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## Sexual Misconduct in Early Buddhist Ethics:

### A New Approach

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# Sexual Misconduct in Early Buddhist Ethics: A New Approach

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## **Abstract**

In this paper, I argue that (1) rape is not covered by the concept of sexual misconduct prohibited by the Third Precept of the universal Five Precepts morality in Buddhism; and (2) many problematic issues surrounding this precept go away when we interpret it in this way.

## **The Definition of Sexual Misconduct**

Sexual misconduct (*kāmesu micchāra*), sometimes also translated as “misconduct in sensual pleasures,” is an immoral act prohibited by the Third Precept of the universal Five Precepts morality in Buddhism. In a nutshell, it means a sexual relationship with certain women deemed as sexually taboo objects. What follows is from some of the earliest canonical sources:

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*kāmesumicchācārī* [MN adds *kho pana* here.] *hoti. yā tā māturakkhitā piturakkhitā mātāpiturakkhitā bhāturakkhitā bhagini-rakkhitā ñātirakkhitā gottarakkhitā dhammarakkhitā sasāmikā sapaṇḍā antamaso mālāguḷaparikkhittāpi, tathārūpāsu cārittaṃ āpajjitā hoti.* (AN V 264, 283, 292; MN I 286, III 54)

He engages in sexual misconduct. He has sexual relations with women who are protected by their mother, father, mother and father, brother, sister, or relatives; who are protected by their Dhamma; who have a husband; whose violation entails a penalty; or even with one already engaged. (Bodhi, *Numerical* 1519)

The last four refer respectively to: (1) a woman protected by her co-religionists, (2) one already married or even promised to a husband at birth or in childhood, (3) one with whom sexual relations entail punishment, and (4) a girl who has been garlanded by a man as a sign of engagement. (1855)

If one reads the *sutta* cited above closely, one can notice that the Buddha appears to be addressing men alone. Based on such texts, Cabezón observes that the canonical sources “are silent on the question of what constitutes sexual misconduct for women” (468). Does this mean that women do not need to abstain from sexual misconduct, and that only men should be blamed for illicit relationships?

It seems not. If women were not obliged to abstain from sexual misconduct, they would have only four precepts out of five, and yet we have never heard in Buddhism of a Four Precepts morality for women. Furthermore, there is evidence showing that women are also morally responsible to abstain from sexual misconduct:

It is owing to the Blessed One that Mahāpajāpati Gotamī abstains from killing living beings . . . *from misconduct in sensual pleasures* . . . from wine, liquor, and intoxicants, which are the basis of negligence. (MN III 253; Ñāṇamoḷi and Bodhi 1102; emphasis added)

Bhikkhus, possessing five qualities, a female lay follower is deposited in heaven as if brought there. What five? She abstains from the destruction of life . . . *abstains from sexual misconduct* . . . abstains from liquor, wine, and intoxicants, the basis for heedlessness. (AN III 276; Bodhi, *Numerical* 848; emphasis added)

Therefore, I do not agree with Cabezón’s claim that “the doctrine of sexual misconduct is almost entirely directed at men” (469). On the contrary, I think what we need to find out is why the Buddha was silent on what sexual misconduct means for women, which I will attempt to do in the following section.

#### *Buddhaghosa’s input*

Buddhaghosa, as seen in his commentaries (Sv III 1048; Ps I 199; Spk II 145; As 98), explains the different roles of men and women in sexual misconduct, which Collins sums up as follows:

Many texts give two standard lists of ten kinds of women with whom intercourse is forbidden, which include young women “under protection” as well as “wives of other men”. They are *agamanīyavatthu*, literally “objects not to be gone to”: Forbidden Zones. The first gives Ten Women (*dasa*

*itthiyo*), all of whom are under some form of protection, and the second gives Ten Kinds of Wife (*bhariyā*) . . . .

For men all Ten Women and all Ten Wives are Forbidden Zones. In the case of women, however, there is precise limitation: all Ten Wives are guilty of wrongdoing if they have sex with a man, but only the last two of the list of Ten Women are. This is because they [i.e., the last two of the list of Ten Women] have been promised to a man, and are counted as “having a husband” (or “owner”, *sassāmikā*) . . . . (263-264; 265-266)

From Collins’s description above we can derive the following scheme:

1. If a woman is married, or is not yet married but has her sexuality already reserved for one particular man, the following principles apply:
  - (a) She is a forbidden object to all men except her partner; and all other men are forbidden objects to her;
  - (b) Therefore, if she has sex with a man other than her partner, both she and the man are guilty of sexual misconduct.
2. If she is single but her sexuality is protected by parents, etc., then the following principles apply:
  - (a) She is a forbidden object to all men unless her protectors permit; but no man is a forbidden object to her;
  - (b) Therefore, if she has sex with any man without the permission of her protectors, her partner would be guilty of sexual misconduct, but she remains innocent.

Does this interpretation really represent the Buddha's view? We cannot know for sure; but, if it does, it can lead to a plausible explanation of why the Buddha declined to specify women's role in sexual misconduct. How so? If Buddhaghosa is correct, what the Buddha had to say on women's role in sexual misconduct would be as follows: "Married women need to be faithful to their husbands, but single women can do whatever they like without any moral guilt." This kind of statement would have sent a mixed signal—discouraging one party (men) but emboldening the other (single women) at the expense of their respective protectors. The Buddha was too smart a teacher to convey such a message; this is probably why he highlighted only men when he talked about sexual misconduct. Again, because Buddhaghosa's input can explain this issue, there is a real possibility that his interpretation represents the Buddha's true intent somehow preserved in the commentarial tradition.

### *The third-party issue*

As seen above, the *sutta* definition of sexual misconduct entirely ignores the women's right to choose, and uses the existence of a specific third party—a husband, fiancé, or protector—to determine whether a woman is sexually taboo to a particular man, and thereby she happens to be an object of sexual misconduct for him. This early Buddhist position has led to two knotty issues:

1. With any illicit sexual relationship, it is the erring couples (especially the women) who must bear the brunt of all its undesirable consequences—unwanted pregnancies, social backlash, etc. The third parties (husbands, parents, etc.) would also suffer, but cer-

tainly not more than the women themselves (the wives, the daughters, etc.). Then, why should the third parties alone be described as the victims in the suttas?

