

UNIVERSITY OF CALIFORNIA

Los Angeles

Vietnamese Women at the Crossroads:  
Gender and Society in Early Modern Đại Việt

A dissertation submitted in partial satisfaction of the  
requirements for the degree of Doctor of Philosophy  
in History

by

Nhung Tuyet Tran

2004

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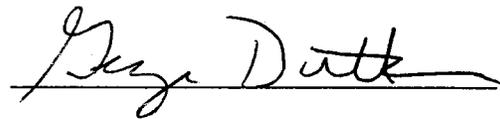
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The dissertation of Nhung Tuyet Tran is approved.

A handwritten signature in cursive script, reading "Kathryn Bernhardt", written over a horizontal line.

Kathryn Bernhardt

A handwritten signature in cursive script, reading "George Dutton", written over a horizontal line.

George Dutton

A handwritten signature in cursive script, reading "Anthony Reid", written over a horizontal line.

Anthony Reid, Committee Co-Chair

A handwritten signature in cursive script, reading "Geoffrey Robinson", written over a horizontal line.

Geoffrey Robinson, Committee Co-chair

University of California, Los Angeles

2004

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## Acknowledgements

This dissertation could never have been imagined, much less completed, without the support and advice of mentors and friends within and outside of academia. Anthony Reid and Geoffrey Robinson, my co-chairs, provided intellectual inspiration, personal encouragement, and critical feed-back. My other committee members, Kathryn Bernhardt, George Dutton, and Thu Hương Nguyễn-Võ, provided helpful suggestions and detailed criticisms on multiple versions of the draft. I am fortunate to work with mentors who challenged me to think outside of paradigms and yet guided the transformation of unbridled criticism into thoughtful scholarship.

Special thanks should be extended to my University of Pennsylvania mentors, Lynn Lees and Matthew Sommer. Both ardently supported my intellectual development at Penn, and played critical roles in my ability to transition to UCLA. Sommer's Chinese revolution course, which I took as a junior in college, inspired me to pursue history as a professional occupation. As a scholar, his work on Chinese gender relations informs much of my own work on Vietnamese women.

In Việt Nam, Professor Phan Huy Lê lent his time generously to my intellectual queries, however outrageous they may have seemed to someone of his stature. He patiently and thoughtfully challenged my early critiques of historiography but encouraged me to defend my critiques with empirical data. Trần Nghĩa, my tutor and mentor, guided me through the intricacies of Vietnamese philology. He spent hours discussing this or that document with me and patiently reminded me to engage the Vietnamese academy. Lê Anh Tuấn introduced me to the study of *nôm* and proved a good-humored tutor.

Chu Tuyết Lan from the Institute of Hán Nôm Studies and Kiều Văn Hốt of the National Library gave of their time and expertise generously. Chu Tuyết Lan, opened her home to me and spent three years easing me through the difficulties of living in Việt Nam. Her generosity, friendship and advice will forever be appreciated. In Paris, Père Gérard Moussay and Brigitte Appavou of the Archives of the Missions Étrangères provided generous access and photographic privileges to the fine collection. Likewise, Alexandre Lê of the Library of the *Ecole Française d'Extreme Orient*, provided assistance in acquiring materials at the *EFEO* and other necessary materials in Paris. In Rome, Fathers John de Cock and Reddy at the Society of Jesus headquarters and the many archivists at the Vatican Secret Archives went beyond their call of duty to assist a non-Italian speaker comb through their materials with relative ease.

My fellow graduate students in Southeast Asian and Vietnamese Studies proved to be critical in my graduate school days. Tracy Barrett, my long-time friend and housemate in Việt Nam, engaged in conversations about property, gender and Vietnamese history and meticulously read very early chapters of my introduction and property chapter. She and her spouse, Michael Learn, provided friendship and support through difficult stages of my life. Nam Nguyễn, my friend and mentor, provided valuable insight on Hán-Nôm sources, introduced me to many South Vietnamese scholars, and gave much-needed

guidance on Chinese and *nôm* translations. This dissertation would not have been possible without his vigilant assistance. Edward Miller and Justin McDaniel read parts of my dissertation in our readings group in the spring of 2003. All mistakes are my own.

My graduate studies and research programs were funded by grants from University and non-University Grants. The Center for East Asian Studies, Graduate School of Arts and Sciences, and the History Department's Annenberg fund provided assistance in graduate training at the University of Pennsylvania. At UCLA, the Eugene Cota Robles Fellowship, Graduate Division and History Department generously funded my studies. At various times in my graduate studies, language study in Mandarin Chinese, Vietnamese, and *nôm* was funded by the Foreign Languages and Area Studies Program (FLAS) from the Department of Education, Fulbright Foundation (through the Vietnamese Advanced Study Program), the Social Science Research Council, the history departments of Penn and UCLA, and the generous support of Anthony Reid and Geoffrey Robinson. Research in Việt Nam, France and Rome was funded by the Pacific Rim Research Grant of the University of California and Social Science Research Council with funds from the Ford Foundation.

My graduate studies and dissertation would not have been completed without the support of family. My siblings, bewildered that I might choose a career that promised too much work and too little security, nevertheless provided financial and moral support throughout the period. Special thanks go to my sister, Alexis, for bearing more than her share of the burden. I was fortunate to share my intellectual development with my god-mother, Lea Goodman, who demonstrated by example how to balance a career and family life. Affectionate thanks go also to Glenn Adams and Natalie Adams-Menendez, whose presence made ours a warm home. Glenn's companionship and support directed my attention toward the prize. May we continue to build our lives together in the next stage.

Finally, this dissertation is dedicated to my mother, Lâm Thị Kiêm, and the memory of my father, Trần Văn Bàng (1930-2002). They were of a generation of Vietnamese citizens with particular strength: in their seventy years, they war and relocation to the United States, where they watched language, historical knowledge, and memory slip by their children's consciousness. They embodied and defied Vietnamese and Western gendered stereotypes of mother, father, wife and husband. I hope that this experiment does not diverge too drastically from their expectations.

## VITA

2 December 1976	Born, Hồ Chí Minh City, Việt Nam
1998	B.A. Economics & History University of Pennsylvania Philadelphia, PA
1998-2000	Ph.D. Student Chinese History University of Pennsylvania Philadelphia, PA
2000	Conference Chair <i>Moving Beyond the War: New Directions in the Study of Việt Nam</i>
2001	Conference Chair <i>Việt Nam: Beyond the Frontiers</i> UCLA
2001-2002	Field Research, Việt Nam, France & Italy under Grants from the Social Science Research Council and the University of California Pacific Rim Research Program.
Spring 2002	Teaching Fellow Harvard University Cambridge, MA
2004	Assistant Professor of History University of Toronto Toronto, Canada

## PUBLICATIONS

Tran, Nhung Tuyet & Anthony Reid, eds. *Việt Nam: Borderless Histories*. Madison, WI: University of Wisconsin Press, in press.

----. "Beyond the Myth of Equality: Inheritance and Succession in the Lê Code." In Tran & Reid, eds., *Việt Nam: Borderless Histories*, in press.

-----. "*Les Amantes de la Croix: An Early Modern Lay Vietnamese Sisterhood*." In Gisèle Bousquet & Nora Taylor, eds. Paris: Les Indes Savantes, in press.

ABSTRACT OF THE DISSERTATION

Vietnamese Women at the Crossroads:  
Gender and Society in Early Modern Đại Việt

By

Nhung Tuyet Tran

Doctor of Philosophy in History

University of California, Los Angeles, 2004

Professor Anthony Reid, Co-Chair

Professor Geoffrey Robinson, Co-Chair

This dissertation examines the experiences of women in early modern Vietnamese society: the sixteenth through eighteenth centuries. It is the first full-length historical study of Vietnamese women written in English, Vietnamese, or French. This study Vietnamese society challenges the paradigmatic framework of Vietnamese gender history by demonstrating how constructions of Vietnamese womanhood emerged out of colonial legal discourses and are easily contradicted by the historical evidence. Contrary to the existing scholarship, this dissertation argues that women's private lives were severely circumscribed by code and local custom. Restrictive structures that organized their private lives led women to seek out mechanisms that ensured de-facto authority in over property, sexual, and religious life, ironically giving them important public roles in village life.

The study relates Vietnamese women's experiences to the socio-economic structure of Đại Việt during the sixteenth, seventeenth and eighteenth centuries. The economic dislocations of the civil wars between the Mạc, Trịnh and Nguyễn families in these three

centuries shifted female labor toward market activities. In turn, with the stabilization of society and economics in the Northern and Southern Realms, women engaged in marketing activities befitted greatly. They transferred their monetary gains into public works programs and religious institutions and were commemorated by stone stèlae that marked their position in village life prominently.

By examining the women's lives through the themes of representation, their life course, sex, and property, this dissertation takes Vietnamese women out of national regional narratives and focuses on how reading history through women's experience changes our perception of Vietnamese society in the early modern period. The sources consulted include legal records, missionary materials, religious texts, oral folk poetry, and stèle inscriptions written in written in *nôm*, classical Chinese, and French, collected in archives throughout Việt Nam, Paris, and Rome

**Chapter 1**  
**Introduction:**  
**Vietnamese Women at the Crossroads**

In every national history, certain symbols become distinct signifiers of that country's cultural heritage. In the existing scholarship on Vietnamese history, women emerge as a marker of "tradition" in three paradigmatic forms: as a sign of Confucian oppression; of Southeast Asian cohesiveness; or of Vietnamese uniqueness. Vietnamese feminists<sup>1</sup> and Western scholars<sup>2</sup> represented Vietnamese women as slaves trapped under a yoke of Confucian oppression, bound by "a whole system of moral principles that preached moral submission."<sup>3</sup> Scholars of Southeast Asia have highlighted Vietnamese women's property claims in the early modern period as evidence that Đại Việt was a part of the Southeast Asian region.<sup>4</sup> One major facet of this regional cohesiveness, historians of Southeast Asia argue, included a relatively egalitarian gender structure, contrasted with those in the Indian Subcontinent or China. A third group of scholars has emphasized Vietnamese uniqueness, in which the woman embodies an indigenous

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<sup>1</sup> Mai Thị Tú, "The Vietnamese Woman, Yesterday and Today," *Vietnamese Studies* 10 (1966): 7-26; Mai Thị Tú & Lê Thị Nhậm Tuyết, *La Femme au Vietnam* (Hanoi: Editions Etrangères, 1976).

<sup>2</sup> Công Huyền Tôn Nữ Nha Trang, *The Traditional Roles of Women as Reflected in Oral and Written Vietnamese Literature*, Ph.D. Dissertation, University of California, 1973; David G. Marr, "The 1920's Debate on Women's Rights," *Journal of Asian Studies*, 36, 3:371-95.

<sup>3</sup> Mai Thị Tú (1966) op. cit., 9.

<sup>4</sup> For these scholars, Đại Việt, to be sure, is certainly on the periphery of the Southeast Asian region. However, they refer to women's status in traditional Đại Việt as one characteristic that made Vietnamese society look more similar to Southeast Asian societies than Chinese ones. The pioneering scholars of Southeast Asia who make these connections include Georges Coedes, *The Indianized States of Southeast Asia* (Trans. Susan Browning); O.W. Wolters, *History, Culture & Region in Southeast Asian Perspectives* (Singapore: Institute of Southeast Asian Studies, 1982) & Anthony Reid, *Southeast Asia in the Age of Commerce*, (Yale University Press, 1988) 2 volumes.

tradition predating Chinese influence.<sup>5</sup> Outstanding female figures in Vietnamese history, such as Âu Cơ, mythical mother of the Vietnamese people; the Trưng Sisters<sup>6</sup> and Triệu Thị Trinh<sup>7</sup>, who led successful military assaults against the Chinese invaders; and poetesses, like Princess Ngọc Hân and Hồ Xuân Hương,<sup>8</sup> mark an ostensibly unified national culture predating and outlasting a thousand years of Chinese cultural influence.<sup>9</sup>

In the twentieth century, Vietnamese and Western scholars have appropriated “woman” as a symbol for intellectual and political goals as varied as colonial rule, decolonization and nationalism, socialism, and post-colonial discourse. Despite this

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<sup>5</sup>As Alexander Woodside has noted, “[the] rights of women had always been more the mark of Vietnamese social conventions than Chinese.” Alexander Woodside, *Vietnam and the Chinese Model A Comparative Study of Vietnamese and Chinese Government in the First Half of the Nineteenth Century.*, (Cambridge, MA: Harvard University Press, 1976), 45.

<sup>6</sup> The Vietnamese and Chinese annals record that Trưng Trắc and her younger sister, Trưng Nhị, led a rebellion against the Chinese administrator, Tô Định, in 40 A.D., and established an independent kingdom. Their victory was short-lived, however, when the Han general Mã Viện led a campaign defeating them in 42 A.D. *Đại Việt Sử Toàn Thư, Ngoại Ký*, translated into modern Vietnamese by Ngô Đức Thọ. (Hà Nội: NXB Khoa Học Xã Hội, 1993) Vol. 4: 3a-b.

<sup>7</sup> *Triệu Ẩu* led a popular uprising against the Chinese in 248 A.D., but died that year. The chronicles record that the woman had breasts as long as three *thước* (托), equivalent to one meter, and rode atop the head of an elephant while fighting the Chinese. *ĐVSKTT, Ngoại Ký*, Vol. 4: 4a.

<sup>8</sup> Although Alexander Woodside devoted a sizeable portion of the introduction to a discussion of Hồ Xuân Hương’s poetry in his classic, *Vietnam and the Chinese Model* (1976), the Western academy and popular readers only recently have become captivated by the publication of Hồ Xuân Hương’s poetry. Her mystique is so enchanting that Frances Fitzgerald “imagine[s] her as the brilliant bad girl of eighteenth century Vietnam, throwing her erotically charged darts into the sexual hypocrisy of all ages and cultures,” in Hồ Xuân Hương, *Spring Essence: the Poetry of Hồ Xuân Hương*, John Balaban, ed., (Port Townsend, WA: Copper Canyon Press, 2000), back cover. That Hồ Xuân Hương wrote her poetry in the demotic script (*chữ nôm*) as a concubine (a symbol of Confucian—read Chinese oppression) reinforces her image as an embodiment of Vietnamese identity to contemporary Vietnamese and Western scholars.

<sup>9</sup> Trần Quốc Vương, *Truyền Thống Phụ Nữ Việt Nam* (Hà Nội: Nhà Xuất Bản Văn Hóa Thông Tin, 2001), 9 & Keith W. Taylor, *The Birth of Vietnam*, chapter 2. Though their works focus on the exploitation of women; Mai Thị Tú (1966); Lê Thị Nhậm Tuyết (1976); and Công Huyền Tôn Nữ Nha Trang (1973) also point to these unique women as model Vietnamese women.

frequent appropriation, there is yet little written of Vietnamese gender history.<sup>10</sup> This dissertation, a social history of women in the early modern period,<sup>11</sup> attempts to unearth the social lives of Vietnamese women that have been silenced by the prevailing discourses on Vietnamese womanhood. This study relates the experiences of Vietnamese women to the broader socio-economic shifts in Vietnamese society from the fifteenth to the eighteenth centuries. The civil wars that gripped Đại Việt in the sixteenth through eighteenth centuries, the economic dislocations as a result of those wars created conditions in which women could gain de-facto authority in public life.

Much of the authority that women seemed to enjoy in Vietnamese society in the early modern period appears to be related to a religious revival movement, which scholars attributed to the uncertainties of the civil wars of the period.<sup>12</sup> This revival movement found material manifestation in the construction and restoration of Buddhist, Taoist, and village temples and the dissemination of sutras and vernacular stories

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<sup>10</sup> With the exception of Công Huyền Tôn Nữ's dissertation, which examines the "traditional roles of women" in literature, the only existing full-length studies prioritize women's participation in the national revolution or their status in contemporary society. See, for example, Công Huyền Tôn Nữ Nha Trang (1973), op. cit.; Kathleen Turner et als., *Even the Women Must Fight*; Đỗ Thị Chi Lan, *La Mere et l'enfant dans Indochine et d'autrefois* (Paris: L'Harmattan, 1998).

<sup>11</sup> Anthony Reid marks the early modern period in Southeast Asian history, the fifteenth through the seventeenth centuries, as a period of "commercial upturn, new military technology, growth of new, more centralized states, and the spread of externally validated scriptural orthodoxies in the region." Anthony Reid, "Introduction: A Time and Place," in *Southeast Asia in the Early Modern Era: Trade, Power and Belief*, ed. Anthony Reid (Ithaca, NY: Cornell University Press, 1993), 10, 1-19. For a critique of Reid's application of "early modern" to the Southeast Asian context, see Victor Lieberman, "Introduction: Eurasian Variants," in *Beyond Binary Histories: Reimagining Eurasia to c. 1830*, ed. Victor Lieberman, (Ann Arbor, MI: University of Michigan Press, 1999), 4, 1-18.

<sup>12</sup> Nguyễn Tài Thư, ed., *History of Buddhism in Vietnam* (Hà Nội: Social Sciences Publishing House, 1992) 259.

throughout Đại Việt.<sup>13</sup> This revivalism was made possible by the active promotion of Buddhism by the Mạc and Trịnh families to win popular support for their usurpation of imperial power.<sup>14</sup> In particular, princesses, consorts and wives at the two courts underwrote much of the Buddhist restoration project in their natal villages.<sup>15</sup> Such overt support from the ruling elite had a trickle-down effect, as local women of more modest means contributed to the restoration of temples or the dissemination of Buddhist sutras without fear of retribution from the state. This “religious revivalism” was not only characterized by resurgence in lay participation in Buddhist and Taoist worship, but also by a surprising embracement of Catholicism by Vietnamese converts.<sup>16</sup> Catholicism also benefited from the patronage of the powerful as wealthy female converts commissioned the construction of churches and served as political intermediaries for the foreign missionaries.<sup>17</sup> Many poor Vietnamese also turned to Catholicism as they looked to an afterlife whose maintenance did not require continual material offerings. They

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<sup>13</sup> For more on material manifestations of this Buddhist revival, see Đinh Khắc Thuân, *Văn bia thời Mạc* (Hà Nội: Nhà Xuất Bản Khoa Học Xã Hội, 1996), Tri Ân Nguyễn, *Ninh Phúc Temple: a Study of Seventeenth Century Buddhist Sculpture in Vietnam*, Ph.D. Dissertation: University of California at Berkeley, 1999, and the works in progress of the Venerable Thích Hạnh Tuấn, a Ph.D. candidate in East Asian Civilizations at the University of California at Berkeley. Thích Hạnh Tuấn has generously made available to me his collection of seventeenth century Vietnamese wood-block Tripitaka.

<sup>14</sup> Đinh Khắc Thuân, *Contribution de la dynastie des Mạc à l'histoire du Việt Nam*, Ph.D. Dissertation, University of Paris: Ecole des Hautes Etudes, 2001 & *Lịch sử triều Mạc qua thư tịch và văn bia*, (Hà Nội: NXB Khoa Học Xã Hội, 2001), 231.

<sup>15</sup> Id., 235

<sup>16</sup> Reports indicate that as early as 1670, there were over one hundred thousand converts to Catholicism. *Relation du Voyage de Monseigneur Lambert de la Motte au Tonkin en 1669*, AMEP, Vol. 677, 190.

<sup>17</sup> Nhung Tuyet Tran, “Catechism, Politics and the Restructuring of Gender Roles in the Formation of the Catholic Church in Early Modern Việt Nam,” unpublished paper presented at the conference, *Moving beyond the War: New Directions in the Study of Việt Nam*. University of Pennsylvania, 31 March 2000.

demonstrated their faith by assisting foreign and local missionaries, who had to live and travel throughout the country discreetly.

The extensiveness of the religious revivalism was made possible by the changing socio-economic situation in the early modern period. Long-term agricultural pressures in the Red River delta and a migration of male labor to the newly acquired southern realm (Đàng Trong) and fissured labor along gender lines. Ironically, pressure on the land in the northern realms and the relative fertility of land in the southern realm led to the same result: agricultural labor became a male domain while women directed their attention to side-line and market activities to augment family income. This concentration on the production of sideline materials for the market, coupled with increases in Chinese, Japanese and European visitors beginning in the sixteenth century, catalyzed market production and trade and proved lucrative for the women. Many women transformed these new-found economic successes into de-facto public power, as they invested their monetary gains in public works projects such as the construction of religious sites, the restoration of bridges and village temples, and the construction of new marketing centers.<sup>18</sup> These indicators suggest that the *relative* prominence of Vietnamese women in economic and religious life in the seventeenth and eighteenth centuries, as observed by

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<sup>18</sup> See, for example, “Vãn Lộng Thị Bi” (晚弄市碑) No. 12399-4000, a stele erected in 1634 commemorating the enlargement of a local market by its vendors, of whom all were women; “Quảng tế kiều bi kí” (廣濟橋碑記) No. 7309-10; “Trùng thư Giao kiều bi” (重書交橋碑) No. 12312-15, a stele erected in 1693 in which various women from the village donated money to repair the bridge connecting two villages to a market; Tu tạo Hoa Nữ kiều Bi (修造花女橋碑) no. 11426-27, a stèle erected in 1631 marking the restoration of the bridge that was financed by local donors, all of whom were women. The texts of these and other stèles suggest that the roadways and bridges were financed to ease travel for market endeavors.

many early modern visitors, was more a matter of socio-economic conditions of the seventeenth and eighteenth centuries and not a primordial feature of Vietnamese society.

### **The Thesis**

My interest in early modern gender history emerged from a study of Catholicism in seventeenth century Vietnamese society. While researching issues of conversion I discovered that much of the anecdotal evidence suggested that a large majority of early converts were women, about whom I knew very little. As I perused the secondary literature that touched on gender, several major issues emerged. First, there was no full length historical study of women in Vietnamese, French, or English. Second, in the very small number of works that alluded to gender in Vietnamese society, women were generally characterized in three forms: as victims of a Confucian system, as models of ancient Vietnamese nationalism, or as the embodiment of a Southeast Asian heritage. Moreover, these models of Vietnamese womanhood explicitly compared them against Chinese women. Finally, the way in which Chinese women were represented diverged from the corpus of scholarship on gender in Chinese history. I recognized that few historians are given such an enormous opportunity to explore such a neglected—yet critically important—area of historical research, and so I postponed my study of Vietnamese Catholicism to write this social history of Vietnamese women.

Underlying my thesis is a critique of the paradigmatic framework of Vietnamese and Southeast Asian gender history. The prevailing literature places Vietnamese women into three narratives in which they embody cultural identity, whether East, Southeast

Asian, or uniquely national.<sup>19</sup> While many scholars include considerations of Chinese cultural and bureaucratic influence and Vietnamese resistance as factors contributing to Vietnamese historical identity, they converge on one major issue: that determining the position of Vietnamese women in pre (French) colonial society might reveal the root of Vietnamese culture. They appropriated feminine imagery to represent Vietnamese tradition as that of oppressiveness by Chinese influence, autonomy linked Southeast Asian regional cohesiveness, or national greatness.

By embodying Vietnamese identity, women symbolize a cultural tradition to be destroyed or preserved. While the scholarship never explicitly defines it as such, “traditional” culture is represented as the structures and meanings attached to Vietnamese institutions *before* French colonization. Each of the three models contrasts Vietnamese women with an idealized image of a Chinese woman, whose bound feet symbolize the oppressiveness of Confucianism. These representations mark Chinese influence (read Confucianism) as backward and static. The three models of Vietnamese womanhood narrate a story of Vietnamese society that gradually devolved into a patriarchal system under Chinese influence, reaching its zenith in the Nguyễn Dynasty (1802-1945). How each of the three paradigms represented this evolution depended in large measure on the intellectual motivations of twentieth century politicians and scholars.

Vietnamese feminists and Western scholars of modern Vietnamese history highlighted women’s inferior social roles to symbolize a stagnant, Confucianized society

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<sup>19</sup> For a more thorough discussion of historiography and Vietnamese identity, see Nhung Tuyet Tran & Anthony Reid, “Introduction: the Construction of Vietnamese Historical Identity,” in *Việt Nam: Borderless Histories*, Nhung Tuyet Tran & Anthony Reid, eds., (Madison, WI: University of Wisconsin Press, forthcoming 2004), 1-32.

bombarded by dynamic Western ideologies, whether they were liberal-democratic or communist-socialist. David Marr's characterization of Vietnamese women's roles in twentieth century Việt Nam well represents the "Confucian oppressed" model of Vietnamese womanhood:

Historically speaking, Vietnamese women had never been reduced to cremating themselves along with their husbands as in India or Champa. They had never worn a veil as in Islamic countries, nor bound their feet as in China. There is some evidence that in pre-historical times, they enjoyed equality, even power. Nevertheless, Chinese colonial administrators and especially subsequent Vietnamese monarchs went to considerable effort to convince women that they were by nature, inferior, that their roles were rigidly circumscribed and they should always follow and never lead. While never completely successful, such sustained indoctrination did have major impact. Women internalized submissive norms almost to the point of believing them to be natural law.<sup>20</sup>

Marr's description of Vietnamese women's status under Chinese influence follows faithfully the "devolution of values" narrative. He explicitly recalls a pre-Chinese period in Vietnamese history in which women "enjoyed equality." However, as he outlines, Chinese cultural influence changed Vietnamese tradition to the point of near-absolute subjugation. Marr's characterization of Vietnamese womanhood reflects his emphasis on decolonization and nationalism, for which he relied heavily on the writings of radical young revolutionaries in the early twentieth century.<sup>21</sup> For these revolutionaries, the only way they could win independence from the French and forge a new path toward modernity by abandoning all that was Chinese.<sup>22</sup> Vietnamese and Western feminists

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<sup>20</sup> David G. Marr, (1976), op. cit. 371.

<sup>21</sup> David G. Marr, *Vietnamese Tradition on Trial: 1920-45* (Berkeley & Los Angeles: University of California Press, 1980).

<sup>22</sup> Marr (1976) & (1980).

have also highlighted the oppression of women, within a larger framework of contemporary development work.<sup>23</sup>

Contrasted with this model of total subjugation under Confucian models of feminine behavior are representations of Vietnamese womanhood as carrier of an indigenous national essence. Like those who adhere to the “Confucian oppressed” model of Vietnamese womanhood, scholars who emphasize Vietnamese women as signifiers of national uniqueness locate a pre-Chinese period in which women enjoyed uncontested power; moreover, it was this ability to hold onto this tradition that allowed the Vietnamese to shed Chinese rule. Stephen O’Harrow articulates well this model:

Confucianism was a holistic system that tended to work to benefit male power. However, Vietnamese women, in the deep recesses of their nation’s history, played an openly powerful role and countered this Confucian male power with strategies of their own which appear to very old. One could go on to say that Vietnamese women are the main inheritors of indigenous traditions in Việt Nam, and that they employ this equally holistic tradition in gender struggles.<sup>24</sup>

O’Harrow argues that women were able to preserve the national essence, and were thus able to resist the patriarchal influences of Confucian society. As vessels through which an ancient national identity was transmitted, Vietnamese women are positioned by scholars to represent the emergent nation, un-yielding under Chinese, French or American attack. Marr and O’Harrow’s remarks suggest a tension between the Confucian-oppressed and uniquely national model of Vietnamese womanhood. The

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<sup>23</sup> See, for example, Jayne Werner & Daniele Bélanger, *Women, Gender and Society in Đổi Mới Việt Nam* (Ithaca, NY: Cornell Southeast Asia Publications, 2001).

<sup>24</sup> Stephen O’Harrow, “Vietnamese Women and Confucianism: Creating Spaces from Patriarchy,” in Wazir Jahan Wahid, ed., *‘Male’ & ‘Female’ in Developing Southeast Asia* (Washington: Berg Publishers, ) 161-180: 175.

tension rests in the shared belief that in a non-Chinese historical past, women enjoyed unparalleled power that was somehow dismantled during a thousand years of Chinese cultural influence. While the tension remains to be resolved in the scholarly literature, the poetry of remarkable women writers such as Đoàn Thị Điểm and Hồ Xuân Hương has been used to suggest that a Vietnamese resistance to Confucianization was apparent in feminine literature of the eighteenth and nineteenth centuries.<sup>25</sup>

For scholars of Southeast Asia, Đại Việt's long experience with Chinese cultural and political influence presents an obstacle for characterizing Vietnamese identity as essentially Southeast Asian. This problem was resolved by marking Vietnamese society as the periphery of the Southeast Asian region and emphasizing women's status as the major feature that bound it to the Southeast Asian world.<sup>26</sup> This link between Vietnamese women's status and a Southeast Asian identity emerges from early scholarship on Southeast Asia, which identified gender relations as one feature that helped to bind the diverse cultures of Southeast Asia into a "cultural matrix."<sup>27</sup> Anthony Reid's description illustrates this position succinctly:

Relations between the sexes represented one aspect of the social system in which a distinctive Southeast Asian pattern was especially evident. Even the gradual strengthening of the influence of Islam, Christianity, Buddhism, and

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<sup>25</sup> See, for example, Bùi Hạnh Cẩn et als., *Nhóm tác giả nữ sĩ Việt Nam* (Hà Nội: NXB Văn Hóa Thông Tin, 2002); Olga Dror, "Đoàn Thị Điểm and the Emancipation of Women," in *JSEAS* (2002); & John Balaban, "Introduction," in Hồ Xuân Hương, *Spring Essence: the Poetry of Hồ Xuân Hương* (Seattle: Copper Canyon Press, 2001). Liam Kelley takes an opposing position on Đoàn Thị Điểm's poetry, arguing that her poetry reflects links to an East Asian cultural tradition that belies easy characterization. Liam Kelley, "That Other Vietnamese Woman: Đoàn Thị Điểm and the Truyện Kỳ Tân Phá," unpublished working paper, 2003.

<sup>26</sup> For a discussion of Vietnamese society as the periphery of Southeast Asia, see Coedes (1941) & Anthony Reid, "A Saucer Model of Southeast Asia," & *The Lands Below the Winds* (1988), 13.

<sup>27</sup> O.W. Wolters, *History, Culture and Region* (Singapore: Institute of Southeast Asian Studies, 1982).

Confucianism in their respective spheres over the last four centuries has by no means eliminated a common pattern of relatively high female autonomy and economic importance.<sup>28</sup>

Reid clearly articulates the “devolution” narrative, in which outside ideologies altered the gender dynamics of the various Southeast Asian societies. The “autonomy” to which Reid refers has become one of the defining features of the region, and in particular, has become the marker of a Southeast Asian heritage for Đại Việt.<sup>29</sup> The works of historians such as John Whitmore, Oliver Wolters, and Yu Insun, suggest that the presence of women in court politics and mythology, and the (apparent) existence of bi-lateral inheritance patterns were all indicative of Đại Việt’s Southeast Asian heritage.<sup>30</sup>

Central to this debate on Vietnamese historical identity is a reliance on the model of a Chinese woman whose bound feet represented the hegemonic oppressiveness of Confucianism. Despite this explicit comparison with Chinese women’s experiences, little effort has been made to engage the scholarship on Chinese women’s history. When the historical literature on Chinese women is examined, we discover that Chinese women’s experiences were quite complex. In an insightful introduction to her study of elite female culture in the seventeenth century, Dorothy Ko suggests that notions of oppressed Chinese womanhood emerged out of the May Fourth generation’s attempt to remake

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<sup>28</sup> Anthony Reid, *Southeast Asia in the Age of Commerce: the Lands Below the Winds* (New Haven, CT: Yale University Press, 1988), 147.

<sup>29</sup> Other features that contribute to the “cultural matrix” of Southeast Asia include geographic, linguistic, and climatic similarities. See, for example, Georges Coedes, *The Indianization of Southeast Asia* (1941?); Nguyễn Văn Huyền, *La civilisation Annamite* (Hà Nội: Ecole Française d’Extrême Orient, 1944), & O.W. Wolters, *History, Culture & Region* (Singapore: Institute of Southeast Asian Studies, 1982).

<sup>30</sup> See, for example, Yu Insun, “Bilateral social pattern and the status of women in traditional Vietnam,” in *Southeast Asia Research* 7,6; pp.215-31 & Anthony Reid, *Lands Below the Winds*, citing Yu & Lingat, 147.

Chinese culture. This “myth of oppression,” Ko argues, obscured the significant number of elite women who engaged and perpetuated the Confucian system.<sup>31</sup> Also concentrating on the experience of elite Chinese women, Susan Mann’s research suggests that young women from elite families wrote poetry prolifically in the eighteenth century.<sup>32</sup> Additionally, the current research on Chinese women’s history from the legal perspective demonstrates that Qing imperial law did not singularly subject women to an oppressed state.<sup>33</sup> Rather, this current research demonstrates that legal and social regulations shaped the lives of women differently, depending on their class.

### **Historical Background and Periodization**

Despite the explosion of Vietnamese studies internationally, research on the seventeenth and eighteenth centuries has been severely limited, and social history is virtually non-existent. Although research on the period is limited, students of Vietnamese history are familiar with the cliché that the Lê Dynasty (1428-1778) codified long-standing traditions of Vietnamese women’s autonomy, while the Nguyễn Dynasty (1802-1945) defied this tradition by implementing a legal code mimicking that of the Qing Dynasty (1644-1911). Periodizing Vietnamese history in such a way forces historical writing to conform to the contemporary nationalist-socialist narrative: that Chinese influence interrupted Vietnamese greatness. This scheme assumes Vietnamese

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<sup>31</sup> Ko, *Teachers of the Inner Chambers*, (1994), 26.

<sup>32</sup> Mann, *Precious Records*, op. cit., (1998).

<sup>33</sup> Kathryn Bernhardt, *Women and Property in Imperial China, 960-1949* (Stanford: Stanford University Press, 1999 & Matthew Sommer, *Sex, Law and Society in Late Imperial China* (Stanford: Stanford University Press, 2000).

society was great (without change) in the pre-Nguyễn period; following the establishment of the Nguyễn Dynasty, however, the state entered a period of decline, marked by levels of Chinese bureaucratic reforms that ultimately led to the formal imposition of French colonial power in 1887. However, the assumption that the Lê Code<sup>34</sup> preserved an ancient Vietnamese tradition that elevated women, while the Gia Long code of 1812<sup>35</sup> rejected this heritage marks an important turning point for Vietnamese women and history as a whole. This narrative implies that Vietnamese society remained static before the change and began to decline with increasing Chinese influence.<sup>36</sup>

In the fifteen to the eighteenth centuries, however, immense economic, political and social changes rocked Vietnamese society. In the political realm, one sees the defeat of the Ming occupation and establishment of the Lê Dynasty (1428), followed by a dynastic coup by the Mạc family (1524), an imperial restoration that catapulted the Trịnh and Nguyễn families to prominence and triggered two hundred years of civil warfare, and finally, the peasant uprising led by the Tây Sơn brothers (1773-1802),<sup>37</sup> and finally, the victory of the last imperial dynasty, the Nguyễn, in 1802. During this period, three separate families vied for political power while using the Lê rulers as symbols of their patriotism. Moreover, the state expanded to its present size, through conquest of Cham,

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<sup>34</sup> Quốc Triều Hình Luật (國朝形律); Hán-Nôm Institute, Ms. A.341.

<sup>35</sup> Hoàng Việt Luật Lê (皇越律例); EFEO Library Ms. A.55 & Ms. A.2280.

