

2.1. Injunction against Sexual Intercourse

The rules against sexual intercourse in the Vinayas are laid out in the first *pārājika* section. A rule specifies that a monk who engages in sexual intercourse with a human or animal is considered to have committed a breach warranting expulsion from the commu-

nity. These rules are further elaborated in the *padabhājanīya* and in the *vinītaka* texts. If a monk's penis enters a woman's or a nonhuman female's mouth, vagina, or anus (*sandao* 三道) during intercourse, this constitutes *pārājika*. Similarly, if a monk's penis enters the mouth or anus of a man or an animal, or if the monk performs oral sex on another man, this also constitutes *pārājika*. Aside from the instances above, the rules in the other cases usually take into account lust (the monk's motivation), pleasure, and the act itself. (Did the monk ultimately have "intercourse" or not?) It is not necessary for all three factors to be present for a severe punishment to be imposed. If the monk experiences either desire or pleasure and engages in sexual intercourse, this is generally considered to be misconduct that warrants punishment.

The important point regarding the lust factor is whether or not the monk desires to have intercourse before and during the act, in which case it constitutes *pārājika*. In the more theoretical cases provided by the *padabhājanīya*, the rules are premised on the fact that the monk was acting out of lust. In the later *vinītaka*, however, the question of whether the monk felt desire during the act is not emphasized. The *vinītaka* takes the more practical approach proposing that there are two possible circumstances that lead to intercourse: intercourse initiated by the monk and intercourse forced upon the monk. In cases in which the monk has intercourse on his own initiative, this is considered lustful behavior, and the monk is at fault. In cases in which sex is forced upon the monk, this is not a case of lust. However, the absence of intention does not necessarily mean that there is no *pārājika* violation, since the presence of pleasure during the act must be considered to determine whether an offense was committed. If a monk experiences pleasure at any stage, it is considered a *pārājika* offense, even if the monk did not intend to engage in sexual intercourse. However, if there is neither lust nor pleasure, then the monk is not at fault.

Lust and pleasure are subjective factors in these rulings, with lust relating to motivation and pleasure similar to the outcome factor. There are also many factors that define whether an act constitutes "intercourse" as defined by the monastic codes. The object of transgression, for instance, is a determining factor in the ruling. Intercourse with a woman via the mouth, vagina, or anus entails *pārājika*, which means that copulation with anything other than these three orifices (known as *feidao* 非道) is not considered as serious a breach of the precepts. For example, if a monk feels great lust and engages in sexual activity with a clay or wooden doll shaped like a woman, although both intention and act are present, this does not constitute *pārājika* but a more minor offense, such as *duskr̥ta* in the Pāli Vinaya and the *Mohe sengqi lü*, or *sthūlātyaya* in the *Sifen lü*.⁶ This is because clay and wooden dolls are not among the objects prohibited in the Vinayas, i.e., women, men, and animals. In the same case of the *Wufen lü*, if the monk has emission of semen, he will be temporarily punished (*saṅghāvaśeṣa*), and if he does not, it is just *sthūlātyaya*.

Another determining factor is the body part used for intercourse, specifically the man's penis. The example of a monk using his big toe or thumb to penetrate a woman's vagina is considered not intercourse but merely bodily contact, which is punishable by temporary penance (*saṅghāvaśeṣa*), a less severe sentence.⁷ The state of the human body with which the monk has intercourse is also a determining factor. In cases of necrophilia, for example, the degree of decomposition of the corpse determines the severity of the punishment. If a monk has intercourse with a corpse that is still in relatively good condition, this is *pārājika*. Intercourse with a corpse in a state of advanced decay, or has been mostly consumed by scavenging animals is not a *pārājika* offense, but *sthūlātyaya* in all Vinayas⁸, even though the monk has acted out of lust and committed a sexual act with the corpse. When the corpse has become a skeleton, it just is *duskr̥ta* in the Pāli Vinaya and the *Mohe sengqi lü*, but the *sthūlātyaya* in the *Sifen lü* and the *Wufen lü*.

The ultimate determinant of whether a sexual act occurs is the physical contact between the genitalia and the orifice during penetration. An example of this can be found in the *Shisong lü*, where a monk had sexual intercourse with a female elephant. The elephant's vagina was too wide, and as a result the monk's penis "failed to make contact with its edges" (*bu chu bian* 不觸邊), resulting in a verdict of unconsummated *sthūlātyaya*.⁹ In

the Pāli Vinaya there is another instance in which an act of necrophilia without contact to the edges of the orifice leads to a verdict of *duṣkṛta*. In both these cases, the sentence was reduced because there was no contact with the orifice. The Vinaya texts all include the example of a sexual act in which the penis is covered with fabric so that there is no direct contact.¹⁰ Although there is technically no direct contact, the rulings are strict in this case, and it is still judged as a *pārājika* transgression. Only cases in which there is no contact at all with the edges of the proscribed orifice receive reduced sanctions. Intercourse with an object wrapped around the genitals, in contrast, does not constitute a non-touching edge (*bu chu bian* 不觸邊).

