

A SURVEY OF ATTITUDES TOWARDS ABORTION IN INDIAN BUDDHIST  
MONASTIC LITERATURE

M.A. Thesis — G. Altenburg; McMaster University — Religious Studies

A SURVEY OF ATTITUDES TOWARDS ABORTION IN INDIAN BUDDHIST  
MONASTIC LITERATURE

By

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**Abstract:**

Scholars, including Peter Harvey, Robert Florida and David Stott, assume that the authors/redactors of the Mūlasarvāstivāda *Vinaya*—the monastic code of the Mūlasarvāstivāda school—agreed with those from the Theravāda school on the topic of abortion. This assumption appears to be primarily based on one *prātimokṣa* rule as it is found in two locations in the Tibetan Buddhist Canon. Moreover, a longstanding scholarly preference for sources extant in Pāli, such as the Theravāda *Vinaya*, and the preconceived notion that all Indian Buddhists were anti-abortion, impact contemporary studies of Buddhist attitudes towards abortion in *Vinaya*.

The primary goal of this thesis is to offer an extensive comparison of passages related to abortion recorded in a number of locations in Buddhist monastic literature. I examine three main pieces of evidence: 1) the third *pārājika* rule addressing monastic involvement in homicide; 2) word-commentary and cases illustrating this rule; and 3) stories that do not illustrate a *pārājika* offence but include abortion in the narrative.

Although Mūlasarvāstivādin authors/redactors, like their Theravādin counterparts, include anti-abortion attitudes in their monastic literature, I uncover a number of discrepancies in comparable passages related to abortion in the *Vinaya* of these two schools. To give but one example, Mahāsāṃghika-Lokottaravādin and Mūlasarvāstivādin authors/redactors appear hesitant to include in their *Vinayas* narratives that portray monks assisting laywomen in procuring abortions: something the Theravādins record in a number of locations. While the ramifications of such differences are not immediately clear, we can at least conclude, in contrast to what

previous studies imply, that Buddhist attitudes toward abortion are not recorded in a simple one-to-one correlation across extant Indian *Vinayas*.

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**Abbreviations:**

<i>BHSD</i>	<i>Buddhist Hybrid Sanskrit Dictionary</i> (Edgerton 1953).
Skt.	Sanskrit
T.	<i>Taishō Shinshū daizōkyō</i> (Takakusu and Watanabe 1924–1935).
Tib.	Tibetan
sTog	<i>The Tog Palace Manuscript of the Tibetan Kanjur</i> (1975–1980).
Vin.	<i>The Vinaya Piṭakam</i> (Oldenberg 1879–1883).

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## **Introduction**

The goal of the present study is to offer a more nuanced picture of the attitudes of Indian Buddhist authors/redactors towards abortion than the current Pāli-centric presentation offered by Buddhist ethicists including Peter Harvey and Damien Keown who engage the material within contemporary ethical debates. I evaluate translations of passages relevant to abortion taken mostly from the extant monastic literature of the Theravāda Buddhist school (preserved in the Pāli language). I bring these Pāli passages into dialogue with comparable yet rarely studied passages from the surviving monastic literature of other Indian Buddhist schools, in particular the Mūlasarvāstivāda school. This evaluation involves some degree of translation of passages extant in Sanskrit and Tibetan from the *Prātimokṣa Sūtra* (rules for recitation), *Vibhaṅga* (commentary on *prātimokṣa* rules), and *Kṣudrakavastu* (chapter on miscellany) of the *Vinaya* (monastic code) of the Mūlasarvāstivāda school. I use pre-existing translations of passages from the *Vinayas* of other schools such as the Mahāsāṃghika and Dharmaguptaka schools, mostly extant in Chinese, making the best use of what surviving primary literature we have where appropriate.

Although my approach is comparative, I neither privilege the literature of any one Buddhist school over another, nor assume that there is an original or ur-version of passages related to abortion that can be uncovered through comparison. I employ a comparative approach only to demonstrate the complexities with which Indian Buddhist monastic authors/redactors addressed the issue of abortion in their legal literature. Moreover, I do not attempt to engage primary sources such as *Vinaya* materials, composed for the monk and not the layman, in contemporary ethical

debates surrounding abortion, such as the ongoing pro-life vs. pro-choice debate in the West.

In the monastic code of the Theravāda Buddhist school, the taking of a human life, including the life of a fetus, is deemed to be a *pārājika* offence, the most serious of transgressions. Monks and nuns are instructed that not only performing abortions, but also telling a woman to have an abortion, or even explaining the means by which she could give herself an abortion, will incur a *pārājika* offence.<sup>1</sup> Elsewhere in this monastic code, a prohibition is made for nuns against relieving themselves in an enclosed privy.<sup>2</sup> This rule is said to have come about when nuns were found performing abortions in an enclosed latrine. In sum, the authors/redactors of the Theravāda *Vinaya* appear to have been uncomfortable with monks and nuns involving themselves in any way with abortions.

James McDermott, for instance, uses this set of Pāli passages to further our understanding of the earliest Buddhist perspectives on abortion.<sup>3</sup> Moreover, scholars such as Harvey and Keown inform contemporary bioethical debates with passages from the Theravāda *Vinaya*.<sup>4</sup> There is, however, a problem with using these passages in such ways. The Theravāda *Vinaya* has been the main source upon which generations of Western scholars of Indian Buddhism have based their conclusions. It has long been assumed by scholars and practitioners that it is the oldest, most

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<sup>1</sup> Horner 1938–1966, 1: 144–5.

<sup>2</sup> Horner 1938–1966, 5: 387–8.

<sup>3</sup> McDermott 1998, 157–158.

<sup>4</sup> Harvey 2000, 319–320 and Keown 2005, 84.

complete and therefore, most authentic Buddhist monastic code. However, recent scholarship has cast doubt upon the reliability of the Theravāda *Vinaya*, a text redacted in Sri Lanka, for the study of mainland Indian Buddhism. Gregory Schopen has demonstrated convincingly that the Mūlasarvāstivāda *Vinaya* (herein *MSV*), the monastic code of the Mūlasarvāstivāda order, long neglected by Western scholars, is as reliable a source, if not more so, than the Theravāda *Vinaya* for the study of Indian Buddhist monasticism.<sup>5</sup>

By removing Pāli textual sources from contemporary ethical concerns and analyzing them alongside passages neglected in current scholarly presentations of abortion in early textual sources, I demonstrate that Pāli sources actually imply a less straightforward picture than the one scholars currently propose. In order to state anything with certainty about the attitudes of early Indian Buddhist monastics regarding abortion, the Pāli sources must first be checked against those in the *MSV* (preserved to various degrees in Sanskrit, Tibetan, and Chinese) and other extant Indian *Vinayas* such as the Dharmaguptaka and Mahāsāṃghika *Vinayas*. Drawing primarily upon passages found within the literature of the Mūlasarvāstivāda school, in this thesis, I further complicate the picture of early Buddhist attitudes towards abortion.

### **Contents of the Thesis**

In Chapter One, I provide an overview of previous research conducted on the topic of abortion in Indian Buddhist monastic literature. I demonstrate that two research goals

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<sup>5</sup> Schopen 2003b, 887.

have coloured interpretations of Buddhist literature on abortion: (1) some scholars have read material, like *Vinaya*, in order to uncover an original Buddhist perspective which may inform contemporary ethical debates; (2) other scholars have attempted to read this material more historically. However, it appears a privileging of Pāli sources over comparable Sanskrit, Tibetan, and Chinese materials may have influenced the results of such historical readings of *Vinaya* materials.

I also explore the role *pārājika* three, the rule addressing monastic involvement in homicide in the *prātimokṣas* of all extant monastic codes, has had in contemporary presentations of the attitudes of Indian Buddhist authors/redactors towards abortion. I demonstrate that contemporary scholars portray Mūlasarvāstivādin authors/redactors as agreeing textually with Theravādins on the topic of abortion based exclusively on this one *prātimokṣa* rule, as it is found in two locations in Tibetan.

I then discuss the vocabulary used within this rule as it is recorded in a number of texts. At the end of the first chapter, I conclude that more sources must be evaluated if we are to prove that Mūlasarvāstivādin authors/redactors agreed with their Theravādin counterparts on the topic of abortion and considered it homicide at all stages of fetal development.

In an attempt to address the problems highlighted in Chapter One, in Chapter Two, I compare word-commentary on *pārājika* three from the Mūlasarvāstivāda and Theravāda *Vinayas*. I also explore cases elaborating on *pārājika* three from the *Vibhaṅgas* of both schools. I show that passages related to abortion that explicitly discuss the involvement of monks in homicide, i.e. passages directly linked to

*pārājika* three, carry the same essential message across at least two extant Indian *Vinayas*: those belonging to the Mūlasarvāstivāda and the Theravāda schools. That authors/redactors from these two schools appear to agree on the topic of abortion remains true, despite differences in the structure and organization of passages related to both abortion and monks' involvement in homicide found in their *Vinaya*. I confirm one main assumption about Indian Buddhists and abortion, one which Robert Florida,<sup>6</sup> Harvey<sup>7</sup> and David Stott<sup>8</sup> have already put forward: that Mūlasarvāstivādin authors/redactors, like Theravādin authors/redactors, took a strict anti-abortion stance in their monastic code.<sup>9</sup>

In Chapter Three, because scholars should not write the history of Indian Buddhist monasticisms based purely on *prātimokṣa* rules and word-commentary on *prātimokṣa* rules such as *pārājika* three, I add narratives from *Vinaya* to the discussion of Buddhist monastic authors/redactors' attitudes towards abortion. By comparing a number of stories and themes from *Vinaya*, I conclude that although Indian Buddhist monastic authors/redactors appear to have uniformly considered abortion to be tantamount to homicide, there are a number of discrepancies in how such authors/redactors portray abortion in tales in their monastic codes. The Theravāda *Vinaya*, for

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<sup>6</sup> “Tibetan sources, which are considerably later, support the early Theravādin view” (Florida 2000, 142).

<sup>7</sup> Stott 1992, 173–4 and 181 n. 7.

<sup>8</sup> Harvey 2000, 313–314.

<sup>9</sup> That is to say that monks who intentionally and successfully involved themselves in abortion were considered defeated.

example, contains a number of narratives not found in the *MSV* in which a Buddhist monk assists a laywoman in finding an abortive preparation. Both the *MSV* and the Theravāda *Vinaya* record cases where a nun assists a laywoman in hiding abortions. Mahāsāṃghika-Lokottaravādin authors/redactors record similar stories but keep readers in the dark about whether nuns are performing abortions or hiding aborted fetuses in stories from their monastic code.

In Chapter Four, I provide an overview of the material discussed in this thesis. I conclude that the authors/redactors of extant Indian *Vinayas* appear to agree on the illegality of abortion. In every case I have cited, monastic involvement in abortion is treated as homicide, regardless of the stage of the embryo's development. Although the authors/redactors of Indian Buddhist monastic literature seem to agree in principle, structurally their presentations of abortion vary in their textual traditions. Chapter Four ends with a section entitled "Notes for Further Research," in which I discuss the possible implications of one epigraphical source from Central Asia for our investigation of Indian Buddhist attitudes towards abortion.

## **Chapter One:**

### **Early Indian Buddhist Views of Abortion: State of the Field**

Since the rise in public interest in bioethical concerns in the 1990s, Pāli Buddhist textual sources have been mined by contemporary scholars in an attempt to uncover the earliest Buddhist perspectives on abortion. Comparable textual sources extant in Sanskrit, Tibetan, or Chinese attract less attention. Scholars undertaking surveys of early Buddhist views of abortion appear to be primarily interested in inventing a Buddhist response to contemporary ethical debates surrounding abortion.

In this chapter, I explore two common approaches contemporary scholars use in studying abortion in Indian Buddhist monastic literature. I demonstrate, through a brief survey of the rule addressing homicide in the *Pātimokka Sutta* (Skt. *Prātimokṣa Sūtra*), that Pāli sources actually imply a less straightforward picture than the one scholars currently propose. Drawing upon passages found within the literature of the Mūlasarvāstivāda school, I further complicate the picture of early Buddhist attitudes towards abortion. I foreground the similarities and differences between sources recorded in Pāli and sources recorded in Tibetan and Sanskrit, without giving priority to specific Pāli passages.

### **Two Common Approaches to the Study of Attitudes Towards Abortion in Indian Buddhist Sources**

There are two common scholarly approaches for making sense of attitudes towards abortion in early Buddhist textual sources. The first consciously repackages Buddhist textual sources, including *Vinaya*, in a way that makes such sources applicable to the

current pro-life or pro-choice debate in the West. The second approach reads these sources more historically, in order to uncover early Buddhist attitudes towards abortion. Following the first approach, Keown, for example, as late as 2005, opens his chapter on abortion in *Buddhist Ethics: a Very Short Introduction* by asking,

How do Buddhist ethical teachings like *ahimsā* affect its approach to abortion? Is Buddhism “pro-life” or “pro-choice”? The Buddhist belief in rebirth clearly introduces a new dimension to the abortion debate.<sup>1</sup>

Similarly, in 2000, Harvey asked what Buddhist considerations are relevant to the possible grounds for abortion found in many legal systems around the world.<sup>2</sup>

Scholars presenting early Buddhist textual sources in this way often argue for a Buddhist “Middle Way” position, sensitive to both of the hardline positions favoured in Western discourse.

Given the work done on abortion in Indian Buddhist sources in the late 1990s, that scholars including Harvey and Keown continue to explore the validity of early Buddhist sources for contemporary bioethical debates into the 21st century may appear surprising. In 1998, Keown edited *Buddhism and Abortion*, a book containing nine articles on the topic of Buddhism and abortion. In his contribution to this collection of articles, Keown initially argues that Buddhism might offer a new perspective to break the current “deadlock” or “logjam” between polarized sides in the contemporary Western abortion debate.<sup>3</sup> However, ultimately Keown concludes that

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<sup>1</sup> Keown 2005, 84.

<sup>2</sup> Harvey 2000, 319–320.

<sup>3</sup> Keown 1998b, 1 and 1998a, 199–201.

Buddhism does not offer a “Middle Way” in the abortion debate. Keown writes,

Nevertheless, Buddhism does not, in my view, hold the key to the much-sought consensus on this issue which has so far eluded the West. Buddhism cannot offer a middle way on abortion because it has already taken sides.<sup>4</sup>

James Hughes, another contributor to *Buddhism and Abortion*, seems skeptical of the importance of determining a “Buddhist view” on social and political questions.<sup>5</sup>

Hughes writes, “... a Buddhist approach to abortion has more<sup>6</sup> to do with approaching the issue with a characteristic set of concerns, and in dialogue with a vast body of texts and teachers.”<sup>7</sup> For two decades some scholars have asked if early Buddhist sources can offer a fresh perspective on contemporary bioethical debates; for two decades they questioned the validity of such a project, and in two decades were unable to find a “Middle Way” response to the Western abortion debate. Perhaps it is time to give up on this first approach.

The second approach appears unconcerned with the Western abortion debate, offering a more careful analysis of early textual sources than the first approach.<sup>8</sup>

However, some scholars, including Hughes, remain skeptical that classical Buddhist texts can offer guidance on matters of abortion at all. Hughes writes,

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<sup>4</sup> Keown 1998a, 213.

<sup>5</sup> Hughes 1998, 183.

<sup>6</sup> Than offering specific moral guidance on abortion: “in the case of abortion, the Pāli canon through the Māhāyāna *sūtras*, offer no specific guidance” (Hughes 1998, 183).

<sup>7</sup> Hughes 1998, 183.

<sup>8</sup> For example, see McDermott 1998.

Even if there were a specific, classical Buddhist text addressing the moral status of the fetus and the act of abortion, it would not be consistent with ‘Buddhism’ to accept this teaching uncritically. Buddhism encodes with its teachings a reflexive, dynamic, self-critical element, beginning with the *Kālāma Sūtra*, which encourages Buddhists not to simply follow scriptures, but to continually adapt the Dharma to new audiences.<sup>9</sup>

Despite the skepticism of scholars like Hughes, it is not uncommon for cases within the Pāli *Vinaya* to be cited as evidence for early Buddhist monastic concerns related to abortion. McDermott, for instance, studies “... these texts with a view toward understanding the early Buddhist attitude toward abortion and its contribution to thought about the subject.”<sup>10</sup> Referring to the cases of abortion found in the earliest Pāli Buddhist literature, Florida, Keown, and McDermott extrapolate methods Indian Buddhists may have used, and possible motivations Indian Buddhists may have had, for causing abortions.<sup>11</sup> This second approach generally concludes that Indian Buddhists were strict anti-abortionists.

Based upon cases found in the Theravāda *Vinaya*, some scholars have argued that abortion was simply considered to be tantamount to homicide.<sup>12</sup> Occasionally the evidence provided in this second approach allows for some ambiguity, one example

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<sup>9</sup> Hughes 1998, 183.

<sup>10</sup> McDermott 1998, 157–158.

<sup>11</sup> For example, see McDermott 1998, 169–170; Keown 1995, 92 and Florida 2000, 142 and 145.

<sup>12</sup> One example being Florida 2000, 142.

being the continuing discussion about whether the size of the fetus mattered to Indian Buddhists. It seems that some Indian Buddhist authors may have viewed abortions at an earlier stage of pregnancy as less detestable than abortions at a later stage of fetal development.<sup>13</sup>

Scholars to date inform both approaches with a marked preference for Pāli sources. In *An Introduction to Buddhist Ethics*, for example, Harvey writes,

The Theravādin ‘Pali Canon’, preserved in the Pali language is the most complete extant early canon, and contains some of the earliest material. Most of its teachings are in fact the common property of all Buddhist schools, being simply the teaching which the Theravādins preserved from the early common stock.<sup>14</sup>

While Harvey is correct, and most of the Theravādin teachings are “preserved from the early common stock,” such facts do not absolve us from exploring how passages related to abortion were preserved by the other Indian schools. To date, as we will see throughout the rest of this chapter, most scholars have overlooked non-Pāli textual materials in their studies of abortion in Indian Buddhist literature.

### **Evidence from Textual sources of the Mūlasarvāstivāda School**

Scholars including Harvey<sup>15</sup> and Florida<sup>16</sup> cite the work of Stott, who presents only

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<sup>13</sup>Harvey 2000, 316–317; Trevor Ling 1969, 58 and Florida 2000, 144.

<sup>14</sup>Harvey 2000, 4.

<sup>15</sup>Harvey 2000, 313–314.