2. The second issue is concerned with the moral status of rape. Rape happens when someone (usually a woman) is forced into having sex “by violence or the threat of violence” (“Rape”). When the definition of sexual misconduct ignores a woman’s right to say no, and focuses only on whether or not she is a sexually taboo object to certain men, we cannot avoid the conclusion that it is *not* sexual misconduct to rape a woman if she is not sexually taboo to the rapist, as in the case of a husband raping his wife, or of a father raping his unmarried daughter who has no other guardian beside her father. If those specific rape cases are not covered by sexual misconduct, should we conclude that Buddhism somehow provides a “license” for certain men to rape certain women? If we did, we would go against everything we know about the spirit of Buddhist morality.

One way to deal with those issues would be to “extend” the *sutta* definition by treating *sexual misconduct* as a blanket term covering all kinds of sexual misdeeds, and devising original elaborate systems of sexual ethics to deal with all diverse scenarios and settings of sex. This seems the path chosen by major Mahāyānist treatises like Aśvaghoṣa’s *Daśakuśalakarmapathanirdeśa*, Nāgārjuna’s *Mahāprajñāpāramitāśāstra*, Asaṅga’s *Viniścayasamgrahaṇī* and *Yogācārabhūmi*, and Vasubandhu’s *Abhidharmakośa* and *Bhāṣyaṃ* (see Cabezón 488–504, for details). The purpose of those great philosophers might be to “fill in many of the gaps left open in the earlier formulations” (487); but, in my opinion, they have unintentionally opened a can of doctrinal worms, and consequently made the Buddhist sexual ethics less relevant across diverse cultures and regions.



In contrast, some modern scholars have chosen to explain away the *sutta* definition as representing a sort of socio-cultural bias, which Cabezón calls the “gender ideology of Buddhist India,” and which he describes as follows:

When an unmarried girl is raped, it is recognized that she is injured in some way, but the *truly* injured party is not the girl but the girl’s father or guardian. Likewise, when a man commits adultery, it is the woman’s *husband* who is ultimately wronged. (64)

Cabezón in this case seems to be following Collins, who writes earlier: “Thus, as is often the case worldwide, sexual transgressions are committed by men not directly against a woman but against those who either ‘own’ her or are in some other way legally responsible for her” (268). Collett has also come to support this theory after studying certain types of non-consensual marriages recognized by various Hindu *dharmaśāstras* (155–156), but given that I do not agree with her interpretation of the aforesaid data (see the details in the appendix), I do not think her argument can be valid support for Collins’s theory in the Indian context.

On the other hand, I argue that there is a simpler and more robust way to solve those two issues mentioned above. And in doing so, there would be no need to override the *sutta* authority.

First of all, we should not forget that couples involved in illicit, mutually consenting relationships have chosen that path of their own accord; therefore, they are at least partly responsible for whatever suffering they have to bear afterwards. This is true even in the cases of underage sex, for the Buddhist law of karma does not recuse anyone for their conscious choices even if they happen to be young children. In contrast, when the third parties concerned (the husbands, the parents, etc.) have to suffer on account of those illicit relationships, their pain, their trouble, comes

from something not of their own doing, not from their choice. This is why, I argue, only third parties are designated as victims of sexual misconduct.

Secondly, about rape, I argue that the original Pāli term *kāmesu micchācāra* (lit. “misconduct in sensual pleasures”) is not a blanket term covering all kinds of sexual misdeeds, but a euphemism referring to a specific kind of sexual misconduct, i.e., one that victimizes a particular third party even though carried out with mutual consent. This is why the *suttas* define all sexually taboo women in terms of relevant third parties. In contrast, rape victimizes an unwilling second party (usually a woman). Therefore, rape should be considered apart from the type of sexual misconduct prohibited by the Third Precept. (Henceforth, I would use the term *sexual misconduct* to refer to the specific kind of misdeed prohibited by the Third Precept.)

However, there can be scenarios where rape and sexual misconduct overlap, and we can describe the relationship between the two categories as follows:

1. When a man has mutually consenting sex with a woman who is sexually taboo to him, this is sexual misconduct, not rape.
2. When a man rapes a woman who is sexually taboo to him, this is rape as well as sexual misconduct.
3. When a man rapes a woman who is not sexually taboo to him (e.g., a husband raping his wife), this is *only* rape, not sexual misconduct.

Conversely, we should also consider male rape. If we remember that men, married or not, are not sexually taboo objects, we arrive at the following scheme:

1. When a man has mutually consenting sex with another man, this act is neither rape nor sexual misconduct.

2. When a man is raped by a woman who is married to another man, she commits rape as well as sexual misconduct (by virtue of being unfaithful to her husband).<sup>2</sup>
3. When a man is raped by another man, by his own wife, or by a single woman who has protectors like the parents etc., this act is only rape, not sexual misconduct.

If rape is not covered by the Third Precept, how should we place the former in the Five Precepts scheme? I answer: rape should be in the category of *theft* prohibited by the Second Precept, for the term referring to theft in Pāli is *adinnādāna*, literally meaning “taking something not given,” a sense that correctly reflects the nature of rape.

Again, if rape is deemed as a sort of theft, sexual misconduct also appears of the same kind, for the latter involves, for instance, stealing another man’s wife or stealing another couple’s daughter, etc. Then, why should the latter be treated separately in the Five Precepts scheme, whereas rape is not?

I agree that sexual misconduct is somewhat similar to theft, but there is an important difference. It seems that Early Buddhist ethics does not view a given transaction as theft if it is carried out with mutual consent (i.e., *dinnādāna* “taking what is given”); if the giver does not have the right to carry out the aforesaid transaction and yet still goes ahead, it is his or her problem, not the recipient’s:

In an account recorded at (*Vin* III 65; Horner 1: 108–109), several monks were offered mangoes by the guards of a

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<sup>2</sup> We may be reluctant to recognize that women can rape men, but this is only because of the stereotypical assumptions that “Women’s ‘weaker’ physical stature, and thus presumed inability to overpower men, means compelled penetration cannot or does not take place” and “Men value and enjoy sex and so view all sexual opportunities with women as positive.” (Weare et al. 13; see also Weare).

mango garden. The monks thought that those guards had the right only to protect the garden, not to give mangoes away, so they scrupulously refused to accept. When they told the Buddha about it afterward, the Buddha did not bother to check if the guards really had the legal right to donate in secular law but simply stated, “It is no offense as far as the guardian’s offering is concerned.” (Pandita, “*Intellectual*” 619)

Therefore, if sexual misconduct were counted as a sort of theft, it would follow that whereas a married woman willingly involved in adultery would be guilty of sexual misconduct, her lover would *not* be; this implication would outright contradict the *sutta* definition. This is why, I argue, sexual misconduct cannot be counted, unlike rape, as a kind of theft, but has to be given a separate category in the Five Precepts scheme.