To summarize, in instances of the first *pārājika*, all forms of intercourse, as defined by the Vinayas, with either humans or animals constitute a *pārājika* offense. We have also seen that the *padabhājanīya* and the *vinītaka* texts evaluate these instances according to three different factors: desire, pleasure, and confirmation of the sexual nature of the act.

2.2. Stealing

The second *pārājika* is the precept against stealing. The rules against stealing were less specific than the rules against intercourse because the issue of stealing was not particular to the monastic community. The Vinaya codes, therefore, did not need to diverge too much from the laws related to property at the time. The precept states that if a monk in a village, a forest, or some such place should intentionally steal someone else's property, this is a *pārājika* offense. There are three factors at play in these cases: motivation, the object, and the occurrence of the theft. The *padabhājanīya* on this precept specify the types of property: on the ground, in the air, in water, in a field, etc. (Horner [1938] 2014, vol. 1, pp. 75–84). They also distinguish acts of stealing in accordance with the value of the stolen item: the theft of something worth more than five *māsakas* is a *pārājika*; the theft of something less valuable does not constitute the crime of stealing.¹¹

Another important factor in determining if something was stolen is whether it had been removed from its original location. Even if a thief has the intention to steal, the act is not considered theft unless the stolen item is actually taken away from its original location. Yet this question of “removing something from its original location” is quite problematic. What if a monk forcefully takes someone else's land, garden, or some other form of real estate? If removal from the “original location” is a determining factor, would this also constitute stealing in light of the fact that the act of theft was committed at the “original location” itself? The Pāli Vinaya commentaries have regulations related to property in parks, monasteries, fields, and homes. If a monk takes, for example, something from the park, then this is considered theft, and it is punished accordingly. However, the Pāli Vinaya has the following to say about monks appropriating parks for themselves:

If he claims the park, there is an offense of wrong-doing. If he evokes doubt in the keeper (of the park), there is a grave offense. If the keeper, saying “This will not be for me,” gives up his post, there is an offense involving defeat. If resorting to law, he defeats the keeper, there is an offense involving defeat. If resorting to law, he is defeated, there is a grave offense.¹²

Therefore, even though stealing a park does not constitute “removing it from its original location,” to occupy and take it is still a *pārājika* offense. Instances of theft become more severe in cases in which the owners relinquish their property to a monk, or when a monk's lawsuit triumphs, and he appropriates a park. Similar examples can also be found in other Vinayas.¹³ In *Mahāsāṃghika*-Vinaya, there is an example of a legal battle over park property, in which the monk was acting as a referee and was not part of the litigation. In this instance, if the referee showed bias, it was deemed a *pārājika* offense.¹⁴

The *padabhājanīya* also provided instances of “theft” in which the monk was not guilty, such as a case in which a monk thought something was his (*jīwuxiang* 己物想), when he took it from someone close to him (*qinhouxiang* 親厚想), when he took something temporarily (*zanjiexiang* 暫借想), etc. In such instances, the property is not considered stolen because there was no intention to steal it. Indeed, the *padabhājanīya* makes provisions for such acts

of taking other people's property. In one instance, a monk might mistake someone else's property for his own, or he might take something from a close friend or family member without intending to steal it outright.¹⁵ Although the monk takes someone else's property, because there is no intent to steal in these instances, they do not constitute *pārājika*. In another instance, a monk releases someone else's livestock out of compassion for the animals,¹⁶ or temporarily borrows someone else's things without the intention of stealing them.¹⁷ These are all instances in which goods are taken without the intention of stealing. Similarly, if a monk wants to steal someone else's goods but mistakenly takes his own, although there is both motivation and action, this still does not constitute theft, making it an unconsummated offense, because it does not qualify as a theft offense in terms of the outcome. It is *duṣkṛta* in the Pāli Vinaya, but *sthūlātīyaya* in the *Sifen lü* and the *Genben shuo yiqie youbu lü*.¹⁸

The logic underlying the prohibition against stealing can be broken down into four questions. Was it the monk's intention to steal? Were the stolen goods worth more than five *māsakas*? Was there an act of theft? Did the goods leave their original location? Although these determining factors in cases of theft were also true in society in general, there were instances specific to monastics. In one account, for example, Pilindavasta saved children from kidnappers by taking them with his psychic powers.¹⁹ The problem here was whether this action of taking the children constituted theft. This example not only shows us, among other things, that people are also included among goods that can be stolen; it also touches on two other issues.

