Genres and Jurisdictions: Laws Governing Monastic Inheritance in Seventeenth-Century Burma

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<td>British Library</td>
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<td>Mahāparinirvāṇa-sūtra edited by E. Waldschmidt (Berlin: Akademie Verlag, 1951)</td>
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<td>Vinayasangaha-āṭṭhakathā-pāṭh (Yangon: Pyi Gyi Mundyne, 1954)</td>
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Introducing Buddhism and Law

Rebecca Redwood French and Mark A. Nathan

Some edited volumes are self-explanatory and others need a substantial introduction to the material; the latter is the case with this volume. While the title is intriguing, many readers will need a guidebook to explain much of what they are encountering here. And it is well worth the effort as the material is some of the most exciting and unorthodox both on legal systems and in Buddhist Studies. Therefore, the task of this introduction to the volume is to provide readers with a road map to define the object of study, and to offer ways to think about the field of Buddhism and Law.

This introduction is divided into three main sections: Buddhism, Law, and Buddhism and Law. The first, Buddhism, presents a brief account of the life of the Buddha before turning to an examination of dharma, a fundamental term in Buddhism that has long been translated as law. A discussion of Buddhist monasticism and some of the misconceptions that have surrounded the place of the monastic community in society comes next, followed by a consideration of the Vinaya, the canonical Buddhist law codes that have served to regulate the religious life of Buddhist monasteries. Buddhist traditions also possess a wealth of other legal texts and materials, most of which reflect attempts to devise supplementary rules and regulations that fit local conditions, and these are introduced last.

The second section, Law, is intended to show how Buddhism and Law might fit into the legal scholarly world, perhaps the most difficult connection for legal academics and scholars of Buddhism. This section begins with a definition of law that moves beyond a simple denotation of state regulations and permits a more expansive view of legal practices. In this section, three more ideas will be broached. The first is the concept that Buddhism, when viewed as an otherworldly religion, does not seem to have law. The second is a discussion of a strong, centralized state model of law that European and North American scholars might be working from, and the third is the idea of Legal Orientalism. Following this, four areas of legal academics are introduced: Religion and Law, Law and Society,
and South Africa. While the legal elites in the capital cities of mainland Southeast Asia are busy designing stock markets and joint-venture regimes, older patterns of social control may be preserved upcountry. The monks are back in their village monasteries. The rice fields are still being cultivated. The same old disputes crop up (over inheritance, over agricultural debt, between husband and wife). These were the topics in which dhammasat and rajasat specialized. Perhaps in the villages upriver, dhammasat and rajasat are still consulted. In the capital cities of Southeast Asia, however, Buddhist Law has indeed died. If it survives elsewhere, it is as the humblest of normative systems.

Corrupted by Copyeditor (CBC): "Multiple ideologies of law, their normative expression in texts, or their implementation in practice, are not in any deceptively straightforward sense “Buddhist,” much less “Theravāda,” as though what these terms are meant to signify were clear; for example some sort of allegiance to the Pali Vinaya and its Mahāvihārin commentaries."

CHAPTER 10
Genres and Jurisdictions
Laws Governing Monastic Inheritance in Seventeenth-Century Burma
Christian Lammerts

The interrelationships between Buddhism and law in Southeast Asian history are dynamic and untidy: different legal and scriptural genres borrow from and blend into others; authority is invoked from multiple (and at times seemingly contradictory) sources; jurisdictions of monastic and lay law overlap or conflict. Multiple ideologies of law, their normative expression in texts, or their implementation in practice, are not in any straightforward sense “Buddhist,” much less “Theravāda.” These latter terms are meant to signify some sort of allegiance to the Pali Vinaya and its Mahāvihārin commentaries. Although these literatures were deeply influential, Southeast Asian historical discourses of Buddhism and Law, and indeed even “Buddhist law” in its strongest definition as Vinaya, must be approached as works-in-progress, as contingent convergences, effects of an ongoing dialogue between legists and changing textual, intellectual, and religio-political horizons.