<sup>36</sup> Alexander Woodside. 45; K.W. Taylor, *The Birth of Vietnam* (Cornell, 1987), 76; Yu Insun (1990),

<sup>37</sup> For more on the Tây Sơn uprising and its leaders, see George Dutton, *The Tây Sơn Uprising: Society in Eighteenth century Việt Nam*, Ph.D. Dissertation, University of Washington at Seattle, 2001.

and Khmer lands.<sup>38</sup> Encounters between the population and Western travelers in the courts, port towns and villages through trade and missionary activity influenced economic, political, and religious structures in the seventeenth and eighteenth centuries. How did such changes affect Vietnamese society? While parts of this story have been studied by Li Tana, Charles Wheeler, and George Dutton, none of the extant works examine how reading the sources from the perspective of gender changes our understanding of this period of Vietnamese history.<sup>39</sup> Because gender relations in this period are so often used to explain the nature of Vietnamese society, it is imperative to understand how gender relations changed and were changed by the prevailing socio-economic conditions of the early modern period.

## Methodology

How does one write a history of those who left little (written) evidence of their extraordinary experiences, much less their mundane ones? For most of Southeast Asian history, the paucity of indigenous sources forces historians to rely upon several western observations and contemporary practices to impute historical experience. In the Vietnamese case, though women left very little evidence through their own writings, a multitude of sources can reveal their experiences. State, local and ecclesiastical sources written in classical Chinese, the Vietnamese vernacular (the demotic script-*nôm* [喃]),

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<sup>38</sup> Anthony Reid, *Southeast Asia in the Early Modern Period: Age of Commerce: the Lands Below the Winds* (New Haven: Yale University Press, 1988).

<sup>39</sup> Li Tana, *Nguyễn Cochinchina: Southern Việt Nam in the Seventeenth and Eighteenth Centuries* (Ithaca: Cornell University Center for Southeast Asia Publications, 1988), Charles Wheeler, *Cross-cultural Trade and Trans-regional Network in the Port of Hoi An: Maritime Vietnam in the Early Modern Era*. Ph.D. Dissertation: Yale University, 2001, & George Dutton, *The Tây Sơn Uprising*, op. cit. (2001).

an early form of the Romanized Vietnamese, and French can be used to explore the various processes whereby women negotiated their daily lives. The wealth of existing but unexplored materials determines that this dissertation be guided by the empirical evidence.

This dissertation is inspired by the methodological contributions of Vietnamese philological studies and Chinese legal history. Notably, Đinh Khắc Thuân's work on sixteenth century Vietnamese history and his research on stèle inscriptions have encouraged me to engage in this valuable group of source materials to write social history.<sup>40</sup> In particular, he has used the voluminous stele inscriptions from the Mạc period to reintegrate and rehabilitate this controversial dynasty into Vietnamese history.<sup>41</sup> In Chinese history, Philip Huang's use of legal sources to illuminate how the Qing legal system affected the every-day lives of villagers provides a model in organizing the evidence.<sup>42</sup> More specifically, the historiographical contributions of Chinese women's history helped me to re-examine the prevailing constructions of gender in Vietnamese and Southeast Asian contexts.<sup>43</sup> Moreover, historians' use of legal sources to write about

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<sup>40</sup> Đinh (2001) & *Văn bia thời Mạc* (1996). Valerie Hansen has also made extensive use of stele inscriptions in her study on contracts and folk religions in medieval Chinese history. See, Valerie Hansen, and *Changing Gods in Medieval China, 1127-1276* (Princeton: Princeton University Press, 1990) & *Negotiating Daily Life in Traditional China: How Ordinary People Used Contracts, 600-1400* (New Haven: Yale University Press, 1995).

<sup>41</sup> Đinh, *Contribution de la dynastie du Mạc* (2001).

<sup>42</sup> Philip Huang uses Qing representational and practical sources to reveal social reality in Chinese civil law. Huang, *Civil Justice in China: Representation and Practice in the Qing* (Stanford: Stanford University Press, 1996), 14-15. See also, Philip Huang, *Code, Custom, and Legal Practice in China: The Qing and the Republic Compared* (Stanford University Press, 2001).

<sup>43</sup> See, for example, Patricia Ebrey, *The Inner Quarters: Marriage and the Lives of Women in the Sung Period* (Berkeley & Los Angeles: University of California Press, 1993); Dorothy Ko, *Teachers of the Inner Chambers: Women and Culture in Seventeenth Century China* (Stanford: Stanford University Press,

how women experienced the legal and social structures of late imperial Chinese has heavily influenced my approach to writing women's history.<sup>44</sup> In his research, Matthew Sommer has demonstrated that legal cases can reveal great detail about the lives of marginal groups in society--migrant laborers and men and women who contracted out sexual access as a survival mechanism.<sup>45</sup> The way in which these historians of China have used legal sources to illuminate the daily lives of an underclass of individuals proves useful to lifting out the experiences of commoner women in early modern Đại Việt.

Even when we are able to locate moments when the sources allow us to speak of agency on the part of Vietnamese women, we encounter the dilemma of representation. Spivak's vehement denial that third world women's experiences can be represented, either by themselves or (especially) by academics is a somber conclusion for anyone hoping to write about those who did not represent themselves. She explains,

Between patriarchy and imperialism, subject-constitution and object formation, the figure of the woman disappears, not into a pristine nothingness, but into a violent shuttling which is the displaced figuration of the "third world woman" caught between tradition and modernization.<sup>46</sup>

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1994), & Susan Mann, *Precious Records: Women in China's Long Eighteenth Century* (Stanford University Press, 1997).

<sup>44</sup> Jonathan Spence, *The Death of Woman Wang* (New York: Viking Press, 1978), Kathryn Bernhardt, *Women and Property in China 960-1949* (Stanford: Stanford University Press, 1999), & Matthew Sommer, *Sex, Law, and Society in Late Imperial China* (Stanford: Stanford University Press, 2000); & Philip Huang, *Code, Custom and Legal Practice* (2001), chapter 5.

<sup>45</sup> Matthew Sommer, *Polyandry, Sex Work and Wife-Selling as Survival Strategies in Qing China* (manuscript in progress, under contract to Stanford University Press).

<sup>46</sup> Gyatri Spivak, "Can the Subaltern Speak?" in *Marxism & the Interpretation of Cultures*, ed., Cary Nelson & Lawrence Grossberg (Champaign: University of Illinois Press, 1988).

Juxtaposed between tradition and modernity, then, the “third world woman,” as Spivak argues, cannot but be a representation of scholars’ intents. While this is true in the case of Vietnamese women and the development of Vietnamese studies, I have found it useful not to discard completely an attempt to write about women many worlds removed from our own, but to do so in a way that will not force women into a preconceived narrative or paradigm.

Laurie Sears’ deconstruction of paradigms of Indonesian womanhood in *Fantasizing the Feminine* provides a valuable model in resisting the tendency to universalize Vietnamese women’s experiences. Perhaps the only historian in Southeast Asian Studies to do so, Sears challenges essentialized notions of Indonesian women, arguing that they “[are] artificial ones, which dissolve as we focus on them.”<sup>47</sup> We encounter this same problem when writing Vietnamese women’s history. The images created in early scholarship have been based on disparate evidence that, upon close scrutiny, reveal ambiguities and complexities that call for continued investigation, not concrete models. Sears’ approach to writing about Indonesian women but resisting the temptation to reify their experiences serves as a helpful guide in writing about Vietnamese women’s experiences:

If we refuse all essentialism and authenticities, are we left with only traces or blurred images? . . . [W]e can offer more than blurred images; we can reveal the many faces of the “feminine,” without arguing that our representations are authentic ones.<sup>48</sup>

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<sup>47</sup> Laurie J. Sears, “Introduction,” *Fantasizing the Feminine in Indonesia*

<sup>48</sup> *Id.*, 23.

Inspired by Sears' approach, then, this dissertation seeks to offer one representation of Vietnamese women's lives in the early modern period. The "face" of the Vietnamese feminine experience that I present emerges from the plethora of traditional textual sources, oral folk traditions, and stèle rubbings. Together, these sources can be used to illuminate the complexities of one another, providing a rich picture of Vietnamese women's lives in the early modern period.

The majority of the materials consulted in this dissertation were written in classical Chinese or *chữ nôm*, the Vietnamese demotic script. The balance of the materials were written in an early form of *quốc ngữ*, the Romanized script, and French. Here, the use of materials written in *chữ nôm* and *quốc ngữ* is particularly important. *Chu nôm*, a script reflecting the temporal and spatial vernacular, combined Chinese characters (pronounced in Vietnamese) to express local terminology. In the early modern period, a wide variety of local sources, including official documents, literary sources, and morality teachings, were written in *chữ nôm*. The sources written in *chữ nôm* provide a method of studying local culture that has been relatively unexplored in the historical scholarship on Việt Nam.

## Sources

A historical study of Vietnamese women is difficult to write, in part because of the sources. In early modern Đại Việt, there was no "long" seventeenth or eighteenth century of the sort that precipitated the private printing of works by female authors in

Jiangnan, China.<sup>49</sup> Aside from a few exceptional women whose writings remain,<sup>50</sup> very few women wrote about their lives or their surroundings. While it is true that the majority of contemporary sources that did survive were written by men, there is nonetheless a large corpus of texts that can be utilized to write a social history of women in early modern Vietnamese society. These sources include legal codes and cases, morality texts, literary and religious works, oral folk poetry, and local records including village conventions and stele inscriptions. These materials were written in classical Chinese and the Vietnamese vernacular script, *nôm*, and early forms of romanized Vietnamese.

During my two years of research time in Việt Nam and Europe, I examined the unpublished manuscripts available at the Hán-Nôm Institute, the national depository for pre-colonial Chinese and *nôm* materials, as well as the National Library in Hà Nội; the Social Sciences and Humanities Library in Hồ Chí Minh City; and private collections of microfilms and manuscripts throughout Việt Nam.<sup>51</sup> Rich and detailed as they were, the

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<sup>49</sup> Dorothy Ko and Susan Mann found that economic growth in the seventeenth and eighteenth centuries led to the widespread printing of volumes of poetry written by educated daughters from wealthy families. For more on these works, see Dorothy Ko, *Teachers of the Inner Chambers* (Palo Alto, CA: Stanford University Press, 1990) & Susan Mann, *Precious Records: Women in China's Long Eighteenth Century* (Berkeley & Los Angeles: University of California Press, 1998).

<sup>50</sup> The most famous of these exceptional Vietnamese women writers is Hồ Xuân Hương, a nineteenth century poetess who wrote her verses in the vernacular script, *nôm*. Presently, her work has gained notoriety in American academia with the publication of a collection of her poems. See, Hồ Xuân Hương, *Spring Essence: the Poetry of Hồ Xuân Hương*, John Balaban, ed., (Seattle, WA: Copper Canyon Press, 2000). Other notable female writers of the seventeenth and eighteenth centuries include Đoàn Thị Điểm, an educated woman who became a tutor at the Trịnh court, and Trịnh Thị Ngọc Trúc, the princess at the Trịnh court who is reputed to be the author of the *Chi Nam Ngọc Âm Giải Nghĩa* (指南玉音解義) *Dictionary*, the earliest extant Chinese-*nôm* dictionary.

<sup>51</sup> For access to their personal collection of Hán-Nôm materials, I owe a special debt to Professors Nguyễn Văn Thịnh, Phan Huy Lê, Trần Nghĩa, and Vũ Văn Kính. Professor Kính, in particular, provided valuable *nôm* manuscripts from the seventeenth century. In addition, the Venerable Thích Hạnh Tuấn generously

sorts of materials found in libraries and archives in Việt Nam often needed comparison with European sources. In Paris, materials were consulted at the Library of the *École Française d'Étrême Orient (EFEO)*, and the *Archives des Missions Étrangères de Paris (AMEP)*. In Rome, research was conducted at three institutions: the archives of the Society of Jesus, the Secret Archives at the Vatican, and the library of the Propaganda Fide. Finally, in the United States, I had access to the late Professor Ch'en Jing Ho's (Trần Kinh Hòa) private collection of microfilms and manuscripts copied in the Vietnamese archives before World War II.<sup>52</sup> The records obtained in the above archives fall into the two rough categories of official and non-official sources.

The official sources, written in classical Chinese, include a variety of documents such as dynastic histories, state and local legal codes, court records, and state-sponsored morality texts and edicts. Of these sources, the most commonly used official history is the *Đại Việt Sử Ký Toàn Thư* (大越史記全書, "The Complete Historical Books of the Great Việt,"), the imperial chronicle compiled in the late thirteenth century by Lê Văn Hưu and recompiled in the fifteenth century by Ngô Sĩ Liên, with an addendum for the period between 1479-1697.<sup>53</sup> The version of the chronicle used here is a wood-block

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provided me digital images of seventeenth and eighteenth century Buddhist sutras. The owners of other private libraries wish not to be identified, but their assistance was critical as well.

<sup>52</sup> Professor Chen's microfilms and manuscripts include rare copies of materials he made in Việt Nam while a special liaison to the Japanese government during the occupation. Special thanks go to the Professor' family.

<sup>53</sup> For more on the dating and manuscript, see Phan Huy Lê, "Đại Việt Sử Ký Toàn Thư: tác giả, văn bản, tác phẩm," in *Đại Việt Sử Ký Toàn Thư*, Vol. 1: 15.

printing dated 1697, and preserved at the Toyō Bunko.<sup>54</sup> The *Chronicle* provides a detailed political history of the Vietnamese dynasties to the period of Trịnh family rule in the seventeenth century and detailed information about crop and climatic conditions, state edicts, legal cases, and contemporary discourses on women in society. While incredibly descriptive in some instances, the chronicles' limitations are obvious in their perspective: as the Lê and Trịnh families' representations of recorded events. Other official records, particularly legal regulations and codes, augment the chronicles' details with specific information relating to the legal structures of the period.

The fullest extant collections of legal statutes in the Lê Dynasty, the *Penal Code of the [Lê] Dynasty* (*Quốc Triều Hình Luật, 國朝形律*)<sup>55</sup> and the *[Book] of Good Government from the Hồng Đức Reign* (*Hồng Đức Thiệu Chính Thư, 洪德善正書*),<sup>56</sup> add another level of detail to the legal structures upon which early modern Vietnamese society was based. The former, more commonly known as the Lê Code, contains the major penal and civil regulations during the Lê dynasty. Currently, two versions of the Code are extant: one is a hand-written copy of the code retrieved from the Huế Imperial

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<sup>54</sup> The version used here is Professor Chen Ch'ing Ho's personal copy of the *Đại Việt Sử Ký Toàn Thư*, which he collected at the Tokyo Bunko. A facsimile of this version can be viewed in a publication

<sup>55</sup> {Quốc Triều Hình Luật, 國朝形律} The version of the Lê Code used in this essay can be found at the Han-Nom Institute, A.341. Raymond Deloustal translated the legal section of the *Lịch Triều Hiến Chương* (歷朝憲章類志) into French and Nguyễn Ngọc Huy and Tạ Văn Tài translated the code into English. R. Deloustal, "La justice en ancien Annam," *BEFEO* (1908, 1909, 1910, etc.) & Nguyễn Ngọc Huy & Tạ Văn Tài, trans. *The Lê Code: Law in Traditional Vietnam (a Comparative Sino-Vietnamese Legal Study with Historical-Juridical Analysis and Annotations)* (Athens, OH: Ohio University Press, 1987). 3 vols. Nguyễn Tá Nhí and – have recently translated the code into *quốc ngữ*.

<sup>56</sup> Hồng Đức Thiệu Chính (洪德善正), Hán Nôm Institute, Ms. A.330.

Archives in 1898, from which Raymond Déloustal made his French translation.<sup>57</sup> Promulgated in 1777, these legal statutes were reproduced by Phan Huy Chú in 1800.<sup>58</sup> A woodblock printing of the code is preserved at the Hán-Nôm Institute, and thought to date to the seventeenth century, and is the source consulted in this study.<sup>59</sup>

Although the *Book of Good Government* can be dated to the sixteenth century, only two nineteenth century hand-copies of the document are extant. Both of these copies are available at the Hán-Nôm Institute and one is reproduced in Nguyễn Sỹ Giác's quốc ngữ translation of the document.<sup>60</sup> The various statutes and legal cases compiled in the *Book of Good Government* show how district officials applied legal rules to check certain statutes in the Lê Code. Using clues from reign names included in the document, Vũ Văn Mẫu dates this compilation sometime between 1541 and 1561, during the Mạc reign.<sup>61</sup> While it is true that judgments included in the compilation were specifically chosen by the state, by no means is it a simple replication of the Lê Code. At the very least, this document provides clues to local judgments that the state sanctioned; in doing so, it provides evidence for how many disputes were resolved at the local level. Within the *Book of Good Government*, district officials provide examples of cases and their decisions on such cases, providing insight into how disputes involving women were

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<sup>57</sup> Maitre, "Introduction to Deloustal Translation," *BEFEO* 8 (1908) & Nguyễn Huy Lai, *Les Régimes Matrimoniaux en droit Annamite* (Paris: Les Editions Domat Montchrestien, 1934), 20.

<sup>58</sup> R.L. Cadiere & Pelloit, "Premier etude des sources d'histoire Annamite," *BEFEO* 4 (1904)

<sup>59</sup> *Quốc Triều Hình Luật*, (國朝形律), Hán Nôm Institute, Ms.A.341.

<sup>60</sup> Copy of A.330 & Number reproduced in Nguyen Si Giac, trans., *Hồng Đức Thiện Chính Thư* (Sài Gòn: Trường Luật Khoa Đại Học, 1959).

<sup>61</sup> Vũ Văn Mẫu, "Introduction," *Hồng Đức Thiện Chính Thư*, (1959), XVII.

adjudicated in legal practice. The biases of the official sources are obvious and often silent about details that are pertinent to the daily lives of Vietnamese people.

I have therefore tried to illuminate the details of the state sources with evidence from non-official sources; these details provide local—often personal—balance to the state sources. This loosely defined category of non-official sources include local records as varied as private contracts, morality manuals, stele inscriptions, religious texts, literary sources, and a vast store of ethnographic observations from local and foreign observers. These sources were written in classical Chinese, the vernacular script (*chữ nôm*), an early form of *quốc ngữ*, and French. Of this group, several kinds of sources emerge from village settings that include private contracts, wills and testaments, village conventions, and stele inscriptions. Together, these documents serve as examples of local legal sources that help to illuminate the diffusion of power and authority within the village. The village regulations, always represented as a convention of the commonly accepted customs and morals, provide insight into a local institutional structure that regulated women's lives. Moreover collections of wills, testaments, and private contracts between individuals add insight into the ways in which state and local regulations affected women's lives.<sup>62</sup>

The last of this group of records emerging from the village--stèle inscriptions--add much needed insight to women's interactions within village communities. Rubbings<sup>63</sup> of stèle inscriptions from the seventeenth and eighteenth century were

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<sup>62</sup> *Chúc thư văn khế cứu chi*; Hán-Nôm Institute, A.2917.

<sup>63</sup> I use the term "rubbing" here to refer to the ink blots of stone and bronze inscriptions. The "rubbings" made in the colonial period by *EFEO* scholars were on European style paper, while those made in the post-

collected by early *Ecole Française d'Extrême Orient (EFEO)* ethnographers in the first decades of the twentieth century. When the Hán-Nôm Institute acquired much of the *EFEO's* materials in the 1980's, it sent out its own group of ethnographers and made rubbings of additional inscriptions on rice paper. Today, over forty thousand remain uncatalogued at the Hán-Nôm Institute and rarely used by historians.<sup>64</sup> Although the content of the inscriptions can vary widely, the process whereby a stone or bronze monument was built appears to be uniform. These inscriptions generally record the contributions individuals made to the village institution as a whole. In particular, the strong presence of women as contributors suggests a rather prominent role that women played within village institutions. These inscriptions reflect a relatively under-explored cache of sources available to students of early modern Vietnamese history.

Observations from Vietnamese observers enrich the perspective of the state and local legal documents. Unusually rare is the sixteenth century description of Southern

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colonial period by Vietnamese Institutions have been on a type of paper made with rice fibers. Readers unfamiliar with this process will find Ben Elman's explanation useful: "The term "rubbing" is for copies of texts taken from wood or stone surfaces instead of "ink squeeze" because it has become the conventional term. The process of applying a wad of silk soaked with ink to the paper surface was actually a process of patting or tapping." Ben Elman, *From Philosophy to Philology: Intellectual and Social Aspects of Change in Late Imperial China* (Cambridge, MA: Council on East Asian Studies, Harvard University, 1984), Explanatory Notes.

<sup>64</sup> The only historian I know of who has made extensive use of these materials in published work is Đinh Khắc Thuân in his study of the Mạc Dynasty. He has published one anthology of Mạc Dynasty inscriptions and made extensive use of inscriptions in his monograph, *Lịch sử triều Mạc qua thư tịch và văn bia* (Hà Nội: NXB Khoa Học Xã Hội, 2001) & *Contribution de la dynastie des Mạc à l'histoire Vietnamienne*, Ph.D. Dissertation, Université du Paris: Ecole des Hautes Etudes, 2001. Charles Wheeler has made use of a number of stele inscriptions in his Ph.D. Dissertation, *Cross-cultural Trade and Transregional Networks in the Port of Hội An: Maritime Việt Nam in the Early Modern Era*, Ph.D. Dissertation: Yale University, 2001.

customs in the *Ô Châu Cận Lục* (烏州近錄, “A Record of Ô Châu and Environs”).<sup>65</sup> Ostensibly a historical geography, the *Ô Châu cận lục* provides descriptions of sexual practices of men and women in the newly annexed “Southern Realm.” Compiled by Dương Văn An<sup>66</sup> (1514-?) in the mid-sixteenth century, the *Ô Châu Record* combines two travel journals<sup>67</sup> from the prefectures of *Tân Bình* (新平)<sup>68</sup> and *Triệu Phong* (肇豐), which stretch from present-day Nghệ An to Quảng Nam Provinces.<sup>69</sup> When the *Record of Ô Châu* was compiled, these territories had only been recently won from the Champa and many of the areas were still populated by Cham.<sup>70</sup> The observations on local geography and agricultural and cultural customs provide valuable insight into the cross-

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<sup>65</sup> I follow Charles Wheeler’s translation for the title. See Wheeler, *Cross-cultural Trade and Trans-regional Network in the Port of Hoi An: Maritime Vietnam in the Early Modern Era*. (Ph.D. Dissertation: Yale University, 2001). Dương Văn An, *Ô Châu cận lục*. Hán-Nôm Institute, A.263. Trịnh Khắc Mạnh and Nguyễn Văn Nguyên published a modern Vietnamese translation in 1997. See, Trịnh Khắc Mạnh & Nguyễn Văn Nguyên, trans. (NXB Khoa Học Xã Hội: Hà Nội 1997). Hereinafter “*Ô Châu Record*.” Page references will be those used by the Hán-Nôm Institute.

<sup>66</sup> Dương Văn An hailed from present-day Quảng Bình Province, just north of the areas surveyed. However, he lived most of his life in Hà Nội. After passing the examinations in 1547 (during the Mạc reign), he served as Master of Letters. See Trịnh Khắc Mạnh, *Tên tự tên hiệu các tác giả Hán-Nôm Việt Nam* (Hà Nội: NXB Khoa Học Xã Hội, 2002),

<sup>67</sup> Dương Văn An relates in the Preface to the *Ô Châu Record* that he chanced across these two volumes during a visit to his home province of *Quảng Bình* in 1553. These journals, written by two fellow local scholars, provided such interesting information that he decided to compile them into one volume, which he titled the *Ô Châu cận lục*.

<sup>68</sup> In the Lê Code, Tân Bình District served as one of the destinations for the punishment of “life exile in a distant district” (*lưu viễn châu*, 流遠州). See also, Nguyễn Ngọc Huy & Tạ Văn Tài, *The Lê Code* (1987), vol. II: 15-16.

<sup>69</sup> Nghệ An and Quảng Nam Provinces in contemporary Việt Nam comprise areas that would be considered north-central and central Việt Nam. In the sixteenth century, this was certainly the frontier region.

<sup>70</sup> Although histories of the region in Vietnamese or Western languages narrate the Vietnamese expansion as one of complete annihilation of Cham precedents, the comments made in the *Ô Châu Records* suggest that there was considerable cultural contact between the groups. Charles Wheeler’s recent work on the Hội An area problematizes such constructions of regional history. See, Charles Wheeler, “On Region, Two Histories: Cham Precedents in the History of the Hội An Region,” in *Việt Nam: Borderless Histories*, Tran & Reid, eds. (Madison: University of Wisconsin Press, forthcoming).

cultural contacts between Vietnamese settlers and local populations in sixteenth century Đàng Trờng. The *Record of Ô Châu* is particularly valuable because it is one of the rare local descriptions of southern customs, economic and material life. It presents a limited picture of life in the southern realm in the sixteenth century, which can be augmented with anecdotal evidence from Vietnamese observers in later centuries. In the seventeenth century, the Catholic convert, Bentô Thiện, compiled an unofficial history of An Nam for the Italian Jesuit, Francis Marini.<sup>71</sup>

Literary sources such as religious stories, morality texts, and oral folk verse provide an additional layer of discourse on Vietnamese women's experiences. The morality texts written to instruct young women about the expectations local custom placed upon them throughout their life course proved a template for understanding how authority figures represented feminine ideals to young women throughout Vietnamese society. Although I refer to the most famous of the morality texts, the *gia huấn ca* (家訓歌, "Familial Instructions in Verse) commonly attributed to Nguyễn Trãi (1380-1442), for the most part, I will not rely on it because the style and verse used in the text suggests that it was the creation of a nineteenth century poet, Lý Văn Phức (1785-1849)<sup>72</sup>. Rather,

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<sup>71</sup> Bento Thiện, *Lịch Sử nước Annam*, Unpublished manuscript, 1659. Archivum Romanum Societatis Iesu (ARSI) Jap/Sin vol. 81, pp. 248-50

<sup>72</sup> Hoàng Văn Lâu, "Ai viết *Gia huấn ca*?" *Tạp Chí Hán Nôm* (1984). See also, Hoàng Xuân Hãn, *Thi văn Việt Nam* (Hà Nội: Sông Nhị, 1951).

I focus on local morality texts produced and distributed within families in the eighteenth centuries. These texts were collected at the Hán-Nôm Institute or through local sources.<sup>73</sup>

Another valuable source that gives insight into prevailing discourses on gender dynamics is the earliest extant Chinese-*nôm* dictionary, the *Chi Nam Ngọc Âm Giải Nghĩa* (指南玉音解義, “Southern Pronunciation and Explication [of Terms], hereinafter, *Chi Nam Dictionary*). Separated into two volumes and thirty-nine chapters, the *Chi Nam Dictionary* provides vernacular Vietnamese explanations of subjects as varied as flora and fauna, marriage, relationships, military equipment, and medicinal practices in Đại Việt, or “the South,” (“*nước nam*, *nôm*: 若南). The explanations for the terms are organized into rhyming “six-eight” verse, a peculiar Vietnamese domestication of the Tang “regulated poem” (*luật thi*, 律詩).<sup>74</sup> While there is no precise date for the *Chi Nam Dictionary*, Trần Xuân Ngọc Lan, the leading specialist on the text, argues that the characters and syntax suggest it was produced in the second part of the eighteenth century.<sup>75</sup> The manuscript used in this dissertation is a seventeenth century wood-block printing of the dictionary housed at the Hán-Nôm Institute.<sup>76</sup> In addition, my use of the

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<sup>73</sup> Some of the more obscure texts were collected by Professor Nguyễn Văn Thịnh of the Department of Literature at the National University in Hà Nội. He generously provided access to these texts during my research period in Hà Nội.

<sup>74</sup> As its name suggests, “six-eight” is a couplet with a six-syllable first line and an eight-syllable second line. The last syllable of the first line generally rhymes with the sixth syllable of the second line. As Huỳnh Sanh Thông explains, “both lines consist of iambs, and the stress falls on each even-numbered syllable: in such a case, they can be described as iambic triameter and iambic tetrameter.” Huỳnh Sanh Thông, “Introduction,” *An Anthology of Vietnamese Poems from the Eleventh through the Twentieth Centuries*, Huỳnh Sanh Thông, ed. & trans. (New Haven: Yale University Press, 1996), 13.

<sup>75</sup> Trần Xuân Ngọc Lan, “Phần mở đầu,” *Chi Nam Ngọc Âm Giải Nghĩa*, Trần Xuân Ngọc Lan, trans. & ed. (Hà Nội: NXB Khoa Học Xã Hội, 1985), 11.

<sup>76</sup> Ms. AB.372

dictionary has been greatly informed by Trần Xuân Ngọc Lan's annotations and her 1985 *quốc ngữ* translation of the dictionary.

Short stories describing moments in women's lives give rare insight into the gender dynamics of the period. One collection, the *Truyện kỳ Mạn Lục* (Recorded Stories of the Curious and Strange, 傳奇慢錄), a collection of tales written in classical Chinese in the sixteenth century and translated into *nôm* in the seventeenth century, provides valuable insight into discourses on women's place in Vietnamese society at the time.<sup>77</sup> Buddhist legends of female incarnations of the Buddha such as those venerating female incarnations of the Avelokitesvara in the form of Quan Âm Thị Kính (觀音氏敬) and Nam Hải Quan Âm (南海觀音) describe the virtues, trials and tribulations of feminine deities to whom women prayed in their daily lives. The incarnation of Quan Âm Thị Kính, usually rendered in artistic images as a female Buddha offering a child, and that of Nam Hải Quan Âm, appear to have been deities prominent to female worshippers in early modern Vietnamese society. Many of the contributions made to village pagodas, in fact, were made in the name of the two deities. Most scholars of Vietnamese Buddhism agree that these stories were composed in the seventeenth century.<sup>78</sup> Because the only texts of the stories that remain are nineteenth-century wood-block printings, I have consulted several versions of the stories. These versions were collected at National Library and the

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<sup>77</sup> For more on this collection, see Nam Nguyễn, *Phiên Dịch học lịch sử-văn hóa trường hợp Truyện Kỳ Mạn Lục* ("Historical-Cultural Studies: the Case of *Truyện Kỳ Mạn Lục*"). Hồ Chí Minh City: NXB Đại Học Quốc Gia Thành Phố Hồ Chí Minh, 2001.

<sup>78</sup> Tri An Nguyen, *Ninh Phúc Temple*, 1999: 84.

Hán Nôm Institute.<sup>79</sup> While such literary sources are difficult to use, they do offer a level of description that would not be available elsewhere.

Likewise, oral folk poetry contains rich descriptions of women's experiences and occasionally offers glimpses of female voices. Oral folk poetry, collected in the late eighteenth through the nineteenth centuries, provide valuable female perspectives on everyday life. Though using these sources present particular problems of attribution and representation, they nevertheless provide a feminine voice that may be lost otherwise. These poems, often ordered in six-eight (*lục-bát*, 六八) rhyming patterns, and were composed spontaneously in the vernacular during daily activities and passed on from one generation to the next. In these verses, women and men speak of their experiences of daily life in the fields, the market, or within the household. Often sarcastic, the feminine voices bring into great relief the tension between the ideals of a gender system that circumscribed their personal and public behavior and the reality of living a subsistence agricultural life. For oral folk poetry, I rely upon two collections of *ca dao* (歌謠) materials recorded in the vernacular script, *nôm*. The first collection, *Nam Phong Giải Trào* ("A Translation of the Southern Wind," 南風解嘲), collected sometime in the late eighteenth century, remains the earliest extant anthology of Vietnamese folk poetry.<sup>80</sup> The version used in this dissertation is a hand-written nineteenth century copy of the anthology.<sup>81</sup> The second collection, *Thanh Hóa Quan Phong* ("A Review of the

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<sup>79</sup> Quan Âm Chú Giải Tân Truyện (觀音註解新傳), National Library, Ms. R1528 & Ms. R.371; Hán-Nôm Institute, AB.639.

<sup>80</sup> Nguyễn Xuân Kính, *Ca Dao Việt Nam*, (Hà Nội: NXB Văn Hóa Thông Tin, 2002): 2 vols.

<sup>81</sup> *Nam Phong Giải Trào* (南風解嘲), Hán-Nôm Institute, ms. AB.348.

Customs of Thánh Hóa Province,”清化觀風), is a series of oral verses collected in the nineteenth century. This anthology appeared in *quốc ngữ* translation with the original *nôm* manuscript in photostat form in the appendix of a 1965 volume published in Sài Gòn.<sup>82</sup> In addition to these two anthologies of oral verse written in the *nôm*, I have also relied on an anthology of Vietnamese folk poetry published in *quốc ngữ* by Nguyễn Xuân Kính.<sup>83</sup> In a two-volume anthology that contains over twenty thousand folk verses collected in villages throughout contemporary Việt Nam, Kính’s study serves as a valuable addition to anthologies collected in earlier centuries. These three volumes of oral folk poetry can unearth feminine voices otherwise lost in written sources.<sup>84</sup>

While the Vietnamese records present under-explored opportunities to study Vietnamese gender history, they are they are sometimes silent on mundane aspects of daily life that are of concern for contemporary scholars. The writings of European observers help to fill in some of these vacuums, as their detailed travel journals and letters serve as the richest collection of pre-colonial ethnographic data on early modern Vietnamese society. The minute details that these observers record about material culture, religious practices, and gender relations help to illuminate the local sources that record experiences of Vietnamese women. Many travel journals of European

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<sup>82</sup> Nguyễn Duy Tiếu, trans., *Thanh Hoá Quan Phong*, (Sài Gòn: Bộ Văn Hóa Giáo Dục và Thanh Niên, 1973). Unless otherwise noted, I will be using the Photostat of the *nôm* manuscript but also provide *quốc ngữ* page references where necessary. The *nôm* manuscript was reproduced from a copy of a the manuscript owned by the former Archeology Institute in the Republic of Việt Nam, Ms. VNI.17.

<sup>83</sup> Nguyễn Xuân Kính, *Cả Dao Việt Nam*.

<sup>84</sup> For Western language translations of Vietnamese oral folk poetry, see, *Les femmes Vietnamiennes d'autrefois à travers les chansons populaires* (Paris: Éditions Thanh-Long, 1963) & John Balaban, ed., *Cả Dao Việt Nam: a Bilingual Anthology of Vietnamese Folk Poetry* (Greensboro, NC: Unicorn Press, 1980).

missionaries and merchants appeared in published form in the seventeenth through nineteenth centuries. Augmenting these journals are hundreds of volumes of personal and official letters and journals housed at the *Archives de Missions Etrangères, Paris (AMEP)*.<sup>85</sup> Materials in these volumes include not only letters of the missionaries, but baptismal records, confessions of faith made by local converts, and letters from the converts themselves. My research in the Vatican Secret Archives, the Archives of the Society of Jesus, and the Propaganda Fide was limited to materials written in the following languages: classical Chinese, *nôm*, Vietnamese and French. In some instances, when simple Latin was used, I could acquire statistical material with respect to conversion, sacraments, and/or dioceses.<sup>86</sup> If the plethora of sources available for study of early modern Vietnamese history are made to illuminate one another, our understanding of the dynamics of that historical period will be greatly enriched.

## Overview

In presenting my representation of early modern Vietnamese women's experiences, I have been heavily influenced by Susan Mann's thematic approach to writing Chinese women's history. Instead of forcing women into a pre-conceived narrative, I discuss their experiences thematically, as Mann does in her study of eighteenth century Chinese women.<sup>87</sup> The different chapters examine the issues that

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<sup>85</sup> In two research trips to Paris, I was able to gain permission to digitize over fifty volumes of these letters.