First, does taking back a stolen object constitute the crime of theft? The *Shisong lü* provides the following example. In a scenario in which a disciple is kidnapped, and another monk retrieves the disciple, the retrieving monk may question whether his action amounts to theft. The Buddha's rule states that if the monk, when retrieving his disciple, believed that his disciple was rightfully owned by the kidnapper, it is a *pārājika* offense. However, if this was not the case, then there is no offense. There are similar cases in *Wufen lü* and *Mohe sengqi lü* where the monks' clothes have been stolen and the monks do not want to give up their clothes; there is no offense to seek them back.²⁰ This is similar to the case of Pilindavasta, who used his supernormal powers to rescue children. Additionally, the attribution of duty shifts once the thief takes away the object. The use of supernormal powers raises a secondary issue.

Second, can people with supernormal powers also be judged according to Vinaya law? In a particular case involving intercourse, an arhat (a monk with supernormal powers) has an erection while sleeping, and he remains asleep while a woman engages in sexual activity with him. The Buddha rules that the monk is unlikely to have an erection and is therefore not at fault because he is an arhat.²¹ This instance highlights the distinction between saintly monks and ordinary monks. In the following example from the Pāli Vinaya, the Buddha states regarding Pilindavasta: "Monks, there is no offense for one who possesses psychic powers in the sphere of psychic powers".²² The *Wufen lü* claims that the misuse of supernormal powers constitutes a *duṣkṛta*, while the other Vinayas hold that Pilindavasta, who has supernatural powers, is without fault. This indicates that possession of supernormal powers has a particular status in the Vinayas, reducing a sanction or absolving a monk altogether.

In the precept prohibiting stealing, we have seen that if a monk steals something on purpose, this constitutes a *pārājika* offense. The determining factors are intention to steal, the nature of the goods that are stolen, and the execution of the theft. Later, the *padabhā-janiya* and the *vinītaka* take into account various factors related to the stolen goods, including their type, value, and whether they have been removed from their original location. Whether the monk knows whom he is stealing from or whether he has supernormal powers are also important factors in determining the severity of the punishment.

2.3. Injunction against Murder

The third *pārājika* offense is murder, with regard to which, as in the case of theft, there are many parallels with the Indian law of that time. The precept prohibited the intentional and premeditated murder of others. It prohibited seeking out those who kept the various tools used for killing others. And it prohibited making death seem desirable to others so that they might feel inclined to commit suicide. Essentially, the precept forbade monks from committing homicide, seeking assistance to commit homicide, and instigating others to commit suicide. The sanctions took four factors into consideration: Was there murderous intent? Was the victim human? Did the murderous act take place? Did anybody die as a result? If a monk has malicious intent and successfully kills someone, this is a *pārājika* offense. If the victim does not die as a result of this homicide attempt, this constitutes an unconsummated *sthūlātyaya* offense. In the *padabhājanīya*, there are various forms of killing: suicide, murder by means of devices (such as traps,) homicide, and inciting others to kill themselves or one another by various means. The instances of inciting people to kill themselves include making false promise of benefits after death, such as rebirth as a *deva* or good fortune in future lives. These cases, which involve only a murderer and a victim, are relatively straightforward: the monk has murderous intentions that he acts upon, the victim is a human, and the results of the monk's actions lead to the death of the victim. Cases that meet these conditions constitute a *pārājika* offense.

The *padabhājanīya* also provide for murder in cases in which a third party is involved. For example, monk A orders monk B to kill person C. The Pāli Vinaya, *Sifen lü*, *Wufen lü*, *Shisong lü*, and *Mohe sengqi lü* all describe similar types of cases.²³ In such cases, if monk B is ordered to kill person C, both monk A and monk B, the person who actually does the killing, are excommunicated. The Pāli Vinaya also includes an instance in which monk B does not obey monk A's orders and kills person D instead of person C. In such an instance, the punishment for monk A is reduced or he is exonerated. However, Monk B is still subject to severe punishment since his act of murder has nothing to do with Monk A's order. Other similar instances include using suggestions through written contracts, actions, words, etc., to incite others to kill.²⁴ The rule follows the same principles as in the case of getting someone else to commit murder. In the Pāli Vinaya, there is a case in which monk A and Monk B make an agreement according to which monk B should kill person C at a particular time. By making this agreement, they have already committed *duskr̥ta*. If monk B respects the agreement and kills person C, he will be *pārājika*, or expelled from the community. If monk B kills person C before or after the agreed time, then monk A's sentence is reduced, and only monk B is convicted of a *pārājika* offense.