This article examines laws governing the inheritance of monastic property and discourse about such law, expressed in the two principle vernacular and Pali genres of written law in circulation in seventeenth-century Burma: Vinaya and dhammasattha.1 Calling into question any strict divide between lay and monastic legal spheres, it shows that monastic inheritance did not fall under the exclusive jurisdiction of Vinaya, and also that Vinaya laws regulating monastic partition were appropriated by dhammasattha for application to the lay community. The former point underscores the need to historicize Vinaya practice and theory as part of broader legal-textual cultures. The latter point addresses the degree to which Vinaya might serve as a source of non-monastic law in Southeast Asia. Furthermore, this article examines the eventual recognition of jurisdictional separation and

1 This term used in Southeast Asia for treatises on the law has several variations: dhammasat, dhammasatta, dhammathat, and dhammesat.
legal conflict between these two genres. In some quarters, dhammaattha laws governing monastic inheritance came to be regarded as contradicting Vinaya norms and in need of "purification."

Vinaya Variations in Recorded Decisions on Monastic Inheritance

The Vinaya Decisions of Sirisanghapala (Decisions) is a compilation of more than 210 synoptic records of Buddhist monastic legal disputes that were tried by a Vinaya jurist (vinayadhara) around upper Burma between Wednesday, October 6, 1602 and Tuesday, November 2, 1613. The Vinaya jurist heard the majority of the cases in populous towns of considerable importance to the regional economy with close links to the capital at Ava. The name of the adjudicating vinayadhara is not stated in all instances, although when it is, he is usually referred to as Sirisanghapala ("lord of the sangha"). This monk was an immediate client of the throne; other sources tell us that he was responsible for authoring a Vinaya decision (vinicchaya) on monastic cloth at the request of King Nyaungyan (r. 1597-1605). The name of the Judge was frequently cited in the form of an interlineated translation in the form of an interlineated Pali-Burmese text (nisaya).

These include the Buddha's rules for the monastic community concerning the forbidden ordination of slaves and thieves, the three categories of monasterty and their mode of donation, the solicitation of a preceptor to ordination in the border regions, the difference between individual and collective monastic lands and property, and dietary restrictions. The introduction ends with a brief citation from the Dhammastra, which is then glossed with a Burmese translation in the form of an interlineated Pali-Burmese text (nisaya).

Decisions is prefaced by an introduction that sets forth a number of basic Vinaya principles, often through a presentation of brief Pali citations or pseudo-citations from the Tipitaka, which are then glossed with a Burmese translation in the form of an interlineated Pali-Burmese text (nisaya). These include the Buddha's rules for the monastic community concerning the forbidden ordination of slaves and thieves, the three categories of monasterty and their mode of donation, the solicitation of a preceptor to ordination in the border regions, the difference between individual and collective monastic lands and property, and dietary restrictions. The introduction ends with a brief citation from the Vinaya-pacittiya, perhaps as a warning to anyone who would challenge the authority of the rules or the judgments that follow: "[S]hould any monk knowingly agitate for the reopening of a legal case that has been settled in accordance with the law, it is an offence requiring expiation."

Among the various rules that are discussed in the introduction to Decisions, monastic inheritance receives sustained treatment. Indeed, approximately half of the cases in the text concern disputes over the partition and succession of monastic property following the death of a monk. The prescriptions of the Pali Vinaya concerning monastic inheritance have been discussed by Robert Lingat in comparison with Brahmanical dharmastra and what Lingat calls Southeast Asian "droit laïque." The rules derive ultimately from the brief Discourse on the Property of the Dead (Matasantakakathii) of the canonical Vinaya-mahavagga, and are explained and elaborated in most major Vinaya commentaries and sub-commentaries of the Mahāvihārin tradition. The author of Decisions is clearly aware of some of these commentarial works, such as the Vinayasangaha, as he explicitly refers to them in other contexts, although his treatment of the law of monastic inheritance echoes only the root text of the Vinaya itself, and invokes the Mahāvagga by name.

His discussion is organized around three Pali statements, each of which he elaborates in a vernacular gloss:

[I.]

Monks, the sangha is the owner and lord of the bowl and robes of the monk who has died, but yet those who have given support to the sick monk (gilinupatthaka) have performed a virtuous service. I allow the sangha to give them the three robes and bowl.

