

JSEAS 15:2
1984

To analyze Vietnamese social organization, we must put aside our image of it as similar to that of China, with its patrilineal clans. Writings on Vietnam have portrayed a country molded by its northern neighbour in the "thousand years of Chinese domination" of the first millennium A.D. to such an extent that all things Vietnamese must needs be seen in a Chinese and indeed a Confucian light. Socially, this means domination by the male and the father, patrilineal succession, and clan organization, that is, a certain rigidity in social organization.

We need instead to consider the characteristics of Vietnamese social behaviour before we try to place the social order of Vietnam in any category. Here we should also move away from the élite pattern in order to examine the social characteristics of the Vietnamese people at large. In the contemporary detail of the seventeenth century, drawn from law codes and observers, one may argue, can be seen social behaviour more similar to that found elsewhere in Southeast Asia. As A.B. Woodside has noted,¹ elements that may be termed "Southeast Asian" did exist in Vietnamese culture early in the nineteenth century.

On the other hand, the Chinese model that most influenced the Vietnamese was drawn from the orthodox Neo-Confucian ideals established in China from the early fifteenth century on. This influence strongly affected the intellectual and cultural patterns of the Vietnamese élite and, through them, began to change the way of life of the population at large. In this paper, we shall also be concerned with the way in which the élite applied its Confucian thought to bring their society more in line with the ideals borrowed from China.

Discussions of social patterns elsewhere in Southeast Asia are helpful in reorienting our thought on Vietnamese society. In their studies of Bali, Hildred and Clifford Geertz and James Boon have stressed, in Boon's phrase, "the fundamentally optional quality" of group formation there and "the integration of flexible social institutions and ideological themes" that forms Balinese culture. For Burma and elsewhere on the mainland, Melford Spiro has spoken of the "optative" nature of kin relations within a broad kindred necessary in an interrelated bilateral social system.² The key point here is the "flexible"

My thanks go to Yu Insun (Korea University) for the significant contribution of his work, to Nguyen Ngoc Huy and Ta Van Tai for their stimulating discussions of the Lê Code, and to Lucien Hanks and Donald E. Brown (University of California, Santa Barbara) for their comments on the original paper. The ways in which their contributions have been worked into the present paper are my own.

¹Alexander B. Woodside, *Vietnam and the Chinese Model* (Cambridge, Mass.: Harvard University Press, 1971), pp. 21-37, 44-46. See also Yu Insun, "Law and Family in Seventeenth and Eighteenth Century Vietnam" (Ph. D. diss., University of Michigan, 1978), p. 115.

²Hildred & Clifford Geertz, *Kinship in Bali* (Chicago: University of Chicago Press, 1975); Clifford Geertz, *Negara* (Princeton, N.J.: Princeton University Press, 1980), p. 28; James A. Boon, *The Anthropological Romance of Bali* (Cambridge: Cambridge University Press, 1977), pp. 63-65, 69; Melford E. Spiro, *Kinship and Marriage in Burma* (Berkeley, Cal.: University of California Press, 1977), pp. 69-73, 96-97. Also of interest is Jeremy H. Kemp, "Kinship and the Management of Personal Relations: Kin Terminologies and the 'Axiom of Amity'", *Bijdragen* 139, no. 1 (1983): 81-98.

VN
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らの脚却

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知識人を中心の
大衆への儒教
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SEA
選取的柔軟
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人間社会

nature of Southeast Asian society based on its bilateral kinship system and the potential for independent group formation allowed therein. Donald Brown postulates a social "scenario" of basic Southeast Asian traits which includes "wide-spread bilateral social organization" and "low-key sexual differentiation". On top of such basic traits were then imposed "superstructural borrowings" (from east or west depending on location) that had a great, but not necessarily dominating, impact on the indigenous social systems.³

双系性

Another part of the general Southeast Asian social pattern, perhaps a result of the "superstructural borrowings"; is the sharply demarcated division of society into privileged and non-privileged, rulers and ruled. While status differentials existed in both parts of the society, the most important social element was this division between upper and lower. To quote Clifford Geertz in *Negara*,

重層社会

The most elemental of these [Balinese social institutions] was the radical, ascriptive distinction between gentry and peasantry: between those whose titles gave them an intrinsic claim to supravillage authority and those, some ninety per cent of the population, whose titles carried no such claim.⁴

In a similar vein, Donald Brown has drawn on J. M. Gullick's study of Malay society to characterize the Malay states as having "a simple but rigid hierarchical dichotomy".⁵

The present approach to Vietnamese social organization views it as sharing elements of such a Southeast Asian pattern. Keith W. Taylor has pointed out, in his recent study of the early history of Vietnam, the bilateral nature and flexible tendencies of Vietnamese society in the first millennium A.D. Indeed, he notes how the social system of the Vietnamese successfully resisted early Chinese attempts to transform it into an orthodox sinic patrilineal style.⁶ O. W. Wolters has also noted, in his study of a thirteenth-century Vietnamese historian's handling of a twelfth-century royal succession, the lack of primogeniture or indeed of any strict practice in royal succession.⁷ He points out in addition that Vietnamese kingship in the early Lý dynasty had many of the same elements as the monarchies of neighbouring Southeast Asian states. A reign began with a heroic leader and his loyal followers, was cemented by marriage alliances and the oath of allegiance, and had problems in achieving a stable succession to the throne. Just as A. Thomas Kirsch has pointed out for Angkor, descent from a distant ancestor (one's kindred) was used to increase the number of supporters but at the same time broadened the pool of pretenders; in addition, the royal wives, married to gain alliances and backed by their own families, had a major impact on the choice of the future king. The significance of the female connection for Vietnam may also be seen in the fact that legitimation of dynastic change in early Vietnamese history (as elsewhere in Southeast Asia) involved marriage to a female of the preceding dynasty.⁸