These last two examples differ from the standard case of monk A's killing person B. In the standard case, there must be (a) murderous intent, (b) a murderous act, (c) a harmed human victim, and (d) the death of this victim. This chain of events is somewhat complicated by the introduction of a third party who is incited to commit the act. In the case in which monk B killed person C at a time other than that agreed upon by monks A and B, the Vinayas would consider the act, although it was instigated by monk A, to be distanced from Monk A since Monk B acted on his own and did not follow the agreement to kill Person C at a specific time. Therefore, the consequences for the person who commits the killing and the person who incites it are not the same. In the case of Monk A's inciting another monk to commit murder, the proper execution of Monk A's plan determines his sentencing. In the following analysis, I examine the principles that inform such cases in the *vinītaka*.

Most of the homicide rulings in the Vinayas fall into one of two categories: the voluntary murder of another human (including inciting others to commit suicide) or the accidental murder of another human (involuntary manslaughter). The cases of voluntary homicide are wide-ranging. Examples include a monk's murdering another monk; a monk's purposefully inciting others to commit suicide; a monk's wishing another monk to die and abusing him when he is ill until he dies. There is also the case in which a monk kills his father, but the verdicts in this case are not the five cardinal sins. The conditions in such

instances are the same as in the standard case: (a) there is murderous intent, (b) the victim is human, and (c) they die as a result of the murderous act. When all these conditions are met, the monk will be excommunicated. If the victim does not die, this constitutes an unconsummated offense.

In cases related to involuntary manslaughter, most instances concern someone's death due to a monk's negligence. Because the monk has no malicious intent, the sentence is reduced, or he is declared not guilty. In these instances, however, the Buddha may admonish the offending party for his careless actions. In one instance, a monk climbs Mount Vulture's peak and jumps off, unintentionally killing a basket-weaver while himself surviving the fall.²⁵ The monk is not punished for involuntary manslaughter because he had no intention to murder. However, the Buddha deplores such actions and says,

But, monks, one should not throw oneself off. Whoever shall throw (himself) off, there is an offense of wrong-doing. (Horner [1938] 2014, vol. 1, p. 142)

The Pāli Vinaya, and *Mohe sengqi lü* have the same punishment for this offense, which is considered *duṣkṛta*. In the *Sifen lü* and *Wufen lü*, this act is punishable as *sthūlātīyaya*. However, in the *Shisong lü zhu*, it is only cautioned not to intentionally commit suicide in the future. There are also many cases of mistaken identity, in which the wrong person is murdered. These have their own complex sanctioning patterns. They are not, however, within the purview of this essay, and the author refers the reader to an earlier article (Li 2015).

To conclude, the examples in the Vinaya cover three proscribed forms of murder: homicide, assisted homicide, and inciting others to commit suicide. The *padabhājaniya* and the *vinītaka* further elaborate on the types of murder and expand the list of prohibited actions to include a monk's suggesting murder or sending someone else to commit murder. Because these cases include a third party, the rules become a bit more complex. This is especially true in the case found in the Pāli Vinaya of an instigator who is absolved because the murder plot did not take place as arranged. Regarding involuntary manslaughter, it is not a grave offense because there is no intent to kill. Therefore, the treatment of involuntary manslaughter strongly indicates that intention is indeed an important factor in Vinaya rules.

2.4. Injunction against Falsely Claiming Saintliness and Supernormal Achievement

The fourth offense leading to expulsion is the false claim of higher spiritual attainments. Because of the inherently religious nature of this prohibition, rules about such things were particular to the Buddhist community. The codes prohibit monks from lying about their spiritual attainment or falsely claiming that they have supernormal powers or have attained the status of a Buddhist saint (*arhat*). However, in cases in which the monk simply has an inflated opinion of himself (*adhimāna*), this is not considered an offense requiring excommunication because he genuinely thinks he has attained certain spiritual attainments and is not lying when he claims he has these attainments. Similarly, in the cases of mentally and physically ill monks, excommunication is not imposed. It is only in cases in which a monk is fully aware of his own acts and is capable of taking responsibility that an offense may be considered to be grave.

Interestingly, unlike in many of the other cases described above, in the case of false claims, the monk is not immediately punished. The offense can only be confirmed once the monk confesses to his lies, and this creates a gap in time between the commission of the offense and the bhikkhu's confession. In addition, according to Shizuka Sasaki, the rule against false claims originally did not involve such a delay: those who lie about a state of claiming saintliness and supernormal achievement commit a *pārājika* offense. Sasaki suggests that the requirement of confession was added later to the text (Sasaki 2011a).

