

THE PALIVERSE PROJECT

The Universe of Buddha's Wisdom

Commentaries (Aṭṭhakathā)

2. The Canon of Discipline - Commentaries (2. Vinaya
Piṭaka - Aṭṭhakathā)

5. Commentary on the Supplement (Parivāra) (5. Parivāra-
aṭṭhakathā)

Analysis of Legal Cases (Adhikaraṇabhedaṃ)



PaliVerse

5. Commentary on the Supplement (Parivāra)

Classification of Legal Issues

Commentary on the Classification of Overturning and So Forth

340. "In the classification of legal cases, these are the ten reopenings" - having shown the reopenings of legal cases, in order to show the reopening of settlements by means of the reopening of legal cases, he said beginning with "when reopening a legal case arising from contention, how many settlements does one reopen?" Therein, "when reopening a legal case arising from contention, one reopens two settlements" means one reopens, obstructs, these two - settlement in the presence of and settlement by majority. The meaning is: one rejects. "When reopening a legal case arising from censure, four" means one reopens these four settlements - settlement in the presence of, settlement by recollection, settlement by past insanity, and settlement by the act for the one who is worse. "When reopening a legal case arising from offences, three" means one reopens these three settlements - settlement in the presence of, settlement by acknowledgement, and settlement by covering over as with grass. "When reopening a legal case arising from obligations, one" means one reopens this one settlement - settlement in the presence of.

341. In the resolution of the questions beginning with "How many reopenings are there?", among the twelve reopenings, the three beginning with "the action was not done" are specifically obtained in the second legal case of censure. The three beginning with "it was not settled" are obtained in the first legal case of dispute. The three beginning with "it was not judged" are obtained in the third legal case of offences. The three beginning with "it was not appeased" are obtained in the fourth legal case of duties; moreover, all twelve are indeed obtained in each individual legal case.

"He reopens a legal case arisen there" means: in whichever monastery a legal case has arisen regarding bowls, robes, and so forth, in such a manner as "my bowl was taken by this one, my robe was taken," and in that very monastery the resident monks, having assembled, having persuaded the litigants saying "enough, friends," appease it by a judgement based solely on the texts - this is called a legal case arisen there. By whatever judgement it was settled, that too is itself one settlement. For one who reopens this, there is an offence requiring expiation.

"Arisen there and appeased" means: if, however, the resident monks are unable to appease that legal case, then another Vinaya expert, having come, asks "friends, has the observance or the invitation been held in this monastery?", and when the matter has been explained by them, he judges and appeases that legal case by means of a text from the Khandhaka and the Parivāra - this is called a legal case arisen there and appeased. For one who reopens this too, there is indeed an offence requiring expiation.

"On the way" means: those litigants, saying "we do not accept his judgement, he is not skilled in the Vinaya, in such and such a village elder monks who are Vinaya experts reside, let us go there and have it judged," while going, on the way itself, having considered the matter, either persuade each other, or other monks convince them - this too is indeed appeased. Whoever reopens a legal case thus appeased on the way, for him too there is indeed an offence requiring expiation.

"Appeased on the way" means: it is not, however, appeased by mutual persuasion or by the convincing of fellow monks; rather, a Vinaya expert coming from the opposite direction, having seen them, asks "where are you going, friends?", and when they say "to such and such a village, for such and such a reason," saying "enough, friends, what is the use of going there?", he right there appeases that legal case by the Dhamma and the Vinaya - this is called appeased on the way. For one who reopens this too, there is indeed an offence requiring expiation.

"Gone there" means: if, however, even when told "enough, friends, what is the use of going there?", disregarding the Vinaya expert's words, saying "we shall go there and obtain a judgement," they go anyway, and having gone, they inform the fellow monks of this matter. The fellow monks, saying "enough, friends, an assembly of the Community is indeed a weighty matter," having made them sit down right there, having judged, persuade them - this too is indeed appeased. Whoever reopens a legal case gone there and thus appeased, for him too there is indeed an offence requiring expiation.

"Gone there and appeased" means: it is not, however, appeased by the persuasion of fellow monks; rather, having assembled the Community and having reported it, the Vinaya experts appease it in the midst of the Community - this is called gone there and appeased. For one who reopens this too, there is indeed an offence requiring expiation.

"Verdict of innocence" means: one who reopens a verdict of innocence given to one whose taints are destroyed - there is indeed an offence requiring expiation. In the case of a verdict of past insanity given to one who was insane, and in the case of a decision for specific depravity given to one of depraved conduct, the same method applies.