VNの初期 SEAの性格がある

王朝での王位継承における女性の意向の強さ

³D. E. Brown, *Principles of Social Structure: Southeast Asia* (London: Duckworth, 1976), p. 61.

⁴Geertz, *Negara*, pp. 26-28, 34ff (quotation, p. 26).

⁵Brown, *Principles*, pp. 163-71.

⁶Keith W. Taylor, *The Birth of Vietnam* (Berkeley, Cal.: University of California Press, 1983), pp. 13, 34, 36, 39, 175-78, 130. See also his "An Evaluation of the Chinese Period in Vietnamese History", *The Journal of Asiatic Studies* (Seoul) 23, no. 1 (1980): 146-48.

⁷O. W. Wolters, "Le Van Huu's Treatment of Ly Than Ton's Reign (1127-1137)", in *Southeast Asian History and Historiography*, ed. C. D. Cowan & O. W. Wolters (Ithaca, N.Y.: Cornell University Press, 1976), pp. 203-26; Yu, "Law and Family", pp. 168-69.

⁸A. Thomas Kirsch, "Kinship, Genealogical Claims, and Societal Integration in Ancient Khmer Society: An Interpretation", in Cowan & Wolters, *Southeast Asian History*, pp. 190-202; Taylor, *Birth*, pp. 264, 266, 281-84; Wolters, "Le Van Huu"; J. K. Whitmore, "Crisis, Reform, and Defeat: Vietnam and Ho Quy Ly, 1371-1407", ms., 1976.

陳・黎
字定王位
継子制の模
索

The royalty of Vietnam, like those of its Southeast Asian neighbours, had to struggle against the flexibility inherent in its social system and to establish a certain rigidity that would serve its interests. The Trần and Lê dynasties set up strict patrilineal rules in the attempt to solve the problems of royal succession,⁹ and their historians made comments on the events of the early centuries of independence which were meant to suppress just such flexibility and to prevent it from disrupting the political scene.¹⁰ From such an approach to the study of Vietnamese history has come the unfortunate stress on the sinic nature of Vietnam and its society.

国朝刑律
(17cの社会史)
反映

This examination of Vietnamese society will focus on the major law code of the transitional period in the history of Vietnam. The *Quốc Triều Hình Luật* (National Penal Code) of the Lê dynasty (1428–1788) is usually seen as being a product of the second half of the eighteenth century and a culmination of that dynasty's legal efforts. Recent work has made a very persuasive case for the core of the Lê Code, as it is called, to have come originally from the early decades of the dynasty in the first half of the fifteenth century.¹¹ Through the Lê centuries, the law developed in relation to society, and its material is clearly representative of the society in seventeenth-century Vietnam observed by foreign visitors. It may thereby be used to sketch a picture of the organization of that society in conjunction with contemporary materials.¹²

対立
黎代-同時代
儒教が中心

Only in this Lê period did contemporary Chinese Neo-Confucianism begin to have a major impact on the people at large across Vietnam. Before the fifteenth century, Mahayana Buddhism and the spirit cults were the main forms of popular belief; later, the nineteenth century saw the height of Neo-Confucian orthodoxy in the country's history. During the Lê dynasty, the ruling élite, particularly under Lê Thánh-tông (1460–97), adopted Neo-Confucianism as the state ideology and moved to encourage its dicta among the people via the sinic bureaucratic system brought into use at the same time.¹³ One result of this combination of moral ideology and bureaucratic administration was the Lê Code itself. Neo-Confucianism, like Islam in the island world and Theravada Buddhism elsewhere on the mainland, strove to bring its moral view to the localities that had theretofore existed in their own cultural patterns.

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社会と対立

The result appears to have been a certain clash between the rigidities of the moralistic ideology and the flexibilities of the indigenous cultural system. This clash may be seen in the attempts of the central government of Vietnam to control the spirit cults of the