[II.]

At that time a certain monk with much property and many requisites died. Whatever light goods (lahubhanda) or light requisites (lahuparikkhaka) there are in his residence among his requisites, I allow the members of the sangha who are present (sammukhiibbata-sangha) to distribute them.

[III.]

Whatever there is among [a dead monk's] requisites in the way of heavy goods (garubhantha) or heavy requisites (garuparikkhaka), I prescribe that these belong to all past and future monks of the entire sangha (catusda-sangha), and are not to be divided into shares or apportioned.

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3 Utamatsikkha, Elapiv. Utamatsikkha. c. 1706. Rake Tisalana Achak Anway Ca Tame [Treatise on the lineage of Tisalana]. Ms = NL katly 89.
4 It is 7-9 folios in length in the manuscripts used.
6 UCL 10716 f.f.(chaa)-chaa(r), cf. Vin 1, 74-75.
7 Ibid. f.f.(chaa)-chaa(r).
8 Ibid. f.f.(chaa)-chaa(r), cf. Vin 1, 49-50.
9 Ibid. f.f.(chaa)-chaa(r), cf. Vin 1, 350. 10 Ibid. f.f.(chaa)-chaa(r), cf. Vin 1, 75.
11 Ibid. f.f.(chaa)-chaa(r), cf. Vin 1, 75.
12 Ibid. f.f.(chaa)-chaa(r), cf. Vin 1, 75.
13 Ibid. f.f.(chaa)-chaa(r), cf. Vin 1, 75.
14 Ibid. f.f.(chaa)-chaa(r), cf. Vin 1, 75.
Another major issue in the disputes concerns the inheritance of monastics (e.g., supporter of the sick slaves acceptable lay Buddhist practice in instances in the introduction, the making of monastic bequests or wills is expressly prohibited, although the author, following the commentarial classification of manuscripts as objects of veneration of the dhamma, concludes his discussion with a vernacular list of the twenty-five types of heavy goods parallel to that found in Vinaya-cullavagga. Twice in the introduction, the making of monastic bequests or wills (accayadana) is expressly prohibited, although the author, following the Vinaya, notes that gifts donated during a monk's lifetime remain valid after death. All of this is perfectly consonant with basic rules contained in the root text of the Vinaya.

Interestingly, many of the inheritance cases recorded in Decisions discuss problems that arose in the context of disputes over who should inherit manuscripts belonging to a dead monk. Embracing the later Pali commentarial classification of manuscripts as objects of veneration of the dhamma (dhammacceta), Burmese Vinaya jurists viewed them and other objects of veneration, such as Buddha images, as a type of property exempt from the usual descriptive classification of light or heavy goods. Another major issue in the disputes concerns the inheritance of monastic property by laypersons aside from those who can be classified as a supporter of the sick (gilamputhaka), and especially the reversion of property donated to an individual monk by the donor following the monk's death.

Another feature concerns the ownership and inheritance by monks of slaves (dasa; kyavan). It is clear that Sirisanghapala views the monastic ownership of slaves as a breach of monastic law. Slavery is presupposed as an acceptable lay Buddhist practice in Pali literature, and there are several instances in the Tipiaka that suggest that the monastic ownership of servants (e.g., aramikas, veyyavacakaras) was common and indeed prescribed by the Buddha himself. Despite the fact that slavery was a common feature of Burmese monasticism throughout the second millennium, certain Pali commentaries do appear to forbid the monastic ownership of slaves (dasa) as a category of bonded individual contrasted with other types of servants.

We may cite the following two cases from the collection that exemplify these various concerns:

I.