Another factor that plays a role in determining the gravity of the transgression is the interlocutor, who must be human and capable of understanding what is being communicated. This factor is necessary for conviction in all Vinayas. If the monk claims these things out loud when he is on his own, it is not an offense because there is no other person present. If the same monk claims to an animal that he has supernormal powers, this is *duṣkṛta* be-

cause the animal cannot understand the monk's false claims. Interestingly, when a monk is sanctioned for making such false claims to non-humans who can understand language (e.g., spirits, *devas*, etc.), the sentence is reduced because this precept specifies a human interlocutor.

There are not many differences in the punishments meted out for false claims as they appear in the word analysis sections throughout the Vinayas (Hirakawa 1993, pp. 318–23). The *vinītaka* sections, however, have various other examples of monks using words and actions in a way that might imply that they are saints. A monk might emulate the actions of a saint to deceive others into thinking he has attained arhathood. In such cases, there are both motivation and outcome, yet the action cannot be classified as “falsely claiming” saintliness and supernormal achievement. The Pāli Vinaya does not maintain that there is an infringement of the fourth *pārājika* in these cases, although the act of misleading others is considered *duṣkṛta*.²⁶ The *Sifen lü* and the *Wufen lü* consider such an implication of sainthood to be *sthūlātyaya*, whereas the *Shisong lü* does not mention such cases.²⁷ In another instance in *Shisong lü*, when a lay Buddhist asks whether a monk is an *arhat*, the monk responds with silence (*morān shou* 默然受), though he does not deny it.²⁸ This is judged to be *sthūlātyaya*. The *vinītaka* in the *Mohe sengqi lü* does not include such cases, though there is an instance in the *padabhājaniya* of a monk acting in a way that implies he possessed certain spiritual attainments. This commentary includes a unique standard for determining guilt: “referring to myself” (*shuoyi* 說義) and “saying that someone is an *arhat*” (*shuowei* 說味). Together, they mean, “I claim I am an *arhat*” (*shuoyi shuowei* 說義說味), which these commentaries say is a *pārājika* offense. The comments also include the phrases “showing myself” (*xianyi* 現義) and “showing that someone is an *arhat*” (*xianwei* 現味), which allude to various bodily methods, such as calligraphy or hand gestures, used to indicate to others that one might be an *arhat*. These actions are considered *sthūlātyaya* in the *Mohesengqi lü*, as they are in other monastic codes, such as the *Sifen lü*.²⁹

Many of the examples in the Vinayas related to the fourth *pārājika* revolve around the Buddha's disciple, Mahāmoggallāna, a figure well known for his supernormal powers. Sasaki and Li have separately discussed one of these instances, noting that these narratives were most likely later additions to the Vinaya texts. However, it is still not possible to judge whether they apply to other stories about Mahāmoggallāna (Sasaki 2011c; Li 2019a). These instances usually describe Mahāmoggallāna using his supernormal powers in a predictive manner. For example, while sitting in meditation, he once heard elephant sounds, after which he predicted that a war would break out in India. In another case, he predicted the sex of a soon-to-be-born infant. In some instances, the predictions did not come true, and monks accused him of lying about his attainments. When they asked the Buddha to punish Mahāmoggallāna, the Buddha in each Vinaya said that although his disciple had made a wrong prediction, he had simply misunderstood the signs. He did not lie about his attainments, so he did not commit a crime.

The fourth *pārājika* is the most special and the most abstract of all four grave offenses. This precept takes into consideration not only motivation, action, and outcome, but also the monk's own exaggerated sense of self-worth as well as the temporal gap between the offense and the punishment. Some scholars think that many of the examples mentioned here were later additions to the Vinaya. However, based on the existing cases, if a monk does not confess but continues to claim falsely that he is an *arhat*, then the question of whether he is guilty or not is moot. If the monk who overestimates his own spiritual attainments does not change and continues to make his claims, he can never be sanctioned for his actions. Regardless of whether or not these examples were later additions, the subjective factors at play here are central to the logic of this particular *pārājika*.

3. Sanctions in the Vinayas

In the Vinayas, sanctions are based on the *prātimokṣa*. The lists of rules were therefore limited in scope. It was in the *padabhājaniya* and in the *vinītaka* section that more details and exceptions were added to the rules.

We have put forth three features that can generally be found in the Vinaya pattern of sanctioning: motivation, action, and outcome. Motivation is often considered the most important factor given that involuntary actions are often absolved or punished less severely. An examination of the texts reveals that this contention is true. For instance, the act of mistakenly taking something from a close relation is not considered a transgression in the Vinayas. The same is true when somebody dies because of a monk's clumsy mistake or when a monk has deluded himself into thinking he is an *arhat*. Although the consequences of these actions would seem to be the result of a *pārājika* offense, in the absence of intent, the monk is absolved of his transgression. This shows that motivation supersedes outcome in such Buddhist rulings.