⁹Wolters, "Le Van Huu", pp. 214, 224.
¹⁰Ibid., pp. 223–26; O.W. Wolters, "Historians and Emperors in Vietnam and China: Comments Arising Out of Le Van Huu's History, Presented to the Tran Court in 1272", in *Perceptions of the Past in Southeast Asia*, ed. Anthony Reid & David Marr (Singapore: Heinemann, 1979), pp. 69–89; J.K. Whitmore, "Note: The Vietnamese Confucian Scholar's View of His Country's Early History", in *Explorations in Early Southeast Asian History*, ed. K.R. Hall & J.K. Whitmore (Ann Arbor, Mich., Center for South and Southeast Asian Studies, 1976), pp. 193–203; Taylor, *Birth*, p. 284.
¹¹Yu, "Law and Family", pp. 22–24, 48–49, 57–59, 64–66; Nguyen Ngoc Huy, "Le Code des Le: 'Quoc Trieu Hinh Luat' ou 'Lois Penales de la Dynastie Nationale'", *Bulletin de l'École Française d'Extrême Orient* (BEFEO) 67 (1980): 147–220; Nguyen Ngoc Huy, "On the Process of Codification of *The National Dynasty's Penal Laws (Quoc Trieu Hinh Luat)*", *The Vietnam Forum* 1 (1983): 34–57; Ta Van Tai, "The Status of Women in Traditional Vietnam: A Comparison of the Code of the Le Dynasty (1428–1788) with the Chinese Codes", *Journal of Asian History* 15, no. 2 (1981): 97–145. Nguyen Ngoc Huy and Ta Van Tai have completed an excellent translation and annotation of the Le Code, which hopefully will be published in the near future.
¹²Yu, "Law and Family", pp. 11–14.
¹³J.K. Whitmore, "Transforming Dai Viet", ms.; Keith W. Taylor, "The Literati Revival in Seventeenth Century Vietnam", in *Explorations in Early Southeast Asian History*, vol. II, ed. J.K. Whitmore, Chatchai Panananon, & K.R. Hall (forthcoming); Yu, "Law and Family", pp. 25–48, 134–35, 145 (n.2), 219–20.

countryside¹⁴ and to curb the "vagabonds", those individuals not tied down to a specific village.¹⁵ Below we will discuss the social organization of Vietnam as it existed in the seventeenth century, pointing out both the indigenous realities and the state's effort to bring Neo-Confucianism to the countryside, thereby reducing the flexibilities of the latter.

Family and Kinship

The roles of the family, of children, and of women in Vietnam are well presented in the Lê Code. Unlike the Gia-long Code of the Nguyễn dynasty in the nineteenth century, seventeenth-century Vietnamese law retained a strong degree of indigenous social reality. Indeed much of this reality would form an undercurrent through the nineteenth century and re-emerge in the twentieth during both French colonial and independent Vietnamese rule.¹⁶

The family formed a major element in Vietnamese society, but this was not the patrilineal extended family, the clan, which was so prominent in Chinese philosophy and lore. The family in Vietnamese society at large was the nuclear family of parents and children, with occasional other relatives attached.¹⁷ Unlike in China, the elements of the family were not tied eternally to each other. We should here keep in mind the optional nature of Southeast Asian kinship and apply it to the Vietnamese situation.

Family size in Vietnam appears to have remained consistently smaller than in China.¹⁸ Even the Lê Code recognized the more limited pull of Vietnamese kin relations. Where the Chinese codes extended punishment for treasonous crimes to distant relatives and did not allow celebrating by anyone in mourning for relatives to the fifth degree, the Vietnamese limited such punishment and mourning to more immediate family members (articles 109, 411-12).¹⁹ Except for the wealthy and those holding strong Confucian beliefs, the potential for separation of family members was a significant element in Vietnamese social life. Marriage did not form a single, patrilineal dominated unit, but a union of two individuals, each of whom retained ties to his or her own family unit and the rights of control over the property each brought into the marriage (articles 388, 390, and see below).²⁰ Upon divorce or the spouse's death, each returned to his or her family to be married again.

The place of children in the Vietnamese family was also more independent than among the Chinese. Children when grown (fifteen or older) had the option of leaving the family unit and taking their own personal property with them. The availability of a share of

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囲は狭い。

結婚してからの
宗族との関係は
切れず。

子成長後の権利
中国より明(

¹⁴J.K. Whitmore, "Bureaucratic Control of the Spirits in Vietnam", Association of Asian Studies, Washington, D.C., 1980.
¹⁵Nguyen Thanh Nha, *Tableau Economique du Viet Nam aux XVIIe et XVIIIe Siecles* (Paris: Editions Cujas, 1970), pp. 31, 42, 67.
¹⁶Tai, "Status of Women", pp. 131, 133, 136-41; Huy, "Process", p. 34; Stephen B. Young, "The Law of Property and Elite Prerogatives during Vietnam's Le Dynasty, 1428-1788", *Journal of Asian History* 10, 1 (1976): 33.
¹⁷Yu, "Law and Family", pp. 135, 141-43.
¹⁸*Ibid.*, pp. 138-40.
¹⁹*Ibid.*, p. 144; Tai, "Status of Women", pp. 109 (n. 42), 110. The numbers used for the articles of the Lê Code are those of Luong Than et al., *Quoc Trieu Hinh Luat* (Saigon: Viet-nam Dau-hoc-vien, 1956), and of the forthcoming Huy and Tai translation. The Deloustal translation in BEFEO missed art. 219, so to get the Deloustal number over 219, subtract one. Tai, "Status of Women", p. 99 (n. 5). The articles listed in this paper are meant to be representative, not all inclusive.
²⁰Yu, "Law and Family", pp. 109-10, 150-57; Tai, "Status of Women", pp. 126-27, 132-33.