11th, waning Pyatho, sakkaraja 966 [January 4, 1605]. The following judgment in the Vinaya dispute between the monk Dhammanandi and the donor of the Golden Monastery was passed at Sagaing by Sirisanghapala. As for the remaining property of the dead monk which has not been distributed or deeded before death: his heavy property should be retained [as property of the monastery collectively] and the monks of the monastery should distribute his light property and requisites to those who nursed and aided him while he was sick. Since according to the Vinaya monks may not possess slaves, it is right that slaves are inherited according to mundane law (lokavat). As for the four types of object of veneration (vettu), including manuscript-texts (ca ki mban gan) and Buddha images, these are classified as neither light or heavy property nor as requisites. As Dhammanandi is one among the four types of son [i.e., was his close disciple], and has taken care of the deceased monk, he should receive the manuscripts and Buddha images. As for the heavy property which is not to be separated from the monastery, it may be transferred to anyone in whom the donor of the Golden Monastery has faith. Except for the five root texts of Vinaya-pali and the two Vinaya-atthakatha, a total of seven texts, whatever other manuscripts remain are to be considered property belonging to the monastery as before.

II.

4th, waning Tagu, sakkaraja 967, Wednesday [March 12, 1605]. Before the Sayadaw [the following judgment was passed at Ava] in the Vinaya...
dispute between [the monks] Pāṇiṣāramani and Uttamaṃṣā. As for the light requisites of the deceased monk that were not given or deeded [by him before death], the one who attended him while sick should receive [a share] and the remainder should be distributed among the monks present at his monastery. It is proper that the heavy property remains with the monastery. As for his texts and Buddha images, it is appropriate that Pāṇiṣāramani and Uttamaṃṣā each receive a share because they were one among the four types of son to the deceased [i.e., were his close disciples] and took care of him. The following texts shall remain as part of the collection of the monastery.

Since according to the Vinaya, monks may not possess slaves, it is proper that the slaves belonging to the deceased monk are inherited by his lay relatives.

Both of these records typify the inheritance rulings in Decisions and are in many respects commensurate with basic Vinaya rules governing inheritance outlined in the Mahāvagga, except for two departures. The first concerns the judgment in the first case that grants the reversion of the heavy property belonging to a monk to the donor of his monastery following his death. Here the donor is not granted the right of complete ownership, but has the ability to transfer or re-donate the monastic property of the deceased to another monk of the same monastery “in whom he has faith.” An issue over which there is considerable divergence from Vinaya law concerns how the ownership and inheritance of slaves is handled. Although Sīraṇāghapāla holds that, according to the Vinaya, monks may not possess slaves, he does not expressly forbid them to monks. Rather, he rules that should a monk own slaves, their partition falls under the jurisdiction of mundane law, according to which the dead monk is treated as a member of a family and thus his relatives have a right to inherit the slaves.

Sīraṇāghapāla’s recognition here of what we might call the “two legal bodies” of a monk – his legal identity under supermundane Vinaya law and

under mundane law, respectively – enables a provocative set of reflections. A monk is simultaneously subject to two jurisdictions whose authority in any particular instance is determined by the class of practices in question. Oskar von Hûnber has pointed out that Pâlî commentators recognize the authority of royal law over the sangha in the case of certain regulations, and it appears that a similar overlapping of jurisdictions is at work here. The inheritance of monastic property that is not governed by Vinaya is regulated by mundane law. Contrary to the commonly held assumption that monks simply renounce all family ties and status upon ordination, here we see that for purposes of succession, monks could remain as sons or fathers and their surviving biological relatives had a right to inherit property that was illicit in Vinaya terms.

The Early Dhammasattha and Their Complex Relationship to Vinaya

Pâlî Vinaya literature is often read as testimony to what Buddhist monastic legal culture was really like in historical Southeast Asia. While in certain cases canonical Vinaya texts and their mainstream commentarial treatments may provide a reasonably accurate reflection of juridical realities, it is often difficult or impossible to determine to what extent they are expressions of scholastic or commentarial ideals. As Charles Hallisey and Anne Blackburn have argued, Vinaya handbooks and monastic legal rulings – such as Decisions – allow us to further historicize the ways in which monastic law was actually negotiated in practical textual, juridical, and pedagogical contexts. Things become increasingly complicated in circumstances where this broad field of Vinaya-related legal learning and literature is not the only relevant genre of law bearing on monastics.