<sup>86</sup> While careful study of these texts might reveal why many converts adopted Christianity, such an endeavor is beyond the scope of this dissertation.

<sup>87</sup> Mann, *Precious Records*, op. cit. (1997).

affected women throughout their life course. These themes roughly cluster around key turning points in women's lives: birth, early adulthood, marriage, and death, respectively. Each of the chapters examines women's lives through these turning points.

Because my work challenges much of what has been written about Vietnamese women, I begin the dissertation with a lengthy discussion and critique of the existing scholarship. In chapter one, I argue that the three models of Vietnamese womanhood emerged out of colonial legal reform debates at the turn of the twentieth century. At the time, the earlier justification for assimilation of the Vietnamese colonies into the French empire began to be challenged by a new generation of Orientalist scholars. These scholars, representing the scholarly arm of French colonialism, the *École Française d'Étrême Orient (EFEO)*, promoted a transition toward associationist policies, arguing that harmonizing indigenous tradition with Western ideals would be the proper way to rule the colonies. Their search for "indigenous" led to a shift in the historical representation of Vietnamese culture. Women's position before Chinese influence thus became a key marker of indigenusness, as colonial scholar-officials wrote Vietnamese women into an ancient, tolerant tradition. Nationalist scholars and post-war Westerners appropriated this model, using Vietnamese women to symbolize a particular cultural identity for political and intellectual goals. The construction of Vietnamese womanhood in colonial, nationalist, and post-colonial scholarship created a reified image of Vietnamese womanhood that defined Vietnamese identity in contemporary political and academic discourses.

In Chapter III, “The Life Course: Dutiful Wives, Faithful Daughters and Nurturing Mothers,” I examine the structures that regulated women’s life courses in the early modern period. The chapter traces the economic and social dislocations that created spaces for women to engage in economic activities and argues that while the language of the gender system mirrored neo-Confucian precepts of female propriety, the economic structure of the seventeenth and eighteenth centuries allowed women to carve out spheres of action for themselves. Specifically, the migration of male labor toward military and *corvée* duties and the socio-economic uncertainties caused by constant civil warfare fissured labor along gender lines. As male labor departed from the villages, women directed their attention toward agricultural production, sideline activities, and particularly, market activities. Participation in these spheres allowed women to acquire money and bypass customary and official restrictions to engage in village economic, political life, and religious life.

Chapter IV examines how women’s sexual lives became intertwined with local custom, state law, and the political order in the early modern period. The chapter begins by outlining the mechanisms that the state used to regulate women’s sexual activities and examines how these mechanisms affected women’s daily lives. It argues that increased women’s visibility and influence in market and religious spheres prompted the *Trịnh* state in the Northern Realm to increase the regulation of women’s sexual activities. The state linked control of sexual access to women to the familial order, which was in turn linked to the political order. However, new economic and religious opportunities of the seventeenth and eighteenth centuries provided women with outlets that did not conform

to the state's visions of sexual and political order. In turn, the participation of women in spheres that lay outside of the prescribed familial order alarmed Trĩnh family officials, leading them to clamp down even more in the latter part of the seventeenth and eighteenth centuries.

Chapter V reassesses the prevailing assertions of women's inheritance and succession rights in early modern Vietnamese society. Contrary to the existing scholarship which characterizes this property regime as an egalitarian system, the chapter argues that women's property claims were severely limited by the law and local custom and regulated by male village leaders. By examining the extant legal sources, it demonstrates that in the Lê Code and in practice, daughters did not enjoy an equal share of the division of household property and widows' property claims were linked to their ability to represent themselves as chaste women to male leaders in their communities. This chapter also challenges the argument that Vietnamese inheritance patterns exemplified a tradition of bi-lateralism. Rather, it suggests that Vietnamese legal codes, premised on the logic of patrilineal succession, severely limited women's ability to succeed their parents. Despite these limitations on their claims to inheritance and succession rights, women found ways of bypassing these structures by transferring private property toward village institutions. Finally, I propose that this process of transferring property toward village institutions was an alternative form of succession to the patrilineal processes required by law and local custom. This alternative model, called the *endowment of village succession* in this thesis, enabled women to lay claim over property in perpetuity.

While this thesis attempts to detail how the socio-economic situation of early modern Đại Việt affected Vietnamese women's experiences, there remain many limitations to its reach. Readers familiar with Vietnamese history will recognize that the documentary evidence is fragmentary for different regions of Đại Việt. With the exception of the *Record of Ô Châu*, documentary evidence for the Southern Realm prior to the seventeenth century is rare. Conversely, evidence from legal sources for this period in the Northern Realm is relatively rich. The volume of materials for later centuries increases, in part because of the richness of European travelers' accounts in the seventeenth and eighteenth centuries. While the slight imbalance of the sources might color this perspective of gender in Vietnamese society, it is nonetheless important to document the experiences of women from the extant sources. I hope that scholars writing on Vietnamese history will problematize my interpretation with more documentary evidence. My decision to focus on how the gender system affected low class women's lives is not meant to diminish the importance of upper class women and their contribution to Vietnamese history. Rather, because what has been written about Vietnamese gender has tended to focus on the lives of exceptional, upper-class women, commoner women's experiences are lost in the historiography. I believe that there is enough documentary evidence to write about these women's lives, and this conviction drives the thesis.

## Chapter 2

### Colonial and Postcolonial Agendas and the Construction of Vietnamese Womanhood

Scholars and political actors of Vietnamese history have appropriated women in the official narrative to serve the political and intellectual agendas of the twentieth century. The existing literature perpetuates three major paradigms of Vietnamese womanhood: that of national uniqueness, Southeast Asian inclusiveness, and Confucian oppression. These contemporary models of Vietnamese womanhood are political by-products of the French colonial experiment. They emerged out of particular historical contexts: the model of unique Vietnamese womanhood in a colonial debate on legal reform at the turn of the twentieth century; that of the oppressed woman in nationalist debates in the twentieth century; and finally, women as emblematic of Southeast Asian cultural commonalities in the founding and development of regional studies in the post World War II era. While the French colonial administrators did not introduce history writing to Vietnamese society, their attempts at highlighting Vietnamese difference identified womanhood as the embodiment of Vietnamese culture, a feature that remains in contemporary scholarship and political discourse. By locating these three paradigms in their political context, this chapter will demonstrate how women have been appropriated to mark culture in Vietnamese history.

The literati elite of the Trần and Lê Dynasties were the first to write women into official historiography. The collection of strange and curious stories from the Trần Dynasty, the *Lĩnh Nam Chích Quái* (嶺南隻怪), recorded the deeds of famous female

figures in religious and military incidents throughout the Chinese period.<sup>1</sup> The female figures featured in these tales included the Trung sisters, whose revolt against the Chinese in the first century A.D. became a symbol of resistance to Chinese rule and Lady Triệu, whose third century rebellion against the Chinese atop a white elephant marked her as a valiant warrior woman. Even though the dynastic chronicle recorded these women's fantastic revolts, they represented these feats as filial or loyal wifely acts on the part of the Trung Sisters and Triệu Ẩu.<sup>2</sup> In the thirteenth and fifteenth centuries, Lê Văn Hưu and Ngô Sĩ Liên, charged with writing the official history of the state in the *Đại Việt Sử Ký Toàn Thư* (大越史記全書), the dynastic chronicles, wrote about the details of famous women's lives in their different editions. Charged with reorganizing Vietnamese government along Confucian lines, the literati of the fifteenth wrote critically about women of the imperial family in the Lý and Trần families, criticizing womanhood for unorthodox, un-Confucian behavior.<sup>3</sup> They linked female presence in the political order and men's vulnerability to feminine beauty to the downfall of the Lý, Trần, and (later) Lê Dynasties.<sup>4</sup> These criticisms did not simply serve as a critique of womanhood, but as a warning of the potential dangers of feminine presence to future generations of Vietnamese leaders.

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<sup>1</sup> EFEO A.1200.

<sup>2</sup> The Vietnamese annals record that Trung Trắc led the rebellion in 40 A.D. to avenge the death of her husband. *ĐVSKTT, Ngoại Ký*, Vol. 3: 3a-b. See also, *ĐVSKTT, Ngoại Ký*, Vol. 4: 4a for Triệu Ẩu.

<sup>3</sup> John K. Whitmore, "Gender, the State and the Literati Voice in Early Modern Vietnam" in Barbara Andaya, *Other Pasts: Gender & History in Early Modern Southeast Asia* (Honolulu: HI, 2001), pp. 215-30, 218.

<sup>4</sup> For a detailed discussion of the link between gender and political stability, see chapter 4.

## Gender, Historiography & Colonial Rule

The imposition of formal French power in the late nineteenth century bought models of linear historical writing and social scientific method. These modern scientific inquiries, however, were far from free of political motive as the colonial scholar-officials linked their construction of traditional local gender tolerance to larger political models. Nineteenth century colonial scholar-officials, charged with educating their colleagues on the practicalities of colonial rule in Indochina and supplanting Asian modes of behavior with enlightened French civilization, wrote extensively on Vietnamese institutions. These nineteenth-century French studies emphasized the colonial relationship between China and Việt Nam and highlighted the extent to which Vietnamese society and culture mimicked that of their Chinese neighbor, a phenomenon Nola Cooke has termed the “Little China” thesis.<sup>5</sup> The earliest French colonial scholars represented the local family system, village, literature and social organization as Chinese-derived, static, and backward. Emblematic of this kind of characterization is the work of the historian of the Paris-based Missions Étrangères, Andrien Launay. He likened Vietnamese indigenous society to that of the minority group, the Mường, and remarked,

The complete absence of progress that the Annamites had on Chinese civilization and the negligible development in the arts and sciences, far inferior to that of the Chinese, [demonstrates] that without Chinese domination, *Giao-chi* of old times would have rested in savage tribal communities, just like the Mường who live on the frontiers of their country.”<sup>6</sup>

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<sup>5</sup> Nola Cooke, *Political Myth and the Problem of the Other: French and Vietnamese in the Protectorate of Annam*, Ph.D. Dissertation: Australian National University, 1992.

<sup>6</sup> Adrien Launay, *Histoire ancienne et moderne de l'Annam, Tonkin et Cochinchine, depuis l'année 2,700 avant l'ère chrétienne jusqu'à nos jours* (Paris: Challamel Ainé, 1884), 37

Launay's suggestion that the Vietnamese only benefited from and never improved upon Chinese cultural institutions contributed to French convictions that the native society desperately needed enlightenment. By highlighting a backward society in need of the civilizing aspects of Christian principles, French authorities could justify the colonization of the natives. This endeavor demanded a construction of an "Other" whose institutions and social interaction required French enlightenment.<sup>7</sup>

The institutions that late nineteenth-century colonial officials chose to emphasize were the timeless, insular village and a kinship pattern ordered along patriarchal lines. Women's social roles within these structures could only be constructed as passive. For the most part, women's presence in the colonial studies was remarkable only in their utter lack of authority. Even when these scholars acknowledged spheres in which women deviated from the idealized patriarchal model, they attributed it to historical accidents or immediate structural explanations and not an indigenous "Vietnamese" essence. A notable example of this type of scholarship includes E. Lurô's *Cours d'Administration Annamite*, a hand-written 700-page training manual for officials in training in the colonial corps. The manual painted an image of Vietnamese social interaction that mimicked Chinese cultural norms, particularly with respect to gender relations.<sup>8</sup> Lurô instructed his students that the father enjoyed the role of the "lord of the house" (*chúa gia*, 主家)

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<sup>7</sup> Cooke (1992), 25.

<sup>8</sup> Interestingly, in Lurô's hand-written text, he includes the equivalent Chinese characters for his references. Character lessons present in the 1875 version of the text were omitted in the 1926 copy. Presumably, the earliest colonial administrators were required to memorize the character equivalent of particular terms for their examinations. *EFEQ Vietnam Droit 1 & Vietnam Droit 73*.

and wielded absolute power in the Annamite family.<sup>9</sup> In his discussion of property rights, Lurô acknowledged that women did enjoy more property rights in practice than in the law, but this observation did not convince him that such was a timeless “Annamite” tradition, but rather a byproduct of the preponderance of female participation in the marketplace.<sup>10</sup> Paul Ory, another important colonial magistrate, produced a detailed study of village society in Annam, but largely omitted women from his discussion. In one instance, Ory’s discussion of village authority as linked to population records suggested the dispossession of women in village society, as only male babies could be registered for benefits.<sup>11</sup> Lurô and Ory’s works typify the late nineteenth century scholarship linking Vietnamese timelessness to Chinese cultural domination.

The twentieth century brought with it changes in the discourse about Vietnamese social and cultural development. The popularity of the Japanese victory over the Russians in 1904 and the influence of Chinese and Japanese nationalism, difficulties in implementing the “Civilizing Mission,” and a shift in French intellectual trends more broadly led to the emergence of a competing discourse on colonial rule.

Cammille Briffaut’s work on village institutions straddled the distance between the nineteenth century emphasis on the “little China thesis” and the construction of an Annamite uniqueness. A legal scholar and judicial magistrate of the twentieth century, Briffaut modified the discourses by emphasizing Vietnamese strength (against their

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<sup>9</sup>Id., 24.

<sup>10</sup> Id., 7.

<sup>11</sup> P. Ory, *La Commune Annamite au Tonkin* (Paris: Librairie Coloniale, 1894), 58.

Indochinese neighbors), and linked this strength to Vietnamese adaptation of Chinese institutions, and in particular, the village system. He argued that Annamite uniqueness lay in its society's emphasis on communitarian ideals, which protected the perpetuation of both the male and female lineages.<sup>12</sup> The perpetuation of both lineages within the village and the prevalence of village endogamy afforded women some amount of claim and protection against their husbands' families. However, Briffaut linked women's claims to their dowries to the material interests of the natal families, who deemed it prudent to protect their lineage's property. Although Briffaut highlighted the perpetuation of both lineages, his conclusions stopped well short of identifying the Vietnamese family system as a bi-lateral institution. Rather, he focused on the interest of male members of a lineage in protecting their claims on their female family members.<sup>13</sup> The communitarian spirit of the Annamites, Briffaut suggested, created a system in which they protected the community through endogamous marriages.<sup>14</sup>

International intellectual and political trends thus shifted scholarship dramatically at the turn of the twentieth century, as academics and colonial officials looked to locating the roots of "Annamite essence" to determine his readiness for modernity.<sup>15</sup> Within these discourses, scholars identified women's property claims in the Lê Code, the legal code of

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<sup>12</sup> Camille Briffaut, *La cité annamite* (Paris: Sirey, 1909).

<sup>13</sup> Briffaut, (1909), 53.

<sup>14</sup> Family genealogies extant from the Lê and Nguyễn record numerous marriages of daughters outside of the village boundaries. See, for example, *Chu tộc gia phả* (朱族家譜) TVQG Ms. R.28; *Đoạn tộc gia phả* (段族家譜) TVQG MS. R.676 & *Lê Thị gia phả* (黎氏家譜) TVQG Ms. R.2242.

<sup>15</sup> See, for example, Alfred Schreiner, *Étude sur la constitution de la propriété foncière en Cochinchine* (Sài Gòn: Menard, 1902); Camille Briffaut, *Études sur les biens culturels familiaux en pays d'Annam*; C.E. Maitre, "Critique de l'ouvrage de Briffaut, *Étude sur les biens culturels*"; BEFEO (1908); pp. 236-50.

the previous dynasty, as indicative of indigenous genius. This discourse centered around women's status within "traditional" Vietnamese law, as the scholar officials debated proper administrative and legal modes for governing local society, and identifying indigenous womanhood as the key sign of indigenous culture. The major issue in the ensuing debate revolved around the appropriateness of the Qing-inspired contemporary civil code (the 1812 Gia Long Code of the Nguyễn Dynasty) with indigenous cultural norms. While the colony of Cochinchina (southern Việt Nam) had been governed under the French civil code, legal disputes in Annam and Tonkin were adjudicated according to the Gia Long Code. A group of scholars and colonial officials interested in harmonizing indigenous institution with the French mandate of rule promoted the transformation of French policy toward associationist goals. Underlying this discussion was the sudden need to demarcate French sovereignty against the imminent threat of Chinese and Japanese nationalism and the other Southeast Asian polities associated with the British and Dutch authorities.

The new-orientalist anthropologists and historians of France's scholarly arm in Indochina from 1898, the *École Française Extrême Orient*, played a critical role in this debate as they mediated between contemporary intellectual trends and their charge to supplant the Confucian scholar sympathetic to political revivalism with the model of a "disinterested intellectual."<sup>16</sup> Its younger generation of orientalist challenged the assimilation policies built into the French colonizing mission's original purposes as

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<sup>16</sup> Pierre Singaravélou, *L'École française d'Extrême-Orient ou l'institution des marges (1898-1956)*, (Paris: L'Harmattan, 1999), 72.

detrimental to France's goals.<sup>17</sup> Louis Finôt, the first director of the *EFEO*, proposed that a better policy of colonial rule would be that of "discovering the origins, explaining the anomalies, and justifying the diversity" of France's colonies.<sup>18</sup> The mouthpiece of the *EFEO*, its annual *Bulletin*, thus published numerous articles and studies highlighting the uniqueness of Cambodia, Laotian, and Annamite cultural institutions. Through their scholarship, the new orientalists of the *EFEO* championed a more "associationist" method of rule, meshing indigenous practice with Western-liberal institutions. Part of the mandate included the training of indigenous intellectuals who could promote this new agenda. Ironically, this attempt to offset the influence of Chinese and Japanese nationalism led to the construction of an indigenous identity that Vietnamese intellectuals appropriated and transformed into a national identity. In the scholarship of these new orientalist scholars, "woman" was transformed into a vessel through which an indigenous Annamite identity was transmitted.

In order to promote the associationist cause, the new orientalists had to demonstrate the colony's readiness of Western institutions. To accomplish this goal, they wrote Vietnamese women into an ancient, tolerant culture on its way to modernity. In 1908, Claude Maitre, director of the *EFEO* and legal jurist, articulated the clearest link between women's status, Vietnamese culture, and legal reform. As the director of the *EFEO*, he commissioned Raymond Déloustal to translate the legal section of Phan Huy

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<sup>17</sup> Nhung Tuyet Tran & Anthony Reid, "Introduction: the Construction of Vietnamese Historical Identities," in Tran & Reid, eds., *Việt Nam: Borderless Histories* (Madison, WI: University of Wisconsin Press, forthcoming).

<sup>18</sup> Louis Finot, *BEFEO* 8 (1908), 3.

Chú's *Lịch Triều Hiến Chương Loại Chí* (曆朝憲章類志), an early nineteenth century survey of the Lê dynasty's institutions.<sup>19</sup> Déloustal's translation made the laws of the previous Lê Dynasty available to Western readers for the first time.<sup>20</sup> In his introduction to Déloustal's translation, Maitre equated the code with Vietnamese custom, claiming that "the study of justice under the Lê [was] not only important for the study of history [but] also important for understanding the Annamite mentality."<sup>21</sup> He highlighted the provisions on the division of property in the code and suggested that they reflected an egalitarian tradition. Maitre perpetuated this theme of Annamite uniqueness in a review of the magistrate Camille Briffaut's book, *La Cité Annamite*. In his review, Maitre argued that Briffaut had been mistaken in declaring that the Vietnamese village was one based on communitarian spirit. Rather, the village was an institution based on respect for egalitarian principles, exemplified in Vietnamese gender relations.<sup>22</sup> He highlighted one provision on women's property claims in the Lê Code as unique and declared that "the only way in which the Annamites have demonstrated their incontestable superiority over the other peoples of the Far East in the roles that they have given to women, roles [which] were almost equal to men's roles."<sup>23</sup> Déloustal's translation, however, was much more

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<sup>19</sup> Although some contemporary authors cite Deloustals' translation as that of the Le Code, he and Maitre clearly indicate that he is using the legal portion of Phan Huy Chú's chronicle. The copy he used was found by Pelloit at the Imperial Archives in Hue several years earlier and can be found at the Hán Nôm Institute. R.L. Cadière & Pelloit, "Premier etude des sources d'histoire Annamite," *BEFEO* (1904).

<sup>20</sup> Deloustal, "La justice dans l'ancien Annam," *BEFEO*, (1908, 1909, 1910, 1911 & 1919)

<sup>21</sup> C.E. Maitre, Preface, "La justice dans l'ancien annam," *BEFEO* (1908), 177.

<sup>22</sup> C.E. Maitre, "Critique de l'ouvrage de Briffaut," op. cit., 245.

<sup>23</sup> Id., 249.

ambiguous.<sup>24</sup> By distorting Déloustal's translation, Maitre's proclamations created a new role that Vietnamese women would play in Vietnamese history: henceforth, she would mark the colony's readiness for French civilization and modernity.

The *EFEO*-trained Vietnamese intellectuals and Paris-trained Vietnamese legal scholars became key transitional figures in the development of a Vietnamese national identity signified by womanhood.<sup>25</sup> These Vietnamese scholars, trained as ethnographers and legal theorists in Paris, gradually transformed what the French identified as indigenous cultural characteristics into national identity. The Vietnamese legal scholars who campaigned to reform the civil code in the first decades of the twentieth century succeeded in the establishment of a committee to reform contemporary civil law in 1927. This committee, charged with finding laws that reflected authentic "Vietnamese custom," triggered a discourse centered on Vietnamese women's roles in society<sup>26</sup>

In the two decades leading up to the second world war, the proliferation of doctoral theses and studies linking "traditional" Vietnamese law as exemplified in the Lê Code, the family and women attests to the influence that Orientalist French literature had

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<sup>24</sup>"Lorsqu'un père et une mere seront tous les deux decèdes en laissant des rizieres et des terres pour la disposition desquelles ils n'auront pas eu le temps de transmettre leurs dernières volontés par un testament, et que les frères et les seurs procederont au partage entre eux, ils devront réserver la vintieme partie de ces biens a la constitutions du huong hoa destiné a assure le culte de leur parents. Cette part sera attribuée au fils ainé qui en aura l'administration et la garde. Ils se partageront le surplus." R. Deloustal, "La justice dans ancien Annam," *BEFEO* 10:2 (1910), 500.

<sup>25</sup>See, for example, Nguyễn Văn Huyền, *La Civilisation Annamite* (1943), Trần Văn Giàu, & Đào Duy Anh & Trần Văn Chương, *Essai sur l'esprit du droit sino-annamite*. (Paris: Montpellier, 1928).

<sup>26</sup> See, Hồ Đặc Diệm, *La puissance paternelle en droit annamite* (Paris: Jouve, 1928); Bùi Quang Chiêu, *La polygamie dans le droit annamite* (Paris: Rousseau et Cie, 1933); Nguyễn huy Lai, *Les regimes matrimoniaux en droit annamite* (Paris: Les Éditions Domat Montchretien, 1934); Nguyễn Mạnh Tường, *L'individu dans la vieille cité annamite* (Montpellier: iprimerie de la Press, 1932),

on the reforming Vietnamese scholars and nationalists.<sup>27</sup> Lê Văn Hồ, a Paris-trained legal scholar, wrote extensively on the role of Vietnamese mothers in the family and described an image of gender equality in social relations in traditional Việt Nam. In the study, Hồ claimed that the “Lê code was not content with simply affirming in theory the equality between the spouses . . . . but elaborated a system to protect the married woman.”<sup>28</sup>

Nguyễn Huy Lai, the future Vice President of the southern Republic of Việt Nam (RVN), likewise appropriated this paradigm of Vietnamese womanhood for concrete political goals. One included the agitation for more individual rights for Vietnamese within the colonial regime. He recognized that he had to meet the mandate of the 1927 law and demonstrate that Vietnamese tradition was essentially egalitarian in order to agitate for more egalitarian French rule over Tonkin, Annam and Cochinchina. In *Les Regimes Matrimoniaux en droit Annamite*, Lai claimed that “custom is thus the essential source of Annamite civil law; [and] was issued spontaneously in response to the needs of society and reveals the national spirit.”<sup>29</sup> His conviction that the civil regulations in the Lê Code exemplified national identity and the linking of that conviction to the discourse on the “woman question” perpetuated the reified image of Vietnamese womanhood. Lai first argued that provisions in the Lê Code reflected matriarchal rule. A matriarchal

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<sup>27</sup> Bui Văn Thịnh, *L'usufruit familial et la veuve en droit vietnamien*. (Sài Gòn: imprimerie de H.O., 1949); Hồ Đặc Điểm, *La puissance en droit vietnamien* (Paris: Jouve, 1928); Lê Văn Hồ, *La mere de famille annamite* Thèse Doctorat, Université de Paris, 1932; Nguyễn Huy Lai (1934), op. cit.; Nguyễn Phú Đức, *La veuve en droit vietnamien: contribution au l'étude du patrimoine familial en droit Vietnamien* (Sài Gòn: Ministère de l'éducation nationale, 1964).

<sup>28</sup> Lê Văn Hồ, *La mere de famille annamite*, op. cit., 11.

<sup>29</sup> Nguyễn Huy Lai, op. cit., *Les regimes matrimoniaux*, 19.

tradition in Vietnamese history led to the lack of distinction between the male and female lines in the family: “In the cognate family under Lê law, boys and girls are treated equally; they are treated with equal footing: they enjoy the same rights and are held to the same obligations in the family.”<sup>30</sup> For scholars like Lê Văn Hò and Nguyễn Huy Lai, the indigenous qualities of the Annamite became evidence of a unified national identity.<sup>31</sup> This image of Vietnamese women’s uniqueness in local custom, as exemplified by the Lê statutes on inheritance and succession, re-emerged in post-war scholarship on Vietnamese women.

Although the associationist policies and legal reforms of the early twentieth century were rooted in deflecting the tide of emergent nationalism, they ultimately proved futile in containing nationalist sentiments in Việt Nam. To be sure, the new policies succeed in a number of intellectual, cultural and legal realms. Notably, the *EFEO*'s training of local scholars in ethnographic and historical methodology permitted the massive collection of priceless local and imperial documents, saving the documents from decay and destruction. Their efforts to locate the indigenous also led to the French recognition of local custom and government efforts to collect and preserve village regulations. Finally, the legal scholars’ discourses on womanhood and indigenous identity led to the promulgation of the Civil Code of 1931 in Tonkin, which guaranteed

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<sup>30</sup> Id.

<sup>31</sup> Tran Van Chuong, *Essai sur l'esprit du droit sino-annamite* (Paris: 1925).

women's claims to property.<sup>32</sup> These successes, however, did little to stem the tide of nationalism sweeping over the colonized world.

### **Vietnamese Nationalism and the Emergence of “Woman as Nation”**

As the discourses on womanhood and culture emerged at the turn of the twentieth century, Vietnamese nationalists immediately appropriated woman as a symbol of national identity, but fractured along generational and gender lines. For activist men, “woman” embodied the Vietnamese nation. The nation thus became feminized; “woman” transmitted culture and tradition, whether Confucian or uniquely national. While male nationalists agreed upon woman's role as a symbol of Vietnamese identity, their political goals ultimately determined the way in which they represented the feminized Vietnamese nation. Scholars of an older generation equated Confucian ideals with tradition and sought to preserve that tradition through maternal nurturing. Younger male radicals looked to the wholesale destruction of such tradition as signs of weakness. Elite women also joined this public discourse but resisted identifying their gender as indicative of cultural heritage. Rather, these women demanded concrete reforms to change their social situation. Finally, moderate nationalists and social revolutionaries reacted to women's demands by recalling the paradigm of gender equality the *EFEO* scholars had created. Nationalist discourses on women's position and Vietnamese identity thus paralleled the ways in which urban Vietnamese reacted to colonial rule.

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<sup>32</sup> Nguyễn Huy Lai, *Les régimes matrimoniaux en droit annamite* (Paris: Les Éditions Domat Montchretien, 1934; Introduction.

The older generation of (male) scholars who equated Vietnamese tradition with idealized notions of Confucian femininity appropriated it for very different political goals. Older men of the Confucian literati tradition charged women with the critical role of preserving Vietnamese culture. Phan Bội Châu, the father of Vietnamese nationalism, urged women to concentrate on their primary roles as educators in the family, and to raise ideal male citizens for the new nation. The contribution that mothers played in the nurturing of its new citizens would not be forgotten by the nation.<sup>33</sup> Those resigned to colonial rule championed the preservation of Confucian tradition as a mechanism of maintaining a modicum of agency within the colonial system.<sup>34</sup> The numerous monuments and certificates granted to honorable mothers who gave their sons to the national revolution attest to the grasp this image of the Vietnamese woman has on the popular imagination.

The social revolutionaries of the early twentieth century, undoubtedly influenced by the New Culture and May Fourth movements in China, attacked the Confucian system and women's oppression. The "traditional" Confucian system became a symbol of Vietnamese meekness under French colonial power. The family and the status of Vietnamese women in the family became primary signs of a backward tradition that failed to protect the state against Western incursion. The weak woman who bowed to her husband's demands symbolized a traditional Vietnamese state that had bowed to the

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<sup>33</sup> Phan Bội Châu, *Nữ Quốc Dân Tu Tri*, TVQG, M. 4165.

<sup>34</sup> For a discussion of these scholars, see David Marr, *Vietnamese Tradition on Trial* (1980) & Huệ Tâm Hồ Tài, *Radicalism and the Vietnamese Revolution* (1992).

French in the previous century.<sup>35</sup> Woman thus became a sign of nationhood and her liberation represented Vietnamese freedom from the shackles of French domination.<sup>36</sup>

Elite women participated in this discourse by demanding concrete changes in their daily lives. Older women sought compromises between their own social roles and Western notions of individual freedom. They advocated gradual reforms that would increase educational opportunities for women within the existing social framework. Song Nguyet Anh's *Nữ Giới Chung* ("Women's Bell"),<sup>37</sup> a weekly women's periodical from 1918-20, best exemplified this type of discourse.<sup>38</sup> Younger, more radical women shifted the discourse, and called for personal liberation along Western-democratic modes of gender equality.<sup>39</sup> Articles in the women's journal *Phụ nữ tân văn* ("Women's News") and pamphlets fitting in the "women's books" genre proliferated in Sài Gòn in the 1930s.<sup>40</sup> In the words of two young Vietnamese feminists, these printed discourses transmitted "the methods that we sisters must use and the path we must take to achieve absolute gender equality and freedom and independence."<sup>41</sup> By the end of the 1930s,

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<sup>35</sup> See, for example, Nhat Linh's famous attack on the family system in his novel, *Đoạn Tuyệt*.

<sup>36</sup> See, for example, Qua Ninh Đăng, "Phụ Nữ giải phóng ở Đông Dương," *Rassemblement* (18 March 1937). Full text included as preface in *Đời Chị Em*.

<sup>37</sup> (女戒鐘).

<sup>38</sup> Công Huyền Tôn Nữ Nha Trang (1973).

<sup>39</sup> Shawn McHale, "Printing & Power: Vietnamese Debates over Women's Place in Society, 1918-34," in, K.W. Taylor & John K. Whitmore, Eds., (Ithaca, NY: Cornell Southeast Asia Program Publications, 1995), 173-94: 192.

<sup>40</sup> Such pamphlets were labeled as "*loại sách phụ nữ*" (women's books).

<sup>41</sup> Cự Kim Sơn & Văn Huệ, *Đời Chị Em* ("Our Sisters' Lives."), Introduction.

those methods included economic liberation along Marxists lines and particularly the freedom of women from the feudal demands of domestic labor.<sup>42</sup>

Male nationalists reacted swiftly to the demands of gender liberation by recalling evidence of women's property claims in the Lê Code. Nguyễn Mạnh Tường, a legal scholar intent on highlighting Vietnamese modernity and individuality, advised his female counterparts to look to the Lê Code's guarantee of women's egalitarian position in Vietnamese society. Young women who aspired to implement Western notions of gender equality need only look to their heritage for the evidence of Vietnamese gender equality, Tường argued.<sup>43</sup> In short, Tường intimated that Vietnamese women had always enjoyed gender equality, and need not agitate for it.

### **Vietnamese Womanhood, Independence, and the Creation of Regional Studies**

Colonial and early nationalist constructions of Confucian oppression and Vietnamese uniqueness remained potent images after the Second World War. A burgeoning group of Vietnamese feminists and their western sympathizers continued to emphasize the oppressiveness of the Confucian system on women's lives. Another group of scholars, comprised of conservative nationalists in the administration of the Republic of Việt Nam, perpetuated the woman as a unique paradigm to justify the failed democratic experiment in South Việt Nam in the 1950's and 1960's. Western academics sympathetic to the nationalist struggle also helped to perpetuate this model. A final

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<sup>42</sup> Id.

<sup>43</sup> Nguyễn Mạnh Tường. *L'individu dans la vieille cite annamite: essai de synthèse sur le code des Lê* (Montpellier: Imprimerie de la press, 1932), 247.

group of scholars interested in forming a field of Southeast Asian studies latched onto the Vietnamese women's uniqueness paradigm and related it to wider Southeast Asian patterns. These three competing goals ultimately created the three prevailing models of Vietnamese womanhood.

The image of women oppressed under a feudal, Confucian system played integral roles in the Vietnamese feminist movement. The writings of Vietnamese feminists converged on a major narrative: Vietnamese society had gradually transformed from an ancient matriarchal tradition to that of a totalizing oppressive, misogynist Confucian society by the turn of the twentieth century.<sup>44</sup> The Vietnamese feminists' version of this narrative revealed a tension between their social goals and their charge of writing an approved women's narrative. They resolved this tension by mirroring the women's narrative with that of official Vietnamese (and also Western) historiography more generally. This narrative traced the matrilineal origins of Vietnamese society and its transition to a feudal, patriarchal state that oppressed women, to the nationalist revolution that liberated them.<sup>45</sup> Evidence of the high status of women in Vietnamese culture and history, they argued, could be found in the Lê Code's guarantee of "equal property rights for a wife and husband [and] and daughters' rights to succession."<sup>46</sup> Western

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<sup>44</sup> Marr, *Vietnamese Tradition on Trial* (1980), chapter 5. Vũ Thị Phụng, *Lịch Sử Nhà Nước và Pháp Luật Việt Nam: từ nguồn gốc đến trước cách mạng tháng tám 1945* (Hà Nội: NXB Khoa Học Xã Hội, 1990), 15.

<sup>45</sup> Mai Thị Tú & Lê Thị Nhậm Tuyết, *La femme au Vietnam* (Hà Nội: Éditions en langues étrangères, 1978); Trần Quốc Vượng, *Truyền Thống Phụ Nữ Việt Nam* (Hà Nội: Nhà Xuất Bản Văn Hóa Thông Tin, 2001).