communal land (see below) undoubtedly helped such separation. Once the children had left their parents' household, the parents were no longer held responsible for their acts (articles 313, 457). In addition, the children all had equal shares in the family inheritance upon the demise of *both* parents. The only child receiving more was the one who took care of the sacrificial land (*huòng-hóa*). In China, any separation of this kind was impious, and the T'ang and Ming Codes prescribed a heavy penalty for it, which the Vietnamese conveniently ignored.²¹

女性の経済的
地位の高さを刑
律で保証

As elsewhere in Southeast Asia, the role of women was conspicuously higher in Vietnam than in China. Females had much more of a separate identity, and the Lê Code recognized it, granting them legal status (articles 308-309, 321-22, 333, 401, 507).²² The wife brought her own property to the marriage, had a say in its disposal, took it and her equal share of the joint property in the marriage from it when she left (by widowhood or divorce), and legally administered part of her deceased husband's share as well as that of her minor children (articles 374-77, 401, 481).²³ The sale of family property required the wife's signature.²⁴ In Ta Van Tai's words,

... according to the Lê Code, the woman always had her own property, and there was no absorption of a wife's or her clan's property into her husband's estate...²⁵

Marriages could be virilocal, neolocal, or even uxorilocal.²⁶ A female child inherited equally with a male and, in given situations, could also inherit the sacrificial land (*huòng-hóa*) (articles 374-75, 387-98).²⁷ Indeed, women in Vietnam had much greater freedom of movement, and this was commented upon in the seventeenth and eighteenth centuries by both European and Chinese visitors.²⁸

小規模の
紐帯の家族

The social structure of most of Vietnam was thus made up of fairly small, nuclear families with loose ties among them. These nuclear families were, to quote Yu Insun,

characterized by the relatively weak authority of husband and parents, the nearly equal position of the wife, [and] the individualistic behavior of the children...²⁹

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庶人 郷正が
家族の主体に

Beyond the immediate family, authority appears to have been held predominantly by those of good reputation in the lineage (*tôn-nhân*) or the village (*hưông-chính*) (articles 314, 387).³⁰

The Lower Classes

Vietnamese society consisted almost entirely of villages, with a small percentage of its population in urban areas. Together with the nuclear family, the village formed the

²¹Yu, "Law and Family", pp. 66, 76-77, 124, 133-35, 138, 141, 147 (nn. 26, 28), 151-52, 162-64, 171-72; Woodside, *Vietnam*, p. 45; Young, "Law of Property", pp. 9, 29-30; Tai, "Status of Women", pp. 100-101. For the early fifteenth century, see J. K. Whitmore, "Chiao-chih and Neo-Confucianism: The Ming Attempt to Transform Vietnam", *Ming Studies* 4 (1977): 67.

²²Yu, "Law and Family", pp. 93, 104-105, 107-11, 136, 153-54; Tai, "Status of Women", pp. 111, 118-21, 136.

²³Yu, "Law and Family", pp. 110-15, 163; Tai, "Status of Women", pp. 112, 125-35; Young, "Law of Property", pp. 31-32.

²⁴Tai, "Status of Women", pp. 132-33, 137-38.

²⁵*Ibid.*, p. 129.

²⁶Yu, "Law and Family", pp. 94-96, 100, 112, 122, 157, 169.

²⁷*Ibid.*, pp. 76, 135-38, 158-60, 163-71; Tai, "Status of Women", pp. 121-25; Young, "Law of Property", p. 30.

²⁸Yu, "Law and Family", pp. 88-89, 101-104, 132-33. For the early fifteenth century, see Whitmore, "Chiao-chih", p. 67.

²⁹Yu, "Law and Family", p. 181, also see pp. 2, 86, 229.

³⁰*Ibid.*, pp. 162, 185, 212, 218-19; Yu Insun, "Law, Society, and the Economy in Le Vietnam", in Whitmore, Panananon, & Hall, *Explorations II* (forthcoming).

major element of social organization in the Vietnamese lowlands. A Chinese document from the Ming colonial period in the early fifteenth century recorded over 2500 villages (*xã*) spread across the Red River Delta and south into the central lowlands. Eight hundred other settlements of different types lay scattered among them and through the mountains.³¹ Vietnamese maps at the end of the fifteenth century and in following centuries show a greater number of communities, particularly of villages (*xã*). In the maps of 1491, some 8900 of these lowland villages covered the landscape of what is now northern Vietnam. Sixteen other types of communities existed, totaling some 1500 additional settlements. Of these, 432 *đông*, 451 *sách*, and 300 *tràng* were to be found in the mountains, and 205 *thôn* in the lowlands.³² The discrepancy in Chinese and Vietnamese figures probably has to do with the Ming penchant for consolidating administrative entities.³³ Among the villages lay the marketplaces operating on a weekly cycle, one for every four or five villages in the late seventeenth century. In Ming times, there had been 38 markets in the center of the delta and another 50 spread out in other parts of the country. In the prosperity of the last third of the fifteenth century under Lê Thánh-tông, more sprang up. The urban sector in 1491 was mainly in the capital of Thăng-long (now Hanoi) where 36 *phường* existed; another 29 *phường* were located around the country in 14 locations.³⁴