The category of “worldly law” that Sīraṇāghapāla invokes is a reference to the legal genre known as dhammasattha, which consists of hundreds of distinct texts that survive in Burmese, Tai, Lao, and Cambodian manuscripts. In Burma, the vernacular term lokavat, cognate with Pâlî loka-vatta – “worldly practices” or “worldly duties” – is used as a
genre was present in Burma by the mid-thirteenth century and has certain remote parallels with Sanskrit Brāhmanical dharmāśāstra literature, especially in terms of its overall literary structure. However, while dharmāśāstra deals in detail with a range of prescriptions of socio-theological relevance only within a Brāhmanical context – such as its rules concerning duties at the different stages of life (āśrama), caste purity, and ritual procedure – only the eighteen grounds for litigation (śravaṇāśamśakā) find echo in dharmasattha.

Although dharmasattha texts betray affinities with Vinaya and other Pāli canonical and commentarial literatures, this relationship is complex owing to the fact that dharmasattha developed largely outside the scholastic tradition that gave rise to successive Theravāda commentaries on monastic law. The genealogy of dharmasattha is murky and difficult to reconstruct before the seventeenth century, but it is evident that the Southern Indian and Lankan commentators such as Buddhaghosa and Sāriputta, who were responsible for codifications of Mahāvihārin Vinaya orthodoxy during the fifth–twelfth centuries CE, were either unaware of dharmasattha or unwilling to classify it as a legitimate repository of authentically Buddhist law. In mainland Southeast Asia, however, Pāli Vinaya literature and dharmasattha circulated in coexistence throughout the second millennium.

This coexistence was not always frictionless, and in seventeenth-century Burma there are cases of monastic authors harshly criticizing dharmasattha as a non-Buddhist literature and an obstacle to the path of nibbāna. On the one hand, there are instances where surviving dharmasattha texts largely agree with parallel legal provisions in the Vinaya corpus, or indeed seem to have taken texts of that corpus as a source for its rules. Yet, on the other hand, there are laws concerning which Vinaya and dharmasattha radically disagree, and such instances of conflict were a cause of significant anxiety in contexts where orthodox textual and jurisprudential purity was a principal concern.

The earliest surviving dharmasattha text was written sometime before 1628 CE. This dharmasattha, entitled Dhammavilāsa, does not contain a separate section that discusses monastic inheritance, although its author

is clearly aware of, and in discussions of other matters refers to, the Vinaya by name as an authoritative source of the law of theft. It is possible to speculate that the reason for the omission of such a section is because monastic and lay jurisdictions were not regarded by the compiler of the Dhammavilāsa as fully separate – that is, laws derived from both Vinaya and dharmasattha had authority over both lay and monastic communities.

As noted previously, according to the Discourse on the Property of the Dead of the Vinaya and its commentaries, the supporter of a sick monk (gītāraudāhika) is entitled to receive a share of monastic property following his death. Citing a non-canonical narrative of a judgment attributed in the text to the Buddha himself, the Dhammavilāsa extends this rule to apply to all supporters of any sick and dying person, whether monastic or lay. Thus, here we have a case where a Vinaya rule concerning monastic inheritance is accommodated within and refashioned by an early Burmese dharmasattha text and made applicable to society at large.

There are numerous other examples of the same phenomenon that involve different Vinaya-related laws, where Vinaya prescriptions initially designed for the monastic community are interpreted as binding on all persons. But it would be wrong to assume that in all cases Vinaya and dharmasattha were easily commensurable. It is precisely in the context of laws concerning monastic inheritance in later dharmasattha treatises that disagreements between the two genres were recognized and the separation of monastic and lay jurisdictions became increasingly exigent.

The Manusāra Dhammasattha on Monastic Inheritance

Redacted in Pāli verse and given a prose nisaya commentary in 1651, the Manusāra is the earliest dharmasattha for which we have secure data concerning authorship and the exact year of compilation. For present purposes, it is important because this is the first dharmasattha to include an explicit discussion of laws regulating the inheritance of monastic property belonging to the saṅgha as a community whose regulations differ from those of non-monastics. That is, it is the first Burmese legal text to

99 Dhammavilāsa, c. 1628. *Dhammavilāsa Dhammasatthu.* Mss = 1386 ḫgau(v); UBbS 169/581 ḫgaṁ(v); cf. Sp. 304.
100 Dhammavilāsa, Bl. Or Add 12449 ḫchāi(v)-chō(v); NL 1386 ḫga+hā(v)-r(v); UBbS 169/581 ḫya(r-v); UCL 9926 ḫchau(r-v).
recognize a clear distinction between monastic and lay jurisdictions and their respective authoritative, textual sources. Moreover, in this section of the text, the compilers explicitly affirm that the rules of dhammasattha and Vinaya regarding monastic inheritance are not in harmony, but in disagreement.