"He reopens covering over with grass" means: when a legal case has been appeased by the Community through the settlement of covering over with grass, even one who speaks thus: "an offence is purified by approaching a single monk, squatting down, raising joined palms, and confessing it; but this so-called purification of an offence even while one is sleeping - this does not please me" - he too reopens the covering over with grass, and for him too there is indeed an offence requiring expiation.

"Going to bias through desire he reopens a legal case" means: being a Vinaya expert, for the sake of his own preceptor and others, having declared "what is not Dhamma is Dhamma" and so forth, reopening a previously judged legal case by any one of the twelve reopenings - this is called going to bias through desire and reopening a legal case. However, when resentment has arisen towards one of the two litigants in such a manner as "he acted against my interest," for the purpose of bringing about his defeat, having declared "what is not Dhamma is Dhamma" and so forth, reopening a previously judged legal case by any one of the twelve reopenings - this is called going

to bias through hatred and reopening a legal case. But a dull, confused person, out of confusion itself, having declared "what is not Dhamma is Dhamma" and so forth, reopening in the manner stated - this is called going to bias through delusion and reopening a legal case. If, however, one of the two litigants has uneven bodily actions and so forth, tenacious wrong view, and powerful partisans among well-known monks, and because of depending on them he is one who relies on the uneven, relies on the tenacious, and relies on the powerful, out of fear of him, thinking "this one might create danger to my life or danger to my holy life," having declared "what is not Dhamma is Dhamma" and so forth, reopening in the manner stated - this is called going to bias through fear and reopening a legal case.

"Newly ordained monk" means: a certain novice is clever and learned. Having seen monks who became dejected upon suffering defeat in a judgement, he asks "why are you dejected?" They inform him of that legal case. He says to them thus: "let it be, venerable sirs, ordain me with full ordination, and I shall appease that legal case." They give him full ordination. On the second day, having struck the drum, he assembles the Community. Then when the monks say "by whom was the Community assembled?", he says "by me." "Why was it assembled?" "Yesterday the legal case was badly judged; I shall judge it." "But where did you go yesterday?" "I was not fully ordained, venerable sirs; but today I am fully ordained." He should be told: "friend, this training rule was laid down by the Blessed One for those like you: 'a newly ordained monk reopens - there is an offence requiring expiation for reopening.' Go and confess the offence." The same method applies to a visitor as well.

"A doer" means one who, having judged a legal case together with the Community, when he has gone to his dwelling, the defeated monks say: "Why, venerable sir, was the legal case judged by you in this way? Should it not have been judged in that way?" He, thinking "Why did you not speak thus in the first place?" reopens that legal case. Thus whoever as a doer reopens, for him too there is an offence requiring expiation for reopening. "A consent-giver" means one who, having given his consent in the judgement of a legal case, upon seeing the monks of his own party who had met with defeat coming back dejected, thinking "Tomorrow I shall judge it," having assembled the Community, when asked "Why did you assemble?" replies: "Yesterday the legal case was badly judged; I shall judge it today." "But where did you go yesterday?" "I was seated having given my consent." He should be told: "Friend, this training rule has been laid down by the Blessed One for those such as you: 'A consent-giver reopens - there is an offence requiring expiation for reopening.' Go and confess the offence."

Commentary on the Origin of Legal Issues and So Forth

342. In the passage beginning with "what is the source of a legal case arising from contention": "what is its source" means "what is the source of this" - thus "what-sourced." "What is its origin" means "what-originated." "What is its birth" means "what-born." "What is its production" means "what-produced." "What is its accumulation" means "what-accumulated." "What is its origination" means "what-originating." All of these are merely synonyms for cause.

In the passage beginning with "having contention as its source" also: contention, reckoned as the eighteen grounds for schism, is the source of this - thus "having contention as its source." This is stated by way of contention that arises dependent upon contention. Censure is its source - thus "having censure as its source." This too is stated by way of censure that arises dependent upon censure. Offence is its source - thus "having offence as its source." Because of the condition of a legal case arising from offences, one commits four kinds of offences - thus this is stated by way of offence that arises dependent upon offence. Obligation is its source - thus "having obligation as its source." The meaning is: the fourfold act of the Community is its cause. This is stated by way of obligations that arise dependent upon the obligation of admonition up to the third time of a nun who follows one who has been suspended, and so forth. This is the construction of a single term on the side of the answer to all four legal cases. All terms should be construed following this method.