It is important to note that the pattern described above cannot apply to instances in which a monk is forced to have sexual intercourse. The monk perhaps has no intention to commit a sexual act, though the outcome is that he did, whether he wanted to or not. According to the pattern above, the monk would be absolved. However, the Vinayas have further provisions in the case of forced intercourse. Thus, one must now question whether the monk felt pleasure during the encounter. If the monk did feel pleasure, it remains a *pārājika* offense. In this instance, the sensation of pleasure is the primary factor determining the offense, not the intention of the monk. The sensation of pleasure may have been an outcome factor; could this demonstrate that the Vinaya regards motivation as less important?

Regarding the sensation of pleasure, the *Samantapāsādikā* provides an explanation. In its analysis of the first *pārājika* offense, it cited a list of six categories of offense (*āpatti*), and this catalogue is “given at the end of most rules”.³⁰ The six categories include *saññā* and *sacitta*, which are related to motivation. In the Vinayas, *saññā* is often translated as “*xiang* 想”, meaning awareness or perception. For example, in the case of the second *pārājika* offense, if a monk takes something that he thinks is his own (*jīwuxiang* 己物想), there is no offense. His thought is an example of *saññā*. Generally, *saññā* refers to the awareness of the actor regarding the object (*vatthu*). However, in the first *pārājika* offense, *Samantapāsādikā* interprets *saññā* as *kāmasaññā* (lust), claiming that there will be no offense without *kāmasaññā*, because according to the Vinayas “if one is ignorant and has not pleasure, one commits no offense”.³¹ *Saññā* includes both the desire before the action and the sensation of pleasure or happiness experienced during or after the action. *Sacitta*, on the other hand, refers to the motivation with which the action is performed, as in the case of the first *pārājika* offense, where the *sacitta* is *methunacitta* (thought of sexual intercourse), and is similar in meaning to motivation. In the *Kaṅkhāvitaraṇī*, this catalogue is expanded upon, with the six elements increased to seventeen, making it “very clear and concise and concludes the commentary on each of the Pātimokkha rules” (See Norman et al. 2018, p. xlii). However, the explanation of *saññā* and *sacitta* is the same as in the *Samantapāsādikā*.

Therefore, in the Vinayas, not only is the monk's motivation when he takes action considered, but also his feelings during or after the action when he is a victim are taken into consideration. According to the *Samantapāsādikā* and the *Kaṅkhāvitaraṇī*, *saññā* also includes the sense of pleasure or happiness during or after the action. Therefore, it can be simply stated that the Vinayas, when determining offense, consider the consciousness of the monk, which includes their intent, motivation, and sense of pleasure or happiness.

Furthermore, it can be observed from this analysis that there are variations in the determination of offenses among the Vinayas, particularly the Pāli Vinaya and the *Sifen lü*, which have the largest number of examples in common. For example, the cases that are mentioned in this paper, i.e., the case of sexual intercourse with the wooden woman, the case of the monk's mistakenly taking his own thing, etc., the Pāli Vinaya assigns the offense of *duṣṣṛta* (similar to the *Mohesengqi lü*), while the *Sifen lü* assigns the offense of *sthūlātyaya* (as do the *Wufen lü* and the *Shisong lü*). In the *padabhājanīya*, the Pāli Vinaya assigns the preparation stage of *duṣṣṛta*, while the *Sifen lü* assigns it to the offense of *sthūlātyaya*. Even in the *vinītaka*, the cases of the third *pārājika* offense in the Pāli Vinaya have the phenomena of repetition, where a case receives three different kinds of sanctioning when the in-

tent of killing or the overcoming of death changes. They are *acquittal-pārājika-sthūlātyaya*, respectively:

Now at that time a father and son were going forth among the monks. When the time was announced the son said to his father: “Go, honoured sir, the Order waits for you”, and seizing him by the back, he pushed him away. Falling down, he died. He was remorseful . . . “Of what were you thinking, monk?” he said.

“I did not mean (to cause his death), lord”, he said.

“There is no offense, monk, since you did not mean (to cause his) death”, he said.

Now at that time a father and son were going forth among the monks. When the time was announced the son said to his father: “Go, honoured sir, the Order waits for you”, and meaning to cause his death he seized him by the back and pushed him away. Falling down, he died. He was remorseful . . . “defeat”, he said.

Now at one time a father and son were going forth among the monks. When the time was announced the son said to his father: “Go, honoured sir, the Order waits for you”, and meaning to cause his death he seized him by the back and pushed him away. Falling down, he did not die. He was remorseful . . . “There is no offense, monk, involving defeat, there is a grave offense”.³²

However, there are no similar descriptions in the *Sifen lü* etc. The difference in the sanctions for similar cases among different Vinayas is also an important issue in the development of Vinaya history, which will be a future topic of study.