△の中の市の
の発達

The bulk of the Vietnamese population were village farmers, that is, peasants. Ever since the breakup of the old appanages in the late fourteenth and early fifteenth centuries, this was the reality, as well as being the desire of the government. Lê Lợi, on gaining power in the late 1420s after ten years of fighting, had undertaken not a land reform in the strict sense of the term, but a redistribution of the land that had belonged to the Chinese and their supporters among the Vietnamese, as well as any vacant or surplus land. This redistribution went to those who had served in the armies and to the needy. The division was originally between crown and private ownership as in other parts of Southeast Asia, but it eventually came to be between communal and private. The communal lands were taxed and were supposed to be distributed by local authorities among members of the village. The private lands were owned by families and were not taxed until the 1720s. The result was that land was taxed by the government through the villages (articles 342-87).³⁵ Yet the government would have constant trouble in the following centuries striving to keep concentrations of land and manpower out of the private control of powerful families (*thê-gia*), the Vietnamese equivalent of Lannathai's "mara lords".

整地の土地再
分配策

公田収税
社を通じて

The pattern of dependency, that is, client-patron relations, formed a major part of early Vietnamese society into the fifteenth century, as it did elsewhere in Southeast Asia.³⁶

³¹Whitmore, "Chiao-chih", pp. 59, 77 (n. 34).

³²Yu, "Law and Family", pp. 186, 188; Buu Cam et al., *Hong-duc Ban-do* (Saigon: Vien Khao Co, 1962), pp. 6-49. Proper English translations of these terms for the different types of communities have yet to be established.

³³See Whitmore, "Chiao-chih", pp. 60-61.

³⁴*Ibid.*, p. 59; Buu, *Hong-duc Ban-do*, pp. 6-49; Yu, "Law and Family", pp. 188-89. For nineteenth century markets, see the appropriate section of each provincial description in the national geography, *Dai Nam Nhat Thong Chi*.

³⁵Whitmore, "Transforming", chapter II; Yu, "Law and Family", pp. 19, 46, and "Law, Society"; Huy, "Le Code des Le", p. 171, and "Process", pp. 43, 48, 52; Nha, *Tableau*, pp. 28-29, 62-64; Young, "Law of Property", pp. 17-20, 38; John Adams & Nancy Hancock, "Land and Economy in Traditional Vietnam", *Journal of Southeast Asian Studies* 1, 2 (1970): 93-97.

³⁶See Tran Hung-dao's "Call to the Officers and Soldiers of the Army" (1285) as translated by Truong Buu Lam in his *Patterns of Vietnamese Response to Foreign Intervention: 1858-1900* (New Haven, Conn.: Southeast Asia Studies, 1967), pp. 49-54; and Whitmore, "Chiao-chih", pp. 66-67.

15cの社会
変化

As such, it unified social and political structures. After the political, administrative, and philosophical transformation of the fifteenth century, tension existed between the social and the administrative spheres. The powerful families sought control of rice land and the manpower to work it, while the government bureaucracy acted to maintain the link between capital and village. The state's interest lay in keeping freemen (*dân-dinh*) as freemen and inscribed on the village roles for their taxes, corvée, and military service. Thus, the Lê Code forbade the powerful, whether private or public, to take freemen into their personal service (articles 165–68, 171). The kidnapping of freemen was also explicitly forbidden (articles 365, 453, 536). To take a freeman into bondage required public procedures (article 363). Any free person who willingly and illegally became a dependent was beaten and had to pay back taxes. The Code thus acted to block the formation of large personal followings and to restrict their arrogant behaviour toward the populace at large (articles 290, 296, 298–99, 302–304, 330–31, 335–38, 348, 370–73, 456). Yet, as we shall see, an increasing number of peasants became serfs/dependents of powerful men (*gia-nô*) in the seventeenth and eighteenth centuries.³⁷

公民維持策

The law distinguished in these lower classes between the freemen (*dân-dinh*) and those of dependent status, bondsmen (*nô-tỳ*), slaves (*quan nô-tỳ*), and those in servitude to the state (such as *khao-dinh*) (articles 1, 22, 167–68, 341, 365). The latter were marked and punished more severely for any act against their social superiors. A slave received worse punishment than a bondsman, while their superiors received lesser penalties for any act against them, even after they had been given their freedom (articles 364, 372, 386, 407, 417, 441, 480, 486, 487). As in other parts of the Southeast Asian mainland, servitude was more often a form of redeemable debt bondage than it was any absolute and final control of master over slave in the Western sense. The bondsmen had the right to their own property and to marriage and basically owed their labour to their masters, not their bodies and souls. What was bought and sold was the right to this labour. The law, as we might expect, attempted to limit the people holding dependents as well as the number of people held in servitude by any individual (articles 74, 238, 291, 312–13, 335, 341, 372, 386–88, 407, 586).³⁸ Slavery as such did exist, but to a much lesser degree than debt bondage. According to the Lê Code, it would seem that the state determined the status of slavery by employing it as a punishment (*quan nô-tỳ*, *khao-dinh*, etc.). In a pattern continuing from the Lý and Trần dynasties, such persons served as one of several degrees of menials and were irredeemable (articles 23, 306–307, 335, 341, 412, 466, 653).³⁹