<sup>46</sup> Id., 25.

sympathizers with the Vietnamese nationalist struggle often supported this particular narrative of Vietnamese gender relations.<sup>47</sup>

Western scholars interested in the international feminist movement, unrestricted by political directives of Vietnamese nation-building, adopted the construction of “Confucian-oppressed” model of Vietnamese womanhood. They portrayed the struggle against Confucianism as the transformation of traditional society toward liberal, democratic models. In her doctoral dissertation, *The Status of Women as Portrayed in Vietnamese Oral and Written Literature*, Công Huyền Tôn Nữ Nha Trang compared representations of Vietnamese women across three social classes to demonstrate how Confucian morality and a parallel Vietnamese heritage trapped women under a yoke of oppression.<sup>48</sup> Nha Trang argued that the Confucian precepts of the thrice following (*tam tông* 三從) ordered elite women’s lives from birth through childhood, marriage, widowhood and death. Though Nha Trang locates alternatives to the idealized Confucian female in oral folk literature, she concludes that “the impact of Chinese culture which accompanied one thousand years of Chinese domination did nothing more than systemize and reinforce the Vietnamese traditional world view,” which maintained the transmission

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<sup>47</sup> Keith Taylor refers to the special roles that women likely played in Văn Lang society in his description of how Vietnamese society might have transitioned from a matriarchal to a bilateral society. Keith W. Taylor, *The Birth of Vietnam* (Berkeley & Los Angeles: University of California Press, 1987), 73. Trần Mỹ Vân cites the widely accepted argument that Vietnamese women were guaranteed equal property rights to highlight the high status that women enjoyed in traditional Vietnam. Trần Mỹ Vân, “The Traditional Status of Women in Việt Nam,” in *Asian Panorama: Essays in Asian History, Past and Present*, ed. K.M. De Silva & Sirima Kiribamune. New Delhi: Vikas Publishing House, 1990. French scholars also allude to this alleged high status of women in traditional Vietnamese society by citing the Lê regulations. See Đỗ Chi Lan, *La Mère et l'enfant au Vietnam et d'autrefois* (Paris: Harmattan, 1996).

<sup>48</sup> Because of Nha Trang’s training in Western schools and major training in the United States, I classify her as a Western scholar.

of family roles in a male-dominated system. More recent scholarship also characterizes “Vietnamese tradition” in such a light and promotes an active change in social affairs.

In the 1960s and 1970s, scholars from the Sài Gòn Law School, more interested in demonstrating Vietnamese modernity than in the feminist movement, revisited the issue of Vietnamese law, women, and gender equality in the Lê Code. The most influential of these scholars, Vũ Văn Mẫu, the former prime minister of the Republic of Việt Nam, and the legal scholar Tạ Văn Tài, presented the clearest articulation of women as carriers of Vietnamese national identity. Then a law professor and later an Adjunct Professor at Harvard Law School, Tạ Văn Tài presented this construction to American academia through numerous articles and a three-volume English translation of the Lê Code. In the introduction to the translation, Tạ Văn Tài and his collaborator, Nguyễn Ngọc Huy, argued that “despite the legal ramifications of Confucian patriarchal thought, a more feminist tradition of indigenous Vietnamese customs persisted and was incorporated into the Lê Code.”<sup>49</sup> At the crux of his argument lay daughters’ inheritance and succession rights. He claimed that the Lê code decreed that “brothers and sisters would share equally in their parents’ general estate.”<sup>50</sup> That the Lê state, a centralizing, neo-Confucian state, would decree partible inheritance for children regardless of sex in a clear deviation from Western academic conceptions of the East Asian model, Tài argued, revealed that “the Le Code, unlike the Nguyen Code which was a copy of the Ch’ing code, represented genuine Vietnamese custom with its idiosyncrasies and incorporated

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<sup>49</sup> Nguyễn Ngọc Huy & Tạ Văn Tài, *The Lê Code*, op. cit. Vol. 1: 81.

<sup>50</sup> 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* 15,2 (1981): 123.

original provisions unknown in any Chinese code . . . to give equal rights to Vietnamese women.”<sup>51</sup> By defining Vietnamese women against an a-historical Chinese woman, Tàì represented women’s status as the roots of Vietnamese modernity and democratic development, an important demonstration of promise from the ashes of a failed Western-democratic and military experiment.

### **Vietnamese Women in Southeast Asia**

Following World War II, the founding and rapid development of “Southeast Asia” as a field of scholarly study and the classification of Vietnamese Studies as part of a Southeast Asian Regional Security program in the United States inextricably linked Vietnamese women’s history to models of Southeast Asian identity. International efforts at defining “Southeast Asia” as a region, traceable to the work of the *EFEO*’s George Coedes<sup>52</sup> and Nguyễn Văn Huyền,<sup>53</sup> prompted a scholarly debate on Vietnamese historical identity. Given its long experience with Chinese legal and cultural institutions, was it a part of East Asia? Or was it really a part of the Southeast Asian cultural world? Ultimately, scholars of Southeast Asia, referring to the scholarship of French orientalist and Vietnamese nationalists discussed above, highlighting the apparent prominence of women in Vietnamese society as a feature that made Việt Nam a part of Southeast Asia. With that link, Vietnamese women acquired their final role as the embodiment of

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<sup>51</sup> Ta Van Tai, “Women and the Law in Traditional Vietnam,” *Vietnam Forum* 3 (1984); 23-53: 23.

<sup>52</sup> Georges Coèdes, *The Indianized States of Southeast Asia*, trans. Susan Browning (Honolulu, HI: University of Hawaii Press, 1967).

<sup>53</sup> Huyền, *La civilization Annamite* (1943).

Southeast Asian autonomy. In the last half century, the lack of tension between these two models and the training of Việt Nam scholars as Southeast Asianists determined their strength and tenacity against the model of Confucianized, oppressed womanhood.

The founders of Southeast Asian Studies included various parts of Vietnamese historical development into their construction of the region (sometimes with qualification) and identified women's status as a primary marker of regional cultural commonalities. Coèdes and Huyên both alluded to such examples in their pre-war works and later scholars built upon their works.<sup>54</sup> In a number of studies describing Southeast Asian historical-cultural commonalities, Wolters argued that one of the traits that linked these states included the existence of cognatic kinship and the presence of strong women at the Trần Court.<sup>55</sup> Anthony Reid's two-volume social and economic history of Southeast Asia in the early modern period, discussed at length in the introductory chapter, proved immensely influential in linking the status of women in Vietnamese society with a Southeast Asian identity more generally.<sup>56</sup> These international scholars of Southeast Asia all placed Vietnamese women and their experiences within wider frameworks of Southeast Asian women's experiences. Their influence on the

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<sup>54</sup> Georges Coedes, *The Indianized States of Southeast Asia*, trans. Susan Browning (Honolulu, HI: University of Hawaii Press, 1967), 24.

<sup>55</sup> Oliver Wolters, *History, Culture & Region: Southeast Asia in Comparative Perspective* (Singapore: Institute of Southeast Asian Studies, 1982), 19.

<sup>56</sup> Anthony Reid, *Southeast Asia in the Age of Commerce 1450-1680: Volume I: the Lands below the Winds* (New Haven: Yale University Press, 1988), 146-72. *See also*, discussion of Reid in chapter I, this volume.

characterization of Vietnamese women as carriers of Southeast Asian cultural traits cannot be underestimated.<sup>57</sup>

The Allied Powers' categorization of Việt Nam as part of the Southeast Asian theater during the Second World War and its inclusion in the U.S. government's Title VI security studies programs dictated the study of Vietnamese history and culture take place from a Southeast Asian perspective. Post-war students of Vietnamese history thus studied Vietnamese history within a Southeast Asian tradition. Of the students of the post-war generation, Wolter's students in Vietnamese history at Cornell University elaborated on his arguments on bilateralism, women of prowess, and Việt Nam's Southeast Asian cultural heritage. The most prominent of these students, John K. Whitmore, argued in his essay "Gender, the State, and the Literati Voice in Early Modern Việt Nam" that Vietnamese cultural practices retained Southeast Asian characteristics well into the twentieth century.<sup>58</sup> Whitmore described the fifteenth century re-organization of the state that accompanied the Lê family's rise to power as a period of neo-Confucian orthodoxy, in which official historians such as Phan Phu Tiên and Ngô Sĩ Liên criticized the presence of women who played active roles in court politics.<sup>59</sup>

The following generation's work in Vietnamese history, specifically, that of Whitmore's student, Yu Insun, further perpetuated this paradigm. Yu Insun's *Law and Society in Seventeenth and Eighteenth Century Vietnam* presents the clearest

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<sup>57</sup> See, for example, Barbara Andaya's Introduction in *Other Pasts* (2000).

<sup>58</sup> John K. Whitmore, "Gender, State and History: the Literati Voice in Early Modern Vietnam," in Barbara Andaya, ed., *Other Pasts: Women, Gender & History in Early Modern Southeast Asia* (Honolulu: Center for Southeast Asian Studies, University of Hawai'i, Manoa, 2000), 215-30: 230.

<sup>59</sup> Id., 224.

contemporary articulation of Vietnamese women's uniqueness as paradigmatic of Southeast Asian cultural commonalities. In this influential study, Yu suggests that an over-reliance on official documents made previous scholarship unreliable, and in his study, would contrast official sources with Chinese and European observations to examine how the law was applied in Vietnamese social practice.<sup>60</sup> He argues that "the [Lê Dynasty's] laws on property and inheritance represent the codification of Vietnamese traditional customs."<sup>61</sup> The most important of the Vietnamese customs was the "guarantee of the equal division of property regardless of sex [in the Lê Code]."<sup>62</sup> Throughout the monograph, Yu relates women's property claims to broader patterns of Southeast Asian women's autonomy. In a more recent work, "Bilateral social pattern[s] and the Status of Women in Traditional Vietnam," Yu lays out his theory on the linkages between property, bi-lateralism, and Việt Nam's Southeast Asian identity.<sup>63</sup> In the article, Yu's begins with the assertion that women in Vietnam enjoyed an unusually high social status.<sup>64</sup> This "high social status" he ascribes to the presence of women in Vietnamese creation stories and woman warrior myths. From there, Yu argues that bilateralism characterized Vietnamese kinship patterns in the pre-Nguyen period, leading to the codification of such values in the Lê code, as previously discussed. Yu fails to

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<sup>60</sup> Yu Insun, *Law and Society in Seventeenth and Eighteenth Century Vietnam* (Seoul: Asiatic Research Council, 1990), 14.

<sup>61</sup> *Id.*, 16.

<sup>62</sup> *Id.*, 17.

<sup>63</sup> Yu Insun, "Bilateral social pattern and the status of women in traditional Vietnam," *in Southeast Asia Research* 7,6; pp.215-31.

<sup>64</sup> *Id.*, 216.

show two important factors essential for his argument: that Vietnamese kinship patterns were bilateral in nature, and that this characteristic led to the elevation of women's status. Rather, the article depends on a circular argument: women's ability to inherit is evidence of bilateral succession, and bilateral succession allows for women to inherit in early modern Vietnamese society.<sup>65</sup>

The scholarship of historians such as Whitmore, Wolters, and Yu fundamentally shaped Western inquiries into gender in the Vietnamese context. In a recent article surveying the literature on gender in Vietnamese Studies, Jayne Werner refers to their scholarship and succinctly captures this dynamic with the following passage:

The historical analysis of gender and the state in Việt Nam is adding to the growing body of work suggesting that the historical development of the state in Southeast Asia may have been detrimental to women. Before the fourteenth century, Việt Nam had a classic Southeast Asian State, including the theater state and the centric orientation of the court. "Confucian" patriarchy in Việt Nam probably only began to be consolidated as late as the fifteenth century and gender constructions were a central component of that political project.<sup>66</sup>

## Conclusion

The preceding discussion traced the foundations of three major paradigms of Vietnamese womanhood in the political and intellectual agendas of the twentieth century. It locates the origins of the models of Vietnamese womanhood in the French colonial experiment in Indochina. As colonial officials refined their administrative policies, a group of young orientalist of the *EFEO* promoted a transition of policies toward

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<sup>65</sup> Id., 221.

<sup>66</sup> Jayne Werner & Danièle Belanger, eds., *Gender, Household, State: Đổi Mới in Việt Nam* (Ithaca: Southeast Asia Publications, Cornell University, 19.

associationist goals. Through articles published in the *École's* journal and policies they helped write, they highlighted institutions that demonstrated indigenous uniqueness. In this project, they appropriated women to symbolize this unique Annamite culture. Vietnamese nationalists appropriated models of womanhood to fit their political agenda of independence for Việt Nam. Finally, post-war local and international scholars refined them for their political intellectual agendas. Central to this discussion are the explicit ways in which the three paradigms of Vietnamese womanhood, as victim or carrier of national and regional identity, rely on an image of Confucian Chinese womanhood. A discussion of Vietnamese (or Southeast Asian) gender relations that does not account for the nuances in Chinese women's history does injustice to the historical record. The ensuing chapters thus locate Vietnamese women's history within the historiographic traditions of Chinese and Southeast Asian women's history to unearth women's daily lives. Having thus traced the ways in which twentieth century scholars have constructed "traditional" Vietnamese gender relations, we now turn to how early modern Vietnamese women led their lives.

**Chapter 3**  
**The Life Course:**  
**Dutiful Daughters, Faithful Wives, and Nurturing Mothers**

This chapter examines the intricacies of the early modern Vietnamese gender system by visiting the structures that ordered women's experiences. While the language of this gender system at times mirrored neo-Confucian precepts of male/female propriety, the economic and social circumstances of the sixteenth through eighteenth centuries enabled women to carve out spaces of autonomy in economic and social life. This chapter argues that economic structures of early modern Vietnamese society allowed women to negotiate the boundaries of a restrictive gender system to carve out spaces of action for themselves. Female infants encountered a world of signs and symbols that reinforced their roles as obedient daughters, dutiful wives, and proper mothers. Although gender marked one's life course, individual socio-economic circumstance figured greatly into determining structures that regulated women's lives and the extent to which they could modify those structures. Economic and military pressures in the sixteenth through eighteenth centuries altered rural livelihoods in ways that allowed women to bypass the social boundaries of daughter, wife and mother to engage in the economic and political life of a village.

The military campaigns between the Mạc, Trịnh and Nguyễn families triggered a process that transformed labor into a gendered domain. In the northern plains of Đàng Ngoài, pressures of the corvée labor system and military transferred male labor from the agricultural sector. Extant evidence suggests that in the Northern Realm, women bore

much of the burden of agricultural labor. Women directed their attention toward sideline products and the marketing of those products to augment household income. Labor became a similarly gendered domain in the Southern Realm (*Đàng Trong*, 塘龍內). There, the relative wealth of the land impressed a sixteenth century traveler to Thuận Hóa<sup>1</sup> sufficiently so that he proclaimed, “How rich the fertility of [this] land!” (*địa thổ cao phúc đặc nhất hà*, 土地膏腹得—何).<sup>2</sup> He observed that the plains economy was dominated by wet rice agriculture and silk production and coastal regions dominated by pisciculture, with market labor shared by men and women in different parts of the region.<sup>3</sup> By the end of the eighteenth century, however, early modern visitors to the Southern Realm observed that women performed most of the market activities.<sup>4</sup> Although the abundance of arable land distinguished *Đàng Trong* from *Đàng Ngoài*, the dynamics of production in each area created the same result: labor fissured along gender lines with women performing much of sideline production and market activity while men concentrated their efforts on agricultural production. This concentration of women in sideline and market activities created spaces in which women accumulated money and transformed it into social capital in an asymmetric hierarchical system.

### I. Village Structure: Authority and Ownership

Just as women’s status marks Vietnamese cultural identity, the social structure of

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<sup>1</sup> The area around present-day Huế.

<sup>2</sup> Dương Văn An, ed., *Ô Châu Cận Lục* (烏州近錄), Hán Nôm Institute, A.263.

<sup>3</sup> *Ô Châu Cận Lục*, 34b.

<sup>4</sup> See for example, Cristoforo Borri & Japanese journals discussed below.

“villages” in Vietnamese society is emblematic of an indigenous identity in the prevailing academic and political literature. As one of the most important signs of Vietnamese cultural identity, “the village” (*làng*, 郎 or *thôn*, 村)<sup>5</sup> is often described as a timeless, enclosed, autonomous community surrounded by a bamboo hedge that protected Vietnamese culture.<sup>6</sup> This notion of the timelessness of Vietnamese villages implies that tradition was preserved within the bamboo hedges.

Evidence from the village conventions, land registries, and family genealogies suggests that the village was a porous community based on a horizontal and vertical system of social obligations discernable in other parts of Southeast Asia.<sup>7</sup> Anthony Reid observes that in many Southeast Asian villages in the early modern era, social relations were held together by “vertical and horizontal bonds of obligation between people,” reflected in speech and practical obligations owed one another.<sup>8</sup> Likewise, Vietnamese villages were structured vertically and horizontally, with worthy elder males representing all adults within the village, and “outsiders” and women at the bottom of the scale. Members of the village community formed “horizontal” bonds of obligation through the collective activities of work and worship. The gendered character of the work and religious domains created social, religious, and trade networks that facilitated spheres of

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<sup>5</sup> The “village” (*thôn*) can be distinguished from a “commune” (*xã*, 社), which served as an administrative unit from the tenth century. As defined above by Phan Huy Lê, the village, as used here, was a naturally forming communal network that shared common local animist and cultural practices in community spaces.

<sup>6</sup> Yu Insun, *Law and Society in Seventeenth and Eighteenth Century Vietnam*, op. cit. (1990), 23.

<sup>7</sup> Anthony Reid, “Slavery & Bondage in Southeast Asian History,” in *Charting the Shape of Early Modern Southeast Asia* (Chiang Mai, Thailand: Silkworm Books, 1999), 181-216.

<sup>8</sup> *Id.*, 183 & 188.

action for women. For women of all social classes, Reid's model of vertical and horizontal bonds of patronage clarifies how a male-oriented hierarchical village structure suggested by the sources opened spheres of autonomy for women.

Local power in Vietnamese villages was highly asymmetrical, with men enjoying the preponderance of power. Village regulations (*huong ước* 鄉約<sup>9</sup>, or *lệ làng* 例郎<sup>10</sup>) allow a rare glimpse into how local customary rules established the gender system. These regulations set forth the regulations for local governance, economic activities, collective work duties, religious practice, and community well-being. Although always represented as an agreement between all members of the village community {(*bản thôn/làng thượng hạ* 本村/郎上下) "this village's top and bottom sectors"}, the system described within the conventions suggest that it more likely was the village head (*xã trưởng* 村張), village elders (*huong lão*, 鄉老), and village council (*hội đồng kỳ mục* 會全期牧) that established and agreed upon those rules.

Within the village, power and position were linked to a complex system of patronage, usually determined through the principles of patrilineal succession. The village authority was structured vertically, with a council of (male) elders (*hội đồng huong lão*, 會同鄉老) sitting at the top of this structure. Below the council of elders, the village headman (*thôn trưởng*, 村張) and village council (*hội đồng kỳ mục*, 會全期

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<sup>9</sup> Literally, "rural convention."

<sup>10</sup> "Village custom." The word *làng* (village) is generally found in folk songs, proverbs and vernacular literature, but not used in official papers. The phrase *lệ làng* is a vernacular term used to indicate village custom and found in various folk sources. This vernacular term was written in the demotic script, borrowing the 郎 character from the Chinese.

牧)<sup>11</sup> oversaw all matters of relevance to the community at large and served as the representative body to the state.<sup>12</sup> Unlike their Chinese counterparts, early modern Vietnamese villages rarely contained a single lineage,<sup>13</sup> and those with the village councils and meetings were exclusive realms where males convened and defined the local structures that ordered community life.

The village-wide meetings functioned as the major space in which community cultural, social and economic plans were structured. Among other duties, the council, head-men, and elders drafted and voted upon the regulations and resolved disputes between villagers and with other villages.<sup>14</sup> The regulations themselves ranged from preventive maintenance during natural disasters, specified punishments for small infractions, and established local restrictions with regard to marriage rites, local and state taxation, and the conscription of able-bodied men (*đinh*, 丁)<sup>15</sup> as community or state labor. The number of able-bodied men in each village determined the amount of labor owed the state. Moreover, only able-bodied men could participate in deciding who could be elected as a village headman or member of the council of elders. In addition to establishing the

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<sup>11</sup> Literally, “the council that leads.”

<sup>12</sup> Phan Huy Lê, “Vietnamese Village,” (forthcoming, 2004).

<sup>13</sup> Yu Insun, “Cấu Trúc của làng xã Việt Nam ở Đồng Bằng Bắc Bộ và mối quan hệ của nó với nhà nước thời Lê,” *Nghiên Cứu Lịch Sử* 3 (2000), pp. 22-35: 29.

<sup>14</sup> See, for example, *Đông Khê Thôn Khoán Ước* (東溪村券約), Hán Nôm Institute, A.2875, where the preface lists the names of all the members of the village community who have agreed upon aforementioned regulations. All of these members were men.

<sup>15</sup> Mathews’ Chinese Dictionary, the *Thiếu Chử Dictionary*, Đào Duy Anh, and Trần Văn Kiệm all define *đinh* as able-bodied men. This leaves little ambiguity as to whether the character can possibly refer to females.

conventions, the village council, headmen, and elders also decided on matters of immediate concern to the community as a whole. Evidence from stèlae inscriptions of the period indicates that village elders and headmen made decisions on the sale of community cultural performances, the adjudication of minor property disputes between villages,<sup>16</sup> and the election of local patrons to saints (*bầu hậu* 裒后/後).<sup>17</sup> While most documents from the village represent decisions as emerging from consensus among all members of a village community, extant inscriptions demonstrate that those who were required to give their approval were men. Participation in the village power structure was thus strictly limited to male representatives of their lineages.

For purposes of tax collection and local governance, only males were entered into the registry, and able-bodied men were the ones noted.<sup>18</sup> Beneath the elders, headmen, council and able-bodied men who formed the upper and bottom echelons of the village community (村上下) were the “outsiders,” who wielded little authority within the political structure, but could purchase property within the village.<sup>19</sup> Women, too, had no official role in village administrative matters: they were not registered as members of a lineage and thus could not participate in community voting, and thus were unrepresented productive members of village society. That they were not recognized officially by the

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<sup>16</sup> See, for example, Tào Văn Khê Bi Ký (造文契碑記), No. 6683; Tào Văn Khê Bi Ký (造文契碑記), No. 15652; Đình môn thạch bi ký (亭門石碑記), No. 15419: These inscriptions record contracts and/or disputes between villages resolved through mediation and commemorated for posterity.

<sup>17</sup> The two characters, 后 and 後 appear to have been used as synonyms in the stele inscriptions of the early modern period. For the process of election of patrons to saints, see chapters 5 & 6.

<sup>18</sup> Ory, *La Commune Anamite* (Paris)

<sup>19</sup> Phan Huy Lê, “Le Village au Viet Nam”

village structure did not disenfranchise them, however, for the economic and demographic realities of early modern Vietnamese life triggered land-holding patterns that enabling women to wield de-facto influence in village politics. More specifically, that women could accumulate capital, and demographic trends required that they engage in such activity as a survival mechanism, enabled women to exert political influence through economics, particularly in the endowment of public spaces. Thus, although women were likened to “outsiders” in the village system, state mobilization of labor and local agricultural demands wove a complex system in which women performed the majority of economic labor, accumulated capital, and enjoyed spaces of autonomy.

#### **The Setting(s): Economic and Ecological Circumstances**

The Trịnh wars against the Mạc stronghold first in Thanh Hoá (later in Cao Bằng) district near the Chinese border and subsequent battles against the Nguyễn family in the Southern Realm placed tremendous pressure on the economic survival of rural dwellers. After a period of relative prosperity following the Mạc consolidation of power in 1532, rural dwellers in the Northern Realm bore the burden of drought, floods, disruption and damage from fighting, and the demands of a massive military campaign in the subsequent two and a half centuries. Trịnh officials estimated that the Mạc army was fifty thousand strong.<sup>20</sup> Moreover, the chronicles report numerous battles in which local commanders led ten thousand and more soldiers (*van* 萬) on each side. Many of the rank and file soldiers, it appears, died on the battlefield. To push back enemy lines, commanders on the

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<sup>20</sup> Find citation from *DVSKTT*.

Mạc, Nguyễn and Trịnh sides replenished their ranks with local conscripts along the battle routes.<sup>21</sup> These military campaigns, prolonged beyond the defeat of the Mạc with fighting between the Nguyễn, placed stress upon poor villagers in the Northern Realm, who bore the brunt of the burden.<sup>22</sup> The military campaigns did not simply affect areas under Trịnh rule, but also areas throughout Đại Việt, where the Mạc and Nguyễn rulers continually replenished their army in local areas. The civil wars of the two centuries damaged much of the infrastructure, and occasionally, the state relied upon the efforts of local populations to rebuild dikes and fortifications damaged in the fighting and demanded local populations to submit large harvests for troop consumption.<sup>23</sup>

Mobility also contributed to the economic dynamics of the early modern period. As the fighting against the Mạc rivalry between the Nguyễn and Trịnh families exacerbated, Nguyễn Hoàng gained permission to lead settlers to the Đàng Trong as garrison commander of Thuận Hóa in 1558, and gained official authority over Thuận Hóa and Quảng Nam in 1570.<sup>24</sup> Fighting, poor agricultural conditions<sup>25</sup>, and famine led other families to move into Đàng Trong. In a little less than half a century, the *Đại Việt Sử*

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<sup>21</sup> See, for example, descriptions of ad hoc conscription in Thanh Hóa after major battles in 1557. *DVSKTT*, vol. 16: 15b.

<sup>22</sup> The Lê/Trịnh only declared victory over the Mạc in the mountainous areas of Cao Bằng District following a massive military campaign in 1668. *DVSKTT, Bản Ký Tục Biên*, vol. 19: 19b-20a.

<sup>23</sup> *DVSKTT*: 1570.

<sup>24</sup> *DVSKTT: BKTĐ*, Chin.: vol. 16: 26b; *quốc ngữ*: vol. 3: 139. For more on Nguyễn Hoàng, see, Keith Taylor, "Nguyen Hoang and the Beginning of Vietnam's Southward Expansion," in Anthony Reid, ed., *Southeast Asia in the Early Modern Period: Trade, Power and Belief* (1993), 42-65 & Li Tana, *Nguyễn Cochinchina* (1998), 11-17.

<sup>25</sup> In 1576 alone Thanh Hoá Province flooded seven times, creating widespread famine.

reported that over half of the population of the province of Nghệ An died of starvation or leprosy.<sup>26</sup> Many families that did not fall to the famine migrated to the Southern Realm.<sup>27</sup> Residents in the Northern Realm who did not resettle encountered the multiple problems of banditry and military harassment.<sup>28</sup> Local inhabitants of the provinces of the Trịnh North endured the multiple pressures of war, banditry and the outward migration of male labor. With their fathers, husbands, and brothers conscripted into the army, women were left behind to tend to agricultural and household duties which they acknowledged through dry verses. In one lamentation, a woman proclaimed:

Like a female stork (nôm: *cái cò*, 丐 孤鳥) drudging by the banks of the river.  
 [I] shoulder (nôm: *gánh gạo cho chồng*, 木更 米告 朱 重夫) the rice for my  
 husband,<sup>29</sup> my cries [of sorrow] crisp and clear (nôm: *ni non*, 衣 山嫩),  
 Now, I must return and feed [my] girls (nôm: *cái*, 丐)<sup>30</sup> and sons (nôm: *con* 子昆)  
 So you (nôm: 英)<sup>31</sup> can tame (*tri*, 治) the waters and mountains (nôm: *nước non*,

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<sup>26</sup> *DVSKTT, BKTL*, vol 16: 36b.

<sup>27</sup> *Id.*

<sup>28</sup> See, for example, descriptions of the Mạc forces ravaging Thanh Hoá Province in 1570 in the *Annals. ĐVDKTT, BKTB* vol. 16: 30b; *quốc ngữ*: vol. 3, 142; descriptions of armies of bandits in Nghệ An Province creating such havoc on local inhabitants in 1571, *DVSKTT, BKTB*, vol. 16: 34a; *quốc ngữ*: vol. 3: 145.

<sup>29</sup> The phrase, “*gánh gạo*” (nôm: 梗 米告) literally means to carry my husband’s rice. “*Gánh*” is a verb used to carry heavy objects strapped to a yoke, suggesting a burden. Here, the speaker refers specifically to “carrying her husband’s rice,” suggesting that she is taking on her husband’s responsibilities.

<sup>30</sup> Here, there is a distinction made between the daughters, who are designated simply as “female creatures” (nôm: *cái*, 丐), and sons, designated as “children,” (nôm: 子昆). Note the difference between the term used, *cái*, and the character for female (nôm: 女丐). The former is used to describe female animals and the latter for women. In this instance, the speaker uses the former as a pronoun for her daughters.

<sup>31</sup> Here, the term used is *anh* (nôm: 英), which is a term used by a subordinate to address a male who is older (or of higher status) than the speaker. In the vernacular, women address their husbands as “*anh*.” Here, I translate “*Anh*” in the third instead of second person because of the tone of the second line, where the speaker refers to her husband in the third person.

渚山嫩) of Cao Bằng.<sup>32</sup>

By likening herself to a stork, who toils day after day to forage for food by the shores of a river, the woman's words paint an image of one taking on more than her share of household responsibilities. She highlights this perspective with the comment of shouldering her husband's rice. In rural areas, the contraption used to carry heavy loads consisted of two heavy baskets strung at the ends of a long bamboo cane.. Her exasperation with shouldering her husband's burden of the household duties and her recognition of her own unfulfilled chores highlight the pressure she felt as a young wife whose husband has been conscripted into the army.

In contrast, the sixteenth century was a period of relative security in the Southern Realm following Nguyễn Hoàng's pacification of the bandit groups in 1572. The subsequent century welcomed a period of relative peace and prosperity in the two Southern Provinces of Thuận Hóa and Quảng Nam. Hoàng's fair regulations and strong authority, the *Đại Việt Sử* recorded, ensured that

The populace of Thuận [Hóa] and Quảng [Nam] provinces respected righteousness, changed their customs (*di dịch phong tục*, 移易風俗) and did not cheat at the market (*thị vô dự thách*, 市無預價). The people did not engage in banditry (*dân bất vị đạo*, 民不為道), the exterior gates did not have to be closed, and merchant ships from foreign countries came to trade fairly. Martial authority/law (*quân lệnh*, 軍令) was strict but fair.<sup>33</sup>

The description of Đàng Trong in the late seventeenth century contrasts sharply with that of the Northern Realm. The prosperity enjoyed by Southern inhabitants was also a factor

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<sup>32</sup> *Nam Phong Giải Trào*, 9a.

<sup>33</sup> *ĐVSKTT, BKTL* vol. 16: 36a; *quốc ngữ*: vol. 3: 147.

of ecological conditions. Reports from Vietnamese and European observers suggest that lands in the Southern realms were particularly fertile. The authors of the *Record of Ô Châu* describe harvests so bountiful that “the store houses were full and couldn’t be used in a year.” In the surrounding areas, the traveler remarked, the “the energies of the men were directed toward agricultural activities” (*vũ khuyến nam tử u nông canh*, 武勸男子力於農耕). Visitors who traveled to Đàng Trong in the early modern period often remarked on the relative absence of women in agricultural activities. Women concentrated their efforts on sideline activities, such as raising silkworms, spinning and weaving, and/or market activities.<sup>34</sup> Cristoforo Borri, an Italian Jesuit who traveled throughout Đàng Trong from 1618-21, echoed this observation, noting that “the land [in the Southern realm] was so fertile that it gave rise to three harvests per year. [The harvest] is so abundant that one can not find anyone who is willing to work for a salary.”<sup>35</sup> It is within this context of broader socio-economic changes in that we should interpret the discourses on gender and the life course that mapped women’s lives from childhood to death, the details of which we now turn to.

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<sup>34</sup> See, for example, *Record of Ô Châu*, in Kim Trà District, where a sixteenth century traveler reports that women of the area “spin silk [and] embroider flowers onto the fabric” (女織錦生花).

<sup>35</sup> Borri visited the four provinces of Thuận Hóa, Quảng Nam (Kẻ Chiêm), Quảng Ngãi, and Qui Nhon, an area that stretched from modern day Huế south of Nha Trang. *Relation de la Cochinchine, divisé en deux parties dans la première on traite de l’état temporal de ce royaume, la deuxième a trait a son état spiritual*, in *Bulletin des Amis de Vieux Hué* (1939), 285-336: 290. Translated from Italian into French by Père Antoine de la Croix of the Society of Jesus. First published in 1631 in Rome.

## II. Expectations: Female Life Cycles

### A. Childhood Learning

From birth, female children entered a social world that used Confucian language to justify a gendered model of domesticity while emphasizing practicality. This emphasis on practicality helps to explain, at least partially, how the language of a Confucian gender system made way for immense cultural and economic growth triggered by women's initiatives. Women stood at the heart of these broad societal changes and reconstituted the gender system with various survival mechanisms.

Throughout their early childhood years, girls encountered a world of learning through family/girls' morality teachings (*gia huấn/nữ huấn*, 家訓/女訓), rendered in six-six-eight rhyming patterns and oral folk poetry.<sup>36</sup> Though using these sources to reconstruct the education of young women presents methodological difficulties, the proliferation of these codes relayed in the vernacular from the fifteenth century demonstrates their relevance for understanding female education. One code suggests that by the nineteenth century, it had become common for social mores to be replicated and transmitted to and among women in these 6-8 verses. The following excerpt from "Song of Women's Learning" (*Nữ Huấn Ca* 女訓歌)<sup>37</sup>, a hand-written morality text in the 6-8 style, illustrates the extent to which female education through the transmission of

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<sup>36</sup> Phạm Văn Dung uses Vietnamese morality texts to explain how Confucian-inspired morality codes reveal the "essence of the traditional Vietnamese woman." She states that she undertook the study to "provide contemporary discourses [with] an understanding of Vietnamese tradition." Implicit in her study is the highlighting of the Revolution's contribution to Vietnamese women's status, discussed in Chapter 2. Phạm Văn Dung, *Nữ huấn trong di sản Hán-Nôm*, Master's Thesis. Hà Nội: Việt Nam National University: University of Social Sciences and Humanities, Hà Nội, 2002, 2.

<sup>37</sup> Anonomous, *Nữ huấn ca*. Hán-Nôm Institute, A.1777.

vernacular poetry had become customary practice:

For a long time, our country and home (*đất nước nhà ta*, nôm: 埜 渚 茹 些)  
Lacked neither literature (*văn chương* 文章) nor morality (*chữ nghĩa*, 字 義)  
*Nôm* verses (*ca nôm*, 歌 喃) were oral lessons (nôm: *lời dạy*, 喇 代) for our  
daughters (*nữ nhi*, 女 兒),  
To listen when they do not know (nôm: *trước nghe chưa có*, 畧 前 耳 宜 渚 固)<sup>38</sup>  
and etch (*ghi nôm*: 搯) [in their hearts] so they can recall [it] (nôm: *gọi  
lại*, 嚙 吏).<sup>39</sup>

Although some of the morality codes model the Neo-Confucian precepts of the Thrice Followings and the Four Virtues (*tam tông tứ đức*, 三從四德), they also emphasize the practical application of such teachings in daily life. Through these texts, we see that girls were taught that the major turning points in their lives were birth, adulthood and marriage, motherhood, and widowhood.

Vietnamese babies entered a gender system that employed the language of Confucian morality but adjusted the expectations according to different economic conditions. Female (*nữ/gái*; 女/女丐) offspring encountered an education system in which they were reminded daily through oral verse of their place in society. Many young girls of the upper class were inundated with the Thrice Followings (*tam tông* 三從) and its corollary, the Four Virtues (*tứ đức* 四德): womanly speech (*ngôn*, 言), virtue (*đức*, 德) deportment (*hạnh*, 行) and work (*công* 功). The Thrice Followings, elaborated in the *Book of Rites*, commands that “the woman follows (and obeys) the man: in her youth, she follows her father and elder brother; when married, she follows her husband; when her

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<sup>38</sup> The literal translation for this phrase would be, “So they can listen when they do not have.”