4. Is It Necessary for the Monk to Admit His Intention to Commit an Offense?

Through an investigation of the *padabhājanīya* and the *vinītaka* of four *pārājikas* in the Vinayas, I conclude that the sanctions of Vinayas rely heavily on the consciousness of the monk. Oskar von Hinüber has emphasized the importance of intention: “Here we find one of the basic principles of early Buddhist law as laid down in the Pātimokkha: that the monk involved has to admit his intention to commit an offense” (Von Hinüber 1995, p. 11). Therefore, if the monk does not admit to it, there will be no conviction.

However, Jens Wilhelm Borgland disagrees with von Hinüber’s opinion, arguing that the Pāli Vinaya does not represent all Vinayas, and by “investigation of the *anīyāta* sections of all the extant *vinayas*” (Borgland 2016–2017, p. 7), he considers that “the majority of Buddhist monastic law codes do indeed have provisions for taking punitive legal action against monks who are considered guilty, despite their refusal to acknowledge . . . the possibility of taking punitive legal action against monks based on only the statement of a trustworthy lay witness is attested in the majority of the extant Buddhist monastic law codes” (Borgland 2016–2017, pp. 7–43).

However, this idea was refuted by Shizuka Sasaki (2019), who also investigated the *sikkhāpada* (rule) and *vibhaṅga* of the first *anīyāta* section and the meaning of the *tassapāpiyyasikā* procedure. Sasaki “has confirmed the validity of the claim that a monk is required to acknowledge his offence before he can be subject to any form of punitive legal action . . . It is inconceivable that the *sikkhāpada* of *anīyāta* was enacted on the interpretation that the monastic community can take punitive legal action against a monk without his acknowledgment. Such an interpretation is unique to the *Mūlasarvāstivāda vinaya*. It is quite possible that the *Mūlasarvāstivāda vinaya* later introduced it in place of the former, traditional one, the former interpretation. Borgland’s idea that all Vinayas hold in common the principle that the monastic community can take punitive legal action against a monk without his acknowledgment has to be reconsidered” (Sasaki 2019).³³ Interestingly, the two scholars used the same materials but reached two completely different conclusions. In fact, the issue of whether or not a monk must acknowledge guilt when judged is also supported by examining the sanctions of Vinayas. As is clear from the above investigation, in the *vinītaka*, the Buddha himself determined what crime the monk had committed. Before the Buddha made a final determination, an essential step was necessary: the Buddha

would inquire about the monk's motivation (although most cases involved the monk voluntarily bringing the matter to the Buddha's attention, in cases in which the monk did not voluntarily, the Buddha would need to determine the monk's actions or feelings). Once the monk refuses to admit guilt, the punishment is not applicable. Although there are no *vinītakas* on *aniyata* rules in the Vinayas, this article shows that sanctions in Vinayas were based on the monk's consciousness. According to this principle, the monastery must confirm the monk's consciousness of intention, feeling, and action when punishing a monk, and this is consistent with the views of von Hinüber, Sasaki, and others.