Merchants and artisans were treated, legally and socially, merely as commoners, unless they were quite wealthy. Only in economic terms did the Lê Code single them out for special, and negative, consideration (articles 187, 190–92, 576). Foreign contacts were theoretically limited for strategic and cultural reasons (articles 71–77). However, protection by powerful individuals alleviated these restrictions, for both internal and external trade, as contemporary sources show.⁴⁰ Buddhist monks and other religious figures were limited in numbers, activities (travelling, building, printing, etc.), and exploitation of the people by the Code in a manner similar to that of the Ming in China (articles 90, 215, 288, 289, 301, 332). Nevertheless, the seventeenth century

³⁷Yu, "Law and Family", pp. 26–27, 33, 131–32, 233 (n. 21); Tai, "Status of Women", pp. 113, 115. See Nha, *Tableau*, pp. 30–31, and Young, "Law of Property", pp. 8–10, 34, for the six categories of freemen inscribed on the roles.

³⁸Yu, "Law and Family", pp. 130–31; Tai, "Status of Women", pp. 101 (n. 8), 110; Huy, "Process", p. 45.

³⁹Tai, "Status of Women", pp. 108–110, 116–17; Yu, "Law and Family", pp. 22, 51 (n. 12), 70, 124–25, 128; Young, "Law of Property", pp. 9, 22.

⁴⁰Yu, "Law, Society".

saw an upsurge in Buddhist, Christian, and scattered religious efforts across the countryside.⁴¹

仏教キリシタ教
の興隆

The Upper Classes

Both Vietnam and Thailand saw the throne reorganize the élite during the fifteenth century. In Ayudhya, the reorganization took the form of the *sakdi na* system and its gradations, an institutionalization of indigenous status. In Thăng-long, the Vietnamese adopted the Chinese ranking systems, aristocratic (*vuông công*), civil service (*quan*), and military (*quan*), but put in place, like the Thai, a gradation from the top of society to the bottom. As Stephen B. Young has pointed out, the Lê Code had *biếm*, a punishment apparently unique among Chinese-style codes in which the *tit* or social ranking of the guilty was reduced (anywhere from one to five ranks). A payment of money (so much for each rank, depending on existing rank) commuted any such penalty as well as certain others. This commutation applied to the civilian sector of society, male and female, from the highest civil official (100 *quan* per rank) through the freeman and bondsman (10 *quan* per rank) to *khao đình* and other state imposed ranks of servitude. On the other hand, a person could be promoted (from one to three ranks) for serving the state well (articles 14, 21–23, 25, 27). This system did not apply to the aristocracy or the military. As Yu Insun has described, a strong sense of privilege separated the upper and lower classes, bringing Vietnamese society in line with other parts of Southeast Asia.⁴² The privileged possessed a monopoly of usage of certain items, were exempt from the head tax, and owed less land tax. They were strongly protected by the law (articles 6–7, 10, 496, 709) and took advantage of their position to accumulate wealth through land and manpower.⁴³

贖罪制度

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上下の者の分
離

上層階級

貴族
文武官僚

We may thus divide the Vietnamese élite into three major groups: the aristocracy (including the royal family), the military, and the civil officials. The decimation of the Trần aristocracy in the early fifteenth century by the Hồ, the Ming, and the Lê left a void among the Vietnamese élite which was filled by the families from Thanh-hóa province coming to power with Lê Lợi in 1428. Out of these families emerged those that would dominate the politics of Vietnam into the nineteenth century: the Lê, the Trịnh, and the Nguyễn. The major exception to these military/aristocratic families from Thanh-hóa was the Mạc, which had aided the Chinese in their occupation, gone underground in Hải-duông province after the Chinese defeat, and then emerged in the sixteenth century to inherit the Neo-Confucian mantle of Lê Thánh-tông.⁴⁴ After a war of over half a century, the military Thanh-hóa families were able to drive the Mạc from Thăng-long (in 1592) and reclaim power. They then had a falling out among themselves — the Trịnh dominating the royal court and the Lê family as well as the main part of the country, while the Nguyễn controlled the southern border which they expanded.⁴⁵

THの武人家族
旧習を以て
維持

During the period of warfare in the sixteenth and seventeenth centuries, these military families seem to have retained many of the indigenous traits of their society. The blood oath and personal loyalty (i.e., patron-client ties) stand out here,⁴⁶ and the families

⁴¹Taylor, "Literati Revival"; Young, "Law of Property", p. 44.

⁴²Yu, "Law and Family", pp. 67–68; and "Law, Society"; Young, "Law of Property", pp. 10–11, 14.

⁴³Fai, "Status of Women", pp. 109, 116; Nha, *Tableau*, pp. 65–68.

⁴⁴Whitmore, "Chiao-chih", pp. 52, 65; J.K. Whitmore, "Mac Dang Dung", *Dictionary of Ming Biography* (New York: Columbia University Press, 1976), II, pp. 1029–35; Yu, "Law and Family", pp. 33–36; Taylor, "Literati Revival".

⁴⁵Yu, "Law and Family", pp. 200–201.