Before citing the passage in question, a few remarks concerning the compilation and overall structure of the text of the Manusāra are necessary. The Manusāra in fact contains two texts: the Manusāra-dhammasattha-pātha and the Manusāra-dhammasat-nissaya. The latter work is a bilingual Pāli-Burmese interprahsral commentary (nissaya) on the former monolingual Pāli verse text (pātha). In nearly all surviving manuscripts of the Manusāra, these two texts are transmitted together, and it is unlikely that at any time since 1651 the Pāli text circulated or was accessed independently of the nissaya. The structure of the nissaya commentary is conventional: It cites in succession one or occasionally several verses from the Pāli text and then glosses each word or phrase of the verse individually in succession. This interverbal or interphrasal linguistic and semantic gloss is then followed by an all-vernacular section that presents a translation of the meaning (adhippāya) of the verse. In many instances, however, the commentary offers far more than simple translation and gives lengthy vernacular digressions on legal topics that are often only distantly related to the verse cited.

The compilers based their recension of the Pāli sections of the Manusāra (Manusāra-pātha) on some preexisting dhammasattha text. At present we cannot say whether this earlier text was written in Pāli, Burmese, Mon, or some other language, although the introductory verses do mention a sixteenth-century Mon version that may have served as a prototype. Nor is it possible to say whether this earlier text was written in Pāli or some other language, although the introductory verses do mention a sixteenth-century Mon version that may have served as a prototype. Nor is it possible to say whether this earlier text was written in Pāli or some other language, although the introductory verses do mention a sixteenth-century Mon version that may have served as a prototype.

The key passage in question from the Manusāra-nissaya commentary follows:

I cite the following verses [from the Manusāra-pātha] concerning the inheritance of monastic property and requisites (parikkhāra):

Upon the death of the father of a sāṅgha, a mahaṭhēra takes the requisites of going forth, gifts, and offerings. ||

Dividing his slaves and property into four shares, the mahaṭhēra takes two. A therī of lesser rank takes one. Dividing the remainder into four shares, a newly ordained monk takes three. ||

A novice takes one. A householder takes just the gift [given by the deceased]. If there are none of these, an equal takes the property, since a monk is not a relative of a householder. ||

The vernacular meaning (adhippāya) of these verses is as follows:

When a mahaṭhēra who is a parent of a sāṅgha dies, it is right that his eight monastic requisites (parikkhāra) - the upper robe, outer robe, girdle, lower robe, ladle, razor, bowl, and needle - his gardens and water-tanks, his donative offerings, food, and so forth, are inherited by the highest ranking mahaṭhēra among his monastic disciples. If [the deceased] left any specie, slaves, or [other] property (kyeh kyhan uccī), after dividing it into four shares, it is right that the highest-ranking mahaṭhēra among his disciples takes two. A lower-ranking therī (who was his disciple) should take one. After apportioning the remaining share into four shares, newly ordained monks (paññār sac), should take three. Novices are entitled to inherit [the remaining] one share. If there are any lay disciples, relatives, or supporters, they are entitled to only as much as has been delivered into their hands, equivalent to their acts of merit. If there are none of these four, then the [general community of] monks who are entitled to the inheritance should take it. Why is this? Because monks are not relatives of laypersons. Such is the law of the dhammasat.