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Notes

- ¹ *Vinītika* is a term in the Pāli *Vinaya*. It is translated in Chinese Vinaya texts as 調伏法 *diaofufa*, 調部 *diaobu*, etc.
- ² *Padabhāṇaniya* means “commentary explaining individual words”. It is a part of the *vibhaṅgas*, which also includes hypothetical situations when determining guilt. Refer to Clarke (2015).
- ³ I disagree with Clarke's proposition that the ‘*Dul bar byed pa* is a *vinītika* from the *Mūlasarvāstivāda-vinaya*. I am still investigating and plan to write another paper to discuss it in more detail.
- ⁴ *Pāli Vinaya*: Vin. III, pp. 76–78.
- ⁵ *Sifen lü* 四分律: T1428.576c7-9.
- ⁶ *Pāli Vinaya*: Vin. III, pp.; *Sifen lü* 四分律: T1428. 975a3-5; *Wufen lü* 五分律: T1428. 182a17-19. *Mohe sengqi lü* 摩訶僧祇律: T1425. 237c16-17.
- ⁷ *Pāli Vinaya*: Vin. III, pp. 34; *Sifen lü* 四分律: T1428.974b21-24.
- ⁸ *Pāli Vinaya*: Vin. III, pp. 36–37; *Sifen lü* 四分律: T1428.572a24-26; T1428.974c17-20; *Wufen lü* 五分律: T1428.5a9-11; *Shisong lü* 十誦律: T1435.379a26-b8; *Genben shuo yiqie youbu lü* 根本說一切有部律: T1442.630c25-631a9.
- ⁹ *Shisong lü* 十誦律: T1435.424c24-25; *Sapoduo bu pinimo deleijia* 薩婆多部毘尼摩得勒伽: T1441.582b27-c9.
- ¹⁰ *Pāli Vinaya*: Vin. III, pp. 32–33; *Sifen lü* 四分律: T1428.571c24-25; *Genben shuo yiqie youbu lü* 根本說一切有部律: T1442.630c25-27; *Mohe sengqi lü* 摩訶僧祇律: T1425. 237c19-21.
- ¹¹ In the Pāli Vinaya, if it is more than a *māsaka* or less than five *māsakas*, stealing it will be *sthūlātīyaya*, and if it is a *māsaka* or less than a *māsaka*, it will be *duṣkṛta*. The other Vinayas have no such rules.
- ¹² *Pāli Vinaya*: Vin. III, p. 47 (Horner [1938] 2014, vol. 1, pp. 82–83).
- ¹³ *Pāli Vinaya*: Vin. III, pp. 49–50; 32–33; *Sifen lü* 四分律: T1428.574b8-14; *Wufen lü* 五分律: T1421.6c2-5; *Shisong lü* 十誦律: T1435.6a29-b4; *Genben shuo yiqie youbu lü* 根本說一切有部律: T1442.641a10-20.
- ¹⁴ *Mohe sengqi lü* 摩訶僧祇律: T1425.250b29-251a17.
- ¹⁵ *Pāli Vinaya*: Vin. III, p. 60; *Sifen lü* 四分律: T1428.976c5-6 and 979a13-16.
- ¹⁶ *Pāli Vinaya*: Vin. III, p. 62.
- ¹⁷ *Ibid.*: 65.
- ¹⁸ *Ibid.*: 59. *Sifen lü* 四分律: T1428.976c5-6. *Genben shuo yiqie youbu lü* 根本說一切有部律: T1442. 647c12–648a29.
- ¹⁹ *Ibid.*: 67. *Sifen lü* 四分律: T1428.980a12-b6; *Wufen lü* 五分律: T1421.183a26-b3; *Shisong lü* 十誦律: T1435.432c23–433a5; *Genben shuo yiqie youbu lü* 根本說一切有部律: T1442.650b19-651a27.
- ²⁰ *Shisong lü* 十誦律: T1435. 427c26-29; *Mohe sengqi lü* 摩訶僧祇律: T1435.427c26-29; *Wufen lü* 五分律: T1421.183a4-7. *Sapoduo bu pinimo deleijia* 薩婆多部毘尼摩得勒伽: T1441. 586a17-21, *Genben sapoduo bu lüshe* 根本薩婆多部律攝: T1458, 535b29-c2.
- ²¹ *Pāli Vinaya*: Vin. III, pp. 38–39. *Sifen lü* 四分律: T1428. 975a22-29; *Wufen lü* 五分律: T1421, 182b7-19.
- ²² *Pāli Vinaya*: Vin. III, p. 67 (Horner [1938] 2014, vol. 1, p. 113).
- ²³ *Pāli Vinaya*: Vin. III, p. 75; *Sifen lü* 四分律: T1428.576c12-21; *Wufen lü* 五分律: T1421.8b19-22; *Shisong lü* 十誦律: T1435.8b18-21; *Mohe sengqi lü* 摩訶僧祇律: T1425.257b24-c2.
- ²⁴ *Pāli Vinaya*: Vin. III, p. 78; *Wufen lü* 五分律: T1421.8c15-18.

- ²⁵ *Pāli Vinaya*: Vin. III, p. 82; *Sifen lü* 四分律: T1428. 983a11-1; *Wufen lü* 五分律: T1421.184b5-9; *Shisong lü* 十誦律: T1435.436c12-17; *Mohe sengqi lü* 摩訶僧祇律: T1425.466c26–467a9.
- ²⁶ *Pāli Vinaya*: Vin. III, p. 101.
- ²⁷ *Sifen lü* 四分律: T1428.983c2-3; *Wufen lü* 五分律: T1421.184c16-18.
- ²⁸ *Shisong lü* 十誦律: T1435.439b8-19.
- ²⁹ *Mohe sengqi lü* 摩訶僧祇律: T1425.261c18-29.
- ³⁰ Sp.I, 271. Also see (Norman et al. 2018, p. xiv).
- ³¹ I used the unpublished Japanese translation of *Samantapāsādikā* by the research association of Sasaki Shizuka and Yamagiwa Nobuyuki.
- ³² *Pāli Vinaya*: Vin. III, p. 79–80 (Horner [1938] 2014).
- ³³ See (Sasaki 2019). I quoted from https://www.jstage.jst.go.jp/article/ibk/68/1/68_456/_article/-char/ja/ (accessed on 20 January 2023), which contains the English abstract of this paper.

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