To sum up, the Third Precept prohibiting sexual misconduct possesses a unique characteristic. When compared with other precepts prohibiting certain acts that hurt immediate second parties (i.e., killing, stealing, and lying hurt the killed, the proprietor, and the gullible listener, respectively), or with the precept prohibiting the kind of act that hurts oneself (e.g., doing drugs), the Third Precept prohibits a kind of act that hurts a *third party* even when it is carried out with the second party’s consent. This is the spirit of this precept, which we should keep in mind when we deal with the relevant doctrinal issues.

### Adultery

As we have seen, a wife is supposed to be faithful to her husband. If she is not, i.e., has an extramarital affair with another man,<sup>3</sup> she commits adultery. But, how exactly is her husband hurt by her adulterous behavior? See Doniger for the views manifested in Vedas and other Hindu texts, but the Buddha had his own approach:

Again, householders, a noble disciple reflects thus: “If someone were to commit illicit sex with my womenfolk,<sup>4</sup>

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<sup>3</sup> A wife’s extramarital affair with another woman is traditionally not considered as tantamount to a real transgression of the Third Precept. Why? Because the *Vinaya* seemingly indicates that lesbian sex is not sex *per se*. What follows is the *Vinaya* definition of sex:

*paṭisevati nāma yo nimittena nimittaṃ aṅgajātena aṅgajātaṃ antamaso tilaphalamattampi paveseti, eso paṭisevati nāma.* (Vin III 28)

*Indulges* means: any (monk) who makes a privy part enter a(nother) privy part, who makes a sexual organ enter a(nother) sexual organ, even for the length of sesame fruit, is said to indulge in sex.

But what are the “sexual organs” meant here? If we look at the elaboration (Vin III 28–29; Horner vol. 1, 48–49) that follows the definition above, we can see that:

1. The “entrant” organ is the male penis;
2. The “recipient” organ is one of three cavities—vagina, anus, or mouth—belonging to a female or hermaphrodite (human or otherwise), or either of two cavities—anus or mouth—belonging to a male or eunuch (human or otherwise).

Therefore, purely lesbian sex, not involving a real male penis, is traditionally treated not as real sex but only as mere *kāyasamsagga* (“bodily intimacy”). This view is also the reason why the Burmese traditional culture views a woman as still a virgin if she has had only lesbian experience.

<sup>4</sup> Bhikkhu Bodhi translates the phrase *mama dāresu cārittaṃ* as “adultery with my wives.” Indeed, the term *dāra* (or *dārā* in feminine gender) is most commonly rendered as “wife.” However, PED notes that this term can originally mean “women members of the household” (PED “dāra”). The latter sense has a better fit in this context, for the *sutta* definition of sexual misconduct covers not only wives, but also daughters, sisters, etc., of other people. Furthermore, we should remember that polygyny was socially acceptable (Collins 263 fn. 2), but not universal, at the time, so there might be many monogamous couples

that would not be pleasing and agreeable to me. Now if I were to commit illicit sex with the womenfolk of another,<sup>5</sup> that would not be pleasing and agreeable to the other either. What is displeasing and disagreeable to me is displeasing and disagreeable to the other too. How can I inflict upon another what is displeasing and disagreeable to me.” Having reflected thus, he himself abstains from sexual misconduct, exhorts others to abstain from sexual misconduct, and speaks in praise of abstinence from sexual misconduct. Thus this bodily conduct of his is purified in three respects. (SN V 354; Bodhi, Connected 1798)

The reasoning seen in the *sutta*, based on empathy, generally works, but empathy alone cannot answer for every scenario. One issue, for example, would be thus: if I do not mind my wife sleeping around, can I sleep with any woman regardless of the latter’s marital status? Perhaps because of such issues, a sub-commentator tries to clarify exactly how a husband is hurt by the adulterous behavior of his wife:

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in the Buddha’s audience. In this case, if he had used the plural form *dāresu* in the sense of “wives,” it would have been tantamount to calling all his listeners polygynous; doing so would have sounded ill-mannered. This is another reason why the sense “womenfolk” feels more natural here. Finally, when we look into Sanskrit (Apte; Monier-Williams), we can find that when *dāra* means “wife,” it is usually used, like in Pāli, in plural number, pointing to the possibility of its original sense being “womenfolk.”

If my interpretation is correct, then well-known terms like *paradārika*, *paradāragamana*, etc., should also be rendered as “one who has sex with the women of other households,” “having sex with the women of other households,” etc. But, how about compounds like *sadārasantuṭṭho* (AN III 348 “One who is content with his own *dāra*”), in which *dāra* unambiguously means a wife? Here also, we can render *sadāra* literally as “one’s own womenfolk,” which, in turn, can contextually mean “one’s wife,” given that one’s mothers, sisters, etc., are sexually off-limits even though they are living in the same house.

<sup>5</sup> Cf. Bhikkhu Bodhi’s version: “adultery with the wives of another.”

*yā hi sāmikassa santakaṃ phassaṃ thenetvā paresaṃ abhiratiṃ  
uppādentī, tāsaṃ micchācāro.* (“Sp-ṭ” II 328)

Indeed, there is misconduct on the part of the women who steal the touch (i.e., sexuality) belonging to the husband and let others have fun (from it).<sup>6</sup>

As seen above, the sub-commentator describes a wife’s sexuality as “belonging to the husband” (*sāmikassa santakaṃ*). According to him, when a married woman sleeps with a man other than her husband, both she and her lover are guilty of stealing the husband’s property—an idea seemingly derived from the more general concept of a wife being a possession of her husband.<sup>7</sup>

However, the traditional interpretation based on the concept of proprietary rights alone has led to many problems:

1. If the institution of marriage were to rest solely upon a husband’s proprietary possession of his wife’s sexuality:

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<sup>6</sup> Cf. “When women cause sexual desire to arise for [or in] other men, [thereby] stealing the contact which belongs to their husbands, there is Misconduct on their part” (Collins 267).

<sup>7</sup> The most well-known evidence for this concept is the *Vessantarajātaka*, in which the would-be Buddha is found to donate his wife (*Ja* VI 569–570; Cowell and Rouse 293) and children (*Ja* VI 547; Cowell and Rouse 283) to a brahmin. This would have been impossible if a man’s wife and children were not his legitimate property in those times. Moreover, the early *nikāyas* (*DNI* 89; Walshe 112; *MN* II 134; *Ñāṇamoḷī* and Bodhi 744; *AN* IV 89; Bodhi, *Numerical* 1062) give a list of “seven gems,” i.e., the extraordinary properties that a universal monarch comes to possess. Of these, the “woman-gem” (i.e., a wife with extraordinary qualities) is enumerated together with both inanimate properties (e.g., the wheel-gem, the ruby-gem, etc.) and animate properties (e.g., elephant-gem, horse-gem etc.). This list also seemingly indicates that a wife is a legitimate property of her husband during the Buddha’s times.