However, the law of the Vinaya is as follows:

When a mahaṭhēra becomes unwell and is supported by his own disciples or other [monks], [his property after death] should be distributed among those monks in the place of his illness. In apportioning his property in this way the monks who gave support to the sick should receive an additional share. A novice should receive a half-share. Whosoever served as a supporter of the sick monk, whether a monk, novice, or layperson, is entitled to keep whatever they received in their hands [as a gift] from the dying, but only monks are allowed to inherit property that was not transferred [as a gift] before death. If there are any novices who supported the sick monk until


52 I have omitted the bilingual nissaya portion of this passage.
The very end, they are entitled to inherit only the eight requisites and half a share given to monks. If there are any laypersons who supported the sick monk, they are entitled to inherit a share of the eight requisites, and have no claim over any remaining requisites or property. Why is this? Because only other monks are regarded as relatives [of monks]. If upon death the requisites and property of a dead monk are deposited in another place, only the monks of that place are entitled to inherit.33

The Manusiira-pātha verses cited here by the nissaya offer us the earliest record of inheritance laws hind on monastics in Burma that do not parallel the Pāli Vinaya regulations. Their model is clearly the structure of succession within the lay family. A senior monk or mahāthera is styled as a "father" to members of his monastic community (sāṅghasa pītā), and the partition of inheritance among his "sons" depends on their ranking. However, whereas the dhammasattha system of lay inheritance ranks children for succession purposes according to gender, primogeniture, and legitimacy (as in Brahmāntical dhammaśāstra), monks are ranked according to their standing as either mahāthera, therā, navadvīdhikku, or sīmānera, institutional titles determined by how many years one has been a member of the sangha.34 The commentators' interpretive gloss of the verses clearly admits the ownership by monks of money, a form of property deemed illicit by the Vinaya. In contrast to both Sīrīsaṅghapāla and Dhammaviśāla discussed earlier, the Manusiira-pātha account excludes the laity from having any possible share in monastic inheritance, even in cases where a layperson may have acted as a supporter of the dying monk. In this regard the dhammasattha prescribes even stronger rules against the lay inheritance of monastic property than does the Vinaya. Laypersons are entitled only to property that has been given to them by the deceased monk during his lifetime.

In the adhipattaya section of Manusiira-nissaya, the Eater of Kuṅha and the monk Tipiṭakāñkāra announce that the dhammasattha regulations concerning monastic inheritance in the pātha text are not in agreement with the Vinaya. The content of their reference to the Vinaya law suggests their familiarity with either the Vinaya-mahāvagga itself, or with one or more Mahāvihārin commentaries or handbooks on the canonical Discourse on the Property of the Dead. The only stipulation mentioned here that cannot be traced directly to the Mahāvagga or the commentaries is that which says novices who have attended a dying monk are entitled to only half a monk's share.35 The fact that this conflict is made explicit signifies an awareness in mid-seventeenth century Burma that certain texts of the inherited dhammasattha tradition contained rules that were incommensurable with perceptions of Vinaya legal orthodoxy. It is reasonable that Tipiṭakāñkāra would have been the one to point out this discrepancy. Several years prior, this monk had compiled the Vinayaṭīkāraṭīkī, a normative Mahāvihārin sub-commentary on the Vinayaṭīkāraṭīkī, the twelfth-century Vinaya commentary written in Sri Lanka at the request of Pārākramaśāhu I.

**Vinaya and Dhammasattha in Conflict**

As the examples above demonstrate, monastic law during the seventeenth century was anything but simply commensurate with the dicta of the Pāli Vinaya. Nor was the relative jurisdiction of Vinaya- or dhammasattha-derived laws uniformly articulated by the various materials we have surveyed. Rather, there was a considerable amount of variation in ideas about the authoritative textual sources of monastic law and the separation of distinct lay and monastic jurisdictions. While Sīrīsaṅghapāla clearly bases his understanding of monastic inheritance law on the canonical Discourse on the Property of the Dead, he nonetheless admits that mundane law – lokavat or dhammasattha – comprises a legitimate legal corpus that has jurisdiction over the sāṅgha in cases not explicitly addressed by the Vinaya, such as the inheritance of monastic slaves. Dhammaviśāla indicates that a rule seemingly derived from Vinaya could be mobilized to regulate lay inheritance outside the monastic context. Manusiira-pātha forbids lay succession of sāṅgha property altogether, yet at the same time presents laws that are entirely unknown to the Vinaya, and instead appear to mirror the structure of inheritance within the lay family. The fact that the glossators of Manusiira note in their nissaya commentary that this rule differs from the canonical account of the Discourse on the Property of the Dead points toward a growing awareness during this period of the distance between the sources and jurisdiction of monastic law on the one hand and dhammasattha discourse on the other.