<sup>16</sup>Florida 2000, 142.

one rule from the Mūlāsarvāstivāda *Vinaya* in two locations, the Tibetan translations of the *Prātimokṣa Sūtra* for monks and the *Prātimokṣa Sūtra* for nuns.<sup>17</sup> Despite the fact that Stott only cites one rule, a number of scholars place the Mūlāsarvāstivāda school in line with the Theravāda school, and conclude that both schools were completely anti-abortion. For instance, Stott writes that: “... the prohibition of abortion contained in the *Prātimokṣa Sūtra* of the Sarvāstivādin *Vinaya* serves as the Tibetan canonical prohibition of abortion and has ensured widespread knowledge of this rule.”<sup>18</sup> Stott claims to cite the Sarvāstivādin prohibition of taking human life, but he actually quotes the *MSV*, a massive *Vinaya* extant partially in Sanskrit and Chinese translation, and perhaps fully in Tibetan.<sup>19</sup> Stott cites this text from two locations in Tibetan: the *Prātimokṣa Sūtra* for monks (*dge-slong so-sor thar-pa'i mdo*) and the *Prātimokṣa Sūtra* for nuns (*dge-slong-ma'i so-sor thar-pa'i mdo*) both in the Tog Palace edition. He offers no translation for the rule as it is found in the text for nuns, but offers the following translation for the rule found in the text for monks:

Whatever monk intentionally with his own hand destroys the life of a human or human foetus (*mi-'am mir-chags-pa*) or supplies a weapon or searches for a

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<sup>17</sup>Stott 1992, 173–174 and 181 n. 7.

<sup>18</sup>Stott 1992, 173–174.

<sup>19</sup>Clarke 2002 and Schopen 2003a, 572–573.

slayer ... and should he die by that, that monk ... cannot remain.<sup>20</sup>

Stott draws a comparison between the above passage and the prohibition<sup>21</sup> of abortion sourced from the Theravāda *Vinaya* presented in the work of Trevor Ling and Shundō Tachibana.<sup>22</sup> Stott cites, for instance, Tachibana's discussion of the commentary on the *Pātimokkha* as evidence that early Indian Buddhists were strictly anti-abortion.

Tachibana, discussing the third *pārājika*,<sup>23</sup> writes,

The third is a rule regarding killing a human being. Not only (a) killing a human being knowingly, but also (b) seeking out an assassin against a human being, (c) uttering the praises of death, (d) inciting another to self-destruction, and (e) according to the commentary on the *Pātimokkha* (Vin. iii. 73), abortion or the destruction of life in the womb, are to be regarded as crimes against this rule.

Monks are forbidden by this rule not only to deprive life of a human being with

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<sup>20</sup>Stott 1992, 181 n. 7. In the version for nuns, cited by Stott, the Tibetan reads: “*yang dge slong ma gang mi 'am mir chags pa la bsams bzhin du rang gi* (sTog reads *gis*) *lag dar de srog bcad dam ...*” (sTog, 'Dul ba, NYA, 5b1). I offer as a translation “Whatever nun deliberately, with her own hand, cuts [off] the life of a human or one desiring to become man ... .” This translation of *mir chags pa* will be elaborated on in this chapter.

<sup>21</sup>As Clarke points out “Although the existence of a *prātimokṣa* rule may act as a deterrent, the rule itself neither proscribes nor necessarily prevents the action it is designed to curtail.” (Clarke 2014a, 34).

<sup>22</sup>Stott 1992, 173–174.

<sup>23</sup>For a discussion of *pārājikas*, see Clarke 2009b.

their own hands, but also to cause the destruction of life of those whom they address or others, or to make it possible, by luring an assassin, praising death, or inciting people to suicide and so far as the human being is concerned, even the abortion of an embryo which was just conceived is regarded as constituting this crime.<sup>24</sup>

Stott's presentation of this rule from the *Bhikṣu* and *Bhikṣuṇī* Tibetan *Prātimokṣa Sūtras* places Mūlasarvāstivādin sources directly in line with the current scholarly picture of early Indian Buddhist attitudes toward abortion: that Indian Buddhists condemned all instances of abortion.

Building on the work of Stott, I show this rule below as it is found in multiple Tibetan Mūlasarvāstivādin sources, and one fragment from the extant Sanskrit *Mūlasarvāstivāda Prātimokṣa Sūtra*. For the most part, the rule appears almost identical in various texts. However, there are subtle differences. I cite this rule from six locations in Tibetan: the *Prātimokṣa Sūtra* for monks, *Prātimokṣa Sūtra* for nuns, the *Vibhaṅga* (a section of commentary on the *Prātimokṣa*) for monks, the *Vibhaṅga* for nuns, the *Sarvāstivādi-mūla-bhikṣuṇī-prātimokṣa-sūtra-vṛtti* (hereafter referred to as the *BPSV*),<sup>25</sup> and the *pārājika* section of the Kashmiri *Upālipaṭiprecca* (questions of Upāli).

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<sup>24</sup>Tachibana 1926, 59–60.

<sup>25</sup>The *BPSV* still remains a mystery to contemporary scholars. Translated into Tibetan, it appears to be an atypical commentary on a *Prātimokṣa Sūtra* for nuns, and is included in my survey of the third *pārājika*. That the text belongs to the Mūlasarvāstivāda school is admittedly uncertain (Schopen 2004, 180–181).

The Sanskrit text of the rule addressing homicide in the *MSV* survives in an incomplete form in the Gilgit Buddhist Manuscripts.<sup>26</sup> Ankul Banerjee<sup>27</sup> and Lokesh Chandra<sup>28</sup> both provide readings of Mūlasarvāstivāda *Prātimokṣa Sūtras* found in the Gilgit material. Chandra reconstructs the Sanskrit fragment on the basis of the Tibetan translation, marking reconstructions in square brackets. Chandra reads the manuscript as follows:

[*yaḥ punar bhikṣur manuṣyaṃ vā manuṣya*] *vigrahaṃ*<sup>29</sup> *vā svahastaṃ*  
*saṃcintya*<sup>30</sup> *jīvitād vyaparopayec chastraṃ vainam ādhārayec chastrādhāraṃ*  
*vāsya paryeṣe*[*ta maraṇāya vainaṃ samādāpayen*] [*marāṇava*] *rṇṇaṃ*  
*vāsyānusamvarṇayed evaṃ cainaṃ vaded dhaṃ bhoḥ puruṣa kiṃ te anena*  
*pāpakenāsucinā durjīvi*[*tena mṛtaṃ te bho puruṣa jīvitād varam iti*  
*cintā-*] *numataiś cittasaṃkalpān anekaparyāyeṇa maraṇāya vainaṃ*  
*samādāpayen marāṇavarṇṇaṃ vāsyā*[*nusamvarṇayet sa ca tena kālaṃ kuryād*]  
[*a*] *yam api bhikṣuḥ pārājiko bhavaty asaṃvāsya*[*h*] ||<sup>31</sup>

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<sup>26</sup> Clarke 2014b, *Prātimokṣa*, Serial 2, (3)r3; Vira 1959, Part 1: plate 1.3.

<sup>27</sup> Banerjee 1954. For *pārājika* three, see page 8.9–.15.

<sup>28</sup> Chandra 1960, 1–13.

<sup>29</sup> Chandra (1960) reconstructs the reading *manuṣyaṃ vā manuṣyavigrahaṃ vā* from the Tibetan, but Oskar von Hinüber informs Agostini that the Sanskrit text is extant in the Peking manuscript (Agostini 2004, 82 n. 48).

<sup>30</sup> The manuscript reads *saṃcintya* (Clarke 2014b, *Prātimokṣa*, Serial 2, (3)r3; Vira 1959, Part 1: plate 1.3).

<sup>31</sup> Chandra 1960, 2.12–.21.

Given that so much of this Sanskrit passage is reconstructed, it is necessary to look at the Tibetan versions of this rule from the Mūlasarvāstivāda school. I present below the rule addressing homicide as found in the *Prātimokṣa Sūtra* for monks, in Tibetan, with differences in other Tibetan *MSV* sources noted below.

*yang dge slong<sup>a</sup> gang<sup>b</sup> mi 'am<sup>c</sup> mir chags pa la bsams bzhin du<sup>d</sup> rang gi<sup>d</sup> lag dar  
te srog bcad dam / de la mtshon byin<sup>f</sup> nam<sup>g</sup> / de la mtshon thogs pa gnyer ram<sup>h</sup> /  
de 'chir gcug<sup>i</sup> gam / de la<sup>j</sup> 'chi ba'i sngags<sup>k</sup> pa brjod kyang rung ste / de la 'di  
skad ces<sup>l</sup> kye<sup>m</sup> mi khyod 'tsho ba sdig pa<sup>n</sup> mi gtsang ba ngan pa 'di<sup>o</sup> ci zhig bya /  
kye mi khyod gson pa bas shi bla'o<sup>p</sup> / /<sup>q</sup> zhes zer zhing<sup>r</sup> sems kyi<sup>s</sup> 'dod pa dang /<sup>t</sup>  
sems kyi<sup>u</sup> kun tu rtog pa dag gis<sup>v</sup> rnam grangs du mas de 'chir bcug gam / de la<sup>w</sup>  
'chi ba'i bsngags pa brjod de<sup>x</sup> / de yang rtsom<sup>y</sup> pa des dus byas na<sup>z</sup> dge slong de  
yang pham par<sup>aa</sup> gyur pa yin gyis<sup>ab</sup> gnas par mi bya'o / /<sup>32</sup>*

**a.** “dge slong ma” (nun) in sTog, ‘Dul ba, NYA, 5b1, 71a1 and 71a4; *sde dge*, TSU, 40b4 and 40b6. This rule opens with “btsun pa bcom ldan 'das kyis” in sTog, ‘Dul ba, DA, 10b6. **b.** “gang zhig” in sTog, ‘Dul ba, NYA, 71a1. **c.** / in sTog, ‘Dul ba, DA, 10b6. **d.** / in sTog, ‘Dul ba, DA, 10b7. **e.** “gis” in sTog, ‘Dul ba, NYA, 5b1; and DA, 10b7. “mir chags pa la ched du bsams nas /” in *sde dge*, TSU, 40b4 instead of “mir chags pa la bsams bzhin du rang gi.” **f.** “byin” in sTog, ‘Dul ba, CA, 193b7. **g.** “de la mtshon 'debs sam” instead of “de la mtshon byin nam” in sTog, ‘Dul ba, DA, 10b7. **h.** “gnyer tam” in sTog, ‘Dul ba, NYA, 71a2; *sde dge*, TSU, 40b5. **i.** “bcug” in sTog, ‘Dul ba, NYA, 5b2; CA, 194a1, DA, 10b7; *sde dge*, TSU, 40b4. **j.** “la” in sTog, ‘Dul ba, DA, 10b7. **k.** “bsngags” in sTog, ‘Dul ba, NYA, 5b2 and 71a2; DA, 10b7; *sde dge*,

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<sup>32</sup> sTog, ‘Dul ba, CA, 5a6–b3.

TSU, 40b5. **l.** / in sTog, 'Dul ba, NYA, 71a3. **m.** "kye" omitted in sTog, 'Dul ba, NYA, 71a3. "de la 'di skad ces mi" in *sde dge*, TSU, 40b5. *sde dge* reads: "kye mi khyod sdig pa dang mi gtsang ba dang 'tsho ba ngan pa..." (*sde dge*, TSU, 40b5). **n.** "sdig pa" omitted in sTog, 'Dul ba, DA, 11a1. **o.** "dis" in sTog, 'Dul ba, NYA, 5b2 and 71a3; CA, 194a2; *sde dge*, TSU, 40b5. **p.** "bsla'o" in *sde dge*, TSU, 40b5. **q.** / in sTog, 'Dul ba, NYA, 5b3 and 71a3; DA, 11a1; *sde dge*, TSU, 40b5. **r.** / in sTog, 'Dul ba, NYA, 5b3 and 71a3; CA, 194a2; DA, 11a1. Instead of "zhes zer zhing," "zhes de sgad kyang zer la /" in *sde dge*, TSU, 40b5. **s.** "kyis" in *sde dge*, TSU, 40b6. "de ltar sems kyī" in sTog, 'Dul ba, DA, 11a1. **t.** / omitted in sTog, 'Dul ba, CA, 194a2; *sde dge*, TSU, 40b6. **u.** "kyis" in *sde dge*, TSU, 40b6. **v.** / in sTog, 'Dul ba, NYA, 71a3; DA, 11a2. Instead of "kun tu rtog pa dag gis," "kun du brtogs nas" in *sde dge*, TSU, 40b6. **w.** "de la" omitted in *sde dge*, TSU, 40b6. **x.** "brjod la" in sTog, 'Dul ba, NYA, 71a4. This is also where the *BPSV* begins to deviate from the other Tibetan versions. The *BPSV* continues: "... brjod pa las de yangs thabs des 'chi ba'i dus byas na dge slong ma 'dis phas pham pa yin gyur gnas par mi bya'o / /" (*sde dge*, TSU, 40b6). **y.** "brtson pa" in sTog, 'Dul ba, DA, 11a2. **z.** / in sTog, 'Dul ba, NYA, 5b4. "shi bar gyur na" instead of "dus byas na" in NYA, 71a4 and "de lta bus dus byas na" in DA, 11a2. **aa.** "phas pham par" in sTog, 'Dul ba, DA, 11a2. **ab.** "pas" in sTog, 'Dul ba, NYA, 71a4. / in sTog, 'Dul ba, DA, 11a2.

There are only slight variations in the recensions I have found of this rule across the different texts of the *MSV* and the *BPSV*. Most appear to be typographical errors.

Already in 1915, Satis Chandra Vidyabhusana offered the following translation of the rule addressing homicide from the Tibetan *Prātimokṣa* of the

Mūlasarvāstivādins:

Whatsoever monk deliberately takes away the life of a human being, or procures a weapon for his death, or seeks out an assassin against him, or instigates him to self-destruction or eulogises death saying, “O man, what good do you get from this sinful, impure and wretched life; it is better for you to die than to live”—that is, willingly and intentionally instigates a human being to commit suicide or celebrates to him the praises of death in such a way that in consequence thereof he dies—the monk who thus causes the death of a human being incurs Defeat and must not live in the community of monks.<sup>33</sup>

Vidyabhusana offers no translation for the word *mir chags pa*, which Stott refers to as “human foetus.” The lack of a translation for *mir chags pa* does not reflect an absence of the phrase in the original Tibetan text. In fact, Vidyabhusana includes the phrase *mi ’am mir chags pa* in his transliteration.<sup>34</sup>

In his translation of the Sanskrit version of this *Prātimokṣa* rule, Charles Prebish favours “one that has human form of life” rather than fetus or embryo. Prebish translates,

Whatever monk should intentionally, with his own hand, deprive a human or one that has human form of life,<sup>35</sup> supply him with a knife, search for an assassin for

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<sup>33</sup>Vidyabhusana 1915, 12.

<sup>34</sup>Vidyabhusana 1915, 51.

<sup>35</sup>In a note, Prebish states that, “The distinction between a human and one that has human form seems to be only in this text” (Prebish 1975, 116 n. 7). This seems unlikely, if not impossible.

him, instigate him to death, or praise the nature of death, saying, “O man, what use is this dreadful, impure, sinful life to you? O man, death is better than life for you”; should [the monk] purposefully, being of one opinion, instigate him in many ways to death, or recommend the nature of death to him, and he (i.e., that man) should die by that [means], this monk is *pārājika*, expelled.<sup>36</sup>

If, like Prebish, we favour the translation “one that has human form of life” instead of the more general translation “human fetus” these passages might actually be referring to a fetus at a fairly late stage of development, i.e. after it has developed “human form” and is no longer liquid.

*Mi 'am mir chags pa*, the phrase Stott chooses to translate as “human or human foetus” can be broken down as follows. *Mi* means person. *'Am* performs the role of our English particle “or.” *Mir chags pa*, what Stott calls human foetus, is potentially more complicated than his translation indicates. *Mi* is the Tibetan word for human with an accusative marker (*r*).<sup>37</sup> *Chags pa*, as a verb, refers to a production: “to be begotten, produced ...,”<sup>38</sup> but *chags pa* can also mean “to be attached to.” Sanberg and Heyde offer as a translation of *mir chags pa* “to desire to become man.”<sup>39</sup> Like Negi, Sanberg and Heyde posit *manuṣyavigrahaḥ*<sup>40</sup> as a Sanskrit equivalent to *mir chags*

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<sup>36</sup>Prebish 1975, 51 and 53.

<sup>37</sup>Jäschke 1881, s.v. “*mir*.”

<sup>38</sup>Jäschke 1881, s.v. “*chags pa*.”

<sup>39</sup>Chandra Das and Bahdur 1902, s.v. “*mir*.”

<sup>40</sup>Although Negi elongates the *ā*: *mānuṣyavigrahaḥ* (Negi 2003, 10: s.v. “*mir chags pa*”).

*pa*.<sup>41</sup> Franklin Edgerton defines *manuṣyavigrahaḥ* as “one that has human form; somewhat broader than *manuṣya* (including at least the embryo ...)” and gives the phrase *manussa-viggaha* as the Pali equivalent.<sup>42</sup>

The compound *manussa-viggaha* is central to Giulio Agostini’s discussion of feticide and homicide in Buddhist sources. Agostini works out the implications of terms used in *Vinaya* that are commonly translated as man, embryo, fetus, or having human form in his article “Buddhist Sources on Feticide as Distinct from Homicide.”<sup>43</sup>

Agostini sets up three categories of *Vinaya* statements on homicide. He writes:

1. according to some texts ... homicide means killing a ‘man’ (*manuṣya*);
2. according to other texts ... it means killing a ‘being with the body/shape of a man’ (*manuṣyavigraha*);
3. according to a third group of texts ... it means killing ‘either a man or a being with the body/shape of a man’ (*manuṣyam vā manuṣyavigrahaṃ vā*).<sup>44</sup>

In a highly useful appendix, Agostini provides translations of statements on homicide from several extant *Vinayas*.<sup>45</sup> Agostini’s work demonstrates the variety with which the rule addressing homicide is recorded in a number of extant *Vinaya*. In order to claim that Indian Buddhist authors/redactors agree on abortion, we must carefully compare a variety of types of passages related to abortion. Looking exclusively at

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<sup>41</sup>Chandra Das and Bahdur, 1902, s.v. “*mir*” and Negi 2003, 10: s.v. “*mir chags pa*.”