- (a) Sexual misconduct would be no more than a sort of theft, which contradicts the *sutta* authority as I have shown above.
  - (b) Even a wife withholding sex from her husband for one night after a nasty fight would be as sinful as her sleeping with another man for one night; for, in both cases, she is practically keeping her husband's rightful property away from him. But, in real life, these two cases are not treated equally.
  - (c) Divorcing a husband against his will would be even worse than adultery, for whereas he could still hope to regain his "property" from his adulterous wife, it would be lost for good with a divorce; this also contradicts the real world.
2. Moreover, even though the Buddha persuaded wives to be faithful to their husbands, he never said that wives could not withhold sex from their husbands, nor did he ever condemn divorce as immoral.

To resolve these issues, I argue that in a society where wives are exclusive to their husbands (even though *vice versa* may not be the case), a husband occupies a unique position, i.e., no one except him has access to his wife's sexuality and romance as long as their marriage lasts. And that position itself is a *positional good*<sup>8</sup> of highest value, justifying for him

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<sup>8</sup> The phrase positional good is an economic term, explained by *The Economist* as follows: "Things that the Joneses buy. Some things are bought for their intrinsic usefulness, for instance, a hammer or a washing machine. Positional goods are bought because of what they say about the person who buys them. They are a way for a person to establish or signal their status relative to people who do not own them: fast cars, holidays in the most fashionable resorts, clothes from trendy designers. By necessity, the quantity of these goods is somewhat fixed, because to increase SUPPLY too much would mean that they were no longer positional. What would owning a Rolls-Royce say about you if everybody owned one?" ("Positional Good")



all the burdens of husbandly duties towards his wife, or fatherly duties towards the children that his wife bears for him.

If this solution is correct, we can understand why a husband does not mind occasional nights spent on the couch (his position is not really damaged by his wife withholding sex), and yet why he can also be deeply hurt by a single adulterous night of his wife, which seriously damages his position. In the case of divorce, he loses the position, but also foregoes his husbandly duties towards his former wife. Fair enough. This understanding would also explain why men are often bitter in having to pay alimony, for they are paying for some position that they have already lost.

Another issue is: why are married men not prescribed as sexually taboo to women other than their own respective wives? If a married man is off-limits to other women, polygyny is impossible, for in a polygynous relationship, a woman is exclusive to her man, but, by definition, not *vice versa*. However, polygyny seemingly was, even though not universal, a socially acceptable practice in those times: “The existence of polygyny is widely attested in Pāli” (Collins 263, fn. 2). It was probably to make room for polygyny, which the Buddha could not reject, given its established status in the society, that he declined to include married men as sexually taboo to women other than the respective wives.<sup>9</sup> But this relaxation does not mean that he morally supported polygynous marriages (as we will see later).

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<sup>9</sup> However, I do not exactly agree with Collett (175) and Doniger (161), who think that ancient India “easily overlooked” male infidelity. At least in the Buddhist context, there is a concept termed “being content with one’s own women” (*sadārasantosa*): “One not content with his own wives / is seen among prostitutes, / seen among the wives of others: / that is a cause of a downfall” (*Sn* 20; Bodhi, *Suttanipāta* 173). This is the kind of virtue that works against male infidelity. However, it seems admittedly not a strict moral requirement for laymen, for going to prostitutes and marrying a new wife are not actually forbidden.

### *Prostitution*

In the *sutta* definition cited above, one type of sexually taboo object is a woman having a husband, i.e., the wife of someone else, whom the *Vinaya* further elaborates into a list of ten kinds of wives (*Vin* III 139; Collins 264–265). In that list, standing at one end of the spectrum is “*muhuttikā*,” rendered by Collins as “a temporary wife,” and interpreted as “i.e. a prostitute, used for a shorter or longer period” (265), but understood by Cabezón thus:

The “wife for the moment” obviously included prostitutes or courtesans, but we cannot assume that all women who entered into such arrangements with men were professional sex workers. It is noteworthy that the texts refrain from using the word “prostitute” or “courtesan” in describing this category. (483)

(I agree with Cabezón, for a woman appointing a surrogate husband in the Hindu custom of *nigoya*,<sup>10</sup> and the female partners of modern swinging couples, can be viewed under this category.)

What is the moral status of prostitution in Buddhism? If we remember that no man is off-limits to a single woman, we can say that a prostitute does not commit sexual misconduct by doing business even with clients married to other women. Moreover, the list of wrong trades

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<sup>10</sup> “*Niyoga* . . . was an ancient Hindu tradition, in which a woman (whose husband is either incapable of fatherhood or has died without having a child) would request and appoint a person for helping her bear a child” (“*Niyoga*”). Doniger thinks this form of “nonmarriage serves to define, as well as to challenge, the boundaries of ‘normal’ marriage” (161), but a Buddhist would not see any moral issue here. Why? Firstly, because, *niyoga* is a polyandrous provision for a Hindu wife as part and parcel of her marriage, and comparable to the prenuptial agreements of modern marriages, and secondly because, for the surrogate husband, she is a “temporary wife” of his.

(AN III 208; Bodhi, *Numerical* 790) does not mention prostitution. Therefore, the profession itself is not viewed in Buddhism as immoral.<sup>11</sup> However, being a “temporary wife” by definition, a prostitute must be faithful to her “husband,” i.e., a client who has paid her, until she completes her services in return. If she accepts and serves a new client while being still the “wife” of another client, both she and the new client practically commit adultery (*Ja* II 380; Collins 280). On the other hand, how about a married man’s visit to a prostitute? This option is also tacitly permitted if polygyny is permissible, for a prostitute can be viewed as just another “temporary” polygynous wife of a married man.