In the answer to the second question beginning with "having cause as its source," it should be understood that it has cause as its source, etc., by way of the nine wholesome, unwholesome, and indeterminate causes. In the answer to the third question, the difference is merely in the wording. For here, cause itself is called "condition."

343. In the answer to the question on roots, "twelve roots" means: the six roots of contention beginning with the pair of anger and resentment, three being greed, hatred and delusion, and three being non-greed, non-hatred and non-delusion - these are the twelve roots occurring in one's own mental continuum. "Fourteen roots" means: those same twelve together with body and speech become fourteen. "Six roots" means: the six origins beginning with body.

In the answer to the question on origins, the eighteen matters making for schism are the origins, for that legal case arising from contention originates in these eighteen matters making for schism, or it originates from these as causal factors. Therefore these are called its origins. This same method applies everywhere.

344. In the classification beginning with "Is a legal case arising from contention an offence," the statement "by one legal case - a legal case arising from obligations" is said in order to show by which legal case they are appeased; however, these are not absolutely appeased only by a legal case arising from obligations. For when one confesses in the presence of an individual, there is no such thing as a legal case arising from obligations.

"Not by which settlement" means it is not appeased, like an offence with a remainder. For it is not possible to confess it, nor to emerge from it and become established in the state of purity.

348. "A legal case arising from contention is a legal case arising from censure" - this method and so forth is quite clear.

349. Thereafter, six paired questions beginning with "where the verdict of innocence" etc. were stated without releasing the verdict in the presence, and the meaning is made clear by their answers alone.

351. In the answering of the questions beginning with "conjoined": "conjoined" means that since both settlements are accomplished at the very moment of the formal act declaration of the verdict of innocence, "verdict in the presence" or "verdict of innocence" - these mental states are conjoined, not disconnected. But since, just as with the leaf-sheaths of a plantain trunk, it is not possible to separate them and show their difference, therefore it is said: "And it is not possible, having separated these mental states again and again, to declare their difference." This same method applies everywhere.

Commentary on the Origin of the Seven Settlements

352. "What is the source of": in the question and answer, source is its source, thus it has source as its source. Therein, the presence of the Community, the presence of the Dhamma, the presence of the Vinaya, the presence of the person - this is the source of the verdict in the presence. One who has attained fullness of mindfulness, a destroyer of taints, who has received an accusation - this is the source of the verdict of innocence. An insane monk is the source of the verdict of past insanity. He who confesses and he to whom he confesses, the presence of both is the source of carrying out on acknowledgement. The inability to settle a legal issue of those who have fallen into quarrels is the source of the decision of the majority. A person of evil disposition is the source of the decision for specific depravity. Much unascetic misconduct among those who have fallen into quarrels is the source of covering over with grass. The sections on cause and condition are stated in the same manner.

353. The answer to the question on roots is straightforward. Regarding the question on origins, although it was stated "What are the thirty-six origins of the seven settlements?", since the verdict in the presence has no origins due to the absence of inclusion as a legal act, the six origins were analysed for only six settlements. Therein, "the doing of the legal act" should be understood as the motion. "Performing" means the setting forth of that very motion at the time it is to be set forth. "Undertaking" means undertaking by oneself; the meaning is the carrying out of that legal act by oneself. "Consenting" means consenting through request; the meaning is requesting another, such as a co-resident, "Carry out this legal act." "Endurance" means endurance thus: "This is agreeable to me, let the Community carry it out"; the meaning is the giving of consent. "Non-protesting" means not objecting thus: "This is not acceptable to me, do not do it thus." Thus, thirty-six origins should be understood by way of six sets of six.

Commentary on the Various Meanings of the Seven Settlements and So Forth

354. The question and answer on different meanings is clear in itself. In the question and answer on legal issues, "this dispute is not a legal issue" means this dispute of mothers and sons and so forth, being a case of opposing speech, is indeed called a dispute, but since it lacks the quality of being adjudicable by means of settlements, it is not a legal issue. The same method applies also to censure and the rest. The remainder is clear everywhere.

The commentary on the classification of legal issues is finished.



ABOUT THIS TRANSLATION

This translation is part of the PaliVerse Project - the first complete, unified English translation of the Pāli Canon together with its Commentaries (Aṭṭhakathā) and Subcommentaries (Tīkā), accompanied by interactive study tools. PaliVerse is an ongoing project. The AI translations are continuously improved through experts' revisions and feedback. This text is the latest translation as of the date of download.

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