<sup>42</sup>*BHSD*, s.v. “*manuṣya-vigraha*.”

<sup>43</sup>Agostini 2004, 63–95.

<sup>44</sup>Agostini 2004, 73.

<sup>45</sup>Agostini 2004, 78–85.

*pārājika* three will not satisfy such an endeavour. We must also look at word-commentary, cases illustrating this *pārājika* rule, and abortion in passages not explicitly related to homicide.

One such term, from the Pāli *Vinaya*, which must be explored is *gabbhapātana*. Most frequently translated by scholars simply as abortion or abortive preparation depending on context, *gabbhapātana* is found within *pārājika* three as it is recorded in the *Mahāvagga*. Keown translates *pārājika* three, in the *Mahāvagga*, as: “A monk who deliberately deprives a human being of life, even to the extent of causing an abortion, is no longer a follower of the Buddha.”<sup>46</sup> The word for abortion used in this passage and others (*gabbhapātana*) must be an all inclusive term for any abortion in the Theravāda *Vinaya* if we are to conclude that the rule addressing taking human life (*pārājika* three) leaves no wiggle room for interpreting abortions early in the pregnancy as less reprehensible than late-term abortions.

*Garbhapātana* (the Sanskrit equivalent to the Pāli word *gabbhapātana*) is one of many words used in classical Hindu medical literature to refer to abortion. According to Vijñāneśvara’s commentary on the *Yājñavalkyasmṛti*, a Dharmaśāstra text, *garbhapātana* refers to a specific kind of abortion: one in the fifth or sixth months of the embryo’s development.<sup>47</sup> Although scholars working on the Theravāda *Vinaya* translate *gabbhapātana* as abortion, McDermott claims that in some cases

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<sup>46</sup>Keown 2005, 93. The Pāli reads: *yo bhikkhu sañcicca manussaviggahaṃ jīvītā voropeti antamaso gabbhapātanaṃ upādāya, assamaṇo hoti asakyaputtiyo* (*Vin.* I: 97.3–5).

<sup>47</sup>Lipner 1989, 43.

*gabbhapātana* may refer to an abortive preparation, or the simple destruction of the embryo, or, in other contexts, that it is connected to medicine (*bhesajja*).<sup>48</sup> Agostini accepts the potential implications of the etymological construction of the word *garbhapātana*:

The *Vinaya* term for abortion, “causing the fall of the fetus” (*garbhapātana*), could have been interpreted in the light of the Indian medical and juridical literature: the miscarriage of an undeveloped fetus is a “flow” (root *sru*), whereas the miscarriage of a developed one is a “fall” (root *pat*). In both cases abortion would be expressed by a causative form, “causing a flow” in the first case and “causing a fall” (*pātana*) in the second one. Buddhist texts only proscribe *garbhapātana*, and this terminology could be construed as allowing, by implication, an earlier abortion, *\*garbhasrāvana*.<sup>49</sup>

As Agostini explains, the word *garbhapātana* leaves some room for interpretation with regard to abortions early in the embryo’s gestation period. Despite the implications of the root (*pat*), McDermott concludes, based on two stories found in the *Petavatthu*, that Theravādins made no distinction in the size of the embryo in their condemnation of abortion.<sup>50</sup> Karmic retribution for the abortions found in the two stories cited by McDermott is the same despite the fact that the abortions were caused at different stages (the second and third month) of the embryo’s development.<sup>51</sup>

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<sup>48</sup> McDermott 1998, 169–170.

<sup>49</sup> Agostini 2004, 75.

<sup>50</sup> Agostini 2004, 76 and McDermott 1998, 159–160.

<sup>51</sup> Agostini 2004, 76 and McDermott 1998, 159–160.

If McDermott is correct, the authors/redactors in the Theravāda school selected the term *gabbhapātana* as an all inclusive term for abortion at any stage of pregnancy, despite the fact that its Sanskrit equivalent indicates specifically later-term abortions in other Indian sources. We might conclude that intentionally performing an abortion at any stage of development was considered a *pārājika* by Theravādin authors. This reading is supported by the word-commentary on the term *manussaviggaha*, found in the Theravāda *Vibhaṅga*, which states that consciousness is a prerequisite for composition: “Human being means: from the mind’s first arising, from (the time of) consciousness becoming first manifest in a mother’s womb ... .”<sup>52</sup> The full implications of such word-commentary will be discussed in Chapter Two. However, tentatively it appears that killing a fetus, even during the earliest gestation period, would constitute a *pārājika* offence for Theravādin monks.

We cannot, however, assume the same for the Mūlasarvāstivāda school based upon the little evidence from Mūlasarvāstivāda textual sources currently offered by contemporary scholars, since scholars to date have cited only one rule, albeit as found in two locations. It is necessary to look at the word-commentary on *pārājika* three, found within the *MSV*, in which the term *mir chags pa* is defined, in order to discover if a monk’s participation in abortion constitutes homicide in all cases in the Mūlasarvāstivāda tradition.<sup>53</sup>

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<sup>52</sup>Horner 1938–1966, 1: 126.

<sup>53</sup>See Chapter Two for this discussion (page 35).

### More Ambiguity and Abortion

Florida, Harvey, and Ling all argue that the size of the embryo was perhaps important to early Indian Buddhist views on abortion.<sup>54</sup> Harvey and Ling<sup>55</sup> base their respective arguments on the Theravādin commentator Buddhaghosa's claim that killing an animal is a lesser fault if the animal is small, and a greater fault if the animal is large.<sup>56</sup> Harvey elaborates further, claiming that later term abortions were likely viewed as more detestable than abortions performed earlier in the pregnancy because the methods used in later term abortions are more invasive and cause additional suffering.<sup>57</sup> Florida agrees with Harvey on this point.<sup>58</sup>

Oddly, most of the arguments which consider the size of the fetus to be an important factor in terms of Buddhist views of abortion are based upon passages in Pāli that do not apply directly to abortions or fetuses.<sup>59</sup> Buddhaghosa's discussion has nothing to do with the human embryo, a point made already by Keown and McDermott.<sup>60</sup> The conjecture that Florida, Harvey and Ling put forward, that the size

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<sup>54</sup>Florida 2000, 144; Harvey 2000, 316–317 and Ling 1969, 58.

<sup>55</sup>Ling does not state so explicitly.

<sup>56</sup>Harvey 2000, 316–317 and Ling 1969, 58.

<sup>57</sup>Harvey 2000, 316–317.

<sup>58</sup>Florida 2000, 144.

<sup>59</sup>Harvey argues that the word “even,” as it is used in the third *pārājika* in the Theravāda *Vinaya* (“even down to causing an abortion”), might automatically imply abortion was considered the least offensive form of homicide (Harvey 2000, 316).

<sup>60</sup>Keown 1995, 99 and McDermott 1998, 160–161.

of the fetus is significant, would seem to be a by-product of contemporary attempts to fashion a Buddhist “Middle Way” response to the ongoing abortion debate in the West, striving for a position which permits early abortions, and abortions in desperate circumstances.

The vocabulary used in the *Prātimokṣa* for “human,” “having human form of life,” and “abortion,” lends credence to the position that some Indian Buddhists might have believed the earlier in the pregnancy an abortion was performed, the more acceptable the procedure. Agostini presents two examples of Buddhist commentators who claimed that killing a fetus in the *kalala* (earliest stage of gestation) does not constitute a homicide: Jayarakṣita and Sunyaśrī. Both Jayarakṣita and Sunyaśrī based their arguments on literal interpretations of the term human being as having breath and the five branches or arms developed.<sup>61</sup> However, both of these authors wrote monastic preparatory literature and not texts elaborating on rules directed towards fully ordained monks and nuns. We still have no conclusive data from *Vinaya* proper indicating that a monk might not incur a *pārājika* offence if he intentionally and successfully kills a *kalala*.

### **Parsing Out the Evidence**

Florida and Harvey point to Stott’s brief statements on *pārājika* three, as found in the Tibetan *Prātimokṣa Sūtra*, as enough to conclude that Mūlasarvāstivādin and Theravādin sources agree on the condemnation of abortion.<sup>62</sup> Stott writes:

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<sup>61</sup>Agostini 2004, 64–69.

<sup>62</sup>Harvey 2000, 313–314 and Florida 2000, 142.

Although I do not intend to present a survey of the references to abortion throughout Tibetan Buddhist literature, it is not difficult to discover authoritative statements of such prohibition; statements moreover to which no contra examples can be found.<sup>63</sup>

Stott cites the work of Ling and Tachibana as presenting “The traditional pan Buddhist view on abortion,”<sup>64</sup> albeit one limited to passages found in the Pāli *Vinaya*. Stott argues that “given its inheritance from Indian Buddhism and its anxiety to remain faithful to this Indian legacy, Tibetan Buddhism has maintained this condemnation of abortion.”<sup>65</sup> Citing Stott, in discussing passages from the Theravāda *Vinaya* which argue that causing an abortion is a serious act, Harvey writes “Such passages from the Theravādin *Vinaya* have their counterparts in the Sarvāstivādin *Vinaya* used in Tibet, which clearly forbids monks’ and nuns’ involvement in abortion.”<sup>66</sup> Harvey also states, “Tibetan Buddhism has preserved the Indian Buddhist view that abortion is the taking of a human life and is thus wrong.”<sup>67</sup> Moreover, Florida bases the following statement on Stott’s brief discussion of the [Mūla]Sarvāstivādin *Vinaya*:

Tibetan sources, which are considerably later, support the early Theravādin view. Tibetan Buddhists early and contemporary, drawing on their *Vinaya* tradition, uniformly condemn abortion on the same scale of offensiveness as any other

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<sup>63</sup>Stott 1992, 173.

<sup>64</sup>Stott 1992, 173.

<sup>65</sup>Stott 1992, 173.

<sup>66</sup>Harvey 2000, 313–314.

<sup>67</sup>Harvey 2000, 328.

taking of life.<sup>68</sup>

It appears that the only Mūlasarvāstivādin source commonly cited for evidence of the early Indian Buddhist view of abortion is Stott's interpretation of the Tibetan version of the third *pārājika* in the *Prātimokṣa Sūtra*.<sup>69</sup>

At this point, the apparent lack of critical work done on Sanskrit and Tibetan textual sources for the study of Indian Buddhist attitudes regarding abortion should be obvious to my reader. The same is not true, however, for Pāli sources. In addition to the third *pārājika* rule and word-commentary on *pārājika* three, scholars commonly cite seven cases of abortion from the Theravāda *Vinaya*<sup>70</sup> which illustrate the nuances of this *prātimokṣa* rule.

These seven cases may throw some light on methods and motives for abortion in early Indian Buddhist communities.<sup>71</sup> Some possible methods for causing abortion found in the Theravāda *Vinaya* were giving a pregnant woman an abortive preparation, presumably in the form of medicine or a charm, with or without her knowledge,

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<sup>68</sup>Florida 2000, 142.

<sup>69</sup>Agostini provides a list of statements on abortion and murder in *Vinaya texts* in his first appendix (including a few from the Mūlasarvāstivādin and Sarvāstivādin *Vinayas*), but does not set up any direct comparisons or provide definitive conclusions (Agostini 2004, 78–85).

<sup>70</sup>For examples, see McDermott 1998, 164–172; Keown 1995, 95–96 and Florida 2000, 142.

<sup>71</sup>McDermott 1998, 169–170.

crushing (bruising or trampling) the womb, and heating the womb.<sup>72</sup> In each case in which the authors/redactors of the text offer a clear motive, a woman either tries to protect her social status by causing a miscarriage in a rival, or seeks an abortion for herself as an attempt to prevent her husband from learning of her infidelity.<sup>73</sup> It may be important to note, as Keown does, that no medical reasons are given for causing an abortion in the Theravāda *Vinaya*.<sup>74</sup>

Moreover, it appears that intent was the most important factor in determining the gravity of a monk's punishment for performing/aiding in abortions. In cases where intent is clear, and the victim does not survive, the case is considered a *pārājika*. In terms of legal readings of these seven cases of abortion from the Theravāda *Vinaya*, most scholars conclude that abortion was considered a *pārājika* offence as long as intent was present and the abortionist kills the target.<sup>75</sup> As we will see in the second chapter, this holds true for comparable passages found in the *MSV*. Despite the frequency with which scholars present these seven cases in contemporary work on Buddhist views of abortion from the Theravāda *Vinaya*, I know of no attempt to track down similar cases in Tibetan or Sanskrit.

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<sup>72</sup>McDermott 1998, 169–170 and Keown 1995, 92–93.

<sup>73</sup>McDermott 1998, 169–170 and Keown 1995, 92–93.

<sup>74</sup>Keown 1995, 92.

<sup>75</sup>Florida 2000, 142; Harvey 2000, 311–315; Keown 1995, 95–97 and McDermott, 1998, 169–172.

### Chapter Conclusions

Current scholarship on abortion in Indian Buddhist monastic literature employs one of two approaches: one which seeks to uncover a Buddhist solution to contemporary biomedical dilemmas, and another which reads cases of abortion in *Vinaya* historically. Currently, scholars use three main pieces of evidence in locating Indian monastic attitudes towards abortion: (1) the third *pārājika* (which in some *Vinayas* does not necessarily prohibit, or even refer to, abortion), (2) Theravādin word-commentary on the third *pārājika*, and (3) seven cases of abortion from the Theravāda *Vinaya* that illustrate *pārājika* three. Scholars have generalized on one of the largest extant *Vinaya* traditions based upon Stott's translation and evaluation of a single rule: *pārājika* three. The current picture of Indian Buddhist monastic attitudes towards abortion remains Pāli-centric and incomplete. Comparable passages to those currently presented from the Pāli *Vinaya* can also be found in the *MSV*. As my next chapter will show, drawing comparisons between the Mūlasarvāstivāda and Theravāda *Vinayas* will unclutter some of the tentative conclusions scholars have drawn regarding the attitudes of their authors/redactors towards abortion.

## **Chapter Two:**

### **Abortion in Passages Related to Homicide in the Mūlasarvāstivāda Vinaya**

In this chapter I focus on the word-commentary on *pārājika* three, and cases of abortion which illustrate and elaborate on *pārājika* three, found in the *Vibhaṅgas* of the Mūlasarvāstivāda and Theravāda *Vinayas*. I remedy one gap in contemporary scholarship presented in Chapter One, caused by a marked scholarly preference towards Pāli textual sources. I fill this gap by placing passages from the Tibetan *MSV* relevant for the study of abortion into dialogue with passages from the Theravāda *Vinaya* that contemporary scholars such as Florida, Harvey, Keown, and McDermott have already foregrounded in the ongoing academic discussion of Buddhism and abortion.

I confirm the assumption that Mūlasarvāstivādin authors and redactors, like their Theravādin counterparts, took a strict anti-abortion stance in their monastic code,<sup>1</sup> an assumption that Florida,<sup>2</sup> Harvey<sup>3</sup> and Stott<sup>4</sup> have already put forward. It appears that passages related to abortion which explicitly discuss the involvement of monks in homicide, i.e. passages directly linked to *pārājika* three, carry the same essential message across at least two extant Indian *Vinayas*. The structure and organization of

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<sup>1</sup> That is to say that monks who intentionally and successfully involved themselves in acts of abortion were considered defeated.

<sup>2</sup> “Tibetan sources, which are considerably later, support the early Theravādin view” (Florida 2000, 142).

<sup>3</sup> Stott 1992, 173–4 and 181.

<sup>4</sup> Harvey 2000, 313–314.

passages related to both abortion and monks' involvement in homicide found in these two *Vinayas*, however, differ significantly.

### **The Moment of Conception in Word-Commentary on *Pārājika* Three**

I discussed in Chapter One some of the ambiguity in the terms contained within the rule addressing monastic involvement in homicide (*pārājika* three) in its different recensions across the extant Indian *Vinayas*. A literal reading of words such as *manussa-viggaha* (Pāli), *manuṣya* (Sanskrit), *manuṣyavigraha* (Sanskrit), and *mir chags pa* (Tibetan) in the *Prātimokṣas* may allow for some ambiguity in understanding the permissibility of monastic involvement in the practice of abortion as these terms may be referring to a fetus at a late stage of fetal development. For example, it may be possible that Indian Buddhists considered abortions administered in the first few weeks of pregnancy more acceptable than abortions carried out at a later stage of fetal development. When one looks at the word-commentary in the *Vibhaṅga*, written by Buddhist authors/redactors regarding the terms “human” and “human form/will become human,” the ambiguity in the rule addressing monastic involvement in homicide, and perhaps by extension abortion, seems to fade away.

Buddhist authors/redactors explain the word *manussaviggaha* (having the form of a man) in the Theravāda *Vinaya* as:

Human being means: from the mind's first arising, from (the time of) consciousness becoming first manifest in a mother's womb until the time of death, here meanwhile is called a human being.<sup>5</sup>

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<sup>5</sup> Horner 1938–1966, 1: 126.

*manussaviggaho nāma yaṃ mātukucchismiṃ paṭhamam cittaṃ uppannam  
paṭhamam viññānam pātubhūtam yāva maraṇakālā, etthantare eso  
manussaviggaho nāma.*<sup>6</sup>

This passage warrants a look at Theravādin conceptions of the development of the fetus to understand at what point the mind first arises and consciousness first manifests in the womb. According to McDermott, Buddhaghosa understood the prohibition against depriving a human being of life to include even killing an embryo at the first stage of its development (*kalala*).<sup>7</sup> The term *kalala* commonly denotes the first stage of fetal development in many classical Indian embryologies.<sup>8</sup> In early Indian embryologies a *kalala* typically consists of the mother's blood, father's semen, and either an intermediary consciousness or soul.<sup>9</sup> In early Buddhist sources three factors must be present for a *kalala* to be conceived: intercourse, a fertile womb, and the presence of an intermediary being.<sup>10</sup> The Indian schools did not agree regarding the attributes of the intermediary. The Sammatīyas, Pubbaseliyas, Sarvāstivādins and Vaibhāṣikas, apparently argued for the corporeality of such a being. The Mahāsāṃghikas, Ekavyavahārikas, Kukkuṭikas and Lokottaravādins opposed the

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<sup>6</sup> *Vin.* III: 73.21–23.

<sup>7</sup> McDermott 1998, 164.

<sup>8</sup> Robert Kritzer demonstrates this by means of a table comparing the *Agnipurāṇa*, *Garbhopaniṣad*, and the *Tandulaveyāliya* (Kritzer 2009, 76).

<sup>9</sup> Kritzer 2009, 81.