This situation of jurisdictional and textual intermingling concerning the partition of monastic property did not persist for long. As Lingat observed, later dhammasattha treatises written during the eighteenth and nineteenth centuries, "strictly condemn the old customary rules and prescribe only the
application of canonical rules" in their discussion of monastic inheritance. The most prolific jurist of the Konbaung era, Vaññadhamma Kyau That, who was responsible for redacting the Manusāra and other earlier treatises in versions that became the most widely circulated and influential legal texts in late precolonial Burma, offers lengthy verbatim citations from the Pāli Vinaya-mahāvagga to press the point that "the ancient dhammasattha are not in accordance with the Vinaya" on the issue. In his Legal Judgments Explained (Vinicchaya-pakāsanī) written in 1771, Vaññadhamma begins his discussion of monastic inheritance by citing and glossing the verses of the Manusūra-pāṭha discussed earlier, but then cautions:

Here we note that this is merely what is stated as the law in the mundane dhammasattha (lokiya-nicchaya, loka-dhammasat) texts, whereas now I shall make known the regulations of the Vinaya (Vinaya-nicchaya). In the Vinaya there is no trace of [the verses] beginning "mata saṅghassas pitass" ["upon the death of the father of the saṅgha"], which conflict with Vinaya law concerning the partition of monastic inheritance. The testimony of the dhammasattha texts Manusūra, Mahārājagata, and other mundane (loki) legal texts, is given here simply to avoid the criticism of having neglected ancient treatises (sā hoñb) and traditions (lamb hoñb). But monks have their own, proper law in the Vinaya, which is as follows. . . . 57

Vaññadhamma goes on to restate in a non-canonical Pāli verse the basic rule from the Vinaya-mahāvagga, which provides that the supporter of the sick (gilanupāṭhakā) may inherit the robes and bowl of the deceased, and then enters into a lengthy enumeration of the orthodox distinction between different types of light and heavy monastic property. He concludes his treatise by advising:

This is what the texts of the Buddha's teaching (āvanā kyamb) instruct regarding monastic inheritance. Extended analysis is given in the Vinaya Piṭaka. The ancient [law of] the partition of monastic inheritance [transmitted in the dhammasattha corpus] is at odds with these Vinaya regulations. For that reason I have purified the text. May my act of purification be cleansed by the clear water of wisdom. 16

"Purifications" such as these were enjoined across Burmese legal culture during the eighteenth and nineteenth centuries. Throughout this period, law texts and law ways perceived as deviating from normative and jurisprudential ideals represented in the Pāli Tipiṭaka and its Mahāvihārīn commentaries were either rewritten or rejected. However, we would be wrong to characterize these developments as exclusively driven by royal or elite initiatives, or the motivations inspiring them as essentially uniform. Following nearly three centuries of fragmentation after the decline of Pagan, the establishment of the Nyaungyan Dynasty in 1599 at Ava inaugurated an era of economic expansion and political and cultural consolidation in Upper Burma. The conceptual and literary resources offered by the translocal Pāli imaginary were central to this efflorescence and provided the vocabulary for not only its ritual and devotional expression, but also its social and political manifestation. The lay and monastic jurists of early modern Burma participated in these developments through a hermeneutics of law drawn in increasing levels of scholastic sophistication from the Pāli canon and (especially) its commentaries. This is, of course, not to suggest that this literature arrived or became popular in Upper Burma only in the seventeenth century — the Pāli Vinaya as well as certain Vinaya commentaries were already transmitted in some form at Pagan. Rather, the economic, political, and cultural changes during this period spurred the patronage of monastic and lay textual and interpretive work, and this corpus served as a vital means for elaborating and reimagining Buddhist visions of law and its relationship to scripture and society.