⁴⁶J. K. Whitmore, "The Oath of Allegiance in Southeast Asia", Midwest Conference on Asian Affairs, Ann Arbor, Mich., 1982.

undoubtedly retained their followings in the ways traditional to the bilateral societies of Southeast Asia — by offering material and spiritual gain. In the second half of the seventeenth century, however, when the wars had reached an impasse, the Trinh in the capital of Thăng-long began again to emphasize civil administration and Neo-Confucian ideology. This led to the re-establishment of Confucian scholars among the élite of Vietnamese society.⁴⁷ They were the ones who carried the ideals of contemporary China that would become so firmly entrenched in Vietnam during the nineteenth century.

Another part of the élite, the aristocracy, used the Chinese-style law to uphold its exalted position (article 3). Below them, yet far above the common populace, stood the officials and officers in the administration and the army.⁴⁸ This élite intended the Lê Code to protect the state, particularly its position in the state, without doing great violence to the mores of the society at large.

Mobility and Change

Social mobility in the Vietnamese society of the seventeenth century was achieved initially by martial exploits, then through the Confucian examination system. While the wars lasted (into the 1650s), members of the armed forces had the best opportunity for advancement. They could do this by attaching themselves to members of the ruling families and performing well. Since grown children could leave their parents' home, O. W. Wolters' description of another time and place in Southeast Asia is apropos:

Enterprising men, not bound by parental ties, could therefore travel to seek their fortunes by putting themselves under the protection of chiefs of promise.⁴⁹

From the 1650s, performance in the examinations and the bureaucracy brought individuals to the attention of the high and mighty, leading to their movement upward.⁵⁰

Yet, at the same time that the civil bureaucracy, with its goal of impartial selection, was being put back into place, tensions both old and new were leading to major changes in Vietnamese society. On the one hand, the old pattern of powerful families using their positions to gain control of land and manpower remained and grew.⁵¹ On the other, as Nguyen Thanh Nha has so well shown, important economic and demographic changes were taking place in the seventeenth century. Commerce and wealth not related to land ownership increased greatly. All levels of Vietnamese society and both sexes became involved in the growing international trade.⁵² Such wealth also became a base for upward mobility into the ranks of the privileged. Vietnam in these years did not have as strong a bias against merchants as did China. The key question, according to the Lê Code, seems to have been the rank (*tu*) held in society, not how a person achieved that rank.

The result of the demographic growth and economic change in the late seventeenth and early eighteenth centuries was an increasingly turbulent countryside. Peasants feeling the

⁴⁷Taylor, "Literati Revival"; Yu, "Law and Family", pp. 40-44.

⁴⁸Yu, "Law and Family", p. 68, and "Law, Society".

⁴⁹O. W. Wolters, "Khmer 'Hinduism' in the Seventh Century", in *Early Southeast Asia*, ed. R. B. Smith & W. Watson (Oxford: Oxford University Press, 1979), p. 430.

⁵⁰Taylor, "Literati Revival"; Yu, "Law and Family", p. 193.

⁵¹Yu, "Law and Family", pp. 129-30, 138-39; Young, "Law of Property", pp. 26-28, 37, 41-42, 46.

⁵²Nha, *Tableau*, pp. 42, 229-32; J. K. Whitmore, "Vietnam and the Monetary Flow of Eastern Asia, Thirteenth to Eighteenth Centuries", in *Precious Metal Flows in the Medieval and Early Modern Worlds*, ed. J. F. Richards (Durham, N. C., 1983); Yu, "Law, Society".

16c後半
民政の復活

自立制の記

科擧の再興

economic pressures took shelter from state demands under the power of the wealthy families, joined bandit gangs, moved into the thriving urban areas, or headed south to get land in what had been Cham and Khmer territory.⁵³ More concentrated wealth meant greater opportunities for service to the rich and powerful. The government acted to maintain its interests. It attempted to curb the movement of land and manpower to the powerful families by punishing those who seized or otherwise gained control of large amounts of land and large numbers of followers (articles 298-99, 341-43, 348, 352-56, 370-73, 455, 470). The Lê Code also strived to cut down on peasant movement and keep the peasants tied to their land and their villages by insisting on the correct maintenance of the village registers (articles 151-52, 158-61, 284-87, 311, 328).⁵⁴

An important element in the population movement of the times would appear to have been related to the Vietnamese kinship pattern — as noted above, grown children were not required by law to remain a part of their patrilineal clan; they could take their possessions and move elsewhere.⁵⁵

Confucian Thought and Vietnamese Society

Neo-Confucian thought did not originally play a part in Vietnamese social organization. Its social significance stems from the beliefs of the Vietnamese literati and the efforts of the Vietnamese government to gain some structure amidst the Southeast Asian-style flexibilities inherent also in Vietnam. Initially, during the Lý and Trần dynasties, the problem had been one of royal succession. Then, in the fifteenth century, the royal court officially adopted Confucian thought and with it the sinic bureaucratic system. While the élite of the Lê dynasty accepted the Confucian ideal, at least for themselves, they did not feel that all of their society had to meet this ideal. For example, some of the efforts to bring Vietnam closer to Ming China by Lê Thánh-tông, and after him the Mạc, were put aside in the final compilation of the Lê Code during the seventeenth and eighteenth centuries.⁵⁶