<sup>10</sup> McDermott 1998, 172–174.

notion of a corporeal intermediary being.<sup>11</sup>

According to Florida, Vasubandhu described the third element necessary for conception (*vijñāna*) as “the physical and mental components of a living being at the moment of conception ... .”<sup>12</sup> Moreover, Harvey translates a passage, from the Theravādin *Dīgha Nikāya*, which appears to describe the moment of conception:

“Were consciousness (*viññāṇam*), Ānanda, not to fall into the mother’s womb, would the sentient body (*nāma-rūpaṃ*) be constituted there?” “It would not, Lord.” “Were consciousness, having fallen into the mother’s womb, to turn aside from it, would the sentient body come to birth in this present state?” “It would not, Lord.”<sup>13</sup>

The authors/redactors of the above passage from the *Dīgha Nikāya* record the Buddha teaching Ānanda about the necessity of consciousness for human conception.

But was consciousness necessary for human conception in other Buddhist traditions? Frances Garrett explores literary treatments of human development within *Abhidharma* literature in *Religion, Medicine, and the Human Embryo in Tibet*. She refers to Vasubandhu’s discussion of human conception and fetal development in the third chapter of his *Abhidharmakośabhāṣyam*, one of the most influential works on *Abhidharma* for non-Theravādin Buddhist schools. Garrett notes that it is,

... neither the only, nor the earliest, such account in early Buddhist literature. On the contrary, embryology was of interest in a range of early Buddhist texts, many

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<sup>11</sup> Wijesekara 1945, 89–90 and Garrett 2008, 26.

<sup>12</sup> Florida 2000, 139.

<sup>13</sup> Harvey 2000, 311.

of which made their way into the languages of China, Central Asia and Tibet to form the basis of new writings on the topic in those regions.<sup>14</sup>

Garrett continues her discussion of embryology in Indian *Nikāya* literature drawing from the *Sūtra of Teaching Nanda about Entering the Womb* and the *Sūtra of Teaching Nanda about Abiding in the Womb*.<sup>15</sup> These texts are extant in a number of locations in Tibetan and Chinese translations, including the Tibetan *MSV*.<sup>16</sup> While it is not clear if the two titles refer to translations of the same original,<sup>17</sup> it seems that later Tibetans refer to both as if they were same text and this is how Garrett treats them.<sup>18</sup> Garrett provides the following excerpt, in translation, from the *Entering the Womb sūtra*:

If a father and mother have intercourse with desirous intention, and the mother's womb is totally healthy and she menstruates regularly, and the aggregates of the intermediate state being are present, at that time it is possible [for the transmigrator] to enter the mother's womb.<sup>19</sup>

The account Garret presents demonstrates that Buddhists from the Mūlasarvāstivāda school were likely aware of the three conditions necessary for conception, as a version of this text is included in the Tibetan *MSV*. Desirous intent in the parents' intercourse, however, is added to the first condition. I will discuss Kritzer's comparative study of

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<sup>14</sup>Garrett 2008, 29.

<sup>15</sup>Garrett 2008, 29.

<sup>16</sup>Garrett 2008, 29.

<sup>17</sup>Garrett 2008, 29, and Lalou 1927.

<sup>18</sup>Garrett 2008, 29.

<sup>19</sup>Garrett 2008, 29.

Chinese and Tibetan versions of this text<sup>20</sup> later in this chapter.

In addition to the explicit discussion of embryology found in much of the earliest Buddhist textual literature, Harvey points out that the authors/redactors of the Theravāda *Vinaya* set the minimum age of ordination as twenty years from the moment of conception and not the moment of birth.<sup>21</sup> Also, writing within the Theravādin tradition, Buddhaghosa argued that if a monk digs a pit-trap and a pregnant woman falls in and both mother and that which is in the womb die, the offence must be considered double homicide.<sup>22</sup>

Based upon such Theravādin passages, scholars including Florida<sup>23</sup> and Harvey<sup>24</sup> have argued that the Buddhist view is that human life is present at conception. Little work has been done to add passages from other Indian *Vinayas* to the scholastic discussion of early Indian Buddhist views of the embryo and abortion. It will be useful to look at passages from another Indian *Vinaya* which may confirm or deny what some scholars take to be *the* Buddhist view on human life.

In Chapter One I discussed the Tibetan word *mir chags pa*. The *MSV* defines the *mir chags pa* (commonly translated as “fetus” but literally meaning “will become human”) in both the *Vibhaṅga* for monks and the *Vibhaṅga* for nuns. *Mir chags pa* is

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<sup>20</sup>Kritzer (2009) uses the Sanskrit title *Garbhāvakraṅti Sūtra* for this text in “Life in the Womb.”

<sup>21</sup>Harvey 2000, 311.

<sup>22</sup>Florida 2000, 139 and 142 and Keown 1995, 103.

<sup>23</sup>Florida 2000, 139–140.

<sup>24</sup>Harvey 2000, 311–315.

defined in the *Vibhaṅga* for monks as:

‘*Mir chags pa*’ is: the one by whom in the belly of the mother the three faculties, namely the body faculty, the life faculty, and the mental faculty, have been acquired.

*mir chags pa la zhes bya ba ni / gang gis ma’i ltor dbang po gsum po ’di lta ste /  
lus kyi dbang po dang / ’tsho ba’i dbang po dang / yid kyi dbang po thob par  
gyur pa la’o //*<sup>25</sup>

The definition of *mir chags pa* in the *Vibhaṅga* for nuns is almost identical except for a difference in the wording of the second sense faculty. Here the authors/redactors list a synonymous phrase for *’tsho ba’i dbang po* “life faculty” *srog gi dbang po*:

*mir chags pa la zhes bya ba ni / gang gis ma’i ltor dbang po gsum po ’di lta ste /  
lus kyi dbang po dang / srog gi dbang po dang / yid kyi dbang po thob par gyur  
pa la’o //*<sup>26</sup>

The translation of the passage does not change. According to the authors/redactors of the Mūlasarvāstivāda *Vinaya*, body, life, and the mental faculty must be present to make up a *mir chags pa*, which the *Vinaya* prohibits monks from killing.

The Mūlasarvāstivāda *Vibhaṅga* also provides word-commentary for the word human (*mi*) included in *pārājika* three. “Mir ‘am” “human or” is *defined* in the *Vibhaṅga* for monks as:

‘Human or’ is: the one by whom in the belly of the mother the six faculties, namely, the eye faculty, the ear faculty, the nose faculty, the tongue faculty, the

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<sup>25</sup>sTog, *’Dul ba*, CA, 194b6–7.

<sup>26</sup>sTog, *’Dul ba*, NYA, 71a7–b1.

body faculty, and the mental faculty, have been acquired.

*mi 'am zhes bya ba ni / gang gis ma'i ltor dbang po drug po 'di lta ste / mig gi  
dbang po dang / rna ba'i dbang po dang / sna'i dbang po dang / lce'i dbang po  
dang / lus kyi dbang po dang / yid kyi dbang po tho ba par gyur pa'o //*<sup>27</sup>

Six faculties make up a person in the *MSV*. Two of these faculties are identical to those which make something which will become human (*mir chags pa*): the body and mental faculties. In the list of faculties (*dbang po*), which make up humans we find eye (*mig*), ear (*rna*), nose (*sna*) and tongue (*lce*) in place of life (*'tsho ba/srog*) found in the list for *mir chags pa*.

In order to determine if the Mūlasarvāstivāda interpretation of homicide includes killing an embryo at any stage of gestation, we must first look at when these faculties were thought to arise in the womb. In “Life in the Womb,” Kritzer provides an in-depth study of the *Garbhāvākṛānti Sūtra*. Kritzer tells us that this is a long and understudied *sūtra*, providing an account of rebirth. The text survives in a number of locations in Tibetan and Chinese, but no Sanskrit original has been discovered.<sup>28</sup> Chinese and Tibetan *MSV* translations of this text can be found in Mūlasarvāstivāda *Kṣudrakavastu*.<sup>29</sup>

In the *Garbhāvākṛānti Sūtra*, the embryo suffers in the first four weeks. Kritzer describes the account of the earliest stage of gestation in the *Garbhāvākṛānti Sūtra*: “The sense organs and consciousness are all in the same place, as if in a pot, and the

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<sup>27</sup>sTog, *'Dul ba*, CA, 194b5–6.

<sup>28</sup>Kritzer 2009, 77.

<sup>29</sup>Kritzer 2009, 78.

embryo is very hot and in great pain.”<sup>30</sup> According to Kritzer’s description, the sense organs and consciousness are present in the earliest stage of fetal development. It is unclear whether Mūlasarvāstivādins considered body present, as the authors/redactors describe the embryo at this stage as lying in filth, like a lump.<sup>31</sup> However, the above description appears to mostly match the definitions of a human or fetus found in the *MSV*. It seems likely that the Mūlasarvāstivādin authors/redactors equated the killing of a fetus at any stage of fetal development with homicide.

I do not here make the claim that all Indian Buddhists unanimously considered killing that which is in the womb, in all of its stages of development, equivalent to homicide. In “Buddhist Sources on Feticide as Distinct from Homicide,” Agostini explores Buddhist texts, undervalued by scholars, that allow for abortion.<sup>32</sup> *Eight Verses on the Vows of Buddhist Lay Brothers (the Upāsakasamvarāṣṭaka)* and the commentary on it (the *Upāsakasamvarāṣṭaka-vivarāṇa*) both attributed to Sunyaśrī, are extant only in Tibetan translations.<sup>33</sup> Agostini notes that although the *Upāsakasamvarāṣṭaka* is found within the *Vinaya* section of the *Tanjur*, the definition of homicide within the text does not conform to that found in the *MSV*.<sup>34</sup> According to Agostini’s reading of Sunyaśrī, cutting off the life of a human only counts as

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<sup>30</sup>Kritzer 2009, 82.

<sup>31</sup>Kritzer 2009, 82.

<sup>32</sup>Agostini 2004, 63–64.

<sup>33</sup>Agostini 2004, 64.

<sup>34</sup>Agostini 2004, 64–65.

homicide if the fetus has developed the “five limbs.”<sup>35</sup>

Agostini also demonstrates that in Jayarakṣita’s commentary on the *Śrīghanācārasaṅgraha* (an anonymous text for novices), Jayarakṣita claimed that there is no loss of vow if someone kills a fetus at the stage of *kalala*.<sup>36</sup> Jayarakṣita’s argument is based on the first precept for novices in this tradition (likely a Mahāsāṃghika or related textual tradition) which considers a human being “a breathing being who has developed the five branches etc.”<sup>37</sup> The *kalala*, according to Jayarakṣita, has not yet developed breath or the five branches or limbs. Agostini argues, based on such texts for novices, that some Buddhist commentators may have tried to bridge a gap between their monastic legal literature and a culture sympathetic to early term abortions.<sup>38</sup> Such endeavours may have resulted in literal interpretations of the rule as it is expressed in some *Prātimokṣa Sūtras* (sans the word-commentary), that would have allowed for the involvement of monastics in early stage abortions, before the fetus took on human shape.<sup>39</sup>

In an extensive appendix, Agostini provides the rule addressing homicide (*pārājika* three) from a number of extant Indian *Vinayas* in Pāli, Sanskrit, Tibetan, and

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<sup>35</sup>Agostini 2004, 65.

<sup>36</sup>Agostini 2004, 65–66.

<sup>37</sup>“[A cleric] must not kill a breathing being who has developed the five branches etc.” *pañcaśākhādinirvṛttam na hanyāt prāṇinam* [*yatiḥ*] (Agostini 2004, 66).

<sup>38</sup>Agostini 2004, 77–78.

<sup>39</sup>Agostini 2004, 77–78.

Chinese.<sup>40</sup> However, bringing word-commentary from the *Vibhaṅga* into the discussion seems to clear up some of the ambiguity in the wording of the rule addressing taking human life. Agostini claims that word-commentary, like that which I have discussed above from the Theravāda and Mūlasarvāstivāda *Vinayas*, might be indicative of a later reaction to Buddhists who possibly tried to resolve contradictions between the wording of *pārājika* three in the *Prātimokṣa* and regional practices sympathetic to early term abortions. Examples of author/redactors, who may have tried to reconcile *pārājika* three with regional beliefs in such a way, include the author of the *Śrīghanācārasaṅgraha*, and commentators on the text like Jayarakṣita and Sunyaśrī.<sup>41</sup>

Agostini's discussion of feticide as distinct from homicide illustrates a key weakness in text-based studies. By looking at Buddhist monastic codes, we cannot with certainty tell what Buddhist monks in India actually said or did. We can, however, be sure of what they wrote in their legal literature. In terms of the extant *Vinayas* of the Mūlasarvāstivādins and Theravādins, it appears that authors/redactors in these two schools harmoniously recorded, in their monastic codes and subsequent commentaries, that abortion constitutes a *pārājika* offence, even down to killing an embryo from what appears to be the moment of its conception. Such documentation may or may not have been a reaction to Buddhist authors/redactors who were sympathetic to abortions in some circumstances, as Agostini argues, but of this we cannot be certain.

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<sup>40</sup>Agostini 2004, 78–85.

<sup>41</sup>Agostini 2004, 77.

### **Abortion in Stories that Illustrate the Third *Pārājika* Offence**

In addition to an elaboration of terms found within the rule prohibiting monastic involvement in homicide, the *Vibhaṅgas* of the Mūlasarvāstivāda and Theravāda schools also include passages illustrating which acts of homicide constitute a *pārājika* offence, and, more importantly, which acts do not. Both *Vinayas* contain passages in which a monk involves himself in killing that which is in the womb. There are seven cases in total from the Theravāda *Vibhaṅga* and six cases that I am aware of from the Mūlasarvāstivāda *Bhikṣu Vibhaṅga*.<sup>42</sup>

In the first case, a woman, pregnant by a lover, asks a monk to find her a *gabbhapātanaṃ*, which Horner translates as abortive preparation.<sup>43</sup> The monk obliges. The child dies. The monk is defeated (guilty of a *pārājika*).<sup>44</sup> Then follows a story in which a man has two wives: one fertile, one barren. The barren wife, worried about losing her status in the household, commands a monk to find an abortive preparation for her co-wife. The monk obliges. The child dies and the monk is defeated.<sup>45</sup> Three stories, which differ from the second story only in the result of the administered abortive preparation, follow. If the mother dies and the child does not die the monk is not defeated, but guilty of a grave offence (*thullaccaya*).<sup>46</sup> In a case in which both the

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<sup>42</sup>For clarity, I include Hermann Oldenberg's transliteration of the Pāli in tandem with Horner's translation in Appendix One.

<sup>43</sup>Horner 1938–1966, 1: 144.

<sup>44</sup>Horner 1938–1966, 1: 144.

<sup>45</sup>Horner 1938–1966, 1: 144.

<sup>46</sup>Horner 1938–1966, 1: 144.

mother and child die, the authors/redactors deem the monk guilty of a *pārājika* offence.<sup>47</sup> A case where neither the mother nor the child die results in a grave offence.<sup>48</sup> Finally, two cases complete this list of seven. Both involve a pregnant woman asking a monk to find her an abortive preparation. In the first case, the monk tells her to destroy it (bruise, crush, or trample: *maddusū* [Pāli]). In the second case, the monk tells her to scorch herself. Both instances result in defeat for the monk.<sup>49</sup>

Harvey, Keown, and McDermott have used these seven cases to extrapolate methods and motives for abortion among early Indian Buddhists.<sup>50</sup> Although I will refrain from calling these references to abortion found in the Theravāda *Vinaya* “case histories,” I will highlight the methods and motives present in the Theravādin account so that we may check these against the Mūlasarvāstivādin account later. The Theravādins record in their literature, an abortive preparation, destroying what is in the womb (likely entailing bruising, crushing, or trampling), and scorching as methods of terminating pregnancy.<sup>51</sup> Motives include hiding infidelity and protecting social status.<sup>52</sup> I will further discuss these motives in stories outside of the explicit discussion of *pārājika* three in my third chapter.

McDermott uses these seven cases from the Theravāda *Vinaya* to map out the

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<sup>47</sup>Horner 1938–1966, 1: 145.

<sup>48</sup>Horner 1938–1966, 1: 145.

<sup>49</sup>Horner 1938–1966, 1: 145.

<sup>50</sup>Harvey 2000, 311–315, Keown 1995, 95–97 and McDermott 1998, 169–172.

<sup>51</sup>McDermott 1998, 169–172.

<sup>52</sup>McDermott 1998, 169–172.

following five patterns in terms of monastic involvement in abortion:

1. Intended victim (only) dies—*pārājika*
2. Intended victim dies and unintended victim dies—*pārājika*
3. Unintended victim dies while intended victim survives—*thullaccaya*
4. Intent but no victim (i.e. no unintended victim; intended victim survives)—*thullaccaya*
5. Unintended victim dies where no victim is intended<sup>53</sup>—*dukkata*<sup>54</sup>

These five patterns clarify the position of the authors/redactors of the Theravāda *Vinaya* on abortion. In this text, abortion is considered to be a form of homicide. In order for an abortion to constitute a *pārājika* offence, the action must entail both intent and success, i.e. the termination of that which is in the womb.

Six cases from the *MSV* are loosely equivalent to those found in Pāli listed above. The authors/redactors of the *MSV* split these six cases up into two groups, presenting first four cases in which the monk intends to kill the mother and then two additional cases in which the monk intends to kill that which is in the womb.<sup>55</sup> I list here the Tibetan translation, located in the sTog Palace edition of the *Vibhaṅga* for monks:

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<sup>53</sup>McDermott includes in his survey two stories which do not deal with abortion but rather the unintentional death of two women: one seeking a fertility drug, and the other seeking contraception. This fifth category is not relevant to my purposes here.

<sup>54</sup>McDermott 1998, 168.

<sup>55</sup>These six cases follow an elaboration on homicide through the use of *ro langs* (a ghou/zombie) translated by Peter Skilling (Skilling 2007).

(1) [If] a monk, with the intention of killing a woman, with the thought “I shall kill the woman but not the fetus,” massages (works in) a [pregnant] woman’s belly and if the woman dies but the fetus does not die, the monk will incur a *pārājika* offence.

*dge slong gis bud med gsad pa'i sems kyis “bud med gsad par bya'i / mngal na gnas pa ni mi bya'o” snyam pas sbrum ma'i dku mnyed par byed cing / gal te bud med shi bar gyur la / mngal na gnas pa ma shi na / dge slong pham par 'gyur ro /*<sup>56</sup>

(2) If the fetus dies, and the woman does not die, the monk, by means of that prior preparation, will incur a *sthūlātyaya* offence.