<sup>39</sup> *Nữ Huân Ca*, op cit.

husband is dead, she follows her son.”<sup>40</sup>

Although the attributes of “proper” feminine behavior correlate to models of Zhu Xi Confucian gender systems,<sup>41</sup> the morality codes emphasize work and the practical application of these ideals into women’s daily lives. Thus, daughters were taught through rhyming verses that the feminine ideal was beauty, and the masculine ideal value. The *Chi Nam* Dictionary characterized daughters as “destined to love” (*lệnh ái*, 令愛), and defined this term as “daughters who were beautiful in ten parts”<sup>42</sup> (*con gái mỹ miều mười phần*, nôm: 昆 女 巧 美 美 苗 邁 分),<sup>43</sup> while it defined sons as “destined to succeed [to the patriline]” (*lệnh tỵ*, 令嗣), and characterized them as “male children who contribute [to the household]” (*con trai làm nhiều*, 昆 來 男 濫 饒 多).<sup>44</sup> Although the feminine ideal emphasized beauty, young girls also received practical education to attain those “ten parts.” Although the language of feminine learning was couched in “universal” Confucian terms, the particular notions of feminine beauty were locally defined. For example, in the early modern Vietnamese context, local and literary sources suggest that feminine beauty for all women was market by rosy cheeks (*má hồng*)<sup>45</sup> but in addition,

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<sup>40</sup> James Legge, trans., *Li Chi: Book of Rites* (Oxford University Press, 1885) 2 vols., I: 441

<sup>41</sup> One literati family enshrined Zhu xi’s neo-Confucian precepts in its familial sanctuary, by erecting a stele with his teachings. 津 刊 家 訓 碑, Hán Nôm Institute, Stele #14534.

<sup>42</sup> The ideal that women embody “ten parts” is also mentioned in *Kieu*.

<sup>43</sup> *Chi Nam Ngọc Âm Giải Nghĩa* (指南玉音解義), Hán’Nôm Institute, AB.372 (人 命 部 第 三 章).

<sup>44</sup> Id.

<sup>45</sup> See, for example, Nguyễn Du’s *Truyện Kiều*, in which Kiều and women are referred to as “rosy cheeks.” See also, Truyen Ky Man Luc, etc. Oral folk poetry defines feminine beauty with the dual virtues of “rosy

for lower class women, by blackened teeth (*răng đen*).

A critical aspect of feminine deportment was bodily cleanliness, as women's bodies were linked to personal, familial and state futures. Proper daily hygiene was thus critical for young girls to learn. Such habits included the application of cosmetics, but even more important was the ritual of maintaining a clean body. As such, upper-class daughters were ingrained with the following ideals of cleanliness in body:

Keep yourself (*giữ mình*, 持命) clean (*tiết sạch*, nô:m:節瀝) and  
the family pure (*gia trong*, nô:m:家中清)  
Even-tempered (*ôn hòa*, 溫和), respectful (*chính phong*, ) and modest (*nhu mi*,  
柔眉)  
Bathe and wash your hair regularly (*hàng lễ*, nô:m:行例)  
Though never too much and never too little.<sup>46</sup>

Although female's bodily cleanliness was important, bodily cleanliness was not enough to embody the ideal of feminine beauty and propriety. The ability to adorn one's face, body and clothing to fulfill those ideals was important:

Make up your face upon waking in the morning  
Brushing your hair, washing your face, are the regular responsibilities of female children.  
Be mindful of your jade and hair pin  
Fixing yourself in every way, that is a well-rounded person.  
Clothing straightened and in order,  
Reflecting purity in every manner.<sup>47</sup>

While practical, the advice in the morality texts emphasized that proper deportment reflected a more important feature of femininity: purity. And parents stressed that only

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cheeks" and "blackened teeth." *NPGT*: pg. 12a.

<sup>46</sup> *Huấn Nữ Tử Ca* (訓女子歌), 12-15. Hán-Nôm Institute, VNb.1.

<sup>47</sup> Id.

vigilant attention to the details of daily life could ensure cleanliness and reflect purity. The sanitary advice relayed in this morality code are echoed in others, including the regulations of a lay female Catholic open community operating in the sixteenth and seventeenth centuries.. The eighth principle of the order, “regulations on bathing and washing [one’s] hair,” (*phép chị em phải giữ về sự tắm cùng gội đầu*, nôm: 法 婦 女 淹 沛 掙 衛 事 浸 共 滄 頭) specified that the members had to wash their hair at least twice a month in any season, but during the spring and summer, at least once a festival.<sup>48</sup> While a practical matter, bodily cleanliness also carried powerful meaning. For young women, outward expression of bodily cleanliness was a sign of inner purity, namely, virginity, a trait critical for personal, familial, and political futures.

### III. Early Adulthood: Opportunities, Contradictions, and Dangers

During the early adult years, between the ages of thirteen to sixteen years (*tuổi*<sup>49</sup>, 年歲),<sup>50</sup> the discourses on femininity converged in one main area: assuring that young women continued to be desirable in marriage. During these years, girls came under increased pressure to embody feminine characteristics of beauty and industriousness while also remaining vigilant about bodily purity. Young girls were thus reminded daily

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<sup>48</sup> *Phép Chị Em Dòng Mến Cầu Rút*, Unpublished Manuscript, Missions Étrangères, Bibliothèque Asiatiques, 1309D.

<sup>49</sup> Tuổi, the vernacular for “age,” and reflected with the two characters, *niên* (年 & 歲).

<sup>50</sup> Vietnamese years, like Chinese years, are counted as one year from the time of birth to Tết (節), the Lunar New Year and an additional year each birthday thereafter. Thus, a newborn would be one year old in the Vietnamese calendar.

that they were destined to be married, but that the kind of marriage they could procure was directly related to their age and beauty. Particular attention was paid to how girls might avoid endangering their chastity and hence their chances of a good marriage, though how they might do so varied across class boundaries. What these girls across class boundaries did share was the attention paid to their bodies.

The parents of girls from upper class families reminded them through verse and popular literary allusions that they embodied familial virtue. Vigilance in bodily maintenance also required them to be mindful of impropriety with males. Their ability to reflect feminine purity was one way in which they could help to assure an appropriate match in marriage. Thus morality texts reminded them,

Do not trust others (*chớ tin ai*, nôm: 諸信埃) and mind the household gates,  
Know who is in and out of the house (*Việc nhà tính đã có ai*, 衛茹信地固埃)  
Take care going in and out (*ra vào cẩn thận*, nôm: 出入謹慎) and be mindful of  
yourself in the future (*hôm mai tự mình*, nôm: 歆埋寺命).<sup>51</sup>

Here, a daughter is taught to be mindful of household gates and to protect household possessions, the most important of which were their bodies. These young women were expected to comport themselves with vigilance over behavior and body, lest they “bring shame upon the family’s name” (*nhục vào gia thanh* 辱包入家聲).<sup>52</sup>

While girls of well-to-do households were instructed on the virtues of maintaining their bodies as guardians of the male afinal line, girls of lower class families were no less expected to maintain chastity. As female children grew older, the pressure to participate

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<sup>51</sup> *Hành Tham quan gia huấn*, pg. 13.

<sup>52</sup> Nguyễn Trãi, *Gia Huấn Ca*, TVQG, R.95, pg. 2.

in productive activities to assist in the household economy increased the potential for them to engage with other women and men in spaces outside of the household. In many instances, families recognized that these opportunities gave them a certain amount of physical and economic autonomy. As young girls were expected to work, whether it was raising silk worms, selling at the local market, or working in the fields—they encountered more and more opportunities to engage in relationships outside of the household. To prevent potential improprieties, parents warned young girls of the dangers of engaging in situations with male outsiders. Among the numerous warnings, one proverb cautioned, “Girls shouldn’t go to boys’ houses, lest their breasts become as large as two coconut shells.”<sup>53</sup> The stigma attached to the size of breasts in this proverb suggests that breast size was not as desired as it is in contemporary times. Another young girl recounted her lessons learned about propriety and chastity:

On my way to pick mulberry leaves one morning,  
 I chanced upon two men sitting by a stone table  
 The two stood and cajoled ( *nôm: đưng dây hỏi han, 足等曳 海 軒* ),  
 Where are you going so quickly, my dear?  
 [I] replied, “To pick mulberry [leaves].”  
 The two opened their pockets and handed me betel leaves to chew,  
 (*mở túi đưa châu cho ăn, nôm: 美開 撮 逐 籌 朱 咬*)  
 I replied, “Please, my parents have taught, (*nôm: bác mẹ tôi răn, nôm: 博 媿*  
*碎 磷*)  
 A girl should never eat others’ betel [leaves]”<sup>54</sup> (*nôm: làm thân con gái chớ ăn*  
*châu người, 爲 身 昆 女 巧 渚 咬 籌 碍*)

Parents understood the realities of life in a subsistence agricultural world, a world that

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<sup>53</sup> Gái đừng hay đến nhà trai/Mai sau hai vú băng hai sọ dừa. (NGCK) (CDVN1093)

<sup>54</sup> Thanh Hóa Quan Phong (清化 觀 風), pg. 23.

presented enormous opportunity for lower class women to carve out spaces of action within the gender prescribed gender models. Because life as a productive member of a family required that young girls contribute as much as possible to the household, young women were expected to engage in whatever activities would help the household economy. Many times, these included going to the market and selling the sideline products they produced in the evening.

The parents of these young women were fully aware that the early adult years were critical turning points in their children's lives, and they took care to highlight the importance of this critical stage. Young girls were thus reminded of the fleeting nature of youth and beauty. In one popular verse, girls were warned,

With youth (*còn duyên*, nôm: 群緣), [you're] like a golden statue (*tượng tô vàng*, nôm: 像租鑽),  
 When it's dissipated (*hết duyên*, nôm: 歇緣), [you're] like a bee's nest (*tổ ong*, nôm: 祖蜂) that the rain has disintegrated (*tàn trời mưa*, nôm: 天湄)  
 With youth, [you'll have] people meeting and accompanying [you] (*kê đón người đưa*, nôm: 几連碍人迳)  
 When it's dissipated, [your life] will be as deserted (*vắng ngắt*, nôm: 永屹) as Bà Đảnh Pagoda.<sup>55</sup>

Other proverbs reinforced this sense of urgency for young, unmarried women. Another verse declared that a girl who still had her youth and beauty could “be picky about the fish and soup (*kén cá chọn canh*, 揀个撰羹)”; however, once youth and beauty had disappeared, she “would even [serve herself] the oil and roots of mustard and onions (*dầu*

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<sup>55</sup> NPGT, 5b.

*rẻ đũa hành cũng soi, nôm: 𠵹 𠵹 茶行拱嘴* ).<sup>56</sup> Through these overt, sarcastic reminders parents emphasized to their daughters the importance of the stage they were in. Parents appear not to be the only ones calling young girls' attention to their fleeting youth. Popular verses suggest that these reminders were not lost on young women, as they lamented about the pressures to be married to other women. Unmarried girls were regarded as neither adult nor fully woman. Young girls were reminded daily that they were “unruly, (*chùng trình, nôm: 虫呈*) like a hat without a clasp (*nón không khoa, nôm: 竹嫩空乖*), like an un-steered boat (*thuyền không lái, nôm: 船空俚*), like anyone without a husband (*như ai không chồng, nôm: 如埃空重夫*) .”<sup>57</sup> One young woman shared her desires with her mother, proclaiming, “Mother, dear, I want a husband,” (*mẹ ơi con muốn lấy chồng, 媯 喂 昆 悶 礼 以*) to which her mother responded, “My child, my heart, too, wishes that for you. (*con ơi, mẹ cũng một lòng như con, nôm: 昆 喂 媯 共 沒 弄 心 如 昆*).<sup>58</sup>” These different voices suggest that as young girls entered puberty and became adults, they encountered increasing pressure about their physical desirability and marriage potential. These signs created a system in which women were not considered completely adult until they became wives.

The daily reminders that youth and beauty were slipping away from them directed girls' attention to the importance of redoubling their efforts of being a good wife. While

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<sup>56</sup> *Id.*

<sup>57</sup> *NPGT, 11a.*

<sup>58</sup> *NPGT, 7a.*

young girls across class boundaries encountered increased pressure to remain desirable for a future husband, the meaning of industriousness varied greatly between girls of high and low status. Daughters of well-to-do families learned that they would bear the responsibility of their family's reputation. Cultivating solid food preparation skills, and in particular, the pickling of mustard greens or cooking of sauces, were signs of a woman's skills.<sup>59</sup>

[Keep] an orderly [house] (*chỉnh tề*, 整齊), flavor the sauces to pickle the greens,  
Food must never be lacking, and each must be flavorful  
Take care (*cẩn thận*, 謹慎) with your household duties (*khuê môn*, 閨門),  
Know what food remains and what is lacking (*thức còn thức không*, nôm: 式群式  
庄 ,  
All this and work must be performed with diligence (*xiêng năng*, nôm: 生能).<sup>60</sup>

The emphasis on practical work in the teenage years enabled families to enlist daughters in household management and in producing for the family economy. Young girls of upper class families were reminded to heed parental advice so that they could guarantee a life of happiness and comfort. To do so, they had to pay careful attention to the daily operation of the household.

Study (*học*, 學) [these precepts] well (*cho thông*, nôm: 朱通) so that you will  
encounter (*gặp*, nôm: 及) a green spring (*xuân xanh*, 春撐)  
Dutiful girls (*gái khôn*, 女巧坤<sup>61</sup>) spin and weave [to help the household]  
Mind the lanterns and music [for your husband]  
Respect your relatives and loved ones (*thân tích*, 親積) on the inside and out

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<sup>59</sup> *Hành Tham Quan Gia Huấn* (行參官家訓), Hán Nôm Institute, Ms. AB.108, 11.

<sup>60</sup> *Id.*, pg. 14.

<sup>61</sup> There are two possible translations for the nôm character, “khôn” (坤). One could translate it as “dutiful,” as in the phrase “*không ngoan*,” or “clever,” which implies more agency on the part of the girl. However, since the rest of the section reminds daughters to mind her duties as a proper wife and daughter in law, I think the use of the adjective “dutiful” is fitting.

(*trong ngoai*, 龍中外)

When the day your monthly cycle ends and you are with child,  
Your thrift will ensure [future] comfort.<sup>62</sup>

As the above lines suggest, young women from the upper classes were expected to concentrate their attention on the duties that would prepare them to be thrifty household managers. Moreover, the last two lines suggest an underlying logic of the social system: that women only became adult upon motherhood. In addition to providing an added protection for household property, cultivating young women to be productive members of the household provided the household with added labor potential.

Feminine labor for women of the lower classes included agricultural labor, sideline production, and market activity and diligence in the regular household activities of food preparation and child rearing. While a teenage daughter from a lower class family would also have been expected to present herself in a way “becoming” of a young woman, the reality of subsistence life demanded that the structures that prepared her for adulthood emphasized work for survival as the most important virtue. Young women’s reflections, as represented in *ca dao* collections, suggest that daughters from lower class households were expected to work in the fields and in the evenings, to spin and weave cloth for the market. These hard-working daughters not only provided a source of labor for household economics, but also a potential source of capital for families.

The expectations placed upon the daughters of upper and lower class women were in some respects similar, but the meanings attached to them were drastically different. As young women who could embody the feminine ideals, daughters of upper

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<sup>62</sup> HTQGH

class families carried their family's reputations, while poorer girls could only hope to emulate the abstract ideals of an elite class. While spinning, weaving and embroidery helped to cultivate daughters into the image of diligent daughters and wives in the upper classes, these skills proved critical to the economic survival of the low-income families. Young girls from poor families were expected to work in the fields or the market, while in the evening, they prepared materials for sale in the market the following morning. One young woman, lamenting on her fate as a poor young woman, declared, "Is this my fate as a young girl in her prime? (*xuân xanh* 春撐):/Days spent at the market (*buôn bán*, *nôm*: 奔半) and nights spent spinning and weaving (*củi canh*, *nôm*: 檜經) at home."<sup>63</sup>

Though the gender models seemed to mould female children into models without distinction as to class, these expectations carried different meanings within the socio-economic structure of early modern Vietnamese society. In upper class families, young girls lived in worlds that valued beauty, diligence and thrift in females. Daughters from lower class families, however, faced a lifetime of hard work to augment the household economy. Diligence in feminine work also included a kind of vigilance toward house and home. The socio-economic processes that required young women to work and, in some instances, move outside of the household provided opportunities of mobility. Young women might venture to market activities several villages away, and their absence triggered rumors of impropriety and sexual immorality. These opportunities, in the eyes of parents, also appeared to be a threat to maintaining purity. As daughters increasingly

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<sup>63</sup> "Phận em con gái xuân xanh,/Ngày thời buôn bán, đêm cửi canh trong nhà." Nguyễn Xuân Kinh, ed., *Kho Tàng Ca Dao Việt Nam*, 1891

worked outside of the home, the likelihood that they would engage in activities that would make them undesirable in marriage multiplied. Thus, as soon as they could, parents often arranged for their daughters to marry.

#### IV. Worthy Husbands and Faithful Wives

As ceremonial affairs between two families, marriage rituals reflected the normative asymmetry of the gender system and revealed the extent to which the union was as much between the respective families as the wife and husband. The marriage exchange period involved a process of negotiation in which the parents of the male consult with that of the female to determine suitability. For the most part, a female's suitability was linked to her ability to embody the feminine ideals, particularly those of beauty and diligence. Though less often, males' families, too, might consider young women and their family's wealth, but this practice was discouraged popularly.<sup>64</sup> While beauty and diligence marked a woman's desirability, a groom's desirability was usually marked by wealth or class. Oral verses again best illustrate the expectations that women and their families placed upon future husbands. Young girls were warned, "When you marry a husband, [he] should be a worthy husband (*đáng là chồng*, 儻羅夫重). Otherwise, your efforts (*công*, 工) at making your cheeks red (*má hồng*, 肉馬紅) and teeth black (*răng đen*, 齟菱黑真) [will be wasted.]"<sup>65</sup> So, what were the attributes that

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<sup>64</sup> *Thọ Mai gia lễ truyền thư*, AMEP Vol. 1188: p. 29. The original manuscript is undated, but it is bound in a newspaper dated 1843.

<sup>65</sup> NPGT, 12a.

made worthy wives and husbands?

The socio-economic circumstance of a young woman's family determined the characteristics desired in future marital unions. Royalty and nobility used marriages to seal political alliances. In 1564, Lê Trung Tông ordered that Trịnh Kiểm "wed his adopted daughter to the [ruler] to ensure good relations with the neighboring country" (*dưỡng nữ quy chi dĩ thiệu quốc chi hảo*, 以養女歸之以紹朗鄰國之好).<sup>66</sup> Trịnh Kiểm's daughter's marriage to Nguyễn Kim ostensibly staved off Kim's political ambitions.<sup>67</sup> Lê Anh Tông's marriage to Trịnh Tùng's daughter, Trịnh Thị Ngọc Trúc, solidified the Trịnh family's hold on the imperial family.

Well-to-do families of more modest political ambitions also used the marriage of their daughters to enhance social status. These families placed value upon education and used verses to instruct young girls on the value of matching a member of the literati class. One verse reminded girls that "Smart birds (*chim khôn*, 鳥占 坤) land on the roof of an official's house. [Just as] smart boys look for wives, smart girls, a husband."<sup>68</sup> In colloquial Vietnamese, the word "bird" serves as a euphemism for female sex organs. That this verse explicitly declared that smart "birds" would seek to settle on the rooftops of an official's home reflects a bias toward marrying to climb the social status. Outside of the towns, more modest families who hoped to climb the social ladder directed their attention at potential officials: students preparing to take the examinations. Verses in

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<sup>66</sup> *DVSKTT, BKTB*, Vol. 16: 21a.

<sup>67</sup> Li Tana, *Nguyễn Cochinchina*, (1998) Introduction.

<sup>68</sup> *NPGT*, 12b.

feminine voices declared, “I do not covet arable land (*ruộng cá*, 田廣畝) or a large pond (*ao liên*, 洑連)/ Rather, I covet a pen (*bút*, 筆) and ink block (*cái nghiên*, 丐研) of a student (*anh đồ*, 英徒).”<sup>69</sup> Practical verses also reminded daughters that “those who wanted to become wealthy should extend the bridge (*bắc cầu kiều*, ) while those who want their children to be literate should love and marry (*yêu lấy*, 要礼以 ) a teacher.”<sup>70</sup> While evidence for families of the lowest economic strata is extremely rare, one can surmise that the marriages of their daughters were practical events that could improve their fortunes. Moreover, many families sold or married their daughters as concubines of wealthy men. Reports from the Northern and Southern Realms in the seventeenth and eighteenth centuries suggest that polygyny had become a practice for the status conscious.<sup>71</sup> The characteristics deemed desirable in well-to do families had much to do with social status. Through oral verse and morality texts, daughters in these families learned that their best chance of climbing the social ladder was to marry a student and potential official. Of course, in order to attract the families of such students, daughters had to exhibit qualities desirable of proper daughters in law.

Proper wives were expected to exhibit ultimate fidelity to their husband. This fidelity, often compared with a man’s loyalty to his ruler (*trung*, 忠 ), helped to ensure the strength and piety of the family and its progeny. The Chi Nam Dictionary described the ideal model in the following way:

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<sup>69</sup> *NPGT*, 11b.

<sup>70</sup> *NPGT*, 24b.

<sup>71</sup> Cristoforo Borri, 325.

A virtuous wife (*hiền thê*, 賢妻) is clever and skillful (*khôn khéo*, nôm: 坤闈), the same as a ‘*vợ hiền*’ (女備賢). Those [blessed] with good grace (*hào duyên*, 好緣) shall [marry] a good wife (*vợ tốt*, nôm: 女備卒) and enjoy [their fortune] for many years (*dâm dà*, nôm: 淫夜).<sup>72</sup>

Contrasted with this description of an ideal wife is the following entry for the opposite:

An “*xú phụ*” (醜婦) is a bad wife (*vợ xấu*, 女備丑) who will bring suffering (*thiệt tha*, nôm: 切磋). A “*quỷ thê*” (鬼妻) is a wife who will [conspire] with others (*dữ người ta*, nôm: 與碍些) to reproach (*trách*, 責) her husband.<sup>73</sup>

While all wives were expected to display utmost fidelity to their husbands, husbands were not subject to those standards. The *Chi Nam Dictionary* described a principal wife simply through her duties to her husband, but it described “a concubine (*tiểu thiếp*, 小妾) as a baby wife (*vợ mọn*, 女備小門), who [is loved] more than your soul”<sup>74</sup> (*hơn lòng*, 欣弄心).<sup>75</sup> Perhaps foreseeing that their daughter might find married life difficult, some parents took care to warn against temptations that might arise after marriage. One father declared, “When the day comes for you to leave home and enter your husband’s house, [Remember] that you are standing on one mountain (*núi nọ*, 內山怒). Do not covet (*hông*, 拱) another mountain (*núi kia*, 內山箕).<sup>76</sup> He continued, “Take care not to be a busy

<sup>72</sup> *Chi Nam Ngọc Âm Giải Nghĩa* (指南玉音解義), Hán Nôm Institute, MS. AB.372, 7b.

<sup>73</sup> Id.

<sup>73</sup> *Chi Nam Ngọc Âm Giải Nghĩa* (指南玉音解義), Hán Nôm Institute, MS. AB.372, 7b.

<sup>73</sup> Id.

<sup>74</sup> The word, “lòng” can be literally translated as “gut,” a in Vietnamese, one “feels” in their “gut.” Where in other places I have translated “lòng” as heart, I find it more appropriate here to express it as “soul.”

<sup>75</sup> *Chi Nam Dictionary*, 7a.

<sup>76</sup> *Hành Tham Quan Gia Huấn*, 10.

body (*ăn nói ngoa ngữ*, 咬訥訛危), like a woman who tattles (*mách léo*, 囁了) and interferes in other people's business (*truyện người*, 傳人碍).<sup>77</sup> The above citations suggest that in the ideal early modern Vietnamese wife owed her husband emotional as well as sexual fidelity.<sup>78</sup>

Within the household gates, local custom recognized the supremacy of the principal wife, but also her role as the household manager. Along with her main title as “principal wife,” (*chính thê*, 正妻), she also enjoyed the title of “head of the treasury” (*chủ quỹ*, 主垠貴).<sup>79</sup> This honorific suggests that in married life, women did in fact become the household managers in early modern Vietnamese families. While these models of femininity served to remind young women of what they should strive to become, practical considerations modified the extent to which women embodied such positions after the marriage ceremony.

## V. The Marriage Ritual

The compilers of the *Record of Ô Châu* describe relatively simple marriage rituals in Đàng Trong in the sixteenth century. For example, in villages throughout Thuận Hóa District, the compilers noted that “one [need only] use ‘goose-eye money’ (*uòng miên khinh tiền*, 鵞眠輕錢) as a wedding gift (*giá thú vật*, 嫁娶之物).”<sup>80</sup> In his seventeenth

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<sup>77</sup> Id.

<sup>78</sup> The implications of a wife's sexual fidelity will be discussed in chapter 4 below.

<sup>79</sup> *Chi Nam Dictionary*, chapter 3: Addendum (*bổ di*, 補遺), 11b.

<sup>80</sup> *Ô Châu Cận Lục*, 35a.

century private history of An Nam, Bento Thiện, a Catholic convert, described a rural wedding ritual in greater detail:

With regard to acquiring a wife (Việt: *lái bợ*),<sup>81</sup> first, one must look to see if [she] is pretty (Việt: *có đẹp chẳng*), then the male's family shall bring areca nuts and betel leaves (Việt: *blâu cau*) as an offering. If the girl's family is willing to give her away [in marriage] (Việt: *nhà gái có gả*), then the male's family should consult the numbers; [should] they be positive, then they shall ask again. (Việt: *nhà blai liền xem tuồng cử số có tốt chẳng, mớ ý đi hỏi lái*).<sup>82</sup> Wealthy families should offer a pig or a cow, as if it were collateral for the friendship (Việt: *như của làm tin bạn*), poor families should offer fish or chicken[s].<sup>83</sup>

The emphasis on the male family's willingness to wed the female, subject to their valuation of her beauty and worth according to the numbers, reflects the relative asymmetry of the system. Although the bride's family can decide whether or not to wed their daughter, the rituals place the preponderance of power upon the male's family. Even during the process of "becoming a son-in-law" (*làm rể*), a three-year trial period for the marriage, the male and his family hold considerable sway over the bride. Thiện describes the custom in the following manner:

The male shall act as a son-in-law (Việt: *làm rể*) at his wife's house for three years, so that the two can determine the other's disposition (Việt: *mà hai nhà xem ý nhau*), [and] only if beauty in age and kind-heartedness are present, shall [she] be wed<sup>84</sup> (Việt: *đẹp lão hiền lành thì mớ ý lái*).<sup>85</sup>

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<sup>81</sup> This text was written in an early form of Romanized Vietnamese (*quốc ngữ cổ*), and the spelling and pronunciation differs from contemporary Vietnamese spelling. When citing this text, I have strived for accuracy rather than elegance and provide the 17<sup>th</sup> century rendering of the terms.

<sup>82</sup> Bento Thiện, *Lịch Sử nước Annam*, Unpublished manuscript, 1659. *Archivum Roman Societe Iesu (ARSI)* Jap/Sin vol. 81, pp. 248-53: 252.

<sup>83</sup> There were two manuscripts of the same text entitled *Lịch sử Annam* and signed by Bento Thiện in the Jesuit Archives. I have relied on both and draw out differences, where there are any. In such a case, the citation, Thiện, *Lịch Sử Annam2* shall be used. In this instance, the specification of "collateral" gift was present in the second manuscript but not the first. Bento Thiện, *Lịch Sử Annam2*, (1659). *Archivum Roma Societe Iesu (ARSI)* Jap/Sin vol. 81, pp.254-60: 258.

Here, though there is ambiguity within whom the “beauty in age and kind-heartedness” should rest, the power to leave the arrangement rested in the potential groom. I would interpret the phrase as a referent to the dispositions of the parents of the bride and groom, for the descriptive phrase, “beauty in age” (*đẹp lão*) can only refer to the elderly. Because the male resides in the home of his father-in-law (Việt: *blai đi làm rể ở nhà cha bợ ba năm*), the phrase likely refers to the relationship between the potential groom and father-in-law. If this were the case, then, power rested in the groom, who decided whether or not he wanted to marry his betrothed based on his experience with her father.

The practice of “becoming a son-in-law” (*làm rể*), as described by Thiên, suggests an asymmetric relationship between family of the potential groom and bride. During this trial period, which Alexandre de Rhodes marked as one or two years, the groom’s father-in-law evaluated him, and if the future groom proved “to be lazy, or incapable of providing for a household, the father-in-law could return the groom and the wedding gifts to his parents.”<sup>86</sup> De Rhodes’ observation demonstrates that while the evaluation of the future bride and groom was two-sided, the relationship between the potential groom and the father-in-law governed the dynamics of the union. Moreover, that law and custom requiring women to project an image of virginity and chastity meant that the power within the trial period lay in the hands of the son-in-law. As a new member of the family,

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<sup>84</sup> I have chosen to translate the phrase, “beauty in age and kind-heartedness are present,” ambiguously because the original does not make a referent clear.

<sup>85</sup> Id.

<sup>86</sup> Alexandre de Rhodes, *Histoire du Royaume de Tonquin et des grands progrès que la predication de l'évangile y a faits en la conversion des Infidèles depuis l'année 1627-1646*, translated into French by Henri Albi (Lyon: Jean Baptiste Devenet, 1650), 100.

he served as added labor force in the three-year period. However, he had the choice to return to his natal family within those three years, and because there were not similar restrictions placed upon a male's sexual activity, then the trial period would not mark his worthiness as a marriage partner. For daughters, however, failure of a trial period could reduce her desirability considerably, marking her in reputation, if not reality, as one who has already known the marital relationship.

The marriage ritual that followed the trial period also reinforced the power dynamic between the two families, with the groom's family having priority over the bride's. Thiện related,

Upon deciding that [the wedding] shall occur, the day must be determined and guests invited to feast on beef or pork, after which the ceremony shall begin. [On that day], the male's family feasts first. A table is placed in the middle of the house, [where] any gifts shall be placed, and where the wife and husband greet the relatives.<sup>87</sup> On the following day, the girl's family celebrates their feast, which may include singing and merriment.<sup>88</sup>

Thiện's observation that the groom's family feasted a full day before the bride's family engaged in their festivities suggests that local custom emphasized the priority of the groom's family in matters of decision and celebration.

## VI. Feminine Experiences

Marriage and motherhood marked adulthood and the longest period of women's lives. While the language of the gender system aspired to conform all *commoner* women

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<sup>87</sup> Thiện, *Lịch Sử Annam 2*: 258.

<sup>88</sup> Id.

to a gendered standard of wife and mother, the voices of women that emerge from oral folk poetry suggest that these roles were not simply accepted. Rather, women contested the roles of diligent daughter, faithful wife and nurturing mother through complaints and actions. Their experiences highlight the extent to which gendered models could be modified according to individual circumstance and broader socio-economic factors. The voices emerging from oral verses express frustration and cynicism about the extant models of femininity and often boast of the way in which they deviated from those models.

### **Economics**

One major area in which early modern Vietnamese women's lives seemed not to conform to the prescribed life course was in economics. The various dislocations that fissured labor lines in the seventeenth and eighteenth centuries made marketing activities a feminine domain by the seventeenth and eighteenth centuries. In Đàng Trong in the sixteenth century, observers could still remark that some men engaged in market activities.<sup>89</sup> By the end of the eighteenth century, however, the structure of marketing had changed almost completely. Shihōken, a Japanese trader shipwrecked in Đàng Trong in 1796, observed that the only Vietnamese he observed in the market were women.<sup>90</sup> Evidence from stēlae inscriptions from the seventeenth and eighteenth centuries in the

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<sup>89</sup> Ó Châu Cận Lục, op. cit., 37b.

<sup>90</sup> Shihōken, *Nampoyōki* (南漂記), Translated from the Japanese into French by Mesdames Muramatsu & Gaspardone. *BEFEO* 33. (1933), 35-120, 59.

Northern Realm suggest that this phenomenon was not simply isolated in the South.

In the Northern Realm in the seventeenth and eighteenth centuries, it appears that women increasingly dominated market relations. Women who took advantage of the economic opportunities that the civil wars created engaged in household production and market exchange—many appear to have profited enormously. Evidence extant from stèlae inscriptions that acknowledge the contributions of donors in public works projects suggest that in the seventeenth century, women controlled the marketing structure. The stèlae consulted here record the renovations or expansions of local and regional markets and bridges in the seventeenth and eighteenth century. While one does observe that men contributed to such endeavors relatively evenly in the seventeenth century, the eighteenth century inscriptions suggest that men's activities in the marketplace was overshadowed by women. Several examples from these inscriptions highlight this phenomenon.

### **Example I**

In the fifth year of the Thịnh Đức Reign (1657), the village of Đạo Khê village, in Hưng Yên Province opened a market beside the local tributary of the Red River.<sup>91</sup> So that those engaging in market activities could move about easily, donors in the village paid for a bridge to be constructed over the stream. Of the six largest donors, five were women, including one of the consorts in the Trịnh family court, Phan Thị Ngọc Khuê.<sup>92</sup>

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<sup>91</sup> *Quảng tế kiều bi kí* (廣濟橋碑記) No. 7309-10.

<sup>92</sup> *Sĩ Vãi hưng công đức* (士媿興功德), Hán Nôm Institute, Ms. 7310.

## Example II

In the fourteen year of the Chính Hòa Reign (1693), the village of Đông Khê, in Hải Dương Province erected a stèle beside an area stream to mark the renovation of its local bridge.<sup>93</sup> The inscription records that the new name of the bridge, “Center of Exchange,” (*trùng thư giao*, 重書交) reflected its location and its customary function as a thorough-way for five markets in the area.<sup>94</sup> However, harsh weather had damaged the bridge, and local women, by the names of Nguyễn Thị (阮氏) and Trịnh (鄭), dharma name (孀仙), donated their own money to restore the bridge.

## Example II:

In the third year of the Vĩnh Khánh reign (1731), the inhabitants of Dục Liễn village in Hải Phòng District erected a stele to commemorate the enlargement of the local market.<sup>95</sup> The stele records that the previous ten years had been one of relative peace and prosperity. The market appears to have been too small for local use, and the stele records that villagers donated money to build an additional three aisles to the market. The donors listed on the back side of this stèle were all women.<sup>96</sup>

In the three examples cited above, each of the three villages of Đạo Khê, Đông Khê, and Dục Liễn could not have renovated a bridge or built a new marketing center without the support of local women. These inscriptions and others similar to them detail

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<sup>93</sup> *Trùng thư Giao kiều bi* (重書交橋碑) Hán Nôm Institute, Ms. No. 12312-15.

<sup>94</sup> Id., Ms. no. 12312.

<sup>95</sup> *Trùng Tu Dục An Kiều Bi* (重修翊安橋碑) Hán Nôm Institute, Ms. No. 7821-22

<sup>96</sup> Id., Ms. No. 7822.

the same general situation and process: that a bridge or local market had become ruined because of lack of maintenance or natural disasters. The stèlae then outlined that the level of market activities required a restoration for the easy movement of goods across the waterways or to serve the needs of a major marketing center in the area.<sup>97</sup> In all these cases, the number of women who donated money to support the particular public work project dwarfed the number of men donating to these projects. While in rare cases, the donor was a wealthy woman from the court, there is little indication that the other female donors held special positions. In fact, the relatively large number of donors listed in each stèle suggests that the amount donated from each person was relatively small. Thus, while the texts of the stèlae themselves do not describe the occupations of the donors, it seems not a far-fetched inference that some of the donors were traders in the market place and the participated in these public works projects to improve the conditions for business.