Again, from this characterization of a prostitute as a kind of wife, we can infer that the term “wife” (*bharyā*) is used in this context in a sense much broader than usual; that is, any woman in an exclusive sexual relationship, temporary or long-term, is designated as the “wife” of her partner. Cabezón is of the same opinion:

There is probably no single English word general enough to capture the full range of examples subsumed under the scholastic category *bharyā*. As we are about to see, the word can refer to primary wives, official mistresses, certain female slaves or servants, and lovers (including prostitutes under contract for a fixed period of time). (476)

This usage of a word literally meaning “wife” in such a wide scope tells us that marriage is *not* sacred in Buddhism. If sex is bought and sold purely

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<sup>11</sup> Cf. “In the *Therīgāthā*, there are verses attributed to three former *gaṇikās* [i.e., courtesans] . . . None of the three sets of verses . . . say anything about the nuns being disgusted by their former profession. Each set of verses mentions that they were formerly obsessed with their appearance . . . but while the past enrapture with beauty is reviled, the fact of a life lived in prostitution is not. In fact, here and elsewhere, that they could gain a high price for their services appears to be an accolade and something that they remain proud of” (Collett 139–140).

on a commercial basis, this practice is prostitution. If mutual attraction happening in a bar leads to a night spent together, this practice is a one-night stand. If a couple leads separate lives but occasionally spends time together, this practice is dating. If a relationship is based on a long-term plan along the lines of “until death us do part,” this practice is marriage. All those practices are sexually exclusive relationships (although the exclusivity resides only with women when the society finds polygyny acceptable). But this attitude is not meant to denigrate the institution of marriage, but rather to show that any exclusive sexual relationship, even between a prostitute and her paying client, should be treated with care no less than that for a proper marriage.

### Protected Women

I cannot find any *sutta* reasoning for why men should abstain from sex with single, protected women without the permission of their protectors, unless the *sutta* argument against adultery that we have seen above covers protected women as well. Nevertheless, the same empathy-based argument might be at work here; for instance: “If I am responsible for getting my daughter properly married and if virginity is a prerequisite for marriage in my culture, I cannot accept my little girl losing her virginity to some random man. Likewise, I should not also have sex with the virgin daughters of other people, for those people would also disagree with such an act.”

From the argument above, we can infer that just being a family member does not make one qualified as a protector. Take, for instance, a girl protected by her mother (*māturakkhitā*). In this case, the girl’s mother can be properly deemed as a “protector” only if the latter takes the responsibility to oversee the former’s sex life, or to ensure that there is none of it, until the time of the former’s proper marriage. If the mother or other

family members do not take on such a burden, the girl remains “unprotected,” and would be free to choose her own sexual partner, just like a modern teenage girl whose parents have permitted her to date whomever she wants. On the other hand, even though the protectors try to do their job properly, they still can clash with their own girl because they find her choice unacceptable; in such cases, the girls sometimes prevail—like the case of Kuṇḍalakesā, who forced her parents to save a thief from execution so that she could marry him (*Thī-a* 97; *Dhp-a* II 217–218; Collett 61), or like the case of Paṭācārā, who chose to elope supposedly with a servant in her household (*Dhp-a* II 260–261; Collett 61).

However, there are still questions that remain unanswered by such reasoning. I would attempt to raise and answer these one by one.

First of all, why should women be “protected,” whereas men or boys do not need such protection? Here, Cabezón notes:

What the Buddhist texts here call women’s “protection,” feminists might rightly consider “control”. . . . Buddhism places much less emphasis on caste than does Brahmanism, but it nonetheless shows the same degree of obsession with ‘protecting’ women. In the Buddhist case, it is these two broader Indian social norms—that brides be virgins and that paternity be indubitable—that seem to motivate the restrictions placed on girls and women. (468–469)

However, the Indian social norms mentioned by Cabezón explain only why women of those times should refrain from extramarital sex, not *why they could not be left alone to deal with this issue on their own*. So, this is still an open question that I would attempt to answer as follows.

I argue that the Buddhist standpoint regarding protected women is similar to that of modern laws regarding underage children:

The age of consent is the age at which a person is considered to be legally competent to consent to sexual acts and is thus the minimum age of a person with whom another person is legally permitted to engage in sexual activity. *The distinguishing aspect of the age of consent laws is that the person below the minimum age is regarded as the victim and his or her sex partner is regarded as the offender. The purpose of setting an age of consent is to protect an underage person from sexual advances . . . .* (“Age of Consent,” emphasis added)

In the same way, I argue, Buddhist India put single women into the protected category to deter the sexual advances of potential male perpetrators not approved by the women’s protectors.

(In retrospect, I think nothing has fundamentally changed from ancient Buddhist parents who restrict their daughters’ movements so as to sustain the latter’s virginity until the time of marriage, to modern parents who put their sexually active teenage daughters on contraceptive pills. For me, both parties are striving to make decent futures for their little girls. If their methodologies are different, this is only because they live and struggle in different social and cultural contexts.)

However, if a society feels it is only the woman that has to handle the sharp end of an illicit relationship, it would not feel any need to “protect” boys or men. Until recently, Burmese society had such an attitude, manifest in a saying of theirs: “Whether a thorn falls on a leaf or a leaf falls on a thorn, it is the leaf that gets a hole.” Buddhist India might have a similar perspective.

Furthermore, if married women must be faithful to their husbands, why can single women be without guilt in having sex with men *sans* the approval of their relevant protectors? A sub-commentator answers thus:

*māturakkhitādīnaṃ aṭṭhannaṃ purisantaragamane natthi micchācāro tāsāṃ asāmikabhāvato . . . na ca mātādayo tāsāṃ phasse issarā. Mātādayo hi na attanā phassānubha-vanatthaṃ tā rakkhanti, kevalaṃ anācāraṃ nisedhentā purisantaragamanāṃ tāsāṃ vārenti. Purisassa pana etāsu aṭṭhasupī hotiyeva micchācāro mātādīhi yathā purisena saddhiṃ saṃvāsaṃ na kappeti, tathā rakkhitattā paresaṃ rakkhitagopitaṃ phassaṃ thenetvā phuṭṭhabhāvato. (“Sp-ṭ” II 328)*

There is no misconduct on the part of eight (kinds of) women—those protected by the mothers, etc.—because they (i.e., the former) have no proprietors (i.e., no husbands) . . . . On the other hand, the mothers, etc., are not authorities over their touch (i.e., sexuality). Indeed, the mothers, etc., protect them not for the sake of enjoying their sexuality themselves. Rather, they (i.e., the mothers etc.) prohibit their intercourse with other men purely to prevent bad conduct. But there is misconduct on the part of men in (having intercourse with) those eight types. For, they happen to steal and touch the sexuality protected by others, given that the mothers, etc., protect those (women) so that (the latter) do not have intercourse with a man.<sup>12</sup>

As seen above, no one, not even the protectors, can lay an exclusive claim to a single woman’s sexuality. Therefore, she does not commit more than *mere disobedience* when she sleeps with a man not approved by her protectors. And disobedience in itself is neither good nor bad, for we should re-

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<sup>12</sup> Cf. “Because mothers, etc., do not arrange for [their wards to have] intercourse with men, therefore [there is Misconduct for a man] through the fact of Protection, through the state of having stolen [sexual] contact which is protected and guarded by others” (Collins 266).

member that our own *bodhisatta* (“would-be Buddha”) disobeyed his parents to renounce and achieve Buddhahood.<sup>13</sup> This is why single women are not guilty of sexual misconduct, despite their sexual adventures. On the other hand, men in illicit relationships with single, protected women are like trespassers on protected grounds. The “grounds” may be innocent, but the trespassers are not.