*gal te mngal na gnas pa shi bar gyur la / bud med ma shi na / dge slong la sbyor ba snga ma de nyid kyis nyes pa sbom por 'gyur ro /*<sup>57</sup>

(3) [If] both die, the monk will incur a *pārājika*.

*gnyis ga shi bar gyur na / dge slong pham par 'gyur ro /*<sup>58</sup>

(4) [If] both do not die the monk, by means of that prior preparation, will incur a *sthūlātyaya* offence.

*gnyis ga shi bar ma gyur na / dge slong la sbyor ba snga ma de nyid kyis nyes*

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<sup>56</sup>sTog, 'Dul ba, CA, 206a6–b1.

<sup>57</sup>sTog, 'Dul ba, CA, 206b1–2.

<sup>58</sup>sTog, 'Dul ba, CA, 206b2.

*pa sbom par 'gyur ro /*<sup>59</sup>

In terms of this first group of passages from the *MSV* that illustrate a monk's attempt to kill a pregnant woman, it is clear that the intended target must die in order for the act to be considered a *pārājika*. The Theravāda *Vinaya* also lists an example where the mother dies, but the fetus does not die included below. In the example from the Pāli, the intent is to cause an abortion (kill the fetus). As we will see below, the Theravādins record that the act constitutes a grave offence (*thullaccaya*), whereas the Mūlasarvāstivādins deem it a *pārājika* in the above example. Horner translates the example from the Theravāda *Vinaya* as follows:

At one time a certain man had two wives: one was barren, and one was fertile. The barren woman said to the monk who was dependent for alms on (her) family: “If she should bring for (a child), honoured sir, she will become mistress of the whole establishment. Look here, master, find an abortive preparation for her.”

“All right, sister,” he said and he gave her an abortive preparation. The mother died, but the child did not die. He was remorseful ... . “There is no offence involving defeat, monk, there is a grave offence,” he said.<sup>60</sup>

We see here a difference in the organization of passages illustrating *pārājika* three and abortion within these two *Vinayas*. Instead of limiting themselves to a discussion of abortion, like the authors/redactors of the Theravāda *Vinaya* have, the

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<sup>59</sup>sTog, 'Dul ba, CA, 206b2.

<sup>60</sup>Horner 1938–1966, 1: 144. See appendix one for the original Pāli in transliteration.

Mūlasarvāstivādins first illustrate examples where a monk is actively trying to kill a pregnant woman. In both cases, however, the implications are clear. Intent and success must both be present in order for the act to be considered a *pārājika*. The Tibetan *MSV* continues:

(5) [If] a monk, with the intention of killing the fetus, with the thought “I shall kill the fetus but not the woman,” massages (works in) a [pregnant] woman’s belly and if the fetus dies and the woman does not die, the monk will incur a *pārājika* offence.

*dge slong gis mngal na gnas pa gsad pa’i sems kyis “mngal na gnas pa gsad par bya’i / / bud med ni mi bya’o” snyam pas / bud med kyi dku mnyed par byed cing / gal te mngal na gnas pa shi bar gyur la / bud med ma shi na / dge slong pham par ’gyur ro /*<sup>61</sup>

Here the authors of the *MSV* present the first of two final examples of cases that elaborate on monastic involvement in homicide related to killing that which is in the womb. The last two examples listed in the Theravāda *Vinaya* involve a woman asking a monk for an abortive preparation.<sup>62</sup> In the first case the monk tells her to destroy it,<sup>63</sup> and in the second case the monk tells a pregnant woman to scorch herself in order to

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<sup>61</sup>sTog, *’Dul ba*, CA, 206b2–4.

<sup>62</sup>Horner 1938–1966, 1: 145.

<sup>63</sup>Horner translates *maddassu* as destroy. She lists as alternative translations crush or bruise (Horner 1938–1966, 1: 145 n. 1). These alternative translations better accord with what is found in the Tibetan *MSV*.

cause an abortion.<sup>64</sup> The scorching story is absent from the Mūlasarvāstivādin account. The Mūlasarvāstivādin examples lack some of the detail included in the Theravāda *Vinaya*. It does not appear that the authors/redactors of the *MSV* included examples, for instance, in which a monk essentially tells a woman to “take care of it.” The Tibetan continues with one final case illustrating the necessity of intent for the act to constitute a *pārājika*:

(6) If the woman dies and the fetus does not die, the monk, by means of that prior preparation, will incur a *sthūlātyaya*.

*gal te bud med shi bar gyur la / mngal na gnas pa ma shi na / dge slong la  
sbyor ba snga ma de nyid kyis nyes pa sbom por 'gyur ro //*<sup>65</sup>

We can discern a marked difference in the presentation of monastic involvement within these two *Vinayas* in the organization and details of these passages. The authors/redactors of the Theravāda *Vinaya* have listed cases more or less in a linear fashion, focusing on abortion throughout, whereas the authors/redactors of the *MSV* group cases of abortion by the intended target of the act: first, with an intent to kill the mother and then with an intent to kill the fetus.

Moreover, there is a significant lack of detail in the Mūlasarvāstivādin account when compared to the Theravādin. We will see in the next chapter that many of the passages from the *MSV* that do not explicitly illustrate monastic involvement in abortion explain a woman’s motive for abortion. Here, however, we are given no motive for the abortion or the killing of a pregnant mother. The Pāli account refers to a

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<sup>64</sup>Horner 1938–1966, 1: 145.

<sup>65</sup>sTog, *'Dul ba*, CA, 206b4.

number of different methods for abortion in the list of seven passages illustrating *pārājika* three. Here the Mūlasarvāstivāda account only gives one method, *mnyed pa*, a massaging or working in of the pregnant belly.

Despite the differences in the structure and detail of these passages, the authors and redactors appear to be in general agreement on the topic of monks involving themselves in abortion. The authors/redactors of these two *Vinayas* clearly illustrate that intent is necessary in order for an act of homicide to be considered a *pārājika*, and also that the intended victim must die. Both place killing a fetus on par with killing a pregnant woman as illustrated by the outcome of the cases the authors/redactors present.

The above survey tentatively confirms what can be inferred from earlier and less informed arguments that Florida, Harvey, and Stott have made about Tibetan *Vinaya* literature, namely that Mūlasarvāstivādin<sup>66</sup> legal specialists agreed with the Theravādin view that abortion must be treated as homicide.<sup>67</sup> These six passages from the *MSV* also add weight to the view that Indian Buddhist monastic literature unanimously treats abortion as homicide.

One striking feature about the rule addressing homicide and the narratives which

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<sup>66</sup>These scholars actually mention the Sarvāstivāda tradition, but it is clear through Stott's citations that they mean the Mūlasarvāstivādins, in particular, those Mūlasarvāstivādins who worked with Tibetan texts.

<sup>67</sup>Florida writes: "Tibetan Buddhists early and contemporary, drawing on their *Vinaya* tradition, uniformly condemn abortion on the same scale of offensiveness as any other taking of life" (Florida 2000, 142).

illustrate that rule is that *mir chags pa* does not appear in any of the actual cases of abortion cited above. Here it is replaced by *mngal na gnas pa* (a fetus). This situation mirrors choices made in the Theravāda *Vinaya*, in which variations of the word *gabbha* (womb) are far more common than the word *manussaviggaha* (thing with human form) in passages related to abortion.

In addition to the rule addressing monastic involvement in homicide (*pārājika* three), word-commentary on and cases illustrating this rule, I know of two other instances of abortions, or perhaps miscarriages, included in narratives from the *Vibhaṅga* of the Mūlasarvāstivādins. The first story precedes the rule laid down by the Buddha against homicide, and is among the narratives which open the section of the *Vibhaṅga* dealing with *pārājika* three. I do not include this tale here for two reasons: a monk is not directly involved in the act of abortion in this narrative, and the Buddha does not lay down a ruling at its conclusion. Therefore, this story does not contain any explicit elaboration on *pārājika* three.

The second story is found in the *saṅghāvaśeṣa* section of the Mūlasarvāstivāda *Vibhaṅga*. It illustrates the eighth *saṅghāvaśeṣa* offence concerning wrongfully accusing someone of a *pārājika* offence. Because this narrative does not illustrate monastic involvement in homicide, I will discuss it in detail in the next chapter, which will widen the scope of my discussion of passages in the *MSV* relevant to the topic of abortion to include examples not explicitly dealing with *pārājika* three.

## Chapter Conclusions

In this chapter I have offered a survey of passages explicitly related to abortion, as

found in the discussion of monastic involvements in homicide under the heading of the third *pārājika* rule in two extant *Vinayas*. Word-commentary in the *Vibhaṅga* clarifies the position of both the Mūlasarvāstivāda and Theravāda schools on abortion. Authors/redactors from both schools appear to have considered killing a human to be a *pārājika* offence even from the moment of conception. At the very least, that is the attitude recorded in their *Vinaya* literature. The authors/redactors of these two *Vinayas* structured their passages illustrating abortion contained in the discussion of *pārājika* three differently. The Mūlasarvāstivādin account lacks some of the detail found in the Theravāda *Vinaya* in terms of methods and motives. Despite differences in structure and detail, the overall consensus seems to be that monastic involvement in abortion was considered homicide in both schools and therefore deemed a *pārājika* offence.

In the next chapter I will move away from the discussion of *pārājika* three. Instead I will focus on three stories, extant in the Tibetan *MSV*, that include abortion in the narrative, but do not explicitly discuss monastic involvement in homicide.

### **Chapter Three:**

#### **Abortion in Narratives from *Vinaya***

In the previous chapters I demonstrated that the contemporary scholarly presentation of abortion in Indian monastic literature places the *MSV* in line with the Theravāda *Vinaya* based upon one rule from the *Prātimokṣa Sūtra*. Despite differences in the structure of the third *pārājika* rule and its word-commentary this conclusion seems accurate. If we consider *Prātimokṣa* rules to be indicative of the attitudes of Buddhist authors/redactors, then both Mūlasarvāstivādin and Theravādin monastic authors/redactors seem to have considered monks who involve themselves in the act of abortion guilty of a *pārājika* offence (legally, as reprehensible as killing a human regardless of the stage of fetal development).

In his discussion of pregnant nuns, Shayne Clarke mentions the limitations of studying Buddhist monasticism based solely upon *Prātimokṣa* rules. Clarke argues that if we were to study Buddhist nuns on the basis of *Prātimokṣa* rules alone, and ignore the narrative context of such rules, we would probably not conceive of a place for motherhood within Buddhist monasticism, even though, according to Clarke, “The narratives of the various *vinayas* preserve a trans-sectarian or trans-*nikāya* openness to the ordination of pregnant and nursing mothers.”<sup>1</sup> In order to give a balanced presentation of any issue within *Vinaya* we can no longer limit ourselves to studying *Prātimokṣa* rules alone. We must also investigate the narratives which put these rules into context.

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<sup>1</sup> Clarke 2014a, 146–147.

Moving away from my discussion of *pārājika* three, in this chapter I investigate similarities and differences between narratives involving abortion in different Indian Buddhist monastic codes. Nuns have a special relationship with laywomen in stories related to abortion in many of the extant *Vinayas*. A narrative frame involving husbands with two wives, found in different locations within the Theravāda *Vinaya* and the *MSV*, depicts a woman using an abortive preparation to protect her status in the household. Although tales which include abortion in *Vinaya* are thematically similar to parallel stories found in other monastic codes, we find significant variation in their structure. For example, in contrast to their Theravādin counterparts, the authors/redactors of the *MSV* distance the monastic community from the act of abortion.

### **The Unfaithful Wife:**

#### **Adultery and Abortion in *Vinaya***

Two stories in the Tibetan *MSV* involve the abortions of laywomen who cheat on their husbands. Wives in such narratives terminate unwanted pregnancies (the results of their infidelity) in order to avoid mistreatment from their husbands. The voices behind these tales portray women who resort to abortion in a negative light. Women in these stories have abortions to cover up their bad behaviour and escape the wrath of their husbands.

The first example, found in a story from the *Vibhaṅga* of the Tibetan *MSV*,<sup>2</sup> centres on three main characters: two brothers named Sena and Upasena, and Sena's

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<sup>2</sup> sTog, 'Dul ba, CA, 168a4–180a4.

wife.<sup>3</sup> It is well known that the Tibetan Canon contains the least abridged versions of many narratives. The story of Sena and Upasena is no exception. The passage spans twelve folios and provides backstory for the *Upasena Sūtra*,<sup>4</sup> a *Sūtra* which includes a charm against snake bites, extant in Pāli and Tibetan (in the *Bhaiṣajyavastu*).<sup>5</sup> The passage functions as one of the framing stories for *pārājika* three in the Tibetan Mūlasarvāstivādin *Vibhaṅga* but does not appear to be extant in the Theravādin *Vibhaṅga*.

In this narrative, set in Śrāvastī,<sup>6</sup> Sena (*sde pa*) leaves his wife in the care of his younger brother Upasena while he goes away on business.<sup>7</sup> While Sena is away, his wife makes several attempts at seducing Upasena.<sup>8</sup> Finally, Upasena has sex with

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<sup>3</sup> Jampa Losang Panglung discusses this story in detail in two locations and provides summaries: Panglung 1981, 128 and Panglung, 1980, 66–71.

<sup>4</sup> The narrative from the *Vibhaṅga* provides the origin story for both the monk Upasena and the poisonous snake which kills him in the *Upasena Sūtra*. For more on the *Upasena Sūtra*, see Waldschmidt 1959, 234–253.

<sup>5</sup> Panglung 1980, 66.

<sup>6</sup> sTog, 'Dul ba, CA, 168a4.

<sup>7</sup> sTog, 'Dul ba, CA, 169a4–169b1.

<sup>8</sup> Beginning at sTog, 'Dul ba, CA, 169b4, “Because the wife of Sena became immodest ...” (*sde pa'i chung ma de ngo tsha med par gyur nas ...*).

Sena's wife,<sup>9</sup> and Sena's wife becomes pregnant.<sup>10</sup> Abandoned by Upasena, who flees to become a monk,<sup>11</sup> Sena's wife then receives a purgative of the fetus (*mngal na gnas pa rlugs pa*) from a perfume merchant (*spos 'tshong*) before her husband's return.<sup>12</sup>

The narrative of the unfaithful wife having an abortion to hide her infidelity from her husband can be found in at least one other extant *Vinaya*, the Theravāda *Vinaya*. This trope first appears in one of seven examples illustrating circumstances in which monastic involvement in abortion constitutes a *pārājika* offence. I provide here both Horner's translation and Oldenberg's transliteration.

At one time a certain woman whose husband was living away from home became with child by a lover. She said to a monk who was dependent for alms on (her) family: "Look here, master, find me an abortive preparation."

"All right, sister," he said, and he gave her an abortive preparation. The child died. He was remorseful ... . "You, monk, have fallen into an offence involving defeat," he said.<sup>13</sup>

*tena kho pana samayena aññatarā itthi pavutthapatikā jārena gabbhinī hoti, sā*

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<sup>9</sup> *de nas nye sdes de pa'i chung ma rang gi khyim du khrid nas de dang lhan cig rtse bar byed / dga' bar byed / dga' dgur spyod par byed do //* (sTog, 'Dul ba, CA, 170b3).

<sup>10</sup> *de la mngal na gnas pa'i mtshan ma dag byung bar gyur ...* (sTog, 'Dul ba, CA, 170b3–170b4).

<sup>11</sup> sTog, 'Dul ba, CA, 171a3–171a4.

<sup>12</sup> sTog, 'Dul ba, CA, 172a5–172b4. My summary is heavily influenced by the summaries Panglung provides. See Panglung 1981, 128 and Panglung, 1980, 66–71.

<sup>13</sup> Horner 1938–1966, 1: 144.

*kulūpakam bhikkhum etad avoca : ingh' ayya gabbhapātanam jānāhīti. suṭṭhu bhaginīti tassā gabbhapātanam adāsi, dārako kālam akāsi. tassa kukkucam ahoṣi — pa — āpattiṃ tvam bhikkhu āpanno pārājikan ti.*<sup>14</sup>

The woman in this example from the Pāli *Vinaya*, like Sena's wife, has an abortion after becoming pregnant while her husband is away. The Tibetan *Vibhāṅga* of the *MSV* does not seem to contain this passage in the discussion of monastic involvement in abortion/homicide. The authors/redactors of the Pāli canon employ an almost identical narrative frame, in another story, this time from the *Cullavagga*, involving a nun and a begging-bowl.<sup>15</sup> The story opens with the same problem: “Now at that time a certain woman whose husband had gone away from home became with child by a lover”<sup>16</sup> (*tena kho pana samayena aññatarā itthi pavutthapatikā jārena gabbhinī hoti*).<sup>17</sup> This woman pursues the same course of action: “She, having caused abortion, spoke thus to a nun dependent for alms on (her) family ...”<sup>18</sup> (*sā gabbham pātetvā kulūpikam bhikkhunim etad avoca ...*).<sup>19</sup> The narrative continues with the woman asking a nun to take the fetus away in a begging-bowl, ultimately resulting in the Buddha's decree that

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<sup>14</sup> *Vin* III: 83.24–29.

<sup>15</sup> Horner 1938–1966, 5: 372 and *Vin.* II, 268–269.

<sup>16</sup> Horner 1938–1966, 5: 372.

<sup>17</sup> *Vin.* II: 268.23–24.

<sup>18</sup> Horner 1938–1966, 5: 372.

<sup>19</sup> *Vin.* II: 268.24–25.

“... a foetus should not be taken away in a bowl by a nun.”<sup>20</sup> A guilty nun is said to incur an offence of wrong doing (*dukkatassa*).<sup>21</sup>

Alternate versions of this story from the *Cullavagga* exist with some differences in texts from other *Vinayas* including the *Bhikṣuṇī-Prakīrṇaka* of the so-called Mahāsāṃghika-Lokottaravāda *Vinaya*<sup>22</sup> and the *Kṣudrakavastu* of the Tibetan *MSV*.<sup>23</sup> The authors/redactors of the Mahāsāṃghika-Lokottaravāda *Vinaya* omit the cheating-wife trope from their version of this story. Instead, this version opens with Sthūlanandā on her begging rounds, conveniently translated for us by Langenberg.