Remarkably, while women appear to be the most generous donors to public works projects that strengthened the local marketing infrastructure or village communal houses, not one woman held “official” power in the villages. None of the stèlae inscriptions extant from the sixteenth through eighteenth centuries listed a woman as a member of the village community who had the authority. On the back side of each of the stèlae inscriptions, male village heads and local men of prominence authorize the erection and commemoration of each structure. The contrast between number of female donors and

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<sup>97</sup> See also, *Trùng Tu Nghinh Tiên Kiều Quán Bi Kí* (重修迎仙館橋碑記) Hán Nôm Institute, Ms. no. 7427 & *Văn từ bi kí* (文祠碑記) Hán Nôm Institute, Ms. No. 10997, & *Lưu Truyền vạn đại bi* (留傳萬代碑), Hán Nôm Institute, Ms. no. 7652-53.

lack of female authority figures suggest an interesting dynamic in the economic and village life of early modern Đại Việt: in theory, women were excluded from holding power within villages. In practice, however, by transferring money and private property toward communal use, women gained de-facto authority in the marketing structures of the seventeenth and eighteenth centuries.

### Marital Experiences

Many women shared their experiences in marriage with their counterparts. Those who had advice to impart did so through oral verse. Often, this advice would be quite explicit, spanning from sexual intercourse to daily annoyances. One woman complained, “In my arms, I carry the scarves and pillows down the river (nôm: *sông*, 澗) the sweat (nôm: *bồ hôi*, 蒲灰) becomes thicker (*đậm*, 淡) [I resolve] that loving my husband requires [me] to follow (nôm: *thương chồng phải theo*, 傷重夫沛足堯).”<sup>98</sup> Women who married for wealth were also ridiculed by their elder counterparts. One piped, “[You] coveted wealth and married a dunce. Each night (*đêm đêm*, 月店月店) it’s like a dry branch (*cành khô*, 木更木古) entering [you]. (*trục vào*, 逐包入).”<sup>99</sup> Likewise, younger women who married older men for the purposes of comfort faced ridicule from their female counterparts. Some taunted, “The rain falls (*trời mưa*, ) and runs across the yard,

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<sup>98</sup> *NPGT*, pg. 25a.

<sup>99</sup> *NPGT*, 8b.

If you married an old man, well, it's your fault that you were stupid."<sup>100</sup> Other women complained about the arbitrariness of marriage matches, with one voice suggesting that many young women married without knowing their husbands. One voice lamented, "I married without knowing my husband's face (*chẳng biết mặt chồng*, 拯別未面重夫), now lying in the night, while I'm groggy and dreamy (*mê mẫn*, 迷心敏), I mistake him for the neighbor (*ngỡ ông láng giềng*, 語翁浪木鄰).<sup>101</sup> One woman, weary of supporting her husband, warned her young counterparts, "Even if [you wait] ten thousand years, do not marry a student (*học trò*, *nôm*: 學路). [Their] long backs (*dài lưng*, 長曳身凌) waste silk, (*tốn là*, 損羅), and yet once they've eaten their fill (*ăn no*, 啖食奴), they lie down again (*lại nằm*, 吏南卧).<sup>102</sup> Yet others warned their counterparts of the illusions of marrying principled students. One verse warned, "Do not marry a student. [They] see others pass and succeed and conceal their resentment."<sup>103</sup>

While it appears that many women were dissatisfied with the workings of the marriage market, there is evidence suggesting that others made do with their choices. One woman boasted that she was able to train her husband, declaring, "So what if it is raining? (*có mưa thì mặc*)." Others frustrated with institutionalized polygamy declared, "A frog (*cái cóc* 丐虫谷) gets red lips (*môi đỏ*, 枚赤杜) from eating betel. Should anyone husband's extra words missing? (*lẽ*), then what do I care?" Another suggested

<sup>100</sup> Trời mưa nước chảy qua sân, Lấy chồng ông lão qua lần thì thôi. *NPGT*, 13b.

<sup>101</sup> *NPGT*, 6b.

<sup>102</sup> *NPGT*, 7b.

<sup>103</sup> *NPGT*, 18a.

that disappointment and disillusionment with her husband led her to look beyond the marital bond for satisfaction. She declared wryly, “My two hands carry two fruits. The bitter one (*quả đắng*, ), I save for my husband, the sweet one (*quả ngọt*, ) my young men (*trai*).<sup>104</sup>

The dissatisfaction that women felt with respect to their experiences in married life highlights an aspect of their lives that did not correlate with established gender models: they were not simply household managers, but also primary economic earners. They often expressed frustration that they bore more than their promised share of household responsibilities. That they were able to express such frustrations in feminine spaces the suggests that ideal notions of an internal commander of the household did not exist, certainly not for the lower strata of society. For the sake of survival, many women ventured out of the home and participated in market activities. Often, these activities returned lucrative profits. Women’s ability to engage in market activities, created by long-term socio-economic trends allowed them to acquire economic capital, which many transformed into social and political capital.

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<sup>104</sup> *NPGT*, 13B.

**Chapter 4**  
**Sexuality:**  
**Goodwives, Moonflowers and the Spiritual/Political Order**

As young females entered adolescence, the web of information they encountered centered on the subject of sex. The law, customary medicine, and folk practice regarded female bodies as guardians of familial virtue, and specifically, the protectors of male agnatic lines. An overwhelming concern with women's sexual activity and sexual access to them reflected early modern Vietnamese society's anxiety with the sexual access to women and then became a critical issue for maintaining familial order. This familial order was further linked to political order: a woman's sexual fidelity to her husband was understood to reflect a subject's political loyalty to his ruler.<sup>1</sup> The sexual guidelines that structured young women's lives were not only important within local society, but deemed critical to state order. In its literature, the state likened sexual fidelity to political loyalty, and women were represented as the guardians of male descent lines. Those transgressing those boundaries were severely punished.

This chapter examines how women's sexual lives were intertwined with local custom, state law, and political order in the seventeenth and eighteenth centuries. The records suggest that custom, local discourses, and the law sought simultaneously to control sexual access to women and to control women's "licentiousness" in the early modern period. Regulating sexual access to women conformed with the state's

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<sup>1</sup> Matthew Sommer has demonstrated this link brilliantly in *Sex, Law, and Society in Late Imperial China*, op.cit., (2000).

proclaimed ideology of neo-Confucian ethics. Controlling women's sexual activities however, appear to be a reaction to the religious revivalism of the sixteenth to the eighteenth centuries, as socio-economic changes associated with civil war and expansion afforded women increased economic opportunities. In turn, many women turned their economic opportunity into donations for local Buddhist, Taoist, and Christian institutions. The increased interest of the state in restricting women's sexual activities, which was viewed as a by-product of women's influence in local religious communities, reflects the paranoia associated with women's connection to the spiritual world.

How women across the socio-economic spectrum experienced this sexual order in their own lives, as girls, lovers, and wives, will add to our understanding of their experiences as members of an early modern Vietnamese community. Contrasted with Chinese discourses on sex, which regarded sex as reflection of male agency, the Vietnamese sources suggest that the sexual regulation of women also involved restraining women's sexual activities. When the sources are examined, we see a paradox emerge: on the one hand, the language of the law betrayed a phallogentric logic to sex. However, legal cases and folk sources demonstrate that cultural discourse and social practice was intent upon restraining women's sexual activities, suggesting a certain amount of agency that local, legal and societal norms afforded women.

On the surface, the discourses on sexuality treated intercourse as initiated and controlled by men, with women as passive participants and/or victims.<sup>2</sup> However, the phallogentric language of the discourses thinly masked an overriding concern with

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<sup>2</sup> A discussion of the terms and language of sexual regulation follows below.

controlling female “licentiousness” (*dâm*, 淫). The discourses suggest a widespread belief that unbridled feminine passions reflected an uncultured society. Just as an uncultured family’s female members might fall prey to outsider male penetration, so the society as a whole could fall prey to invasion from the outside. Women’s bodies and their sexuality stood at the apex of this relationship between family, social order, and political rule. The confluence of formal state law, customary regulations, high-culture morality texts and oral verse thus served to remind and if necessary, restrain women from violating these boundaries.

The process of controlling and restraining a population’s sexual activities and linking them to the political order is not unique to Vietnamese history or this period. Historians have long demonstrated that in Europe, rulers used sexual access to women to solidify political power. Matthew Sommer has demonstrated that in late imperial China, the Qing state’s control of sexual access to women reflected an ideological connection between sexual and political order. He argues that economic and political dislocations in the eighteenth century led the Qing state to transform a status-based sexual order to a gender-based one.<sup>3</sup> Specifically, the state extended the commoner virtue to all status categories and required persons of a debased social status to adhere to the sexual standards of the commoner class. In early modern Vietnamese society, one sees a similar connection made between the political and sexual order, a phenomenon not surprising because the early modern state was organized using the Tang governmental system. That said, however, the Vietnamese sexual order was not a simple replica of the Chinese order

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<sup>3</sup> Sommer, *Sex, Law and Society*, op. cit., 15.

but specific to the economic and social dislocations of the seventeenth and eighteenth centuries. Notably, the sexual order became increasingly strict with the advent of socio-economic changes that accompanied two hundred years of civil war, the increased mobility of women, and spiritual revivalism.

### **Past Scholarship**

While there has been much fanfare about the sexual freedoms Southeast Asian women and men enjoyed in this period, little historical research has been undertaken to support those claims. Notable exceptions include Anthony Reid's work on social organization in early modern Southeast Asia<sup>4</sup> and Barbara Andaya's work on sexual relations between local women and foreign men.<sup>5</sup> Reid's work on sexuality and gender in Southeast Asia, as a part of his wider work on the social history of early modern Southeast Asia, emphasizes how women's power in sexual relations reflected broader regional patterns of female autonomy. Speaking of sexual relations in the early modern era, Reid argues that "women took a very active part in courtship and lovemaking, and demanded as much as they gave by way of sexual and emotional gratification."<sup>6</sup> With respect to the sexual gratification that women enjoyed, Reid observes.

The most graphic demonstration of the strong position women enjoyed in sexual matters was the painful surgery men endured on their penis to increase the erotic

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<sup>4</sup> Anthony Reid, "Female Roles in Pre-colonial Southeast Asia," *Modern Asian Studies* 22:3, pp. 629-45 & *The Land Below the Winds* (1988), pp. 120-72.

<sup>5</sup> Barbara Andaya, "From Temporary Wife to Prostitute: Sexuality and Economic Change in Early Modern Southeast Asia," *Journal of Women's History* 9:4 (Winter, 1998), pp. 11-34.

<sup>6</sup> Id., 147.

pleasure of women. Once again, this is a phenomenon whose dispersion throughout Southeast Asia is very striking. . . . A careful study of recent ethnographic evidence suggests that the phenomenon may best be understood as a symptom of the power and autonomy enjoyed by Southeast Asian women.<sup>7</sup>

The ostensible power and autonomy of Southeast Asian women in sexual relations, Reid argues, found material manifestation in males inserting “a metal pin, complemented by a variety of wheels, spurs or stud” through their phallus or underneath the skin of the penis, which early modern European observers claimed pleased women sexually.<sup>8</sup> Reid also suggests that contemporary Indonesian practice of female circumcision served to “enhance female pleasure,” as contrasted with “[the practice] in parts of Africa, where surgery was designed either to enhance sexual gratification in men or decrease it in women.”<sup>9</sup>

Reid stresses the relative autonomy that women enjoyed in the realm of sexual relations, which is also reflected in monogamy as the dominant marital pattern. While he acknowledges that among the wealthy, an abundance of wives served to enhance status, Reid stresses that the monogamous pattern was reinforced “among the overwhelming majority of the ordinary people . . . by the ease of divorce, the preferred means of ending an unsatisfactory union.”<sup>10</sup> The ease of divorce for both sexes, combined with the pattern of closeness and intimacy women enjoyed within marriages, encouraged a widespread pattern of “temporary marriages” and concubinage as opposed

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<sup>7</sup> Reid, *The Lands Below the Winds*, (1988), 148.

<sup>8</sup> *Id.*, 149-150.

<sup>9</sup> *Id.* In the latter phrase, Reid is specifically referring to female genital mutilation.

<sup>10</sup> *Id.*, 152.

to widespread prostitution, Reid observes. In fact, although he acknowledges the widespread pattern of “casual sexual relations with slave members of the household,” he suggests that a “type of slave prostitution [only] developed in the major port cities in response to a demand from Europeans and Chinese with different expectations.”<sup>11</sup>

The dearth of local evidence representing female experience within these relationships constrains Reid’s analysis. For example, some scholars have critiqued Reid’s characterization of the use of penis pins to enhance female sexual pleasure, noting that “the insertion of objects into male sexual organs may have brought more status to the men who endured the operations than pleasure for the women who supposedly benefited from them.”<sup>12</sup> Sears’ observation highlights the extent to which the power dynamics within the gender system need to be examined. Although Reid highlights how relationships with local women enhanced the positions of foreign men, there is little analysis of the power relations that facilitated the access to local women. Reid’s discussion of the “divorce” patterns demonstrate the extent to which Western constructions of the institutions of “marriage” and “divorce” shape his interpretations with respect to sexual autonomy. His use of the term implies an individual who could freely choose to end a marital bond without fear of social or legal repercussions.

Building on Reid’s work, Barbara Andaya argues that foreign notions of sexuality undermined Southeast Asian women’s autonomy and shifted local attitudes regarding

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<sup>11</sup> Id., 156.

<sup>12</sup> Laurie Sears, “Introduction: Fragile Identities, Deconstructing Women and Indonesia,” *Fantasizing the Feminine in Indonesia*, (1996), 31.

women's sexuality in the seventeenth and eighteenth centuries.<sup>13</sup> These relationships, which Andaya calls "temporary marriages," were mutually beneficial to the local women and foreign men, in which the women exchanged sexual favors for material benefit. However, Andaya insists, that "the stigma attached to common law wives and the condemnation of women who exchanged sex for material gain was not a traditional feature of Southeast Asian societies."<sup>14</sup> Rather, attitudes about women's sexuality shifted remarkably with the "rise of patriarchal states, penetration of elite values, increase in the number of foreign males, expansion of urban centers, and growth of prostitution,"<sup>15</sup> many of which can be traced to the increased concentration of foreign men in Southeast Asian polities. Andaya further argues that foreign men's use of and control over women as symbolic capital gradually devolved the role of the Southeast Asian temporary wife to concubine to "prostitute."

Although Andaya's study appropriately draws attention to differing constructions of sexual attitudes and the likelihood of shifts accompanying political and social change, she denies transitions within Southeast Asian society. Her observation that "the female promiscuity that displeased early Chinese observers reflected not merely relaxed ideas regarding interaction between men and women, but the use of sexual relationships to welcome traders into the community"<sup>16</sup> presupposes a "Southeast Asian" normative

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<sup>13</sup> Andaya, "Temporary Wife to Prostitute," (1998), 11.

<sup>14</sup>Id., 14.

<sup>15</sup> Id.

<sup>16</sup> Id., 13.

sexual order distinct from the more rigid orders of the Chinese, Japanese or Europeans. This Southeast Asian sexual order, the article suggests, was a timeless entity until changed by outsider morality, whether it is Confucian, Buddhist, Muslim, or Christian.

Although the evidence suggests that the early modern Vietnamese sexual order was relatively restrictive for women, studies of sexuality in Southeast Asia emphasize the “relative” flexibility of the gender systems within the cultural matrix. Works that emphasize this autonomy have relied on sources that define and judge Vietnamese women’s sexual activities against idealized Christian and Confucian norms. While the works of Reid and Andaya rightly direct our attention toward the sexual experiences of women of low social class, their conclusions that low class Southeast Asian women enjoyed power and autonomy as contrasted with Chinese women does not appear to be appropriate for the Chinese or Vietnamese context. In fact, when the details of the early modern Vietnamese sexual order are compared with the sexual order that the Qing state imposed upon society, one discovers relevant similarities. In this respect, Matthew Sommer’s study, *Sex, Law and Society in Late Imperial China* provides insightful comparison to the Vietnamese context.<sup>17</sup> Sommer demonstrates in his study that dislocations in the eighteenth century and a fear of outsider males led the Qing state to institute laws that transformed the sexual order from a status-based to gender-based one. Sommer’s use of legal sources to lift out the logic and repercussions of an idealized sexual order provides a useful model for the Vietnamese context. What meanings were attached to sexual activities and how did those meanings reflect upon the actors and their

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<sup>17</sup> Matthew Sommer, *Sex, Law and Society in Late Imperial China*, op. cit., 124.

daily lives? What were the boundaries that regulated sexual life? What was the logic behind local and state boundaries? How did women and men negotiate within those boundaries? How did this sexual order change with the socio-economic dislocations of the seventeenth and eighteenth centuries?

### **Women, Sex, and the Political Order**

If sexual relations were represented orthographically as private relations (*tu thông* 私通), then why did the state care to regulate the sexual activities of its subjects? The ideology to which the state paid lip service linked political order to the stability of the family system and lineage lines viewed women as the vessels that guarded those lines. Thus, the pollution of these lines led to disorder (*loạn*, 亂) in the family and in the political structure itself. Of most immediate and practical concern were the ominous examples of sexual intrigue that portended the downfall of Vietnamese dynasties. The *Đại Việt Sử Ký Toàn Thư* (大越史記全書), the official dynastic chronicle edited by successive dynasties,<sup>18</sup> was replete with examples of women whose sex and sexual encounters led to the downfall of entire dynasties. Early modern chroniclers cautioned younger generations of state-builders about the importance of regulating access to women. It is no coincidence that the chronicle was re-edited with commentaries in the tenth year of the Hồng Đức reign, approximately the same period in which the Lê Code was

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<sup>18</sup> The version of the Vietnamese chronicle, *Đại Việt Sử Ký*, used here is a wood-block print dated 1697. The chronicle includes the 1479 version and an addendum for the period 1479-1675. For more on the dating and manuscript, see Phan Huy Lê, “*Đại Việt Sử Ký Toàn Thư: tác giả, văn bản, tác phẩm*,” in *Đại Việt Sử Ký Toàn Thư*, Vol. 1: 15. An facsimile of wood-block printing appears in volume IV.

promulgated. The compiler of the fifteenth century edition, Ngô Sĩ Liên (吾士連),<sup>19</sup> drew attention to the potential dangers of outsider males. Early entries in the chronicle stressed the importance of controlling sexual access to women. By the seventeenth century, the entries emphasized restraining women's sexuality. This shift in emphasis in the chronicle mirrored shifts in the political agendas of the ruling elite more generally.

The most salient example of outsider male incursion upon a family leading to dynastic downfall occurred in 1225, when the Lý Dynasty fell to the Trần family. The chronicle records that Lý Chiêu Hoàng<sup>20</sup> (李昭皇), ascended to her father's throne at the age of seven.<sup>21</sup> Trần Thủ Độ (陳守度), the younger cousin of the Queen Mother, Trần Thị (陳氏)<sup>22</sup>, and head of the guards, conspired to appoint cousins and family members as imperial guards, and his eight-old nephew as special servant (*chính thủ*, 正首) to the Emperor. One day, Chiêu Hoàng spied eight-year-old Trần Cảnh (陳警) and immediately took to him (*kiến nhi duyệt chi*, 見而悅之), and beckoned him to her [room to entertain her] each evening (*mỗi dạ nhạ*, 每夜迓).<sup>23</sup> Each evening, Chiêu Hoàng played with him by pulling his hair or climbing on him as if he were an elephant.

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<sup>19</sup> Ngô Sĩ Liên's birth and death dates are unclear, but it is recorded that he passed the examinations in the third year of the Đại Bảo (大寶) reign (1445) and lived to be ninety-eight *sui*. Id., 22.

<sup>20</sup> The previous emperor was sonless and transferred power to his younger daughter, Phật Kim in his last months.

<sup>21</sup> *DVSKTT*, Bản Ký 32a.

<sup>22</sup> The *Cuong Mục* reports a much more salacious story in which the Queen Mother was engaged in an illicit affair and the two conspired day and night to usurp the throne.

<sup>23</sup> *DVSKTT*, Bản Ký, 33a.

One day, Trần Cảnh told his uncle Thủ Độ of what had transpired in the room, to which Thủ Độ replied, “If this is true, then this will make us a royal lineage (*hoàng tộc*, 皇族) or a lineage that shall perish (*xích tộc*, 赤族).” With that, Thủ Độ closed the city and palace gates, issued an order prohibiting officials from entering, and declared, “The Emperor has a husband” (*bê hạ hữu đường*, 陛下有堂).<sup>24</sup> That same month, the Empress issued an edict proclaiming the long reign of the Lý family and her inability to maintain political, and abdicated the throne to her husband, Trần Cảnh. He took the name Trần Thái Tông (陳太宗) and ushered in the Trần Dynasty.

Lý Chiêu Hoàng’s story proved to be an important lesson for future political leaders of Đại Việt about controlling sexual access to women. They needed only to remember that Thủ Độ’s manipulation of her interaction with her servant triggered the series of events that led to her abdication. Chiêu Hoàng and the Lý Dynasty’s fate was not simply confined to chronicle history, but displayed as a public example, when the Trịnh family had a temple built in honor of the eight Lý emperors (minus Chiêu Hoàng) in their ancestral village in 1605. A contemporary visitor to Việt Nam need only visit the Temple to the Eight Lý Emperors (*Lý Bát Đế*, 李八帝) and observe that Chiêu Hoàng’s altar resides in a separate building next to the main temple. When I inquired why Chiêu Hoàng was not made offerings in the same space as her ancestors, a villager replied that the separate temple was established as a reminder that she had lost the throne.<sup>25</sup>

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<sup>24</sup> *DVSKTT*, Bản Ký, 33b.

<sup>25</sup> Personal Notes, July 1999.

Female emperors were not the only women who could spell the downfall of dynasties, as Lê Dynasty statesmen discovered from the emperor Lê Thánh Tông's (黎聖宗) example. The most famous woman who stood as an example of the fragility of political order and its dependence on controlling access to women was Nguyễn Thị Lộ (阮氏路), the wife of the poet laureate and the emperor's tutor, Nguyễn Trãi (阮廌), and a sexual favorite of the emperor Lê Thánh Tông. The chronicles record that while visiting Nguyễn Thị Lộ one evening, the emperor fell ill, and died.<sup>26</sup> Many in the court claimed that Thị Lộ had poisoned the emperor, triggering a series of investigations and persecutions that ultimately led to the execution of Lộ and Trãi and condemnation of their progeny for three generations.<sup>27</sup> Lest anyone be confused of the moral of the story, Ngô Sĩ Liên's fifteenth century commentary (*luận viết*, 論曰) in the chronicle highlighted the dangers of men succumbing to women:

Feminine beauty (*nữ sắc*, 女色) is a danger (*hại*, 害) to men! Nguyễn Thị Lộ was but a woman. Lê Thái Tông favored her and brought death to his body. Nguyễn Trãi married her and his lineage was exterminated. Couldn't they have prevented [such fates] (*hà bá nhưng hoạc*, 何不戎或)?<sup>28</sup>

Ngô Sĩ Liên's comment warned future leader of the dangers that women, especially beautiful or accomplished ones, brought to the political order.

In the seventeenth and eighteenth centuries, control of women's sexuality became a more urgent issue to the Trịnh family. Lê Thần Tông's marriage to the previously

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<sup>26</sup> ĐVSKTT, *Bản Ký Thực Lục*, vol. 11, 55b-56a.

<sup>27</sup> Id.

<sup>28</sup> Id., 56a.

married Trịnh Thị Ngọc Trúc led to the Trịnh family maintaining more control of the state power. Furthermore, it was Trịnh Thị Ngọc Trúc's support of the renovation of various pagodas throughout the Northern realm that helped trigger a Buddhist revivalism in the seventeenth century, as laywomen followed the empress-turned nun's example and transferred money and property in support of Buddhist temples throughout the Northern Realm.<sup>29</sup> Ngọc Trúc's marriage to Lê Thần Tông, as well as his inclusion of a Mùng and Dutch woman into his harem further confounded lawmakers. Not only was Ngọc Trúc's support of Buddhism a source of criticism, but her own marriage to the Lê king's own uncle convinced the literati that women's licentiousness could only harm the state.

The sixteenth, seventeenth and eighteenth centuries brought with it the arrival of foreign merchant ships and missionaries in the ports of the Southern and the Northern Realms and a new kind of religion that officialdom tied to sexual impropriety. The popularity of Catholicism to women of all social classes caused great concern for the Trịnh family in the seventeenth and eighteenth centuries. The ability to control and confine women to prescribed gender roles seemed to fall out of the reaches of officialdom. It was perhaps this concern that prompted the Trịnh family to issue an edict re-iterating the ban on Catholicism. The *Đại Việt Sử* recorded the following entry from 1663:

During the winter [of 1663], in the tenth month, [an edict] was issued, proscribing all under heaven to study/learn (*học, 學*) the Christian religion (*Hoa Lang đạo, 花郎道*). In the past, people from Hoa Lang (*hoa lang quốc, 花郎國*)<sup>30</sup> have

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<sup>29</sup> Tri Ân Nguyễn, *Ninh Phúc Temple: a Study of Seventeenth Century Buddhist Sculpture in Vietnam*, Ph.D. Dissertation: University of California at Berkeley, 1999:

<sup>30</sup> In the seventeenth and eighteenth centuries, Catholicism was known as *Hoa Lang Đạo*, or the religion from the country of *Hoa Lang*. Nguyễn Hồng suggests that the phrase *Hoa Lang* was derived from the patterns of sweet potato blossoms etched into the fabrics that Spanish and Portuguese traders brought to

entered and lived in the countryside, [and] established a blasphemous religion (*lập vị dị đạo*, 立為異道) to deceive and brainwash the people (*chúng hoặc ngu dân*, 誑惑愚民). Many lowly men and women (*bi phu, bi thê*, 鄙夫鄙妻) worship [it]. They live without propriety (*hỗn tạp*, 混雜) and do not separate men and women (*nam nữ vô biệt*, 男女無別).<sup>31</sup>

The edict demonstrates that power-holders in the Trịnh regime drew a direct connection between the Catholic Church and the improper moral behavior (read sexual) lifestyle it provided and the challenge to the political order. At the local level, anecdotal evidence suggests that men and women often brought suit or publicly denounced young female converts to the religion for those who entered lay Catholic organizations and lived together outside of the family system presented a particular danger to the prevailing socio-political order.<sup>32</sup> That the Trịnh ruling house would draw a connection between the increased popularity of the Catholic Church and challenges to the political order was certainly not paranoid. Extant missionary letters and journals suggests that women in the Trịnh court were major benefactresses of the new religion, while the missionaries admitted to seeking wealthy women for protection. Moreover, that this new religion appealed broadly to the masses, particularly marginal women, alarmed the Trịnh. These socio-political developments in the seventeenth and eighteenth centuries, accompanied by the very visible presence of European men and the lurid stories of alternative lifestyles

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Vietnamese ports in the sixteenth and seventeenth centuries. Nguyễn Hồng, *Lịch Sử Truyền giáo ở Việt Nam*, (Sài Gòn: NXB Hiện Tài, 1959), 23.

<sup>31</sup> *ĐVSKTT: Bản Ký Tục Biên*, Vol. 19: 4a-b.

<sup>32</sup> For a more thorough discussion of these instances, see Nhung Tuyet Tran, “Les Amantes de la Croix: an Early-modern Vietnamese Sisterhood,” in Taylor & Bousquet, *Le Việt Nam au féminin* (Paris: Les Indes Savantes, *in press*) & following chapter.

that the new economic and religious opportunities were offering local women, presented an imminent danger to political order.

Paradoxically, the bodies that presented such dangers to state order were also the vessels through which the spiritual and ideological foundations of local society could be preserved. Thus, while the preponderance of evidence suggests that local social custom and state law tried in various ways to restrict their sexual lives greatly, the potential power women possessed as guardians of these spiritual lines allowed some to mediate between the newly emergent opportunities and the ever-restrictive legal structures attempting to regulate their sexual lives. This power, however, was conditional and limited. Women could only exercise power and influence if they could represent themselves as embodiments of sexual chastity.

### **Whose Sexuality?: Definitions, Boundaries and the Sexual Order**

As in other matters with respect to sexual relations, the law viewed the family unit as a natural entity and punished infringement of those boundaries seriously. The local custom and state law thus distinguished between commoner women and those of debased class (*gian*, 姦)<sup>33</sup> whose status made them subject to overt commodification. Persons of “debased” class included courtesans, actors, and prostitutes and occupied a legal underclass who were not subject to the same moral expectations as the commoner (*luong*,

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<sup>33</sup> For more on “*gian*,” see below.

良) class.<sup>34</sup> For women, one of the major distinctions between *debased* and *commoner* status was the protection from commodification. The law protected commoner women from overt sexual exploitation as long as they could represent themselves worthy of that protection. However, being subject to chastity regulations was a privilege and subject to revocation if it were demonstrated that they did not deserve it. Generally speaking, accusations of improper behavior were effectively enough to demote women to salable status.

### **The Chastity Monuments**

As in China but to a lesser extent, in the fifteenth century, the Lê imperial state commemorated virtuous women. In contrast to Ming practice as well, the Lê state did not celebrate the chastity cult with monuments, but with landed gifts devoted to the woman's spirit. Usually, this entailed the donation of public lands to a temple or village in return for the village's promise to venerate the spirit of the departed. In the Vietnamese context, then, there was a very real connection between one's actions in this world and the after-world. From the fifteenth through the eighteenth centuries, the criterion for honoring a chaste widow shifted: in the early Lê period, virtue could be demonstrated simply by refraining from remarriage. By the end of the eighteenth century, however, widow suicide appears to have been a catalyst for elevation to the chastity cult. This shift in the criterion of public recognition of chaste widows suggest that local and state authorities became increasingly aware of the potential benefits of honoring and

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<sup>34</sup> The character, "*luong*" can be translated literally as "good," but was used in Vietnamese and Chinese records to refer to commoners.

supporting local female chastity cults. This awareness was manifest not only in the increased volume of widows honored, but also in the method of bestowing that honor.

The *Record of Ô Châu* described the chastity cults of "virtuous wives" (*tiết phu, 節婦*) given special honors in the early sixteenth century. The first, a woman from the village of Thị Lễ in Bồ Chính Prefecture whose name was unclear (*vị tường danh, 未詳名*), was honored by the previous dynasty (*tiền triều, 前朝*) with a sign above her house (*biểu kỳ môn, 表其門*) proclaiming it as the home of a chaste female (*viết liệt nữ chi môn, 曰列女之門*).<sup>35</sup> Although the *Record of Ô Châu* did not date this honor, its reference to the "previous dynasty" suggests that the woman was honored in the Lê period. This particular method of honoring chaste females, with public signs acknowledging their virtue, changed in the sixteenth to eighteenth centuries, as commemorations of virtuous widows took on new forms.

The dynastic upheavals of the sixteenth and seventeenth centuries, along with the Trịnh-Nguyễn civil wars created socio-economic dislocations that made women vulnerable to rape and sexual violence by soldiers and bandits. The various contenders for political power took advantage of this vulnerability, and made public pronouncements to celebrate women who faced such dangers to garner support for their claim to power and influence popular lifestyles. The Mạc family bestowed accolades on particularly deserving women, and highlighted areas whose women embodied sexual purity. For example, Thế Lai village in Triều Phong District, was highlighted as an exemplary community in the midst of the hinterland. Women of Thế Lai were remarkable for their

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<sup>35</sup> *Ô Châu cận lục*, 93a.

fidelity to their husbands, the *Ô Châu Record* detailed. One Đỗ Thị Tông, a member of Kim Trà prefecture, Đốc Sơ village, received special honor for her enduring virtue.<sup>36</sup> The text of the *Ô Châu Record* recounted,

In the fourth year of the Đại Chính reign (1553), bandits were creating havoc (*ngịch liên tạo loạn*, 逆連造亂) and pillaging [the homes] of the local people (*kiếp lược phương dân*, 劫掠方民), the barbarians (*tặc/giặc* 賊) saw that Đỗ Thị was beautiful [and intended] to violate her (*dục thông mã*, 欲通馬). Choosing death, Đỗ Thị swore to herself (*tự thề*, 自誓) to resist (*cừ*, 拒) rather than follow [the bandits].

Although the Mạc singled her and her village out for enduring the rapaciousness of local bandits, ironically, men from her own village, Đốc Sơ, were pillaging and raping women in Bích Động (*kiếp Bích Động chi tài nhi gian ái thiếp*, 劫碧洞之財而奸愛妾).<sup>37</sup> Furthermore, other anecdotal evidence suggests that vulnerability to rape was a common concern of young females throughout the Vietnamese states.<sup>38</sup>

The *Cương Mục* records that in the thirteenth year of the Vĩnh Thịnh reign (1717), the state ordered the public commemoration of the widow Phan's cult. The widow Phan committed suicide, following her husband in death. In order to reward her for her commitment, the state gifted her cult arable land for the maintenance of her spirit.<sup>39</sup> Each year, presumably, the entity that accepted the donation in her name would maintain the rites to the widow, by offering sacrifices to her spirit. Contemporary scholarship

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<sup>36</sup> *Ô Châu Cận lục*, pp. 93a-93b.

<sup>37</sup> *Id.*, page 36b.

<sup>38</sup> See, for example, Deydier's description of the rape of a young Catholic woman in the northern realm, *AMEP* vol. 756, 142.

<sup>39</sup> *Cương Mục*, page 498.

refers to such activity as “ancestor worship” and/or “cultic practices,” but such terms suggest that there exist normative spiritual rituals to which the practices do not conform. Rather, it can be useful to think of the maintenance of these women’s memories as a ritual practice based on spirituality and every-day concerns. It appears that in addition to honoring the patron’s memory, offerings were made for a direct return by way of protection, luck or other beneficent omens.

The practice of endowing chastity rituals reveals another layer of the complex relationship between women’s bodies, sex, and the political and spiritual worlds. Women served as the embodiment of male agnatic lines. Pollution of their bodies reflected the pollution of that line and the afterlife. In theory, the intrusion of a woman’s body created disorder. If the agnatic line were polluted, then offerings to one’s ancestral spirits might be confused. Thus, as the gateway between this world and the spiritual world, women’s bodies were thus incredibly important to protect and restrict if necessary. That their bodies were potentially so important to the afterworld gave a certain kind of power to women, often if only symbolic.

To assure that this gateway to the afterworld not be compromised by the will—or in the language of the legal texts, consent—of a woman, social custom and state law took precautions. As mentioned earlier, the privilege of maintaining chastity was one which the state could take away just as easily as it gave, and it prescribed that women who transgressed the boundaries of local and state mores would lose that privilege. As such, married women who engaged in illicit sexual activities were subject to sale by their husbands. Although technically, the logic of allowing husbands “to sell” a wife found

guilty of licentiousness might have been to allow him to recoup what he lost in betrothal gifts, practically, it made his wife subject to sale as a wife or slave of a household. As a wife of another man or slave in a household, effectively, the husband has sold sexual access to his wife.