Yet one element from the period of greatest Ming emphasis (1460s-1550s) was not put aside and remained to have a major impact on the Code as well as on Vietnamese society — the attempt of the Lê and Mạc rulers to bring lineality to bear on Vietnamese social structure at large, not just on royal succession. The key point of the emphasis was the *hương-hỏa* land, that which supported the sacrificial ritual for the deceased of the family. Woodside has noted how "overdeveloped" this borrowed institution was in Vietnam, relative to its existence in China. By stressing the passing of this land from eldest son to eldest son (where possible), the Vietnamese state attempted to restructure indigenous family relationships with a focus on patrilineality and primogeniture. Only in the set of laws that deal with *hương-hỏa* (articles 388-400) is there any mention in the Lê Code of the eldest son (*trưởng-nam*), and indeed the only mention in the entire Code of a "clan chief" (*tộc-trưởng*) is likewise to be found here (article 390). The first of these thirteen articles (article 388) is dated 1462 (at the beginning of Lê Thánh-tông's reign), the second (article 389) 1512, and the fourth (article 391) 1517. The final nine articles were added as a group thereafter, perhaps forming part of the Mạc legal effort. In the mid-sixteenth-century collection of laws, the *Hồng-đức Thiên-chính Thủ*, the *hương-hỏa* section stands

儒教 的 程度
渗透

明制 → 刑律法
影響 "香烟
制度"
↓
父系 家族 制度
化

⁵³Nha, *Tableau*, pp. 42-44, 67-68, 229; Yu, "Law and Family", pp. 45-48, 190-91.

⁵⁴Yu, "Law and Family", pp. 73-75, 211; and "Law, Society"; Nha, *Tableau*, pp. 66-67.

⁵⁵Yu, "Law and Family", pp. 173-74, 201.

⁵⁶Personal communication, Nguyen Ngoc Huy and Ta Van Tai, Cambridge, Mass., March 1979.

first, a position unique among Vietnamese legal documents, and in it is recorded that in 1540 the Mạc collated the *hulông-hỏa* edicts of the Lê dynasty.⁵⁷

聖徳の社会再
編への努力

This attempt to bring lineality to Vietnamese society thus began with Lê Thánh-tông's initial efforts to transform Vietnamese social patterns, though in 1485 he complained that the population was not following his rules on this. The attempt continued through the first half of the sixteenth century. Nevertheless, in some Vietnamese families, all the sons shared in managing the *hulông-hỏa* land by turn.⁵⁸



19世紀
完成

The last half of the seventeenth century saw the re-emphasis of Confucian thought, following a hundred years of warfare. It nevertheless still allowed the existence of indigenous social traits. Only in the nineteenth century would Confucian thought become so dominating as to affect these basic traits. Yu Insun has argued in his dissertation, "Law and Family in Seventeenth and Eighteenth Century Vietnam", that there was a strong purpose in the Lê government allowing a Southeast Asian-style flexibility to remain in Vietnamese society — to de-emphasize kin solidarity and thereby to break up the powerful families.⁵⁹ This may have been the case, though the strength of indigenous tradition must still be considered. The central government in Thăng-long seems to have wished to reduce as much as possible, for both moral and political reasons, the flexibility and the "looseness" (if I may use this term) of Vietnamese society. The Neo-Confucian morality, by stressing "proper" kin relations, helped to provide stability and to limit the individualism built into this society.⁶⁰

学行の弊を
去るに
努力

VN社会
が東洋史
のなかで
どう位置
づけられるか

Lucien Hanks called us together to seek out, like the Arthurian grail, the nature of society on the mainland of early modern Southeast Asia. Was the societal organization horizontal or was it vertical? In my view, we must study Vietnam in Southeast Asian terms first, and only then from an East Asian perspective. The progression of Vietnamese (and Southeast Asian) history would be from the entourage, "flexible" or open style (which emphasized personal leadership and was apparently inherent to indigenous society) to a more structured political and social system. The need, I would suggest, was to restrict the indigenous "flexibility", and to institutionalize the social and political elements of the local populace in order to gain a better control of the countryside. In Vietnam, this effort took the form of the Chinese model with its Neo-Confucianism and bureaucracy, which gained an ever deeper hold on Vietnamese society from the mid-seventeenth century to the mid-nineteenth. For the rest of the Southeast Asian mainland, Theravada Buddhism filled the role of the moral ideology, while the institutionalization in these countries involved more indigenous elements. In this way, we may see Vietnamese and mainland Southeast Asian history in part as the effort of political and social élites to close off the inherently open societies of their people.

儒教社会
17c~19c

⁵⁷Woodside, *Vietnam*, p. 43; Yu, "Law and Family", pp. 8-9, 29, 32-35, 58, 63-64, 73, 76, 137, 166-70; Young, "Law of Property", pp. 29, 32-33, 35; Tai, "Status of Women", pp. 122-25; *Hong-duc Thien Chinh Thu* (A. 330), pp. 1a, 4a-8a.
⁵⁸Yu, "Family and Law", pp. 168-69.
⁵⁹*Ibid.*, p. 79.
⁶⁰Woodside, *Vietnam*, pp. 39-41; Yu, "Law, Society".