Finally, we should notice that there is no age limit for single women in the protected category. It means that even if a single woman is already an adult, her protectors would still have a say in the matter of with whom she can sleep. This situation is in sharp contrast to the modern world, where children gain the right to decide their own destiny, dating and marriage included, when they come of age. But we cannot say that this ancient restriction is sexist, for, we can find in another context that both genders, even though being adults, are forced to acquire the permission of their parents to join the Order (*Vin* I 82–83; Horner vol. 4, 104; *Vin* IV 335; Horner vol. 3, 394). Therefore, it would be more natural to conclude that the adults of those times enjoyed less freedom than those of our times.

### *Eloping couples*

This question has been raised in Burmese monastic circles: Suppose a young couple elopes because the girl’s parents (i.e., protectors) cannot agree to their union. Obviously, the boy commits sexual misconduct when

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<sup>13</sup> “Later, while still young, a black-haired young man endowed with the blessing of youth, in the prime of life, *though my mother and father wished otherwise and wept with tearful faces*, I shaved off my hair and beard, put on the yellow robe, and went forth from the home life into homelessness.” (*MN* I 163; Ñāṇamoḷi and Bodhi 256; emphasis added)



he has sex with his new wife. But suppose the girl's parents never recognize their marriage. Does this mean that the boy would be guilty for life, whenever he has sex with his wife?

There is no explicit solution to this problem; but, given that sexual misconduct is somewhat similar to theft, we can take a leaf from the latter's book to solve it. To do so, we should look into the *Vinaya*, which deals with the various aspects of theft in detail. Given that the *Vinaya* is the law for monks and nuns, I will firstly attempt to use a legal approach to this issue.

According to the *Vinaya*, theft can entail the *pārājika* ("Defeat") offense, the most serious one for monks and nuns, whereas all the preceding actions leading to the act of stealing entail lesser offenses. But how do we determine, out of a series of actions, which the act of theft exactly is? If a desired object is stolen by removing it from its place, theft is accomplished exactly when the thief makes its location changed.<sup>14</sup> However, when one steals an unmovable object like a real estate by means of an unjustified lawsuit, the act of theft is accomplished when the real owner gives up hope to retain his property, even though the legal course of action is not complete yet:

*ārāmaṃ abhiyuñjati, āpatti dukkaṭassa. sāmikassa vimatiṃ  
uppādeti, āpatti thullaccayassa. sāmiko na mayhaṃ bhavissatīti  
dhuraṃ nikkhipati, āpatti pārājikassa. (Vin III 50)*

<sup>14</sup> E.g., *bhaṇḍaṃ thale nikkhittaṃ hoti. thalaṭṭhaṃ bhaṇḍaṃ avaharissāmīti theyyacitto dutiyaṃ vā pariyesati gacchati vā, āpatti dukkaṭassa. āmasati, āpatti dukkaṭassa. phandāpeti, āpatti thullaccayassa. Ṭhānā cāveti, āpatti pārājikassa. (Vin III 48* "(Suppose) the goods are kept on the raised ground. Having a mind to steal, (i.e.) thinking 'I will steal the goods on the raised ground,' (one) either seeks a companion or goes himself; there is an offense of Wrong-doing. (One) touches (the goods); there is an offense of Wrong-doing. (One) makes (the goods) quiver; there is a Grave offense. (One) lets (the goods) removed (from their place); there is an offense of Defeat.")

(If a monk) lays (legal) claim to a residential estate, (it is) an offense of Wrong-Doing for him. If he raises doubt of the (real) owner, (it is) a Grave offense for him. If the owner lets go the responsibility, (thinking) “This estate will no longer be mine (i.e., I would certainly lose it),” (it is) an offense of Defeat for him.

In the scenario cited above, the time when the theft is accomplished (i.e., when the real owner gives up all hope for retaining his property) should be also when the estate actually changes hands, i.e., becomes the suing monk’s (even if wrongful) property.

We can reason in the same way regarding the girl. That is, we can say that the girl loses her parents’ protection when the latter abandon all hope to get her back and come to the conclusion that their daughter’s sex life has gone beyond their protection. From that time on, the boy is innocent of sexual misconduct when he has sex with his wife, even though their marriage is never recognized by her parents.

But this solution is only a legal one, so how should we treat this issue from a purely ethical perspective? When the parents give up all efforts to win their daughter back, and consequently when the boy no longer needs to fight for keeping his wife, he would become confident that his wife has become truly his. Henceforth, he is innocent of sexual misconduct when he has sex with his wife, for according to the *Vinaya*, it is not theft when one takes another person’s property if one believes the property is his own (*sakasaññī*, *Vin* III 60; Horner vol. 1, 100–101).

### Sexual Deviance

As we have seen, sexual misconduct essentially means a kind of act that hurts a *third party* even when it is carried out with the second party's consent. This definition leads to the conclusion that deviant sexual relationships—like incest, swinging, LGBT relationships, etc.—are not deemed sexual misconduct *if such a relationship hurts no third party*.

It may not be so easy to fulfill the aforesaid condition in the real world. Let us consider sibling incest, for instance. If one's sister is under the protection of the parents who are against incest among their children, incestuous sex with her entails sexual misconduct. Again, suppose the parents have no objections. Even then, if there is a law against incest, the sister would belong under the protected category of *sapridaṇḍā* (“one with whom sexual relations entail punishment” [see the cited *sutta* under the definition of sexual misconduct]); this fact would incur the label of sexual misconduct to her brother's incestuous sex with her.