A woman's ability to maintain commoner status and lay claim over chastity was not simply in her hands, but intricately linked to her husband's political loyalty. Although the Lê Code makes no direct reference to it, numerous statutes allude to the confiscation of the women in the household of a man guilty of treason. These women could be given to other magistrates as rewards for political loyalty or branded as public slaves and sent to work in various menial positions. Often, women subject to such overt commodification were branded with eight characters tattooed on their face, the same punishment meted out to "licentious women." Lê Dynasty law specified that the wives and daughters of treasonous officials could be confiscated, sold, or "gifted" to loyal officials. Provisions in the Lê Code allude to these gifts made to high-ranking officials. The most salient connection the state made between political loyalty and sexual access of women was through the "gifting" of the wives and daughters of men guilty of treason. Perhaps the most famous example of political disloyalty being punished by the enslavement of one's women is that of Lê Sát. *The Đại Việt Sử Ký* records that in 1427, the emperor confiscated Lê Sát's wives, children and all other possessions and gave them to other officials.<sup>40</sup> Those not given away were confiscated as public slaves (*công tỳ*, 公婢).<sup>41</sup>

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<sup>40</sup> BKTL, Book 11, pg. 42B.

Descriptions from Vietnamese literary and legal sources suggest that in practice, the sale of wives did exist, even if it was not prevalent. Nguyễn Dữ's sixteenth century story of the "Virtuous Wife from Khoái Châu District" (快州義婦傳), part of his anthology of "Strange and Curious Stories," (*Truyện Kỳ Mạn Lục*, 傳奇漫錄)<sup>42</sup>, recounts the tale of the lovely Từ Nhị Khanh, whose husband's actions led to her suicide. Although a work of fiction, Dữ's story and his commentary with respect to the events of the story provide insight into the social lives of ordinary women and men. Although Nhị Khanh had been loyal to her husband, Trọng Quý, for over six years during which he was conscripted into the army to quell an outbreak of banditry, her husband demonstrated little respect for her as his wife.<sup>43</sup> Trọng Quý, who had a bad habit of gambling, became friendly with a wealthy local merchant by the name of Đỗ Tam. As Dữ described, "Trọng Quý coveted Đỗ Tam's belongings, Đỗ Tam coveted Trọng Quý's wife's beauty."<sup>44</sup> One day, the two men were playing a game and Đỗ Tam suggested that Trọng Quý use Nhị Khanh as a bet, and in each of the three games they played, Trọng

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<sup>41</sup> Id.

<sup>42</sup>The title of the work is translated literally as "A New Printing of the Strange and Curious Stories. *Tân Biên Truyện Kỳ Mạn Lục* (新編傳奇漫錄), by Nguyễn Dữ. The stories were translated into the vernacular (*nôm*) script by Nguyễn Thế Nghi. All page numbers refer to pages in a manuscript held at the Institute of Literature and reprinted in *Truyện Kỳ Mạn Lục*, Nguyễn Quang Hồng, ed. (Hà Nội: NXB Khoa Học Xã Hội, 2001). In this volume, Hồng also provides a contemporary Vietnamese translation which readers may consult and compare with my translations and references. In addition to the modern Vietnamese translation, Hồng's meticulous explanatory notes are particularly helpful in understanding the numerous literary references in the text.

<sup>43</sup> Nguyễn Dữ, "Khoái Châu Nghĩa Phụ Truyện," 26a.

<sup>44</sup> Id., 26a.

Quý lost, agreeing to relinquish his wife to the merchant. Upon hearing that her husband had gambled her away, Nhị Khanh lamented to her two sons:

Your father's love is thin (bạc tình, 薄情) [and] brings sadness [to me] (*vô liêu lai*, 無聊賴). Separation is normal, and death, likewise, no hardship (*nan*, 難), [but] to follow him and [see] that he has no feeling (*vô niệm*, 無念) for you!<sup>45</sup>

With those as her last words, Nhị Khanh hung herself, leaving Trọng Quý to live with his decision. Just as telling the plot of the story itself is Nguyễn Dư's commentary at the end of the story, in which he sharply criticizes Trọng Quý's actions toward his wife, but also the principles of the "Thrice Following." In this case, Dư argues, Nhị Khanh had no duty to follow her husband's wishes. Nguyễn Dư's use of the story as social commentary suggests that wives were occasionally subject to sale or barter by their husbands, particularly in times of hardship.<sup>46</sup>

Women fortunate enough to lay claim to commoner standards of sexuality gained a modicum of protection from commodification. These protections were always couched in the form of righteousness and morality and imposed upon those with control over the women. For a young woman, the law specified that her father could not marry his daughters for the bride price. Ritual practices mandated that the groom's family bring gifts of areca nuts, various livestock, and a modest amount of jewelry to the bride's home in the form of a wedding gift (*sính tài*, 聘財), but wedding a daughter for the purpose of

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<sup>45</sup> Id., 27b.

<sup>46</sup> Sommer notes that the sale of wives had become a mechanism of survival in the Qing period. See Sommer, "The Prostitution and the Sale of Wives: Peasant Survival Strategies the Qing Period," unpublished paper presented at a conference honoring Philip Huang. UCLA, October 2000.

such betrothal gifts was deemed a violation of proper ritual.<sup>47</sup> Other regulations afforded protection to wives who could demonstrate worthiness. One regulation explicitly forbade the selling of wives. In an eighteenth century magistrates' manual, the *Công Án Tra Nghiệm Bí Pháp* (公案查驗秘法, "Secret Manual for Examining Cases"), local magistrates had precise instructions on how to punish men who sold sexual access to their wives. The phrase used for selling one's wife was "to rent out" or "to mortgage" (*điền cố* 典雇) one's wife or concubine. The manual instructed magistrates that, "In all cases in which [a person] rents out his wife or concubine (*điền cố thê thiếp*, 典雇妻妾), he shall be punished with eighty strokes of the hard cane."<sup>48</sup>

Another law forbade the demoting of a principal wife to concubine status, or the elevation of a concubine to principal wife status.<sup>49</sup> Such proscriptions suggest that the statutes intended to maintain a strict order within families. In theory, principal wives and their children enjoyed greater status within the household, while concubines, while legal wives in their own part, were valued less. In practice, however, it appears that the status of the sons of concubines was related to their gender while that of the daughters was related to her mother's status.<sup>50</sup>

## Sex and Marriage

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<sup>47</sup> Lê Code, Chapter on marriage.

<sup>48</sup> *Công Án Tra Nghiệm Bí Pháp*, Viện Hán Nôm, Ms. 1760. 36.

<sup>49</sup> Lê Code, chapter on household.

<sup>50</sup> See Chapter 5.

If “illicit sex sexual relations” was defined as “sex outside of marriage,” as the legal statutes suggest they were, what were the boundaries of sex within marriage? Theoretically, all sexual activity within a marriage was legal as long as it did not occur during the mourning period for one’s relatives of the third degree or higher. The law initially punished sexual relations during the period of mourning and labeled it as “gian,” (奸), associating the practice with treachery and betrayal and, more immediately, “illicitness.” “Sex” (*trong giao*, 相交), defined as intercourse between a married, heterosexual couple, was accompanied by several implicit connotations. In the vernacular, locals referred to sexual activity between the two sexes with the phrase “*tòm tèm*” (nôm: 蚕潜),<sup>51</sup> which is euphemistically described as “more” but literally refers to a “dirty silkworm.”<sup>52</sup>

Local custom and the law did not restrict the sexual activities of men within the acceptable boundaries of societal norms. These boundaries allowed men to engage in sexual relations with persons of non-free status—either his own slave or another person

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<sup>51</sup> These are *nôm* characters borrowed from the Chinese for meaning and sound. The characters borrowed from the Chinese literally mean a silkworm hides (*tòm tèm*, 蚕潜) but is pronounced differently. Because this phrase is slang, it is difficult to find a non-euphemistic definition in published sources. However, the phrase is used repeatedly in oral folk poetry to refer to sexual relations between a husband and a wife. See, for example, Nguyễn Xuân Kính, *Kho tàng Ca Dao Việt Nam* (2002) and *Nam Phong Giải Trào* (18<sup>th</sup> century manuscript).

<sup>52</sup> See Anthony Trần Văn Kiệm, *Giúp đọc Nôm và Hán-Việt* (1997). Kiệm defines “*tòm tèm*” as “something dirty,” and euphemistically calls it “more.” Genebrel defined “*tèm*” as “*sale et malpropre*” J.F.M. Genebrel, *Dictionnaire Annamite-Français: comprenant tous les caractères de la langue Annamite vulgaire* (Sài Gòn: Imprimerie de la mission à Tân Định, 1898), 2<sup>nd</sup> Edition: 740.

of debased status (*tiên*, 賤).<sup>53</sup> However, sex with commoner women outside of marriage, other men's slaves and wives amounted to illicit sexual intercourse. For commoner women, all sex outside of marriage was forbidden.

Evidence from collections of folk poetry suggests that young women in marital relations expressed frustrations at the sexual double standard and the age differences between themselves and their husbands. Many expressed resentment with the pressures of regulating the household and maintaining a kind of feminine ideal of desire. In one popular chant,<sup>54</sup> a tired wife complains,

The fire is burning, the rice has boiled,  
My child demands to be nursed (*đòi bú*, 頹 乳)  
—and my husband is looking for sex (*chông thì tìm tèm*, 重夫辰尋尖<sup>55</sup>)  
The fire is roaring,  
And my child has finished nursing,  
“Go ahead, if you must.” (*tìm tèm thì tèm*, 尋尖辰尖)

The voice of the wife in this poem highlights the pressures she faced, particularly in light of the fact that the husband appears not to be doing anything to assist her in the household activities. At the same time she tends to the fire, the rice and her hungry child, with her husband simply fixated on sexual relations. Although the woman expresses frustration with the pressures against her, her final phrase, telling her husband to engage in the activity, reflects a prominent theme: although resentful of these pressures, women strove to satisfy their husbands physically, too. In another poem, a woman laments,

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<sup>53</sup> Persons of “debased” status included courtesans, actors, and prostitutes, who were occupied a legally debased position and not subject to the same moral expectations as their commoner counterparts.

<sup>54</sup> *NPGT*, 26a.

<sup>55</sup> The phrase, “tìm tèm” appears to be a reference to the aforementioned phrase, (*tòm tèm*, 蚕潛)

“Who’s ruined my greens, such that my husband disdains [me].”<sup>56</sup> Other voices depict in even greater detail anger and frustration that women felt with the sexual double standard. One popular verse taunts a young woman whose husband preferred prostitutes over her: “Girl, why doesn’t your husband lie with you (*chẳng nằm cùng*, 拯南卧拱), You search for the dog with a sour face, and throw [it] in the pond.” Although preliminary, the evidence suggests that these frustrations precipitated young women to engage in sexual relations with men who were not their husbands.

### Sex Work<sup>57</sup>

Although local custom and state law required that commoner women remain chaste until marriage and during widowhood, it placed no such restrictions upon men who engaged in sexual relations with women of debased status and women who provided those services. In fact, the law institutionalized a form of sexual slavery through the strict exclusion of debased classes from the sexual order. Women who were born into the hereditary courtesan/actor class (*xuóng nǚ*, 娼女) and/or slaves (*nô tỳ*, 奴婢) were not subject to the same sexual standards that regulated commoner women’s lives. The *Chi Nam* dictionary specifically defined women as “snow children” (*tuyết nhi*, 雪兒) and

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<sup>56</sup> *NPGT*, 16a.

<sup>57</sup> No history of Vietnamese prostitution exists, but Gail Hershatter provides an excellent history of prostitution in twentieth century China. Gail Hershatter, *Dangerous Pleasures : Prostitution and Modernity in Twentieth Century Shanghai* (Berkeley & Los Angeles: University of California Press, 1997).

frankly described them as “women of play” (*là con chơi*, nôm: 羅 昆 制)<sup>58</sup> or a woman who from a singing house (*đạo điểm xướng*, 道 店 唱)<sup>59</sup>. Women of the debased class did not necessarily enjoy more freedom than their commoner counterparts, but rather, they were *not allowed* to adhere to the chastity standards of commoner women. Women of a debased status were required to perform the

While demographic evidence does not exist for the debased classes, anecdotal evidence suggests that such women were prevalent enough to emerge as common themes in literary sources and travelers’ tales. Stories from the sixteenth through nineteenth centuries recount tales of young men frequenting courtesan houses for entertainment while studying for the examination process.<sup>60</sup> While Nguyễn Dữ and his contemporary colleagues might have disdained women of commoner status if they engaged in sexual activities, examples of prostitutes tending to the needs of young men received no corollary critiques. Voices from courtesans emerging in the folk records sometimes lament the haphazard way in which gentlemen (*quân tử*, 君 子) treated courtesans. For example, one woman lamented, “[I] resent (*trách*, nôm: 責) the gentleman for his lack of feeling (*bạc tình*, nôm: 薄 情), who played with the flowers (*chơi hoa*, nôm: 制 花)<sup>61</sup> and

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<sup>58</sup> *Chi Nam Dictionary*, op cit. 10b.

<sup>59</sup> *Id.*, 8b.

<sup>60</sup> See for example, Nguyễn Dữ’s “Tây Viên Kỳ Ngộ Ký,” (西垣奇叢記), in which a young examination student spends time in the Western Provinces entertained by two beautiful courtesans. *Truyện Kỳ Mạn Lục*, Book 1: pp. 61b-70b.

<sup>61</sup> In the colloquial Vietnamese, the phrase, “*chơi hoa*,” (lit. “to play the flowers”) refers to sexual experience that young men gain with prostitutes.

breaks the branch that is sold and traded (*bán buôn*, nôm: 半奔).”<sup>62</sup> While literary sources written by men emphasize the companionate aspect of these relationships, this verse draws attention to the exchange relationship. It suggests frustration with the sexual nature of courtesan life. In many respects, the courtesan class was a legalized form of prostitution for the pleasures of the upper class.

Sex for sale was not simply a luxury of the scholarly class, as anecdotal evidence from a variety of sources suggests that the prostitution system provided sexual services for men of all classes. In his journals, the missionary Deydier recounts a story of arriving at a port in the Red River Delta and resisting carnal temptations that local merchants presented him. In his journal, Deydier wrote,

“Everyone made impertinent demands, [and] invited me to engage in impurities, but I protected myself against it, telling them that I had my wife in the royal city, that she was more beautiful than anything, . . . and that it was not appropriate for me to sully myself with courtesans. To others, I said that it was forbidden by the laws of my king; to others; that I was afraid to fall ill with something that I would never recover from—what I meant was the sin. These poor men<sup>63</sup> were content with these reasons, but the sailors, who having spent all their nights in the boat, were not so reasonable and subjected me to a cruel war. I could no longer defend myself without losing my familiarity [with them] [but finally] they believed that I was a most honest man.”<sup>64</sup>

Deydier’s observations suggest that no small number of local traders and sailors were interested in visiting prostitutes. Such clients were hardly the esteemed young students studying for exams, and, as Deydier’s cryptic words suggest, there was little feigning

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<sup>62</sup> *NPGT*, 16b.

<sup>63</sup> The word Deydier uses is “*gens*,” which can be translated as “people.” However, I am translating this word as men, because in every instance in which Deydier refers to a woman, or group of woman in his journals and letters, he genders them with terms such as “*dame*,” “*fille*,” or “*femme*.”

<sup>64</sup> *AMEP*, vol. 666: 24.

about what activities took place between the client and prostitute. Shihōken, a Japanese merchant shipwrecked off the coast of Đàng Trong at the end of the eighteenth century, also recounted abundant evidence of a vibrant prostitution market:

In this country, there are courtesans [of the upper class], those of the boats, and those of the streets. As we were shipwreck victims, we did not stop at any of these places. Each evening, in the canals [of the town], we saw covered boats, equipped with glass doors [made with] curtains of glass beads of tiny ornaments and bells and red handrails. [This was where we] saw singers attending their clients by playing the string instruments. As for the young men, they invite one another to amuse themselves, drink, dance and clap their hands for measure. How we admired the wealth [that could] create a boat of pleasure! Near the palace roundabout, at the crossroads, stand the street prostitutes. They are also dressed in silk or crêpe, [faces] made up [with] white and red [powder] and appear in the twilight. The city is accordingly gay night and day.<sup>65</sup>

Shihōken's description of the "Street of Flowers" (花街) Nguyễn Ánh's base in Đàng Trong highlights the extent to which prostitution was an institutionalized profession in Vietnamese society. This complex hierarchy of sex for sale appears to be directed toward the consumption of local men and not foreign traders.

Female slaves were also expected to tend to their masters' sexual needs. With few exceptions, the law and local custom did not address the sexual relations between masters and slaves. This apparent silence in sexual matters between these groups is understandable within the hierarchical character of the sexual order. The logic of the sexual order, which maintained boundaries between superior and inferior, was not challenged if a (male) master transgressed downward by engaging in relations with a female slave. There was no specific law against a male engaging in sexual intercourse

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<sup>65</sup> Shihōken, *Nampyōki* (南漂記), Translated from the Japanese into French by Mesdames Muramatsu & Gaspardone. *BEFEO* 33. (1933), 35-120.87.

with a female slave. Conversely, the law was especially strict with male slaves who transgressed upward and engaged in illicit sexual relations with their masters' wives and/or daughters. Male slaves who transgressed those boundaries were punished with decapitation.<sup>66</sup> Women who transgressed downward and consented to sexual relations with male servants were punished much more severely than with commoner men. Such women were exiled for life.<sup>67</sup>

### **Illicit Sex**

Although the language of the law and local practice did not conceive of women as agents of sexual activities, they were deemed ultimately responsible for the the act. Discourses on sex and the sexual activities of men and women emphasized the disposition of women, and demonized those defined as “licentious females/wives” (*dâm nữ* 淫女; *dâm thê* 淫妻; *dâm phụ* 姪婦) or “girls of the flowery moon” (*nôm: gái nguyệt hoa* 女巧月花) or “play things” (*con chơi*, 昆).<sup>68</sup> Women who could be labeled “licentious woman” varied widely, but it appears that any woman accused of sexual activity with a man who is not her husband could be branded as such. The seventeenth century *Chi Nam Dictionary*, the earliest extant Chinese-*nôm* dictionary, defines the term

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<sup>66</sup> Art. 407.

<sup>67</sup> Id.

<sup>68</sup> *Chi Nam Dictionary*, op. cit., 11b.

in the following way: “A licentious woman is a girl who [lives in the household] and changes her heart” (*dâm phụ gái ở thay lòng*, nôm: 婬婦女巧於台弄)<sup>69</sup>.

Sex outside of marriage, with the exception of sex with lower class women for men, was deemed “illicit.” The phrase, “illicit sexual intercourse” (*gian*, 奸; *thông gian*, 通奸; *tu gian* 私奸) betrays underlying assumptions about the sexual activities of women and men in early modern Vietnamese society. The root of the character *gian* (奸) emerges from treason and treachery (*gian*, 姦) against the state and was used to designate illicit fornication, suggesting the state’s connection between sexual fidelity and political order. For women, this meant permanent fidelity to her husband; for men, it meant limiting one’s sexual access to other men’s women.<sup>70</sup> Although we might imagine that early modern women and men engaged in all sorts of sexual activities, the language of the discourses highlighted the act of intercourse itself, as evidenced by the use of the phrase, *thông gian* (通奸), the first character meaning “to penetrate.”<sup>71</sup> *Gian* was used in the texts as the verb, “to fornicate,” and only in reference to men. Women, on the other hand, “consented to illicit sexual activity” (*hòa gian*, 和奸), and in doing so, made themselves vulnerable to economic, social and religious repercussions.

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<sup>69</sup> I have chosen to translate the term “gut” (*lòng*, 心) as “heart” to capture the meaning. In the vernacular Vietnamese as in Chinese, emotion is felt in the “gut.” Readers familiar with characters will notice that my replication of the character here includes the “heart” (*tâm* 心) radical, while the original text omits it. The original text simply borrows the character “lộng” without meaning and transforms the sound to “lòng,” the “gut.”

<sup>70</sup> Matthew Sommer discusses a similar phenomenon in the Qing Code. The logic of the legal proscriptions are so similar because the Vietnamese legal code was modeled after the Tang Code.

<sup>71</sup> Genebrel (1898), 844; Pierre Pigneaux de Behaine, *Dictionarium Annamitico Latinum*, (Paris: Missions Étrangères de Paris, 1799), no page number & Thiệu Chửu, *Hán Việt Tự Điển* (1999).

## Rape Law

The most obvious restriction against unbridled men's sexual activity was a prohibition against rape (*cưỡng gian*, 強奸), literally represented as "illicit sex by force." Considered as a forceful pollution of the male ascent line, rape presented the most flagrant intrusion upon another man's sexual access. The law prescribed that offenders be punished with life exile or death, depending on the severity of the crime. In addition, the offender had to compensate the husband of the victim with reparations one degree above those for consensual sex with his wife.<sup>72</sup> Although the Lê Code only prescribed general punishments for the crime of rape, the *Book of Good Government* specified the degrees of punishment. Attempted rape, the *Book* recorded, was punished with one hundred strokes of the hard cane and life exile a distance of three thousand *li*, while a rape that had been fulfilled was punished with strangulation.<sup>73</sup>

Lê Dynasty law also included a caveat protecting young girls from a phenomenon equivalent to contemporary law's standard of "statutory rape." Article 403 of the Lê Code specified, "[Engaging in sexual relations with] girls of twelve years (*tuế*, 歲)<sup>74</sup> and younger, even if [the sex] is consensual (*tuy hòa tịnh*, 雖和並), shall receive the punishment of illicit sex by coercion (*đĩ cưỡng gian luận*, 以強奸論)." The law thus

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<sup>72</sup> Lê Code, Art. 42. *Hán Nôm* Institute print.

<sup>73</sup> *HDTCT*, page 99.

<sup>74</sup> Age is rendered in *sui*, which counts a child's age as one upon the first lunar New Year. Thus, twelve *sui* here would be the equivalent of an eleven year old child.

amounted to a proscription against statutory rape, punishing men who engaged in sexual relations with girls twelve *sui* and younger with strangulation. This statute appears to have been borrowed from a Ming statute that was maintained in the Qing Code.<sup>75</sup> Interestingly, wives who had been victims of rape were also liable for the act. The male perpetrators were sentenced to exile (強姦人妻妾之罪定坐流論), subject to eight characters tattooed onto their face (入字之條 – 杖一百) and one hundred strokes of the hard cane. The principal wives or concubines who were rape victims, however, were subject to penal servitude and, should they own property, it was to be given to their husband (*thê thiếp dĩ đồ luận nhược điền sản tùy phu*, 妻妾以徒論若田產追夫) and subject to public menial duties. The language of the law suggested that it did not view these women as “rape victims,” but rather as women who allowed the rape to happen.

Although rape law—and specifically the regulations with respect to statutory rape—on the surface punished men for transgressing boundaries, men were less likely to be found guilty of consensual sex, much less rape. Although in practice, rape law did offer women a modicum of recourse for the crime, these protections appear to have more meaning if she chose death instead of rape. Women who chose death instead of rape were honored by the state as “chaste women,” but women who became rape victims were punished for the crime along with the male perpetrator. Moreover, having the offender pay retribution to the husband or family of the woman/girl suggests that the offense in

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<sup>75</sup> Sommer (2000), 85.

question was not that of contemporary notions of personal injury to the woman, but injury or potential injury to her husband or future husband. That a woman was punished for a successful rape suggests that legal theory, if not local practice, placed the burden and responsibility of that crime upon the woman.<sup>76</sup>

#### **IV. Regulating Men's Sexual Activities**

In theory, men's sexual activities were limited to heterosexual relationships within marriage. However, an institutionalized form of sexual slavery and a status-based hierarchy of relationships created a sexual order in which men's sexual activities with women were only limited with respect to other men's access to those women. The logic behind regulating sexual access to commoner women revolved around what Matthew Sommer has termed, in the Chinese context, the "pollution" of male agnatic lines. In practice, when such instances occurred between free single women and commoner men, the regulations often served to punish female participants but not their male partners. As vessels through which male agnatic lines were transmitted, commoner females were the potential wives and mothers of other men, and in theory, off-limits sexually to men. However, if men engaged in sexual activities with another man's female slave, then the law characterized those acts as infringements against the male masters of the women involved. Sexual relations with a female slave in one's own household, however, was condoned and expected. Thus

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<sup>76</sup> I am purposefully avoiding using the word "victim" because it appears that the law did not regard the woman as the "victim," but her husband or father.

men's sexual activities were regulated by a complex system of vertical and horizontal social obligations between the accused, his partner, and his partner's husband.

The Lê Code's chapter on illicit sexual relations (*gian thông chương*, 姦通章), specified the boundaries limiting men's sexual activities. These ten articles reflect the prevailing logic behind any regulation of men's activities: when fulfilling their sexual desires, men should be wary of other men's sexual access. Article 402 of the legal code punished men who transgressed the boundaries between decent men and violated the daughter of a household

Seducing with [her] consent (*hòa dụ*, 和誘) the unmarried [virgin]<sup>77</sup> daughter (*xử nữ*, 處女) of a [commoner] household shall be punished as illicit sexual relations (*gian luân*, 姦論), and the [accused] shall recompense [the girl's] family with money according to [her family's] status. The girl shall be returned to her father and mother and shall not be punished. Whoever served as an intermediary shall be punished with life exile.<sup>78</sup>

This statute seemingly protects young women from the desires of men by fining men who seduced them. Notice here that the fine to be paid would have been paid to the girl's parents, suggesting that the injury done here was to her family. The punishment for the illicit sexual relations was specified in another statute with eighty strokes of the hard cane (*trượng bát thập*, 杖八十)<sup>79</sup> Although there were statutes punishing men who engaged in illicit sexual relations with unmarried women, in practice, men

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<sup>77</sup> Although the text specifically refers to an "unmarried daughter" one should understand the reference as a "virgin."

<sup>78</sup> Lê Code, Art. 402.

<sup>79</sup> *HDTCT*, pg. 99.

were not punished for such encounters, as magistrates claimed that unless men were caught in the act, it was difficult to determine their involvement.<sup>80</sup>

Generally speaking the regulation of men's sexual activities was not determined by their gender, as it was for most women, but by a parallel system of status and relationship between the offender, his partner, and the partner's relationship to other men.<sup>81</sup> Contrasted with the relatively light punishment for illicit sexual intercourse with a single woman (80 strokes), the law severely punished the pollution of another man's lineage harshly:

He who fornicates with another man's principal wife (*gian nhân thê*, 奸人妻者) shall receive the punishment of life exile or death (以流死論), [if it is with a] concubine, the punishment shall be reduced by one degree. The wife or concubine shall also be sentenced to life exile. Persons of high status shall be subject to other regulations (*quý giả biệt luận*, 貴者別論). The [offender] shall make reparations [to the husband] according to the law. The principle wife and/or the concubine shall be punished with life exile [and her] property shall be returned to her husband. If they have not yet married, then the punishment shall be reduced by one degree.<sup>82</sup>

Again, implicit in this regulation is that any injury done is to the husband of the accused woman. The severity of the crime also warrants the severity of punishment: in this case, life exile to a distant region or death by strangulation. Although the punishment for illicit sexual relations with a married woman was rather severe for commoner men and below, as the statute above ordained, persons of high status were

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<sup>80</sup> *HDTCT*, pg. 97-100 & discussion below.

<sup>81</sup> Although almost all of the texts examined assume sex as a heterosexual activity, there is one statute in the *Book of Good Government* that proscribes male to male sexual activities. This isolated article will be discussed below.

<sup>82</sup> Lê Code, Hán Nôm Institute, Art. 401.

not subject to these severe punishments, provided they transgressed the marital boundaries downward. Examining the statute closely reveals how status, hierarchy and transgression in different directions were regulated by the sexual order:

Those who engage in illicit sexual activity with another man's principle wife (*thông gian nhân thê*, 通奸人妻) shall be punished with sixty strokes of the heavy bamboo and demoted two degrees (*biếm nhị tư*, 貶二資). He shall pay reparations to the woman's husband according to [his] status. If there is [great] disparity between the social status of the [parties] (*tức quý tiện huyền cách*, 即貴賤懸隔), then [the case] shall be treated differently (*biệt luận*, 別論).<sup>83</sup>

Others who have examined the statute above have remarked upon the seeming contradiction between Article 401 and 405 of the Lê Code, which punishes those who engage illicit sexual activities with other men's wives. On the one hand, article 401 states that the punishment for such a transgression will result in the punishment of life exile or death by strangulation. However, a latter statute specified that the act would be punished by sixty strokes of the heavy bamboo and a demotion of honorary status. Raymond Deloustal and Tạ Văn Tài et al, in their translations and notes have argued independently that the crime in the latter statute must have been of a lesser extent to the one in the previous statute.

Assuming that the second statute refers to a lesser crime, as Dêloustal and Tài do, ignores the status-based principles built into the sexual order. In the legal literature, the use of the two phrases, "penetration" *thông gian* and "illicit sex" *gian* are synonymous. In fact, if there were a difference, one would expect the tougher penalty to apply to the phrase *thông gian* (通奸), which depicts penetration of the illicit act in ideographic

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<sup>83</sup> Lê Code, Art. 405.

form, with the character *thông* (通), illustrating “penetration.” However, if we examine these two statutes with respect to one another and with attention to the status-based sexual order, the second statute could be interpreted as the punishment for persons of high status who engaged in illicit sexual relations with a married woman. First, the punishment is lighter compared to the previous statute, Article 401, which punished fornication with another’s principle wife with life exile or death. However, the second regulation (Article 405) set the punishment at sixty strokes of the heavy cane—a punishment lighter than that of fornication with an unmarried woman—and a demotion by two degrees in the honorary hierarchy. The punishment of demotion in the honorary hierarchy further suggests that the regulations was intended for persons of high status: the demotion marked a symbolic punishment important for high-status individuals.

The last clause specifying that such crimes involving individuals of great disparity in status be treated differently is suggestive of the hierarchical nature of the sexual order. High status individuals who transgressed sexual mores downward might receive light punishment, but transgressions up the social hierarchy received the harshest punishments. Article 407 punished harshly the slave who dared to offend upward in the sexual-social hierarchy:

Slaves (*nô tỳ*, 奴婢) who fornicate with their master’s principal wife (*thê*, 妻), daughters, daughters-in-law, and concubines shall be punished by decapitation. Their property shall be returned to the husband. [Fornication] with the master’s relatives or [male] relative’s principle wife shall be punished in the same manner, [as] are guests of the home [who so violate this provision]. The woman shall be punished with life exile (*lưu luận*, 流論).

The difference in punishment for someone violating the sexual order upward against those who violate the hierarchy downward demonstrates the fear of pollution within the logic of sexual regulation. While the preponderance of the evidence revolves around the pollution of female bodies, and hence the male agnatic line, this fear of pollution appears to be the guiding force behind the proscription of same-sex relations.

### Same-Sex Relations

The documentary evidence on same-sex activity for the early modern period is sparse and barely sufficient to permit generalization. The relative absence of sexual regulation with regard to same sex relations is worth commenting upon, however. The only statute that proscribed trans-gendered activity is article 305 of the Lê Code, which prohibited commoner men from castrating themselves (*tự yêm*, 自阉) and punished those who violated the regulation with life exile.<sup>84</sup> Moreover, the statute imposed harsh punishment on those who harbored castrated men as well as village officials (*xã quan*, 社官) who neglected to uncover and punish such violations. The village officials were sentenced to penal servitude.<sup>85</sup> Although lack of context limits our interpretation of this statute, it appears as if the logic of this statute was to maintain status boundaries. From this statute and the status hierarchy, it appears as if eunuchs (*hoạn quan*, 宦官) were the only persons who could legally be castrated. This proscription against self-castration

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<sup>84</sup> Lê Code, Art. 305.

<sup>85</sup> Id.

appears to have been a mechanism to maintain a strict boundary between commoner and servant, and “real men” from eunuchs, whose distinguishing characteristic was castration.

Aside from self-castration, there is only one other instance in the laws that regulation same-sex relations. The *Hồng Đức Thiện Chính* contains one regulation punishing a servant who had in engaged sexual relations with the son of the head of the household. The complexity of the issue and terms used bear a complete citation of the regulation:

Adopted sons (*nghĩa nam*, 義男) and designated successors (*tư nam*, 嗣男) who fornicate (*gian*, 奸) with their adopted mothers [shall be punished] the same as (*đồng*, 同) male household servants [*cư công nhân*, 居工人) who fornicate (*gian*, 奸) with the son[s] of the head of the household (*gia trưởng nam*, 家長男) shall be decapitated (*trảm*, 斬).<sup>86</sup>

The regulation, included in a group of statutes proscribing sexual relations between family members, regarded relations between a male household servant and the sons of a household of the utmost concern: so much so that it prescribes the harshest punishment for the violation. The heinousness of the crime warranted the heaviest penalty available to non-rebels: decapitation. Although others have translated the statute to suggest that it only regulated sexual relations between female servants and male members of the household,<sup>87</sup> a close reading of the language used suggests that it proscribed a male servant from sodomizing the son of a household. First, the statute specifically referred to the act of fornication (*gian*, 奸)—more specifically, penetration--as something the servant did to the son of the head of the household. Penetration, as discussed above,

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<sup>86</sup> *HDTCT*, pg. 52.

<sup>87</sup> Nguyễn Sỹ Giác, *Hồng Đức Thiện Chính Thư*, op. cit., (1959), 63.

described an action that men performed, while women simply “consented” to fornication (*hòa gian*, 和奸). Thus, the penetrator in the statute—the servant—can only be a male. The statute itself did not proscribe same-sex relations, but suggests a larger concern within the sexual order: that of the violation of boundaries and the potential pollution of the agnatic line.

In the case of illicit sexual relations involving a male servant and the son of the head of the household, the punishment suggests the severity of the crime and the underlying logic of the proscription. The act of penetration implied a sexual hierarchy—here, penetration of the son of the head of the household—implies dominant/subordinate roles. As the penetrator, the servant played the dominant role, disturbing the proper social and sexual order. At the heart of the sexual order was this control over sexual access to women, with men performing the active sexual role. Here, by penetrating the son of the head of the household, the servant has polluted the family line. Sommer argues that during the Qing Dynasty, this division in sex roles lay at the heart of the sexual order in the regulation of sexuality during the Qing Dynasty. He elaborates,

Penetration in its proper place initiated individuals into adult gender roles: in a fundamental way, one became socially male or female to the extent that one played a specific role in a stereotyped act of intercourse . . . to become a *real* male or female required successful performance of the appropriate sexual role.<sup>88</sup>

Having been penetrated by a person of mean social standing, the son of the head of the household could no longer play the role of a proper male, but was somehow rendered female and subordinate to the male servant. The case and subsequent regulation suggests

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<sup>88</sup> Sommer, *Sex Law & Society* (2000), 117.

that the concern of the state was related to pollution and not sexual preference. In light of the proscription against self-castration and the preceding regulation, it appears that legal discourses and practice were concerned with the maintenance of proper social boundaries that had been gendered according to sex roles. While legal sources only afford momentary glimpses into official constructions of transsexual activities, popular literature provides added insight into same-sex unions that must have taken place in early modern Vietnamese society.