The Lord was staying in Śrāvastī. The nun Sthūlanandā was on begging rounds. She approached a great and superior household for alms.<sup>24</sup>

*Bhagavān Śrāvastīyam viharati / Sthūlanandā bhikṣuṇī piṇḍacāram aṇvantī / sā dāni aparam mahāntam kulam piṇḍāya praviṣṭā* /<sup>25</sup>

In the Mahāsāṃghika-Lokottaravādin version we cannot be sure if the laywoman in question had an abortion, miscarried, or gave birth to a stillborn child.

There, a stillborn (*lolagarbha*) male child [had been born] to a woman. She said to her, “Noble Lady! Take this child away!”<sup>26</sup>

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<sup>20</sup>Horner 1938–1966, 5: 372.

<sup>21</sup>Horner 1938–1966, 5: 372.

<sup>22</sup>See Roth 1970, §284 and §285.

<sup>23</sup>sTog, *’Dul ba*, THA, 212a7–213b2.

<sup>24</sup>Langenberg 2014, 172.

<sup>25</sup>Roth 1970, §284.1–2.

<sup>26</sup>Langenberg 2014, 172.

*tamhi striyāya lola-garbho dārako / sādān āha / ārye imam dārakam ujjehi* <sup>27</sup>

The authors/redactors of the Mahāsāṃghika-Lokottaravādin version of this passage leave room for ambiguity regarding intent. For instance, we know *lolagarbha*, in the above case, refers to a male child because the antecedent, *dāraka* (male child),<sup>28</sup> is masculine. However, it is unclear if the woman had an abortion, miscarried, or gave birth to a stillborn child, since the compound Langenberg takes to mean “stillborn,” *lolagarbha*, literally parses as agitated/shaken (*lola*)<sup>29</sup> baby/embryo/fetus/womb etc. (*garbha*).<sup>30</sup> The translation “stillborn” might imply, in English, an accidental or unfortunate circumstance. The Sanskrit compound, a *garbha* that is/was *lola*, remains more open-ended as an “agitated-fetus,” and grammatically might refer to the result of an abortion, miscarriage, or stillbirth.

As is usually the case, the Mūlasarvāstivādin version of this story, from the *Kṣudrakavastu* of the Tibetan *MSV*, contains more detail than the corresponding Mahāsāṃghika-Lokottaravādin or Theravādin versions. The narrative opens as follows:

In Śrāvastī there was a certain householder [who was] rich [with] abundant wealth and prosperity. He took a wife of equal status. Together, they had sex. At a later time he went to a foreign land carrying goods. He said to his wife “Good

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<sup>27</sup>Roth 1970, §284.3–4.

<sup>28</sup>Monier-Williams 1899, s.v. *dāra*.

<sup>29</sup>Monier-Williams 1899, s.v. *√lul*.

<sup>30</sup>Monier-Williams 1899, s.v. *garbha*.

lady, although I will carry goods and go to another land, you must chastely guard the house without being disturbed.”

*mnyan du yod pa na khyim bdag gzhan zhig phyug cing nor mang ba longs  
spyod che ba 'dug ste / des rigs mnyam pa las chung ma zhig blangs te / de dang  
lhan cig rtse dga' yongs su spyod do / de dus phyi zhig na zong khyer nas yul  
gzhan du song ba dang / des chung ma la smras pa / bzang mo nga zong khyer  
te yul gzhan du 'gro yis / khyod ma g.yeng zhing bag yod par khyim srungs shig*  
<sup>31</sup>

Here the Tibetan contains a preliminary exchange not recorded in other versions. The householder tells his wife to chastely guard the house (*bag yod par khyim srungs shig*) while he is away on business, possibly foreshadowing the wife's impending infidelity.

The dialogue continues with the wife's reply:

“Yes sir, since I will do so, from time to time send news,” she said. He then proceeded to carry his merchandise to a foreign land and his wife became afflicted on account of (desiring) good food and clothing, and, since she had sex with another man, having become pregnant, she thought, “I will kill the fetus [or] my husband will arrive and do bad things.” With this thought in mind, she killed what was in the womb ...

*des jo bo legs te / de bzhin du bgyi yis dus dus su gtam springs shig ces smras so  
// de zong khyer te yul gzhan du song ba dang / de'i chung ma de gos dang zas  
bzang ba'i phyir nyon mongs pas gzir bar gyur te / des skyes pa gzhan zhig dang  
lhan cig tu yongs su spyad pas sems can dang ldan par gyur nas bsams pa /*

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<sup>31</sup>sTog, 'Dul ba, THA, 212a7–212b2.

*mngal na gnas pa gsad do // bdag gi khyo 'ongs pa dang ma rung bar byed do  
snyam nas / des mngal na gnas pa bsad ...*<sup>32</sup>

The Tibetan version from the *Kṣudrakavastu* contains details only implied in the Theravādin version. The wife is worried that her husband will mistreat her when he returns to find her pregnant: “I will kill the fetus [or] my husband will arrive and do bad things.”<sup>33</sup> Structurally, the account from the *Kṣudrakavastu* diverges from the non-Mūlasarvāstivādin versions. The authors incorporate dialogue which is not recorded in other accounts. The authors/redactors of the Tibetan *MSV* include explicit motivation for the wife to have an abortion, demonstrated through her thoughts. She is worried her husband will mistreat her if he arrives home and finds her pregnant with another man’s child.

In two versions of this passage we are introduced to a promiscuous housewife with a problem: an unwanted pregnancy—the result of an affair. The longer Tibetan narrative includes the woman’s introspective dilemma: “I will kill the fetus [or] my husband will arrive and do bad things.”<sup>34</sup> The women in the Theravādin and Mūlasarvāstivādin versions solve their problem by having an abortion, whilst in the Mahāsāṃghika-Lokottaravādin account we do not know if the pregnancy was the result of an affair or even if the woman had an abortion at all.

Although it does not appear likely that Buddhist authors/redactors looked favourably upon the actions of such women, we can conclude that, by including these

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<sup>32</sup>sTog, *'Dul ba*, THA, 212b2–212b4.

<sup>33</sup>sTog, *'Dul ba*, THA, 212b3–212b4.

<sup>34</sup>sTog, *'Dul ba*, THA, 212b3–212b4.

narratives, the authors/redactors of two of these three monastic codes present abortion as a means through which an unfaithful woman may hide her infidelity from her husband. A very real anxiety is reflected within these passages that abortion could be an avenue used by women of loose morals to avoid punishment for their adulterous behaviour.

The authors of the Theravāda *Vinaya* and the *MSV* appear to agree on the topic of abortion. Texts from both of these traditions record anti-abortion tendencies and employ at least one similar trope, that of an adulterous housewife having an abortion while her husband is away. We find an example of this trope, the example of Sena's wife, preserved in the Tibetan *Vibhāṅga*, but missing from the Pāli. Moreover, the Pāli *Vinaya* contains a narrative/commentary on *pārājika* three not preserved in Tibetan. In the case of a nun hiding a fetus in her begging-bowl, the Theravādin *Cullavagga*, Mūlasarvāstivādin Tibetan *Kṣudrakavastu* and Mahāsāṃghika-Lokottaravādin *Bhikṣuṇī-Prakīrṇaka* record parallel passages. Although the narrative is familiar, the Tibetan version is longer than, and contains details not recorded in, Pāli. The Mahāsāṃghika-Lokottaravādin version of this passage remains ambiguous regarding the events leading to the conception and subsequent loss of the housewife's pregnancy. These examples demonstrate the diversity of both the structure and content of narratives involving abortion recorded in at least three Indian *Vinaya* traditions.

In the subsequent sections of this chapter, I will demonstrate that women depicted as having abortions in narratives in *Vinaya* require assistance in both procuring an abortive preparation and covering up the act. Such characters find allies within the monastic community. It appears that Buddhist authors/redactors were

concerned that members of the monastic community might help facilitate or hide abortions.

### **The Role of Nuns in Abortion Narratives in *Vinaya***

Statues of the ram-headed fertility god Naigameṣa excavated at the Jetavana monastery indicate the possibility, if not probability, that Indian Buddhist *vihāras* functioned in some capacity as maternity care centres as early as the first century.<sup>35</sup> We do not know whether monasteries provided such care for laywomen visiting the monastery, laywomen living in the monastery, or nuns visiting or residing in the monastery. Despite our limited understanding of the medical relationship between Buddhist monasteries and Buddhist laity in classical India, Langenberg has recently suggested that stories within *Vinaya* indicate that “social constraints forced laywomen and nuns into relationships of collusion and mutual need and created a situation in which nuns were more likely than their male counterparts to engage in healing arts.”<sup>36</sup> Langenberg uses narratives involving abortion from *Vinaya* to demonstrate that nuns may have functioned as midwives in classical India. She cites the discussion of *pārājika* three in the Theravāda *Vinaya*, the fetus in the begging-bowl story from the Mahāsāṃghika-Lokottaravāda and Theravāda *Vinayas*, and a case involving a closed latrine from the same *Vinayas*.<sup>37</sup>

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<sup>35</sup>Rees and Yoneda 2013, 257–266.

<sup>36</sup>Langenberg 2014, 157.

<sup>37</sup>Langenberg 2014, 169–174.

I discussed the opening of the begging-bowl story in the previous section of this chapter. Two of three versions open with a wife cheating on her husband and having an abortion to cover up her adultery. The Mahāsāṃghika-Lokottaravādin version neither includes any discussion of conception, nor records whether the woman's loss of child was the result of an intentional abortion or miscarriage. As each of these narratives progress, the wife in question is presented with a further problem: how should she go about disposing of the remains of the abortion/miscarriage/stillbirth? The Mūlasarvāstivādin account from the *Kṣudrakavastu* reads:

After she killed that which is in the womb, she made it fall. Not knowing how and where to discard this, she remained with that thought weighing heavily on her heart, and Sthūlanandā entered the house for alms ... .

*des mngal na gnas pa bsad nas lung bar byas te / 'di ji ltar dor gang du dor mi shes te / rab tu sems khong du chud cing 'dug pa dang / sbom dga' mo khyim der bsod snyoms la zhugs ...*<sup>38</sup>

At this point the Tibetan story from the *MSV* catches up with the Mahāsāṃghika-Lokottaravādin version which opens with Sthūlanandā's arrival,<sup>39</sup> while the Theravādin version completely skips over this part of the narrative. All three include a dialogue between the woman and a nun, but there are subtle differences in the way in which the following dialogue is preserved in these three texts. The Theravāda version reads:

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<sup>38</sup>sTog, *'Dul ba*, THA, 212b4–212b5.

<sup>39</sup>Langenberg 2014, 172 and Roth 1970, §284.1–2.

“Come, lady, take away this foetus in a bowl.” Then that nun, having placed that foetus in a bowl, having covered it with her outer cloak, went away.<sup>40</sup>

*hand’ ayye imaṃ gabbhaṃ pattena nīharā ‘ti. atha kho sā bhikkhunī taṃ gabbhaṃ patte pakkhipitvā saṃghāṭiyā paṭicchādetvā agamāsi.*<sup>41</sup>

In the above version of this story, from the chapter on nuns in the *Cullavagga*, the nun requires neither coercion nor incentive to take away the fetus. The laywoman merely gives an instruction to the nun (dependent on her family for alms) and the nun obliges.

In the *Bhikṣuṇī-Prakīrṇaka*, however, Sthūlanandā puts up some resistance,

“Noble lady! Take this child away! Please take it, noble lady! I will give you something.”

“I will not take this away,” said the nun.

“I will give you anything and everything!” [the woman pleaded]. Greedy, [Sthūlanandā] replied,

“Put it in this bowl.” After covering it, she left.<sup>42</sup>

*ārye imaṃ dāraṃ ujjehi / āha / ujjhetu āryā / ahaṃ āryāye kiñcid dāsyāmi / āha / nāham enam ujjhāmi / āha / āryāya ahaṃ ettakaṃ caittakaṃ ca dāsyē / tāya lubdhāya uktam / iha pātre [de]hi / sā taṃ paṭicchādayitvā niṣkramati*<sup>43</sup>

Whether she was morally opposed to removing the fetus, weary of a legal restriction, or simply holding out for a better offer, here Sthūlanandā does not agree to remove the

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<sup>40</sup>Horner 1938–1966, 5: 372.

<sup>41</sup>*Vin.* II: 268.25–27.

<sup>42</sup>Langenberg 2014, 172.

<sup>43</sup>Roth 1970, §284.3–7.

fetus until the woman desperately offers her “anything and everything” (*ettakam caittakam ca*). The Tibetan version from the *Kṣudrakavastu* follows a similar pattern.

The *Kṣudrakavastu* reads:

“Good Lady, you must give alms,” she said. (*des mtshan bzangs ma bsod snyoms byin cig ces smras pa dang /*)

“Since I am tormented by unhappiness, alms cannot be given to anyone,” [the lady] replied, “so go away.” (*des bdag ni mi dga’ bas gzir bas bsod snyoms sbyin du su yang med kyis / bzhud ces smras pa dang /*)

“Good lady, is anyone dead?” she asked. (*des smras pa / mtshan bzangs ma mi shi ’am / gcig<sup>44</sup> med dam /*)

She replied, “Venerable woman, no one has died, but I have given birth to a baby. I do not know in what way should I discard it, and where I should discard it,” she said. (*des ’phags ma su yang ma shi mod kyi / bdag las bu zhig byung ste / ji ltar dor gang du dor ba bdag gis mi shes so zhes smras pa dang /*)

She asked, “Good lady, if I discard this baby for you, [will you] give alms?” (*des smras pa / mtshan bzangs ma de bdag gis dor na bdag la bsod snyoms sbyin nam /*)

“Venerable woman, I will give.” (*’phags ma gsol lo //*)

“Will you also give to [my] attending menial novice?” [she asked.] (*phyi bzhin ’brang ba’i dge slong ma la yang sbyin nam /*)

“I will give.” (*gsol lo //*)

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<sup>44</sup>The text reads “cig” (sTog, *’Dul ba*, THA, 212b6).

“Will you also give to the provost of the monastery?” (*dge skos la yang sbyin nam /* )

“I will give.” (*gsol lo //*)

“Excellent! I will discard it.” She put that [aborted fetus] into a large begging-bowl. Having carried it to an empty house she entered to discard it. (*legs kyis dor ro // des de lhung bzed chen por bcug ste / khang pa stong par khyer nas der dor ba la zhugs pa ...*)<sup>45</sup>

In the above version Sthūlanandā proposes the deal: “Good lady, if I discard this baby for you, [will you] give alms?” (*mtshan bzangs ma de bdag gis dor na bdag la bsod snyoms sbyin nam*).<sup>46</sup> Sthūlanandā trades favours for donations.

One further example of nuns hiding abortions concerns passages related to an enclosed privy. In his book *Family Matters in Indian Buddhist Monasticisms*, Clarke asks,

Should we consider the implications of a ruling making it an offense for nuns to make use of what seems to be an elevated or suspended latrine? This rule is said to have been brought about on the basis of lay criticism when a “rule-breaking” pregnant nun was seen aborting her own fetus.<sup>47</sup>

Clarke is referring to a passage extant in the Chinese translation of the Dharmaguptaka *Vinaya*.<sup>48</sup> I am aware of three other locations where similar passages are preserved: the

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<sup>45</sup>sTog, *'Dul ba*, THA, 212b5–212a2.

<sup>46</sup>sTog, *'Dul ba*, THA, 212b7–212a1.

<sup>47</sup>Clarke, 2014a: 168.

<sup>48</sup>T. 1428 (xxii) 930a9–15.

chapter on nuns in the *Cullavagga* in the Theravāda *Vinaya* and both the Sanskrit (Mahāsāṃghika-Lokottaravāda) and Chinese (Mahāsāṃghika) versions of the *Bhikṣuṇī-prakīrṇaka*.

In the narrative described by Clarke a “‘rule-breaking’ pregnant nun was seen aborting her own fetus.”<sup>49</sup> This detail differs in the other extant examples. The Theravāda *Vinaya* records,

Now at that time nuns relieved themselves in a privy; the group of six nuns caused abortion there. They told this matter to the Lord.<sup>50</sup>

*tena kho pana samayena bhikkhuniyo vaccakuṭiyā vaccaṃ karonti, chabbaggiyā bhikkhuniyo tatth’eva gabbhaṃ pātentī. bhagavato etam atthaṃ ārocesuṃ.*<sup>51</sup>

In the above passage the group of six nuns caused abortions in a covered privy. It is unclear whether the group of six caused abortions of their own fetuses, as in the case of the “rule breaking” nun in the Dharmaguptaka *Vinaya* who “was seen aborting her own fetus,” for other nuns, or for laywomen. In the Sanskrit version of this story in the *Bhikṣuṇī-prakīrṇaka*, a woman uses an enclosed privy as a dump for an aborted/ miscarried/stillborn fetus (*lolagarbha*):

The lord was staying at Śrāvastī. Those nuns used [closed] latrines that concealed their waste. A woman threw a stillborn fetus in a latrine.<sup>52</sup>

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<sup>49</sup>Clarke, 2014a: 168.

<sup>50</sup>Horner 1938–1966, 5: 387–388.

<sup>51</sup>*Vin.* II: 280.10–13.

<sup>52</sup>Langenberg 2014, 174.

*Bhagavān Śrāvastīyam viharati / tā dāni bhikṣuṇīyo onadha-varce varce-kuṭīye  
upaviśanti / varca-kuṭīye striyāya lola-garbho pratikṣipto* /<sup>53</sup>

Hirakawa's translation of this passage from the Chinese *Bhikṣuṇī-prakīrṇaka* is similar. But in Hirakawa's translation the enclosed latrine was built by a nun, a detail not included in the version above. Women dispose of fetuses there:

The Buddha was staying at Śrāvastī. At that time a bhikṣuṇī built a toilet which was circled by the walls. Some women brought fetuses and threw them into it.<sup>54</sup>

Unlike the Dharmaguptaka and Theravādin stories, in which nuns actively participate in performing abortions in a closed latrine, the Mahāsāṃghika and Mahāsāṃghika-Lokottaravādin versions depict women dumping fetuses which are not necessarily the product of abortions. In both Mahāsāṃghika and Mahāsāṃghika-Lokottaravādin examples, laypeople discover the discarded fetuses in the toilet. In the Sanskrit version (translated by Langenberg) someone exclaims "The female ascetics are giving birth in the latrine."<sup>55</sup> (*śramaṇikā varca-kuṭīyam prasūtā hi*).<sup>56</sup> In Hirakawa's translation of the Chinese version, the claim is that "The *śramaṇikā* (female Buddhist mendicants) seem to have thrown away fetuses that they aborted."<sup>57</sup> These two versions portray an unfortunate and somewhat graphic misunderstanding. By jumping to conclusions, the laity make bold accusations against the community of nuns, accusations of which the

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<sup>53</sup>Roth 1970, §285.1–3.