Nevertheless, it is still not wrong to claim that Early Buddhism views several sexual taboos prevalent in ancient India, like incest taboo, only as social and cultural constraints, not as immoral sins in themselves. In fact, there is an early canonical account that seemingly supports my argument here. That account can be found in the *Ambaṭṭha-sutta* of the *Dīgha-nikāya*. Therein, we see the Buddha having an argument with the brahmin youth Ambaṭṭha over the relative superiority of brahmin and *khattiya* castes, to the latter of which the *sakyas*, the Buddha's own clan, belong. To show the purity of his own clan, the Buddha describes its origin:

At one time King Okkāka, to whom his queen was dear and beloved, wishing to transfer the kingdom to her son, banished his elder brothers from the kingdom—Okkāmuḥha,

Karakaṇḍu, Hatthinīya and Sīnipura. And these, being banished, made their home on the flank of the Himālayas . . . . And for fear of contaminating the stock they cohabited with their own sisters . . . . At this King Okkāka exclaimed: “They are strong as teak (*sāka*),<sup>15</sup> these princes, they are real Sakyans!” And that is how the Sakyans got their well-known name. And the King was the ancestor of the Sakyans. (*DN I* 92–93; Walshe 114–115; emphasis added)

Here, we can know that marrying one’s own sisters was not the norm during those times, from the excuse given, i.e., “for fear of contaminating the stock.” Yet, King Okkāka’s praise for his sons, as well as the fact of the Buddha’s revelation failing to lead Ambaṭṭha to denigrate the Buddha about his ancestors committing incest—these show that it was still permissible, even commendable, at the time to break the incest taboo for the sake of higher ideals, i.e., in this case, for preserving the family purity.

On the other hand, Silk points out that “the full-siblings” of the Pāli version<sup>16</sup> “have . . . become half-siblings” in the same *sutta* preserved

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<sup>15</sup> Cf., Buddhaghosa explains the word *sakyā* as *sāmatthā, paṭibalā* (“able, adequate, competent”) (*Sv I* 262), so he probably derives it from the Skt. form *śakya*, which is glossed in Sanskrit dictionaries as “able, possible, capable of being . . .” (“śakya”). Therefore, if Buddhaghosa is right, we can interpret *sakyā* as “capable of being forced to take extreme actions to preserve racial purity.”

<sup>16</sup> Theravādin records show that all those brothers and sisters were born from the same mother:

*tatiyaokkākassa pañca mahesiyo ahesuṃ . . . sabbajēṭṭhāya cattāro puttā . . . pañca dhītaro . . . iti sā nava putte vijāyitvā kālamakāsi. atha rājā aññaṃ dahariṃ abhirūpaṃ rājadhītaraṃ ānetvā aggamahesiṭṭhāne ṭhapesi. sā jantuṃ nāma puttāṃ vijāyi . . . sā nātakehi saddhiṃ mantevā puttassa rājjaṃ yāci.* (*Sv I* 258)

The king Okkāka the Third had five queens . . . . There are four sons and five daughters of the eldest of all (queens) . . . . Thus, after giving birth to nine children, she passed away. Then, the king brought another

in the Chinese *Dīrghāgama* of the Dharmaguptaka school (258), and observes: “This seems to represent a slight modification and softening of the more original portrayal preserved in the Pali tradition, probably due to a desire to mitigate the ethical difficulties that would otherwise arise. . . .” (258).

I agree with Silk, but need to raise the question: why should ethical difficulties arise if those earliest Sakyan couples are full siblings? Their case can pose an ethical problem, not in Early Buddhism, but in morality systems that treat incest as morally wrong. Interestingly enough, the *Abhidharmakośabhāṣyaṃ* of Vasubandhu said that “one’s mother, one’s daughter, and one’s paternal or maternal relations” belong to the category of “prohibited (*agamyā*) females,” sex with whom incurs sexual misconduct (Cabezón 501), and the *Daśākuśaladharmapathanirdeśa* of Dhārmikasubhūtighoṣa also counts “sex . . . with a blood relative” as sexual misconduct (505). In my view, these statements appear to be an instance of how Mahāyāna philosophy has influenced the evolution of *Āgama* texts.

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royal daughter, young and beautiful, and established her at the rank of chief queen. She gave birth to a son named Jantu . . . She discussed with the relatives and requested the throne for the son.

But why did the king not choose one of the incumbent queens as the new chief queen? Obviously because they had failed to bear children for him. Then why did the incumbent queens not support the elder sons in the dispute? Because they had no reason to defy the new chief queen for the sake of the princes who were not their children. So this commentarial version, whether factual or not, makes a lot of sense.

On the other hand, it would be more difficult to answer the questions above for the Dharmaguptaka version: “the mothers of the four princes, consorts of the king who is the father of the princes, also each have at least one daughter, whose father is likewise the same king, of course. These mothers, then, offer among themselves to have their sons marry their agnatic half-sisters, one mother’s son to another mother’s daughter” (Silk 257).

On the other hand, I should note, the early monastic code (*Vinaya*) has placed several restrictions on sexual deviants. This topic has been extensively discussed by Cabezón in his work (373–451), but I have to ignore it, given that it is beyond the scope of this paper.

### Modern Relevance

Many modern feminists may find the Buddha's seeming moral support of polygyny and prostitution as sore points. And they might also be irked by the concept of "protection" for women. Indeed, we do not need to doubt the fact that the Buddha adapted his sexual ethic to the prevalent social norms of his times. But did the Buddha invent those norms? I do not think so. Rather, it is much more probable that the Buddha himself and his followers were born and brought up in a society guided by such imperatives. All he did was to teach men and women how to lead moral, virtuous lives in the society that they were born into. (This may sound somewhat simplistic, but see the elaborated argument at [Pandita, "Intention" 1-17]).

Does it mean that the Buddha condoned such patriarchal, androcentric social systems? No, for I have already argued elsewhere that the Buddha was an agnostic where social or political institutions are concerned:

Having ideals out of the reach of people in general, the Buddha is like a mature adult, and people are like children who the former has to teach. He cannot expect children to act like adults, but as an adult, he also cannot see any real significance in, nor entertain real preferences over, the toys that children hold in great value. What he will do is: to adapt his teaching methodology to children and teach

them how to play with their toys, but with a different purpose. While children aim to get maximum fun when they play with their toys, the adult's purpose in teaching them how to play is to develop their physical and mental faculties.

It is the same with the Buddha. He was ready to teach anyone of any social status and of any particular walk of life, but only with a clearly-defined objective, i.e., the full liberation from the circle of birth . . . . (Pandita, "Intention" 13-14)

Therefore, if it is possible for a prostitute to lead a moral life without leaving her sole means of livelihood, the Buddha would not refrain from teaching her how to be a "virtuous" prostitute. This does not necessarily mean that he supported the oldest profession in the world. Likewise, if it is possible to be a "good" husband, or to be "good" wives, in a polygynous marriage, he would not hesitate to teach to that effect. This does not necessarily mean that he supported polygyny. In the same way, teaching men how to deal "properly" with protected women does not imply that he supported the patriarchal control of women. (Here the terms *good*, *moral*, *virtuous*, and *proper* mean "good for," and conducive towards, the liberation of those men and women; it does not have to be good for their worldly happiness, nor for the society.)