<sup>54</sup>Hirakawa 1982, 407.

<sup>55</sup>Langenberg 2014, 174.

<sup>56</sup>Roth 1970, §285.5.

<sup>57</sup>Hirakawa 1982, 407.

nuns found in the Dharmaguptaka and Theravāda versions are guilty. In the case of the enclosed latrine, Mahāsāṃghika or Mahāsāṃghika-Lokottaravādin authors/redactors appear to be uncomfortable portraying nuns as either giving birth or performing abortions in such spaces. It seems, however, that their Dharmaguptaka and Theravādin counterparts were not bothered by such portrayals.

An anxiety surrounding nuns' providing assistance to laypeople in procuring or hiding abortions is present in Buddhist monastic literature. Whether such fears were well founded remains unclear. However, cases like that of Sthūlanandā's large begging-bowl from the *Kṣudrakavastu* and the enclosed privy might imply that nuns were employed by laywomen to dispose of the evidence of their misdeeds through what Langenberg calls "relationships of collusion and mutual need."<sup>58</sup>

Perhaps the narrative implication of the abortion and disposal of a fetus in a begging-bowl in the *Kṣudrakavastu* was not that Sthūlanandā covers up murder, but that she assists a laywoman with her infidelity and reproductive concerns. When an observer sees Sthūlanandā disposing of the dead fetus in her bowl he does not accuse her of murder but of acting like a woman of high status and discarding [the fetus]:  
“*rigs dang ldan pa 'i bud med 'di 'dra ba 'i las byas te dor ro ...*”<sup>59</sup> Although nuns and laywomen in *Vinaya* play different social roles, they still interact woman to woman. Such interactions differ from the relationship between monks and laywomen.<sup>60</sup>

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<sup>58</sup>Langenberg 2014, 157.

<sup>59</sup>sTog, *'Dul ba*, THA, 213a3–213a4.

<sup>60</sup>Langenberg 2014, 178–182.

In conclusion, nuns are portrayed as assisting laywomen in issues surrounding abortion in at least three extant *Vinayas*. Although it is perhaps unfair to conclude based upon these stories alone that nuns functioned as midwives for laywomen in India, I agree with Langenberg and Damchö Diana Finnegan that nuns share a special relationship with female members of the lay community.<sup>61</sup> In *Vinaya*, female biological needs transcend the gap between renunciant and householder.

### **A Perfume Merchant in Place of a Monk:**

#### **Another Difference Between the Theravāda *Vinaya* and the *MSV***

Earlier in this chapter, I discussed the trope of the adulteress wife who hides her infidelity through abortion, found in multiple locations in the Theravāda *Vinaya* and at least once in the *MSV*. In some stories, nuns assist laywomen in covering up the evidence of their abortions. In this section I discuss monks' assisting women in procuring abortive preparations or administering abortions in *Vinaya* narratives.

In the cases found in the *Vibhaṅga* of the Theravāda *Vinaya* that illustrate monastic involvement in the practice of abortion,<sup>62</sup> a pregnant woman addresses a monk "... dependent for alms on (her) family ..."<sup>63</sup> (... *kulūpakaṃ bhikkūṃ etad avoca* ...) with the imperative "Look here, master, find me an abortive preparation"<sup>64</sup> (*inḥ* ')

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<sup>61</sup>Langenberg 2014, 178–182, and Finnegan 2009, 322–354.

<sup>62</sup>I have already discussed these examples in Chapter two (pages 44–45).

<sup>63</sup>Horner 1938–1966, 1: 144–145.

<sup>64</sup>Horner 1938–1966, 1: 144–145.

*ayya gabbhapātanam jānāhīti*).<sup>65</sup> In five out of the seven such cases from the Theravāda *Vibhaṅga* the monk obliges, resulting in either a *pārājika* or *thullaccaya* offence depending on the outcome and intent.<sup>66</sup> In the final two examples a monk does not find an abortive preparation for the woman but instead advises her to destroy (*maddassū*)<sup>67</sup> it or scorch (*tāpehi*) herself.<sup>68</sup>

Tibetan passages related to abortion in the *MSV* rarely use what appears to be a Tibetan translation of the word *garbhapātanam*. In the case of Sthūlanandā and her begging-bowl from the *Kṣudrakavastu*, for example, the authors/redactors merely employ the phrase “killing the fetus”<sup>69</sup> (*mngal na gnas pa bsad*). In contrast to the Theravādin examples, the cases illustrating *pārājika* three in the Tibetan *MSV* do not involve monks’ finding abortions or abortive preparations for laywomen. The Tibetan *Vibhaṅga* mentions only *mnyed pa*, a massaging [of the stomach], in cases illustrating *pārājika* offences resulting from the termination of pregnancy.<sup>70</sup>

The Tibetan term which most closely resembles *garbhapātanam* (literally a fall from the womb), translated by Panglung as *schwangerschaftsabbruch*<sup>71</sup> (a potion to terminate pregnancy), is *mngal na gnas pa rlugs pa*, a purgative of the fetus. I know of

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<sup>65</sup> *Vin.* III: 83.26.

<sup>66</sup> Horner 1938–1966, 1: 144–145.

<sup>67</sup> Horner 1938–1966, 1: 145.

<sup>68</sup> Horner 1938–1966, 1: 145.

<sup>69</sup> sTog, *’Dul ba*, THA, 212b4.

<sup>70</sup> sTog, *’Dul ba*, CA, 206a6–206b4.

<sup>71</sup> Panglung 1981, 128

only two examples of the phrase *mngal na gnas pa rlugs pa* in the Tibetan *MSV*, both found in the *Vibhaṅga*. In the first example, the case of Sena and Upasena (discussed at the beginning of this chapter), a perfume merchant (*spos 'tshong*) provides Sena's wife, pregnant with Upasena's child, with a *mngal na gnas pa rlugs pa*.<sup>72</sup> Given that this story falls under the section of the *Vibhaṅga* dealing with *pārājika* three, the rule addressing monastic involvement in homicide, we might expect the authors/redactors of the *MSV* to depict a laywoman seeking an abortive preparation from a monk, an exchange not uncommon in the Theravādin *Vinaya*. Instead, a perfume merchant and not a monk supplies a laywoman with a purgative of that which is in the womb.

It is not entirely surprising that Mūlasarvāstivādin authors present a perfume merchant instead of a monk as the purveyor of abortions. Other stories in the *MSV* portray perfume merchants as providers of less than reputable medical services. One such example involves Sthūlanandā learning what Langenberg translates as beauty lore (*bzhin bzang rig pa*) from the son of a perfume seller.<sup>73</sup> Moreover, Finnegan notes the association of perfume merchants with infidelity and women of high status in the *MSV*. Finnegan writes:

With their sanctioned contact with otherwise protected women, incense (or fragrance) sellers often seem to function in the *MSV* narratives much as did the milkman or the mailman for bored housewives in another social world.<sup>74</sup>

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<sup>72</sup>sTog, *'Dul ba*, CA, 172a5–172b4.

<sup>73</sup>Langenberg 2014, 166–167.

<sup>74</sup>Finnegan 2009, 253.

Just as my preliminary survey of the *MSV* yields no examples of monks actively providing laywomen with abortive preparations, I know of no example from the Theravāda *Vinaya* of a perfume merchant providing a laywoman with a purgative of the fetus.

Theravādin authors/redactors appear more comfortable depicting monks who assist in the practice of abortion in their monastic literature than their Mūlasarvāstivādin counterparts. Although both traditions portray nuns' hiding abortions on behalf of laywomen, and both provide rules demonstrating that abortion equates to homicide, Mūlasarvāstivādin authors seem reluctant to record stories in which monks procure abortions in their narratives. In the Tibetan *MSV* we find a perfume merchant where we might expect a monk.

A comparison of passages related to abortion in these two extant *Vinayas* uncovers textual agreement in principle. Mūlasarvāstivādin and Theravādin authors/redactors record that monastic involvement in abortion constitutes homicide. Both cast laywomen who have abortions in an unflattering light. The methods by which the authors/redactors present this message to their readers, however, vary significantly. Both traditions cast nuns in roles in which they assist women who have abortions, but the authors/redactors of the Theravāda *Vinaya* appear more comfortable depicting monks helping women have abortions than their Mūlasarvāstivādin counterparts.

### **Husbands With Two Wives**

I mentioned in the preceding section that I am aware of two stories, extant in the Tibetan *Vibhaṅga* of the *MSV*, which include the phrase *mngal na gnas pa rlugs pa*.

This phrase appears to be used in similar cases as those in which Horner and McDermott favour the translation “abortive preparation” as opposed to simply “abortion” for the term *gabbhapātana*.<sup>75</sup> In addition to the story of the brothers Sena and Upasena, the phrase *mngal na gnas pa rlugs pa* appears in a narrative from *saṅghāvaśeṣa* eight in the Tibetan Mūlasarvāstivāda *Vibhaṅga*. The narrative involves a householder who takes a second wife after his first wife fails to become pregnant. Four analogous stories are also found within the Theravāda *Vinaya*, as part of the framing of *pārājika* three. Horner translates the first case as:

At one time a certain man had two wives: one was barren, and one was fertile. The barren woman said to the monk who was dependent for alms on (her) family: “If she should bring forth (a child), honoured sir she will become mistress of the whole establishment. Look here, master, find an abortive preparation for her.”

“All right, sister,” he said, and he gave her an abortive preparation. The child died but the mother did not die. He was remorseful ... “... defeat,” he said.<sup>76</sup>

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<sup>75</sup>For examples of the translation of *gabbhapātana* as “abortive preparation,” see Horner, 1938–1966, 1: 144–145; and McDermott 1998, 167: “In two cases described at *Vinaya* III.84, a woman who is pregnant turns to a monk for help in procuring an abortive preparation.”

<sup>76</sup>Horner 1938–1966, 1: 144.

Three cases with the same narrative frame follow. In the first, the mother dies but the child does not,<sup>77</sup> in the next both die,<sup>78</sup> and in the last case neither die.<sup>79</sup>

Drawing upon the above examples from the Theravāda *Vinaya*, Harvey, Keown, and McDermott claim that protecting one's status in the household is a possible motivation women may have had in administering an abortive preparation to a rival in classical India.<sup>80</sup> The *MSV* provides us with one further example where similar events play out,<sup>81</sup> although events in the *MSV* take a different turn after the householder's second marriage. The narrative reads:

O monks, previously at a past time in a certain village [there was] a wealthy householder endowed with abundant wealth and great prosperity. He possessed the wealth of Vaiśravaṇa, rivalled the wealth of Vaiśravaṇa.

*dge slong dag sngon byung ba 'das pa'i dus na ri brags shig na khyim bdag  
phyug pa / nor mang ba / longs spyod che ba / yongs su bzung ba / yangs shing  
rgya che ba / rnam thos kyi bu'i nor dang ldan pa / rnam thos kyi bu la nor gyis  
'gran pa zhig 'dug ste*<sup>82</sup>

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<sup>77</sup>This case is ruled a *thullaccaya* offence (Horner 1938–1966, 1: 144).

<sup>78</sup>This case is ruled a *pārājika* offence (Horner 1938–1966, 1: 145).

<sup>79</sup>This case is ruled a *thullaccaya* offence (Horner 1938–1966, 1: 145).

<sup>80</sup>Harvey 2000, 311–315, Keown 1995, 95–97 and McDermott 1998, 169–172.

<sup>81</sup>Beginning at sTog, 'Dul ba, CA, 395b7.

<sup>82</sup>sTog, 'Dul ba, CA, 395b7–396a2.

He took a wife of equal status. They made love together, played and had sex.<sup>83</sup>

Although they made love together, played and had sex, to him there was neither a son nor a daughter.

*des rigs mnyam pa las chung ma blangs nas / de de dang lhan cig rtse bar byed /  
dga' bar byed / dga' dgur spyod par byed do / / rtse bar byed / dga' bar byed /  
dga' dgur spyod par byed pa de la bu yang med bu mo yang med nas /<sup>84</sup>*

He thought, “my household is endowed with great wealth, [but] I am without a son or daughter. Since I have no son, when I pass away all of the wealth will be possessed by the king ... .”

*de 'di snyam du bdag gi khyim nor du ma dang ldan na / bdag la bu yang med  
bu mo yang med pas / bdag 'das nas bu med pa'i phyir nor thams cad rgyal pos  
dbang du byas par 'gyur ro ...<sup>85</sup>*

This story from the *MSV* provides greater detail than the cases from the Theravāda *Vinaya*.<sup>86</sup> As the narrative continues, the householder's wife finds him in distress. The two work out the problem (that he has no heir) and conclude that he should take a second wife.<sup>87</sup> In the *MSV*, the authors/redactors provide us with the reason this

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<sup>83</sup>Frequently translated by Gregory Schopen as: “He played, enjoyed himself and made love with her.” For example, see Schopen 2000, 109.

<sup>84</sup>sTog, 'Dul ba, CA, 396a2–396a3.

<sup>85</sup>sTog, 'Dul ba, CA, 396a3–396a6.

<sup>86</sup>Horner 1938–1966, 1: 144–145.

<sup>87</sup>sTog, 'Dul ba, CA, 396a4–396b7.

householder has two wives and include the husband's incentive for desiring a son: he requires an heir to his fortune lest his wealth go to the king upon his death.

As the story continues, the householder takes a second wife.<sup>88</sup> Here is where the story begins to diverge from the shorter cases found in the Theravāda *Vinaya*. In the *MSV*, the new bride has two sons and a daughter.<sup>89</sup> The householder is exceedingly happy and begins to favour the new bride.<sup>90</sup> In contrast to the cases from the Theravāda *Vinaya*, the first wife does not sabotage the second wife. She is, however, jealous of the special treatment the householder gives his new bride. Then his first wife, now jealous, becomes pregnant.<sup>91</sup> The householder is elated and offers the future son of his first wife control of the household.<sup>92</sup> Her reply is telling for our purposes here.

The wife said, “Āryaputra, if your bride does not purge (*rlugs par ma bgyis*) the fetus by means of a purgative (*mngal na gnas pa rlugs par bgyi ba'i tshul gyis*), then this son will become master of the house.”

*chung mas smras pa / “rje'i sras gal te khyod kyi bag sar gyis mngal na gnas pa rlugs par bgyi ba'i tshul gyis rlugs par ma bgyis na / khye'u 'di khyim gyi bdag por 'gyur ro” //*<sup>93</sup>

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<sup>88</sup>sTog, 'Dul ba, CA, 396b7.

<sup>89</sup>sTog, 'Dul ba, CA, 397a1.

<sup>90</sup>sTog, 'Dul ba, CA, 397a1–397a3.

<sup>91</sup>sTog, 'Dul ba, CA, 397a3–397a4.

<sup>92</sup>sTog, 'Dul ba, CA, 397a4–397a5.

<sup>93</sup>sTog, 'Dul ba, CA, 397a5–397a6.

The roles in this version are reversed from the examples in the Theravāda *Vinaya* mentioned above. In this case, the previously barren wife becomes pregnant and is worried that the new bride will administer an abortive preparation. In the Chinese translation of this passage the wife does not express a fear of an abortive preparation specifically, but instead says that the new bride might have something else in mind.<sup>94</sup> The householder tells his wife to be quiet<sup>95</sup> and a son is born without complications.<sup>96</sup> Mūlasarvāstivādin authors/redactors, like their Theravādin counterparts, include the protecting of one's status in the household as a possible motivation for a co-wife to administer a purgative of a fetus to her rival. Theravādin authors/redactors record this motivation within their discussion of monastic involvement in homicide. Their Mūlasarvāstivādin counterparts once again seem hesitant to portray monks assisting in abortions. Instead, the authors/redactors of the *MSV* include “a purge of the fetus” as a hypothetical anxiety expressed by a wife, struggling against her co-wife for the attention of their husband. The Mūlasarvāstivāda authors/redactors do not mention any character seeking monastic assistance in procuring an abortive preparation in this narrative.

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<sup>94</sup>Dr. Fumi Yao has my sincere thanks for bringing this Chinese passage to my attention and explaining it to me. T. 1442 (xxiii) 698c11.

<sup>95</sup>sTog, 'Dul ba, CA, 397a6–397a7.

<sup>96</sup>sTog, 'Dul ba, CA, 397a6.

### Chapter Conclusions

In this chapter I focused on abortion in narratives from Buddhist monastic codes that do not explicitly address homicide. Comparing stories involving abortion from a number of extant *Vinayas* uncovers thematic similarities across stories from this genre. Laywomen in these tales have abortions to hide their infidelity from their husbands. Buddhist authors depict nuns as having a special relationship to laywomen, helping them in sensitive matters specific to their gender, such as disposing of aborted, miscarried, or stillborn fetuses. In some narratives, laywomen use abortive preparations or purgatives against rivals to protect their status in a household. Although passages related to abortion in extant Indian monastic codes such as the *MSV* and the Theravāda *Vinaya* explore similar themes, such passages vary in structure and organization. For example, although both schools depict nuns as helping laywomen hide abortions, Mūlasarvāstivādin authors, unlike their Theravādin counterparts, seem reluctant to include narratives in which monks aid laywomen in procuring abortions or abortive preparations in their *Vinaya*. Although both schools employ similar narrative frames and themes in a number of stories from their monastic literature, the stories themselves, preserved in differing locations, are far from identical.

## **Chapter Four:**

### **Conclusions**

Previous studies of abortion in Indian Buddhist monastic literature have been less than comprehensive, privileging Pāli sources or drawing comparisons between schools based mostly on one *Prātimokṣa* rule alone, one which deals primarily with homicide not abortion.<sup>1</sup> Although I have in no way discussed all examples of passages related to abortion from the *MSV*, in this thesis, I compared and contrasted a number of passages related to abortion from the Theravāda *Vinaya* with examples from the *MSV* and other extant *Vinayas*. I hope that, at the very least, my efforts here serve as a jumping off point for future investigations of attitudes towards abortion in Indian Buddhist monastic literature. In this chapter, I provide an overview of the evidence and conclusions presented within this thesis. This chapter ends with general conclusions followed by a section on notes for further research, wherein I explore the possibility of including epigraphical sources in a discussion of Indian Buddhist attitudes towards abortion.

### **Chapter Summaries**

In Chapter One, I looked at previous approaches which scholars including Florida, Harvey, Keown, Ling, McDermott and Stott have used to study abortion in Indian Buddhist monastic literature. Scholars have most commonly looked at cases of abortion in *Vinaya* literature with one of two goals: either to seek a middle way

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<sup>1</sup> Stott 1992, 173–174 and 181 n. 7; Harvey 2000, 313–314 and 328; Florida 2000, 328.

perspective on the contemporary pro-life versus pro-choice debate in the West or to read passages from *Vinaya* with an historical lens.

Both of these approaches fail to present a complete picture of the attitudes of Buddhist monastic authors/redactors towards abortion. Previous surveys of passages related to abortion privilege Pāli sources and assume based upon one piece of evidence (*pārājika* three) that Mūlasarvāstivādin sources agree with perspectives present in the Theravāda *Vinaya*, since both are thought to preserve the early common stock of Indian Buddhist teachings.

Chapter One started with a look at *pārājika* three in several extant *Vinayas*. Drawing heavily upon the work of Agostini, and analyzing carefully vocabulary used in this *prātimokṣa* rule, I concluded that, on the basis of the third *pārājika* rule alone, it is impossible to claim that Buddhist monastic authors/redactors uniformly condemned abortion at any stage of fetal development.

In Chapter Two, I discussed word-commentary on the terms *manussaviggaha* in the Theravāda *Vinaya* and *mir chags pa* in the *MSV*, cases that illustrate *pārājika* three from the same *Vinayas*, relevant writings by Buddhaghosa<sup>2</sup> and Vasubandhu,<sup>3</sup> Buddhist notions of conception,<sup>4</sup> Indian Buddhist embryologies,<sup>5</sup> and a passage setting the minimum age for ordination at twenty by conception and not birth from the

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<sup>2</sup> McDermott 1998, 164.

<sup>3</sup> Florida 2000, 139.

<sup>4</sup> Harvey 2000, 311; Kritzer 2009, 76 and 81; Wijesekara 1945, 89–90; Garrett 2008, 26 and 29.

<sup>5</sup> Kritzer 2009, 77–78 and 81.

Theravāda *Vinaya*.<sup>6</sup> Although they seem to agree in principle, the authors/redactors of the Theravāda *Vinaya* and the *MSV* structured and organized their passages illustrating abortion and *pārājika* three differently. For example, the Mūlasarvāstivādin account lacks some of the detail found in the Theravāda *Vinaya* in terms of methods and motives. Despite differences in structure and detail, the overall consensus seems to be that monastic involvement in abortion was considered homicide in both schools, and that intentional and successful acts of abortion constituted a *pārājika* offence.

In no way am I claiming that all Indian Buddhist authors considered abortion at any stage of the development of the fetus murder. In fact, Agostini discusses two Buddhist authors, Sunyaśrī and Jayarakṣita, who record that in order for killing a fetus to be considered homicide the fetus must have developed the five branches (limbs).<sup>7</sup> According to these two authors, to whom training manuals for novices are attributed, killing a *kalala* (a fetus at the earliest stage of development) would not constitute a breach of the precept for novices against taking a human life, since the *kalala* has not yet developed the five limbs. Agostini claims that such interpretations may reflect another (likely Mahāsāṃghika or related textual tradition's) perspective on the vocabulary used in *pārājika* three.<sup>8</sup> However, there is currently little evidence available on which to base such a claim.

In Chapter Three, I discussed similarities and differences between abortion narratives in *Vinaya* materials unrelated to *pārājika* three. Stories involving abortion

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<sup>6</sup> Horner 1938–1966, 4: 120.

<sup>7</sup> Agostini 2004, 63–66.

<sup>8</sup> Agostini 2004, 66.

contain common themes in a number of *Vinayas*. Female characters have abortions to hide their infidelity from their husbands. Buddhist authors depict nuns helping laywomen in sensitive matters specific to their sex, such as disposing of aborted, miscarried, or stillborn fetuses. Characters in co-wife situations may use abortion as a method to slight rivals and protect their status in the household. Although both the Theravādins and Mūlasarvāstivādins employ similar narrative frames and themes in a number of parallel stories from their monastic literature, the stories themselves, preserved in differing locations, are far from identical. Mūlasarvāstivādin authors, for example, seem reluctant to include narratives in which monks aid laywomen in procuring abortions or abortive preparations in their *Vinaya*, a narrative which is included in more than one location in the Theravāda *Vinaya*.

### General Conclusion

The legal status of the unborn in Buddhist monastic literature is clear, at least for two Indian Buddhist traditions. The ruling regarding monastic involvement in homicide found within the *Prātimokṣa Sūtra*, word-commentary in the *Vibhaṅga*, and specific cases illustrating homicide in the *Vibhaṅga* all place killing the unborn on par with killing a human. I looked at three main pieces of evidence: (1) the third *pārājika* rule in the *Prātimokṣa Sūtra* addressing monastic involvement in homicide; (2) commentary on this rule found in the *Vibhaṅga* that elaborates on vocabulary used in the rule and provides examples illustrating when a *pārājika* offence has taken place in regards to the destruction of the unborn; and (3) stories that do not illustrate a *pārājika* offence but which include abortion in the narrative.

Based primarily on these three types of evidence, I concluded that the authors/redactors of the extant Indian *Vinayas* appear to agree on the illegality of abortion. In every case from *Vinaya* cited in this thesis, monastic involvement in abortion equates to homicide regardless of the stage of the embryo's development. Although the authors/redactors of Indian *Vinayas* seem to agree in principle, structurally their presentations of abortion in their textual traditions vary. While the implications of structural difference in monastic literature between Indian Buddhist traditions is not fully clear, we cannot assume that the Theravāda *Vinaya* wholly represents the earliest Buddhist teachings on abortion.

#### **Notes for Further Research: Epigraphy From Central Asia**

Gregory Schopen has demonstrated convincingly that we must not study Indian Buddhism solely on the basis of textual sources which record Buddhist ideals through the bias of Buddhist monastic authors. Schopen argues that in order to present a more complete picture of the religion as it was practiced, classical Indian Buddhism must also be studied based upon archaeological and epigraphical evidence.<sup>9</sup> Unfortunately there is very little evidence for the legal status of the unborn within extant epigraphical and archaeological materials of which I am currently aware. I know of but one epigraphical source which may be relevant to our discussion of Buddhist attitudes towards abortion.

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<sup>9</sup> For this discussion, see Schopen 1999.

This epigraphical source was discovered on January 28th, 1901, by Aurel Stein. Stein uncovered a cache of inter-fitting wedge shaped tablets<sup>10</sup> in room N.1 amongst the ruins of a Buddhist settlement along the Nīya river in present day Chinese Turkestan.<sup>11</sup> On these tablets inscriptions record the beating and killing of female slaves,<sup>12</sup> the beating of male slaves, the killing of women/women slaves, a case of a male dying by means of a beating,<sup>13</sup> payment for adopted children (presumably slaves),<sup>14</sup> as well as cases regarding pregnant cattle.<sup>15</sup> One inscription refers to the death of an unborn human. The following is a transliteration of the tablet (n.1: 9) provided by A.M. Boyer, E.J. Rapson, and P.S. Nobel.

*cozbo Soṃjakaṣa      dadavo*  
*mahanuava maharaya lihati      cozboSoṃjakaṣa maṃtra deti*  
*ṣa ca ahono iṣa Opgeya garahati yatha eḍaṣa stri Caḍhi Parsu Al̥yayaSaśvaraṣa*  
*ca agasitaṃti taḍitaṃti yo*  
*garbha vinaṭha triti divaṣa patama oḍitaṃti eḍa vivada śavathena sakṣīyena*  
*samuha anada prochidavo*

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<sup>10</sup>These tablets appear to be ancient envelopes—wedges fitted together and sealed, the name of the recipient inscribed upon the covering tablet and a message written on the under tablet in the Kharoṣṭhī script. For a diagram, see Stein 1907, 1: 348–349.

<sup>11</sup>Stein 1907, 1: 316–320.

<sup>12</sup>See Burrow (1940), inscription numbers: 20, 29, 53, 58, 63.

<sup>13</sup>Burrow (1940), inscription number 144.

<sup>14</sup>See Burrow (1940), inscription numbers: 11, 39, 45, 331.

<sup>15</sup>See Burrow (1940), inscription numbers: 7, 570 and 593.

*yathadharmena niḥ kartavya atra na paribuḥṣatu cavala hastagada iśa*

*visajidavo*

*Opgeya ...*<sup>16</sup>

The inscription is most likely recorded in Tokharian,<sup>17</sup> although a variety of languages were probably spoken along the Nīya river in the 3rd–4th centuries.<sup>18</sup> Burrow shortens his translation in order to make his work less repetitive. However, the omitted portions will be important for the present study. By comparing other translated inscriptions in *A Translation of the Kharosthi Documents from Chinese Turkestan* and the transliteration of those passages presented by Boyer, I reconstruct an entire translation of this inscription as follows:

opgeya — His majesty the king writes, he instructs the *cozbo* Tamjaka as follows: Opgeya complains that Cadhi, Parsu, Alyaya, and Rasvara carried off a woman of his and beat her. She suffered a miscarriage. On the third day they let her go back. This dispute must be carefully investigated by you in person and a decision made according to law; if you are not clear about it there, they must be sent here in custody.<sup>19</sup>

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<sup>16</sup>A.M. Boyer 1920–1929, 1: 3, also made available electronically by the Royal Asiatic Society of Great Britain and Ireland on “Silk Road Seattle” ([http://gandhari.org/a\\_documents.php](http://gandhari.org/a_documents.php)).

<sup>17</sup>Hansen 2004, 290–291.

<sup>18</sup>Hansen 2004, 290–291.

<sup>19</sup>Burrow 1940, 1–2.

This inscription contains instructions from the King of Kroraina to the *Cozbo*<sup>20</sup> Tamjaka regarding a legal dispute. In this dispute one of Opgeya's slave women suffers a miscarriage as the result of a beating from four people mentioned by name: Cadhi, Parsu, Alyaya, and Rasvara.

The King's order to the *Cozbo* in this case ends with the formulaic instruction that "This dispute must be carefully investigated by you in person and a decision made according to law; if you are not clear about it there, they must be sent here in custody."<sup>21</sup> A number of pieces of correspondences at Nīya end with this exact instruction or something similar. Not all cases, however, are to be settled in this manner. Other instructions given by the king include, to give but four examples:

- (1) "If you are not clear about it there, there will be a decision when they appear in our presence at the royal court."<sup>22</sup>
- (2) "If there is any dispute, there will be a decision in our presence."<sup>23</sup>
- (3) "You must inquire, and according as you the *cozbo* received oral instructions here at the king's court, in such manner recompense must be made to ..."<sup>24</sup>

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<sup>20</sup>A *cozbo* was likely a kind of governor general (Hansen 2004, 309 n. 14).

<sup>21</sup>*samuha anada prochidavo yathadharmena niṅe kartavya atra na paribujīṣatu cavala hastagada iṣa viṣajidavo* (Boyer 1920—1927, 1: 3, also made available electronically by the Royal Asiatic Society of Great Britain and Ireland on "Silk Road Seattle," [http://gandhari.org/a\\_documents.php](http://gandhari.org/a_documents.php)).

<sup>22</sup>See Burrow (1940), inscription number 3.

<sup>23</sup>See Burrow (1940), inscription number 19.

<sup>24</sup>See Burrow (1940), inscription number 63.

(4) “If you are not clear there, only oath and testimony are to be written in a letter and a letter of report sent here.”<sup>25</sup>

Based upon a close reading of this and other tablets found at Nīya we may conclude that the death of an unborn human most likely created a complicated situation for lawmakers in 3rd–4th century Kroraina. It is uncertain whether this case constituted a murder trial or was simply deemed a property dispute.<sup>26</sup> Regardless, by comparing the King’s instruction to the *Cozbo* on various legal matters recorded in the documents at Nīya it appears that this dispute required a certain amount of *finesse* on the part of the *Cozbo*. The king’s instruction does not simply contain the message “This dispute must be carefully investigated by you in person and a decision made according to law” but also the additional instruction “if you are not clear about it there, they must be sent here in custody.” The dispute was troublesome enough that it warranted that the assailants be brought before the king in the event it could not be solved locally.

Whether or not financial concerns were the primary motivation for Opgeya to seek recompense in this matter, we have here a clear example of men victimizing a pregnant woman. The unnamed woman in question was carried off and beaten by four named assailants and as a result lost her child. This woman does not follow the self-serving, cheating trope featured in many passages related to the death of the unborn in *Vinaya*. Further investigation into issues pertaining to women within the Nīya

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<sup>25</sup> See Burrow (1940), inscription number 308.

<sup>26</sup> Although the miscarried child’s mother was a slave we cannot be sure who the father was. Perhaps the parentage of the child created a problem for lawmakers at Nīya, pushing this matter beyond that of a mere property dispute.

documents might yield interesting results. I am sure future studies of these and similar documents will question many of the problematic portrayals of women found in the extant *Vinayas*.<sup>27</sup>

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<sup>27</sup>For example, inscription number 719 contains a dispute about rape (Burrow 1940).

**Appendix One: Oldenberg's Transliteration with Horner's Translation of the Seven Cases of Abortion, Elaborating on *Pārājika* Three, in the Theravāda *Vinaya***

1) *tena kho pana samayena aññatarā itthi pavutthapatikā jārena gabbhinī hoti, sā kulūpakam bhikkhum etad avoca : ingh' ayya gabbhapātanam jānāhīti. sutthu bhaginīti tassā gabbhapātanam adāsi, dārako kālam akāsi. tassa kukkucam ahosi — pa — āpattiṃ tvaṃ bhikkhu āpanno pārājikan ti.*<sup>28</sup>

At one time a certain woman whose husband was living away from home became with child by a lover. She said to a monk who was dependent for alms on (her) family: “Look here, master, find me an abortive preparation.”

“All right, sister,” he said, and he gave her an abortive preparation. The child died. He was remorseful ... . “You, monk, have fallen into an offence involving defeat,” he said.<sup>29</sup>

(2) *tena kho pana samayena aññatarassa purisassa dve pajāpatiyo honti, ekā vañjhā ekā vijāyini. vañjhā itthi kulūpakam bhikkhum etad avoca : sace sā bhante vijāyissati, sabbassa kuṭumbassa issarā bhavissati. ingh' ayya tassā gabbhapātanam jānāhīti. sutthu bhaginīti tassā gabbhapātanam adāsi, dārako kālam akāsi, mātā na kālam akāsi. tassa kukkucam ahosi ... pārājikan ti.*<sup>30</sup>

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<sup>28</sup> *Vin.* III: 83.24–29.

<sup>29</sup> Horner 1938–1966, 1: 144.

<sup>30</sup> *Vin.* III: 83.29–35.

At one time a certain man had two wives: one was barren and one was fertile. The barren woman said to the monk who was dependent for alms on (her) family: “If she should bring forth (a child), honoured sir, she will become mistress of the whole establishment. Look here, master, find an abortive preparation for her.”

“All right, sister,” he said, and he gave her an abortive preparation. The child died, but the mother did not die. He was remorseful ... . “defeat,” he said.<sup>31</sup>

(3) *tena kho pana samayena aññatarassa purisassa dve pajāpatiyo ... gabbhapātaṇaṃ adāsi, mātā kālam akāsi, dārako na kālam akāsi. tassa kukkuccaṃ ahosi — pa — anāpatti bhikkhu pārājikassa, āpatti thullaccayassā ‘ti.*<sup>32</sup>

At one time a certain man had two wives: one was barren and one was fertile. The barren woman said to the monk who was dependent for alms on (her) family: “If she should bring forth (a child), honoured sir, she will become mistress of the whole establishment. Look here, master, find an abortive preparation for her.”

“All right, sister,” he said, and he gave her an abortive preparation. The mother died, but the child did not die. He was remorseful ... . “There is no offence involving defeat, monk, there is a grave offence,” he said.<sup>33</sup>

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<sup>31</sup>Horner 1938–1966, 1: 144.

<sup>32</sup>*Vin.* III: 83.35–84.1.

<sup>33</sup>Horner 1938–1966, 1: 144.

(4) *tena kho pana samayena aññatarassa purisassa dve pajāpatiyo ...  
gabbhapātanam adāsi, ubho kālam akamsu — pa — ubho na kālam akamsu.  
tassa kukkuccam ahosi — pa — anāpatti bhikku pārākikassa, āpatti  
thullaccayassā ‘ti.’<sup>34</sup>*

At one time a certain man had two wives: one was barren and one was fertile. The barren woman said to the monk who was dependent for alms on (her) family: “If she should bring forth (a child), honoured sir, she will become mistress of the whole establishment. Look here, master, find an abortive preparation for her.”

“All right, sister,” he said, and he gave her an abortive preparation. He was remorseful ... . “There is no offence involving defeat, monk; there is a grave offence,” he said.<sup>35</sup>

(5) *tena kho pana samayena aññatarā gabbhinī itthi kulūpakam bhikkum etad  
avoca : ingh’ ayya gabbhapātanam jānāhīti. tena hi bhagini maddassū ‘ti, sā  
madditvā gabbham pātesī. tassa kukkuccam ... pārājikan ti.’<sup>36</sup>*

At one time a certain woman who was pregnant, said to a monk who was dependent for alms on (her) family: “Look here, master, find me an abortive preparation.”

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<sup>34</sup> *Vin.* III: 84.1–5.

<sup>35</sup> Horner 1938–1966, 1: 144–145.

<sup>36</sup> *Vin.* III: 84.5–9.

“Well then, destroy it sister,” he said. She, having destroyed it, caused abortion. He was remorseful. “... defeat,” he said.<sup>37</sup>

(6) *tena kho pana samayena aññatarā gabbhinī itthi ... tena hi bhagini tāpehīti, sā tāpetvā gabbhaṃ pātesi. tassa kukkucçaṃ ... pārājikaṃ ti.*<sup>38</sup>

At one time a certain woman who was pregnant, said to a monk who was dependent for alms on (her) family: “Look here, master, find me an abortive preparation.” “Well then, scorch yourself, sister,” he said. She, scorching herself, caused abortion. He was remorseful ... “... defeat,” he said.<sup>39</sup>

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<sup>37</sup>Horner 1938–1966, 1: 145.

<sup>38</sup>*Vin.* III: 84.9–11.

<sup>39</sup>Horner 1938–1966, 1: 145.

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