Now, with those issues out of the way, it is time to think if the Third Precept as prescribed in ancient Buddhist India is applicable to modern laity. I think it is. Given that the prevalent social and cultural circumstances largely determine whether a specific third party is hurt by a specific sexual relationship, the spirit of the precept can be very flexible, enabling it to work in diverse cultures and societies. For instance, I argued above that the *sutta* definition of sexual misconduct does not treat married men as off-limits to other women, so as to make room for polygyny existing at the

time as a socially acceptable custom. Then, we can infer that in a strictly monogamous society, married men should also be off-limits to women other than their respective wives. This sort of inference, even if different from the *suttas* in letter, would still carry the same spirit.

## Appendix

### *Remarks on non-consensual marriages*

Various Hindu *dharmaśāstras* have recognized, among others, two types of non-consensual, after-the-fact marriages: “*rākṣasa* (abduction marriage), and *paiśāca* (rape of an insensible girl . . . )” (Muldoon-Hules 212). After looking through such texts, Collett notes:

Surveying the evidence of the texts overall, it would appear that the idea of taking a woman by force . . . is not in itself considered inappropriate. The only occasion on which it is considered either inappropriate or ‘unlawful’ is when the woman *clearly belongs to another man or other men*. Thus, in Kautilīya, it is unlawful to rape the courtesans who belong to the king, while single women can be subjected to rape and through that act considered to be the new wife of the rapist. (155–156)

Collett’s view is only one way to look at this issue, and a problematic one at that. How could other powers that be (i.e., generals, ministers, rich men, etc.) put up with a king who would be lenient to the rapists of their single daughters, and yet who would seriously punish the violators of royal courtesans? Would the king’s act not mean that their daughters were valued even less than courtesans? So, there must be a catch here, which we should try to find out.



From my perspective, I read Kautilīya in a different light. A king could have chosen to give a jail sentence, or even a capital punishment, to the rapist of a single girl, but in doing so, he would be punishing the victim as well, for he could not have recuperated, in this way, the girl's ruined reputation or marital prospects. On the contrary, the best solution in such circumstances would seemingly be to let the rapist carry the burden of his mistake, i.e., to force him to become the husband of the victim, whom no one else would be inclined to marry. Having to serve, for life, the very woman that he has wronged in a moment of weakness—this marriage itself is his punishment, and a deterrent to other potential rapists. This may be how, rightly or wrongly, ancient Indians thought.

Now, the inevitable question would be: How could such an arrangement be fair to the victim? Moreover, how could a girl accept as her husband someone who has abducted and/or raped her? One good way to deal with this issue would be to consider, for the sake of comparison, a similar social phenomenon. Therefore, I would discuss here a form of “abduction marriage” that had occasionally happened in Burmese society until recently. The typical pattern of events in such cases is as follows.

A boy would fall in love with a girl, who refuses to reciprocate his love. Then, the desperate boy would collaborate with his friends to abduct the girl and take her to a distant village. He might or might not force himself sexually upon her, but he would forcibly keep her with him alone for a few days while asking her again and again to marry him. These actions would usually be enough to make the girl accept her fate. But, how?

When she has spent even one night alone with a boy not related by blood, no one else would any longer believe that she is still a virgin, even if she still is. In a conservative society where men prize the virginity of their brides, her chances to marry someone other than the abductor are all but doomed, even though she has done nothing wrong. But what if she already has a boyfriend who loves and trusts her enough to believe

her explanation and take her back? Even in this case, this unfortunate event would remain a deep non-healing wound on her boyfriend's honor and ego;<sup>17</sup> there is a high probability that he might choose to take personal revenge on the culprit and consequently to end up in jail as a murderer. Alternatively, even if she could manage to marry her boyfriend without any other mishap, her abduction is a ghost that would forever haunt her marriage.

On the other hand, can the culprit be a good husband for her? If she is not entirely out of his league, the answer would largely depend upon her own ability. The wife is usually at an advantage in a Burmese marriage, given that she is in most cases also the financial authority in the family. The husband is supposed to turn over all his income to his wife and get his pocket money back from her just like their children do. She is expected to leverage her positions as the wife and the financial authority to make her spouse a good husband and man (This is why a wife is often blamed when her husband goes bad). Moreover, in her own case, if she marries her abductor, this abduction would forever be a trump card that she could play against her husband in any marital dispute.

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<sup>17</sup> There is a cruel phrase in Burmese, “a bullock having to pull a broken cart,” to describe a young man marrying a girl who has already experienced sex with another man, especially if he discovers only after the marriage that his bride is not a virgin. One modern example would be the story of a young and talented politician of NLD, the ruling party of Burma. According to the rumors, his marriage has been arranged by his parents. His bride failed to tell him, before the marriage, that she was no longer a virgin, but he discovered the fact afterwards. Accordingly, he declared, to his wife's face, that he would *never* be faithful to her. And, true to his word, his married life has been fraught with many extramarital flings, which have also hindered his rise in political ranks. (I do not claim that this account is true, but it is *plausible*, given the typical mindset of the Burmese people in those times.)

However, it is an altogether different matter when a widower marries a widow or a divorcee. This kind of marriage is viewed as fair and acceptable.

After considering all these pros and cons, the girl could come to see that the culprit himself is her best bet on a secure future. Therefore, she would accept, albeit in apparent reluctance, his offer to marry her (This would have been his objective from the very beginning. But if he chooses to change his mind at this stage, she would certainly report him to the police, at the first chance, on the charges of rape and/or abduction.) Then, the couple would inform their respective parents that they have willingly eloped together so as to prevent the law coming after the boy. Their parents might be initially opposed to their union but later would give in and let them marry, given that, from the elders' perspective, the girl cannot recover her virginity anyway, and the boy should take the responsibility for his actions.

Ancient India might be a similar case. If young Indian women of those times were to reason like typical Burmese girls described above, the former would be able to accept those after-the-fact types of marriage as the only way to recover their ruined prospects.

Therefore, I do not find Collett's interpretation of ancient Indian non-consensual marriages convincing enough. Subsequently, at least in the Indian context, I do not think her argument can be a valid support for Collins's theory cited in this paper.

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