The most famous literary example of same-sex attraction and trans-gendered identity is related in the seventeenth century Buddhist story of Quan Âm Thị Kính (觀陰氏敬), one Vietnamese incarnation of the Avelokitesvara.<sup>89</sup> Dating from the sixteenth or seventeenth century,<sup>90</sup> the tale of Quan Âm Thị Kính depicts the life of a young pious woman whose in-laws and fellow villagers wronged her. In the legend, Thị Kính's husband and parents-in-law cast her out of their home after her mother-in-law walked in on her pulling a hair out of her husband's back. Ashamed and unwilling to bring humiliation on her family, Thị Kính disguised herself as a young monk (*trá hình nam tử*, 詐形男子)<sup>91</sup> and wandered aimlessly until the venerable master of a monastery in a nearby village accepted her. She took the name of *Kính Tâm* (敬心) and worked, and

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<sup>89</sup> My discussion of Quan Âm Thị Kính is based upon a nineteenth century wood-block print of the seventeenth century story. Copies of this story, written in the *nôm* script, can be found at the Han-Nom Institute and the National Library in Ha Noi. Nguyễn Lang argues that the story was likely written by a Buddhist monk based on the theatrical renditions of the story in villages throughout the Vietnamese states.

<sup>90</sup> Nguyễn Lang, *Việt Nam Phật Giáo Sử Luận*, vol. 2: pg. 90

<sup>91</sup> *Quan Âm Thấu tử bản hành* (觀音透死子本行), Viện Hán Nôm, Ms. AB.639, 12a.

devoted her life to the Buddha faithfully. However, even disguised as a young boy, *Thị Kính* could not conceal her “beauty,” and caught the attention of *Thị Mầu*, the wanton daughter of a successful man in the village. *Thị Mầu*, “upon seeing that the young monk was like the green spring, (*trông thấy bấy giờ xuân xanh*, 目望債閉除春青)” was smitten.<sup>92</sup> After giving birth to a child whom *Thị Mầu* claimed was *Thị Kính*’s son, *Thị Mầu* abandoned it in front of the temple. Throughout the latter part of her life, *Thị Kính* lived accused as the father of *Thị Mầu*’s child and raised the abandoned child. Despite the fact that the child was not hers, the legend continues, she raised it lovingly, and the text suggests, as any mother might have. Upon her death, while disrobing *Thị Kính*, they finally discover that she was, in fact, a woman, as her spirit emerged in the west in the image of a mother bearing a child.<sup>93</sup> In the story, while *Thị Kính*’s gender had been inverted, she continued to embody characteristics becoming of a female. *Thị Mầu*’s, on the other hand, was gendered as a male predator, who suddenly became attracted to the beauty of a “green spring.” Even as a young male monk, *Kính Tâm* (*Thị Kính*) attracted *Thị Mầu*’s attention because of her “spring-like” demeanor. Although she became a male externally, her feminine beauty was what moved the licentious *Thị Mầu* to covet her.

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<sup>92</sup> Id., 11.

<sup>93</sup> Id., 28a.

## IV. The Sexual Order for Women

### Pre-marital Sex

While official discourses systematically ordered female sexuality, in practice, the regulation of women's sexual activities varied according to the individual circumstances of the case. While the law technically forbade sexual relations between commoner men and women who were not married and ordered the same punishment for both, in practice, young women bore the brunt of the social and legal repercussions. For example, a regulation in the *Book of Good Government* specified that men and women should receive the same punishment for illicit sexual relations:

Men and women who have become betrothed but have not passed the threshold [of marriage] (*nam nữ giao hôn vị hợp quá môn*, 男女交昏未合過門) [and] privately engage in illicit sexual relations (*tư hạ thông gian*, 私下通奸) have violated morality (*phạm giáo hợp*, 犯教合) and shall be punished with one hundred strokes of the heavy cane.<sup>94</sup>

However, two cases adjudicated by the magistrate Lương Thế Vinh (1441-?)<sup>95</sup> and presented in the *Book of Good Government* suggest that young women accused of sexual impropriety bore the responsibility of the act. In both cases, the parents of the pregnant woman brought suit against an accused lover; however, the decisions rendered were detrimental to the women only. Lương Thế Vinh reported that cases similar to those led to the establishment of clearer rules with regard to young women and illicit sexual relations.

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<sup>94</sup> *HDTCT*, pg. 96.

<sup>95</sup> Lương Thế Vinh passed the examinations and became a laureate in 1463. It is unclear when he decided these cases, but certain that they occurred in the second half of the fifteenth century.

The first case cited involved a young, unmarried woman whose parents, the magistrate opined, had been too choosy in selecting a husband for her. Because of their delay, the young woman had come of age, and “[her] emotions had already moved” (*niên trưởng nhân tình cảm động*, 年長人情感動).<sup>96</sup> The text of the case reports that the young woman had coveted a young student, but afraid to express her feelings, engaged in sexual relations with a poor neighbor and became pregnant. Upon learning that their daughter was pregnant, her parents brought suit against the young student, who swore in court that he did not engage in illicit relations with the woman. After lengthy questioning of both the student and the neighbor, Lương Thế Vinh, referring to a Ming law, declared that there was no evidence to suggest that either of the men engaged in sexual relations with the woman. As for the young woman, he continued,

The licentious woman is pregnant (*gian phụ hữu dục*, 奸婦有孕), and there is evidence to [determine her guilt] (*sở phụ hữu bằng*, 所婦有憑).<sup>97</sup> However, there is no evidence upon the man (*phu*, 夫<sup>98</sup>), and so it is determined that the woman shall be held accountable for the crime of consenting to illicit sexual intercourse (*chỉ tọa phụ hòa gian chi tội*, 止坐婦和奸之罪), and [according to the law] on consenting to illicit sexual intercourse, [she] shall be beaten with the heavy stick with eighty strokes.<sup>99</sup>

Here, the law and adjudication of the law placed the burden of the sexual relationship upon the daughter. Thus, although in rhetoric, men were forbidden from engaging in sexual relations outside of marriage with commoner women, in practice, the stigma and

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<sup>96</sup> *HDTCT*, pg. 97.

<sup>97</sup> *HDTCT*, pg. 99.

<sup>98</sup> In this context, the characters husband and wife are used as man and woman.

<sup>99</sup> *HDTCT*, pg. 99.

burden of the relationship fell upon women who entered them. Moreover, as a result of this case and others in which women had become pregnant, a subsequent statute forbade magistrates from attempting to find a male participant guilty without evidence.<sup>100</sup> In practice, then men's sexual activities were usually only limited in theory. In addition, statutes emerging from cases served to protect men's sexual license even further, making it difficult for sympathetic magistrates to find two guilty parties. The upshot of all this was to create in legal practice as well as rhetoric, an extremely restrictive sexual order for women.

The *Book of Good Government* records another similar case that led to specific statutes regarding children born to women who were found guilty of licentiousness. Similar to the previous example, the *Book of Good Government* records the case of a young (unmarried) woman who had engaged in sexual relations and had become pregnant. Her parents, after determining that she had engaged in relations with a neighbor, brought suit. However, just as in the above case, the magistrate overseeing the case asked if the young man had been caught engaging [in the act]. Upon hearing that he was not, but “seeing that the girl had become pregnant, [the magistrate] found her guilty of the crime (*kiến kỳ nữ hữu dụng, ung toạ tội tại nữ* 見其女有孕應坐罪在女).”<sup>101</sup> This example replicates the previous one in which Lương Thế Vinh found fault in the woman. As a result of this case, and others like it, the *Book of Good Government* records that a statute was established limiting the legal rights of children born to women in such

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<sup>100</sup> Id., 100.

<sup>101</sup> *HDTCT*, page 100.

circumstances. The statute declared that in instances of illicit sexual relations, “If the woman has a child, then [s]he will be regarded as a ‘licentious woman’s<sup>102</sup> child’ (*du dǎng chi tử*, 遊蕩之子) and may not inherit property along with his/her brothers and sisters. Whoever violates this law shall have committed a grave crime.”<sup>103</sup> The preceding statute carried the legal restrictions upon women’s sexual activities one step further. Ostensibly, the law served to protect legitimate children from encroachment by their disgraced brothers and sisters. However, by marking the children and effectively, their mother, for a lifetime, the statute effectively branded the woman and her offspring, subjecting them to social humiliation for the rest of their lives. Such punishments likely served as warnings to women contemplating the act.

Cases punishing unmarried women for illicit sexual activities were not unique to the early period of the Lê Dynasty. Evidence from the eighteenth century suggests that in the ensuing centuries, single women accused of sexual relations were not only punished while their male partners were absolved, but were also subjected to extreme public humiliation. The case cited here is unique in that it involved a woman described as a “moonflower,” (*gái nguyệt hoa*, 女丐月花), suggesting that she was somehow engaged in professional prostitution. During a dispute with neighbors, the woman claimed that her fate led her to the path of working as a “moonflower” (*tội phạm gái làm đường nguyệt hoa*, nôm: 碎分女丐濫唐月花). Despite her debased status, however, the manual

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<sup>102</sup> I am translating the phrase “*du dǎng*” with the more benign term “licentious woman.” However, the text of the statute, as well as various Sino-Vietnamese dictionaries, suggest that the word should be understood as “whore.”

<sup>103</sup> *HDTCT*, 100.

records that she was condemned by fellow villagers, ostensibly for becoming pregnant out of wedlock. This case is particularly interesting because it suggests that legal definitions of “illicit sex” for women had changed by the eighteenth century and because it was written up in the vernacular.<sup>104</sup> The text describes a series of events that ostensibly determined the woman’s guilt, but in the process, subjected her to an extremely humiliating scene. The manual relates that upon recognizing that the woman looked different from other days (nôm: *hình dung khách ngày xưa*, 形容客碍日初古), they

Guessed that she had become unruly, then forced her out (nôm: *bát ra*, 扒羅出) to the village to investigate. They asked her to confess the truth, or else village regulations would not forgive [her] (*chẳng thì khoán lệ chẳng tha đâu là*, nôm: 粧辰券例粧他兜羅). Reminding her that even though she might be a “good” word missing? she was still a woman, and again urged to confess her [crime] so that it will be apparent [to all].<sup>105</sup>

If the woman had acquiesced, and one imagines that many like her did so, she might not have entered the historical record. However, in an audacious move claiming her right to a trial, the woman refused to admit any fault, prompting the village to bring her to the local magistrate, who found her guilty of the charge. The process of investigating the woman’s guilt deserves particular attention. The manual records:

Five pieces of white paper were placed on the ground, and they forced the woman to sit [nude] on top of the papers after which time [the woman] was hit a round (*đánh một xuống cho an*, 打沒龍下朱安), upon her genital area (*cứ ngay âm hộ*, nôm: 據宜正陰戶), pasted the leaves of the *xước vông* plant (*cỏ xước vông*, 蘇蕨) upon her two big toes and said, “We shall see [the matter] clearly, for if she is being falsely accused (冤), then the paper shall be white.”<sup>106</sup>

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<sup>104</sup> *Công án tra nghiệm bí pháp* (公案查驗秘法), Viện Hán Nôm, Ms. A1760, 14.

<sup>105</sup> Id., 14a.

The commentary preceding the recitation of the case alludes to the concluding verdict of the investigation: that the woman was guilty of illicit sexual relations and was indeed pregnant at the time.

Although the facts of the case remain ambiguous, the method for investigation of the alleged illicit sexual activity illuminates some part of the rationale behind the prevailing regulations of women's sexuality. Following the description of the case, a series of instructions in classical Chinese guides magistrates on future cases regarding young women accused of illicit sexual relations (*ngiệm dâm nữ chi pháp*, 驗淫女之法). The instructions replicate the process described in the above case but also include a descriptive list of ways to determine the extent of a woman's pregnancy. Without thought to the potential innocence of the woman, the instructions simply note that if an accused "licentious woman" were one month pregnant, there would be a drop of blood; if she were two months pregnant, then the image would be one of a tiny, flower-like blotch, and if she were three months pregnant, a blotch in the shape of a piece of ginger.<sup>107</sup> However, that the plant used in the process, *cỏ xước*, was used to induce a monthly cycle meant that any woman accused of illicit sexual relations would eventually be found guilty of becoming pregnant out of wedlock. Moreover, one might imagine that a beating upon one's genital area might also catalyze the bleeding process. Such a process has enormous implications for understanding the logic behind the legal procedure.

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<sup>106</sup> Id., 14b.

<sup>107</sup> Id.

Although the language used in the case speaks of pregnancy, it thinly masks the primary concern: that a woman had engaged in illicit sexual activities. In fact, the classification of the offense in the manual, in contrast to the statutes, is not in punishing pregnant women, but explicitly to punish “licentious women” (*dâm nữ*, 淫女). The process of determining guilt subjected the accused woman to public humiliation and condemned her for her lifetime. By making the invisible--illicit act--visible, the investigation procedure shifted the power balance even more in favor of the investigator. Recall that initially, the woman had the power to dare her accusers to prove her purported crime. The procedure outlined in the manual inevitably shifts that power balance toward the accusers, who will always be able to demonstrate that an accused woman shall shed blood on a piece of paper. Moreover, the process has a practical outcome: by flushing out the woman’s uterus, the “investigation” served as an effective abortion tool. As the uteral lining is emptied, so is the potential child within the body, getting rid of the offending result of the illicit act.

Depictions of similar public pronouncements against young women accused of licentiousness in popular theatrical and literary form suggest that such public inquisitions were regular, though perhaps not as severe. When we last left the legend of Avelokitesvara, Thị Kính had taken the form of a young male monk by the name of Kính Tâm (敬心), whose beauty captured the imagination of the coquettish Thị Mầu<sup>108</sup> (氏谋), the daughter of a wealthy villager. Indifferent to Thị Mầu’s advances, the young monk

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<sup>108</sup> Another pronunciation for the second character is “muu,” which in the vernacular, means “scheming.” Thus, an alternative representation of the woman’s name would be “Female Schemer.”

continued to meditate and tend to the business of the monastery. In the meantime, Thị Mẫu became pregnant and was dragged out into the village center by its elders for investigation. The scene described in this piece of literature eerily resembles that of the legal case outlined above. Here, the villagers publicly accused and condemned Thị Mẫu, until she confessed that the father of her child was the monk, Kính Tâm. In this instance, Kính Tâm was beaten along with Thị Mẫu, but the head of the monastery provided the money to buy him/her from the rest of the punishment. Thị Mẫu, meanwhile, had been banished as a licentious female, and after she gave birth, left the child at the door of the monastery, and left the village, in self-imposed exile.

Although in the previous cases, the woman accused of illicit sexual relations endured harsh legal and social punishments, there were instances in which the provincial magistrate interpreted the law flexibly to benefit the accused woman. A sixteenth century case recorded in the *Book of Good Government* recounts the story of another young woman who became pregnant and denounced publicly by fellow villagers. Unmarried, the woman lived with another woman and her<sup>109</sup> husband until his departure to a distant place.<sup>110</sup> During the time the two women lived in the same household, the younger sister became pregnant, initiating the following chain of events:

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<sup>109</sup> The text is ambiguous as to whether the two women were sisters. Although they refer to the two as “eldest woman” (*trưởng nữ* 長女) and “younger woman” (*tiểu nữ* 小女) suggesting that the two are sisters. However, there are no other words signifying that the two are sisters (such as “elder sister, younger sister” *ti muội* 姊妹) or referencing the husband to the younger sister. Because of the absence of these other pronouns, which would generally be there, I have chosen the more ambiguous term of “younger/elder” woman instead of assuming that the two were sisters.

<sup>110</sup> The text of the case is unclear as to where the husband of the elder's sister went. One presumes that he was called to corvée or military labor.

In the month [the baby was] due, several people claimed that [the unmarried woman] had engaged in pre-marital sex (*hữu ngoại tình*, 有外情), and brought her to the magistrate, [who] found her guilty of having a child out of wedlock. (*vô phu hữu tử tọa tội* 無夫有子坐罪). [She] protested (*minh* 鳴), and appealed [her] case to the higher authorities [*thông hoàn chư thư* 通還諸書].<sup>111</sup>

Armed with the elder woman as witness to her chastity, the younger claimed that she could not have had illicit sexual relations, for she never spent a moment apart from her sister. The accused woman's claims that as "two women living in the same household, if one moved, they moved together, if [one] lay anywhere, they lay together," and therefore the younger could not have had sexual relations with anyone. After listening to her claims, the magistrate examined the child and seeing that the child was without a skeleton (*vô cốt*, 無骨), determined that the pregnancy could not have been transferred by a man:

And so, the magistrate asked the young women, "As two women living in the same household, do you interact with one another closely<sup>112</sup> {*tuong giao hội*, 相交會}? The younger woman replied, "Yes." And so, he asked the elder sister if she had a husband. She replied, "Yes." After that, [the magistrate] then asked what day her husband had left and after his departure, if the two continued to interact with one another. [They replied], "Yes." And then, he asked about [the elder woman's] monthly cycle (*thủy nguyệt*, 水月). She replied, "It had just ended."

Apparently having heard all the necessary evidence, the magistrate declared that younger woman was not guilty of illicit sexual relations. His spectacular reasoning is so creative that it bears a full citation:

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<sup>111</sup> *Book of Good Government*, Hán-Nôm Institute, pg. 96.

<sup>112</sup> I am translating to capture meaning. The magistrate's question about interaction refers to the intimate activities of sleeping, bathing, etc.

The two women were interacting with one another closely, and [the younger one] gave birth to a son without a skeleton. This [can be explained] by reason that [the older woman] was the one who became pregnant originally (*nguyen hữu thai giã*, 原有胎者) when she received her husband's essence (*thu phu tinh*, 受夫精). If she had not transferred her husband's essence to the younger woman, then she herself would have become pregnant. [However], she transferred his essence to the other (the younger sister), making her accept the child, which is why the child's appearance is like that of the [elder woman's] husband (*hình toàn như bị phu*, 形全如被夫). . . [There] is no evidence of illicit sexual activities (*gian dâm vô tích* 奸淫無跡). [It is concluded that] she was wrongfully accused (*nhân tình dị vu*, 人情易誣), for had there been licentiousness (*hễ hữu gian dâm*, 係有奸淫), then [it] have become apparent in the investigation.<sup>113</sup>

The magistrate's and girls' fantastic explanation for the younger woman's pregnancy illustrate the extent to which legal statutes could be adapted to everyday circumstances. That the child resembled the husband of the elder woman suggests that he might have been the one who engaged in sexual activities with her; after all, the timing would have been appropriate. However, the women and the magistrate were willing to bypass that conclusion to explain away the likeness of the child to the man.

The sequence of events that brought this case to the provincial magistrate bears some discussion. That the woman was able to appeal her case to the higher court suggests that as the accused, she had the right to appeal and challenge the representation of her as a licentious woman, despite her very obvious pregnancy. The provincial magistrate's absolving the younger woman from the accused crime of illicit sexual intercourse suggests that while the law was strict with respect to women engaging in sexual relations outside of marriage, when they could, some magistrates interpreted the law flexibly. In this case, the magistrate went out of his way to construct a rationale that

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<sup>113</sup> *HDTCT*, pp. 97.

lay within the boundaries of the law, and called upon the infallibility of the investigative process to add legitimacy to his ruling. That the magistrate officially absolved the young woman in question likely helped to mediate the social consequences of the accusations leveled against her, but it appears that such fantastic acquittals did not happen very often.

### **Extramarital Affairs**

Given that the sexual and political order was premised on the notion of wives' fidelity toward their husbands, one is not surprised to discover that women who transgressed the boundary between husband and wife were punished severely, depending on the status of their partners. Evidence from the Lê Code and the *Book of Good Government* specified varying degrees of punishment—from sale to life exile. As outlined above, married women who committed the crime of illicit sexual relations with their equals were subject to the confiscation of their property and one hundred strokes of the hard bamboo. The law also allowed him to sell his wife to recoup the cost of finding another wife. Although the law preferred the sale of a wife guilty of illicit sexual activity to be in marriage (*thú mãi* 娶買), in practice, nothing kept husbands from selling their cheating wives as slaves. For instance, wives who committed such actions with workers in their household were exiled for life in Viễn Châu, the next to furthest outlying territories at the time. Though the ostensible crime might be intercourse itself, the punishment meted out was unusually harsh for the worker and women because of the violation of class boundaries. A slave/worker man who penetrated a commoner's wife not only polluted that man's lineage, but the crime was not explicitly intercourse itself,

but allowing someone of a lower class background to penetrate the social stratum. Thus, the law states, that “wives who allow [worker] men to seduce them and commit illicit acts, though they may be private acts (*tuy thị tư sự* 雖是私事), [they] violate custom. For [such] illicit consensual sexual acts, they shall be exiled for life to Viễn Châu (遠州) and her property be absorbed into the public coffers.”<sup>114</sup>

Although the law specified that the wife who consented to fornication (*hòa gian* 和奸) would be punished with life exile or sale, extant cases suggest that the punishment was often even more harsh. The *Toàn Thư* and *Hồng Đức Thiệu Chính* records several cases in which wives found guilty of consenting to illicit sexual relations were punished with death. In the fall of 1435, the *Toàn Thư* recorded,

In Quốc Oai prefecture, Thượng Xá village, a woman by the name of Nguyễn Thị Ngọc, who already had eight children with her husband. Her husband became ill with leprosy (夫染惡疾), [and] Nguyễn Thị Ngọc did not care for him (不救養盜夫) and [instead] participated in illicit sexual activities (私通) and conspired with a Nguyễn Chiêm to marry [him] (改嫁). She was punished with strangulation (絞罪).<sup>115</sup>

Although the above example may seem extreme, other cases recorded in the chronicles and the *Book of Good Government* recount the tales of licentious women who endured the same fate. In one instance, a woman by the name of Nguyễn (no relation), seeing that her husband (*gia*, 家) was poor and aging, intended to engage in an extramarital affair (*cố ý ngoại tình*, 固意外情) and was punished with strangulation (*định tọa giáo tội*, 定坐絞罪). Before her death, the magistrate confiscated her property, gave it to her husband,

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<sup>114</sup> Hồng Đức Thiệu Chính Thư, article 22?

<sup>115</sup> *DVSKTT*, Book 11, pg. 29b.

and punished her with fifty strokes of the light cane as ordained by the law.<sup>116</sup> In the two cases cited above, the women who transgressed marital boundaries by engaging in illicit relations were sentenced to death, presumably the harshest of punishments. However, another case recorded in the *Toàn Thư* recounts a crime even more heinous: violating the status barriers. In another case in the middle of the fifteenth century, a woman who had engaged in inappropriate relations with her adopted son also conspired to kill her husband. The two were punished with decapitation.<sup>117</sup> That the *Book of Good Government* cites the punishment ordained by law as significantly less than what the accused women received suggests that in practice, women endured harsher repercussions for engaging in illicit sexual activities.

#### **V. Conclusion: Targeting Wayward Women**

This chapter began with a critique of discourses on sexuality in the historiography of Southeast Asia. In providing a preliminary sketch of the structures and rationale behind the regulation of female sexual activities and the ways in which women's lives were affected by these structures, I suggest that local custom and state law tried to control sexual access to women as a mechanism of social and political control. Women's bodies, in legal and customary constructs, were the material artifacts that transmitted a male agnatic line physically and spiritually. Because of the importance of their roles as transmitters of that line, women who transgressed the prescribed sexual order were often punished more harshly than their male counterparts. That women were held responsible

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<sup>116</sup> *HDTCT*, 122.

<sup>117</sup> The text of the chronicle does not specify that they were engaged in "illicit sexual activities" but it suggests inappropriateness associated with it. *DVSKTT, Bản Kỷ Thực Lục*, vol. 11: 28b.

for access to their bodies suggests the cultural capital and power they held. This power to control access to their own bodies—and potentially subvert the spiritual, social and political order—was realized as a large number of young women alarmed the regime by turning to the Catholic lay religious houses.

The sexual order also served as a mechanism for control of the social hierarchy. The law punished women who violated the sexual hierarchy downward and their male partners who dared pollute the bodies of women who were their social superiors. The criminalization of male slaves violating sexual boundaries upward purportedly protected status boundaries. This proscription applied to same sex relations as well. Male servants, as discussed above, were punished severely if they engaged in illicit sexual relations with the sons of their masters. Male masters who engaged in sexual relations with their female slaves, however, did not face legal restrictions on their activities. Their exemption from the rule also lay within the logic of the sexual order. By engaging in sexual relations with those of lower social status, they retained their superior status. However, women who engaged in sexual relations downward relinquished their higher status, and thus caused potential disorder in the male agnatic lines. This sexual order placed particular concern on those who violated status boundaries, for the ability to preserve a strict social hierarchy ensured political stability.

Toward the end of the seventeenth and eighteenth centuries, accusations of licentious behavior on the part of young women targeted women who lived outside the sexual order. Young women who lived in religious houses came under particular scrutiny. Part of the suspicion surrounding young women living in Christian religious houses was

linked to the potential danger they posed to the existing sexual order. While women who joined the Buddhist monasteries were generally widowed and older, the women who joined Catholic religious houses in the seventeenth and eighteenth centuries were overwhelmingly young women.<sup>118</sup> These young women, living together outside of the family system posed an immense threat to a sexual order that was premised on controlling access to women. The religious women who lived apart from males, however, controlled men's access to their own bodies. Increasingly, one finds anecdotal evidence suggesting that the all female lay religious houses posed a threat to the prevailing political order.

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<sup>118</sup> Nhung Tuyet Tran, "*Les Amantes de la Croix: an Early Modern Vietnamese Lay Sisterhood*," in Bousquet & Taylor, *Le Vietnam au féminin*, (Paris: Les Indes Savantes, *forthcoming*).

**Chapter 5**  
**The Property Regime:**  
**Inheritance, Ownership, and Autonomy**

Students of Vietnamese history are familiar with the cliché that Vietnamese women enjoyed unparalleled property rights during the Lê Dynasty (1428-1778), demonstrating the uniqueness of the Vietnamese imperial experiences.<sup>1</sup> This chapter reassesses such assertions by examining women's claims to property through code, custom, and practice in village society.<sup>2</sup> Women's claims to property, this chapter argues, were structured by state code and regulated by (male) magistrates, village headmen, and lineage heads. These claims were conditional under the law and mediated in practice by their ability to demonstrate their worthiness, particularly to male village heads. Far from the picture of an egalitarian and bilaterally-organized property regime painted in previous scholarship, we find that women's claims were severely circumscribed by state and local authority and customary practice.

Although the law and custom limited women's claims to property and succession, in practice, women found ways to mark their ownership in perpetuity. The property regime was a major area in which women could bypass the established structures and obtain de-facto authority over village economic and religious life. They did so by transferring property to the village and endowing public stèles. This process, termed in

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<sup>1</sup> Keith Taylor (1986), *Birth of Vietnam.*, 77; Tạ Văn Tài, "The Status of Women in Traditional Vietnam: a Comparison of the Code of the Lê Dynasty (1428-1788) with the Chinese Codes," *Journal of Asian History* 15, 2 (1981), 123; Trần Mỹ Vân, "The Position of Women in Traditional Vietnam," in *Asian Panorama* (1990).

<sup>2</sup> I borrow this phrase from Philip Huang, *Code Custom, and Legal Practice: The Qing and the Republic Compared* (Stanford: Stanford University Press, 2001).

this chapter the *endowment of village succession*, proved to be an alternative method of succession for women. Thus, we encounter the ironic consequence that limitations within women's private lives led them to make public contributions to the village economy.

This chapter opens with a brief discussion of the theoretical issues that emerge from an investigation of the property regime. It then assesses the available empirical evidence to examine the parameters of daughters' and wives' claims and authority over property in the process of household division. It then moves toward a discussion and examination of the succession process as outlined in the available legal evidence. It addresses the issue of bilateral succession and argues that the regulations with respect to succession were wholly compatible with a patriarchal logic. Finally, it ends by proposing an alternative method of succession that women employed. Throughout the chapter, we will see that examining the property system merely to identify it as Chinese or "not" simplifies the reality of women's experiences in daily life. Rather, state officials set up a property regime that correlated with the logic of their mission (bureaucratic reorganization and centralization along neo-Confucian lines), while local women mediated within this system.

### **Issues**

Scholars of Vietnamese history evoke the Lê Code and its alleged guarantee of equal property rights for daughters as evidence of an ancient, matriarchal tradition transitioning to Chinese patriarchal norms,<sup>3</sup> evidence of bilateral origins,<sup>4</sup> or the explicit

desire of the Lê lawmakers to protect women's rights.<sup>5</sup> The different variants of this argument generally converge on one issue: that Lê Dynasty law reflected Vietnamese custom. If the law reflected custom, the argument goes, then Vietnamese custom motivated lawmakers to codify the "equal civil rights" of women.<sup>6</sup> Such interpretations of a fifteenth century legal code pose a number of problematic theoretical issues.

Adherence to this model suggests a binary between a dynamic early modern Vietnamese state that exemplified the "modern" Western legal principles of personal rights. Linking the codification of women's property claims to a liberal notion of personal rights and proto-feminism on the part of fifteenth century law-makers risks inappropriately imposing twentieth century legal principles onto the Lê Code. The notion of personal rights as an absolute only emerged out of post-enlightenment thought in the West. The term "right," as in this chapter, refers to the claims that the law granted individuals, which were not absolute. In theory, the sovereign granted someone the "right" to own private property. This privilege could just as easily be taken away, and can not be interpreted as an absolute claim. Finally, imputing that the codification of women's claims to property emerged out of a proto-feminist agenda positions women's property claims in the early modern period within a Western-inspired framework of

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<sup>3</sup> Keith Taylor, (1986), 77.

<sup>4</sup> Yu Insun, "Bilateral Social Pattern[s] and the Status of Women in Traditional Vietnam," in *Southeast Asia Research* 7, 6; pp.215-31.

<sup>5</sup> "The Lê Code, unlike the Nguyen Code which was a copy of the Ch'ing Code, represented genuine Vietnamese custom with its idiosyncracies and incorporated original provisions unknown in any Chinese code including its model, the T'ang Code, to give equal civil rights to Vietnamese women." Tạ Văn Tài, "Women and the Law in Traditional Vietnam," *Vietnam Forum* 3 (Winter 1984), 23-54.

<sup>6</sup> Tạ Văn Tài, "Women and the Law in Traditional Vietnam," *Vietnam Forum* 3 (1984); 23-53: 23.

feminist struggle against patriarchy. Rather, the statutes and inheritance records of the period should be analyzed within the contemporary processes to lift out the ways in which the property regime affected women's lives.

### **Inheritance as Two Separate Processes**

The issue of inheritance can be separated into two distinct but related processes: household division and patrilineal succession. In her study on women's property rights from the Song to the Republican Period, Kathryn Bernhardt demonstrates that examining household division and succession as two distinct processes illuminates the changing nature of women's property claims throughout Chinese history.<sup>7</sup> Likewise, in the Vietnamese context, studying inheritance through the dual processes of household division and succession reveals the complexity of the impact of these processes on women's lives.

The process of "household division" refers to the parceling of property among family members. In the Chinese context, the principle of equal inheritance for sons governed the process of household division. Daughters generally received a dowry upon marriage, but it was absorbed into the husband's share of household property by law. The process of "succession" refers to the assumption of the role of head of the household after a father's death. This role included the acceptance of ceremonial duties as well. Up to the Ming Dynasty, in the absence of sons, daughters inherited property through the

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<sup>7</sup> The preceding discussion of inheritance as dual processes of household division and succession was paraphrased from Kathryn Bernhardt, *Women and Property in China, 960-1949* (Stanford: Stanford University Press, 1999), Introduction.

process of succession. In the Ming period, daughters' and wives' property rights were severely limited when the authorities implemented mandatory nephew succession, a process whereby a nephew assumed the role of head of the household following his paternal uncle's death.<sup>8</sup>

Conventional wisdom holds that Vietnamese property rights in the Lê period were fundamentally opposed to Chinese social and legal practice. While there certainly were differences between Chinese and Vietnamese women's property rights, it would be simplistic to characterize one as patriarchal, backward, and static and the other as dynamic and modern.<sup>9</sup> In Đại Việt, "household division" referred to the parceling of familial property—which included landed and moveable goods—between family members. By law, household division was to be determined by a will and testament (*chúc thư* 囑書). The prevailing scholarship claims that household division in the Vietnamese context was governed by the principle of equal division for all children, regardless of sex. "Succession" in Đại Việt was marked by the acceptance of the "fire and incense property" (*huong hỏa* 香火) for the maintenance of ancestral offerings.<sup>10</sup> A 1511 edict allowed daughters to assume the *huong hỏa* property in the absence of sons and nephews.<sup>11</sup> This 1511 edict has served as the primary evidence to claims of bilateralism in Vietnamese inheritance practices. Whether or not this edict codified the

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<sup>8</sup> Id.

<sup>9</sup> Grant Evans' review of Wolters' *History, Culture & Region* in a recent issue of the *Journal of Southeast Asian Studies* also questions this binary.

<sup>10</sup> Art. 389; Quốc Triều Hình Luật (國朝形律); Hán-Nôm Institute, A.341.

<sup>11</sup> Yu Insun, "Bilateral Social Pattern[s]," (2000).

customary principles of bilateral succession will be discussed in a separate section below. If examined as two separate processes, we see that the stipulations of the code with regard to household division and succession that allowed women certain claims over their parents' property and over the *huong húa* property were entirely congruent with a patriarchal logic. That said, we now look to the sources to tell our story.

## II. Household Division in the Lê Code

Conventional wisdom holds that principles of gender equality between sons and daughters and husbands and wives governed the processes of household division and succession in early modern Vietnamese society. With respect to household division, Yu Insun has concluded that “family property was distributed equally among all children, regardless of sex.”<sup>12</sup> Wives, too, shared in this gender-blind system, as the existing scholarship tells us that they maintained complete autonomy over the property they brought into a marriage. In the event of the dissolution of a marriage,<sup>13</sup> we are told that a wife shared the “exact same rights” as her husband. These two interpretations of the legal statutes in the Lê Code describe a relatively egalitarian property structure that protected the claims of male and female property holders. However, such claims distort the meaning of the laws on property in the Lê Code. Contrary to conventional wisdom, a

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<sup>12</sup> Yu Insun, *Law & Society in Seventeenth and Eighteenth Century Vietnam* (Seoul: Asiatic Research Council, 1990), 17.

<sup>13</sup> The phrase for “dissolution of a marriage” (*li dị*, 離異) has been translated as “divorce” by Tạ Văn Tài, Yu Insun, & Johnson. I resist translating it as “divorce” to avoid the implications that contemporary institution has. As discussed below, the “dissolution of a marriage” in Vietnamese and Chinese law refers to an act the local magistrate does to a union, not an act that the couple engages in. *See also*, Philip Huang, *Code, Custom, and Legal Practice: The Qing & the Republic Compared*, op. cit., 2001, chapter 5.

careful reading of the Lê Code, other legal statutes, and court cases suggests that the logic of the property principles was to protect the principle of *equal division of household property among sons*. Before beginning a discussion of the statutes and regulations on the division of household property, a brief overview of the kinds of property is in order.

### Categories & Definitions

The Lê Code categorized household property according to its source and type. The term “*điền*” referred to paddy field, while the term “*sản*” referred to the property as a whole. These different types of property were subdivided with respect to the source: wife/mother’s ancestral property (*thê/mẫu tông điền sản*, 妻/母宗田產); husband/father’s ancestral property (*phu/phụ tông điền sản*, 夫/父宗田產); the fire and incense property (*huong hỏa*, 香火); and the newly created property (*tân tạo điền sản*, 新造田產).<sup>14</sup> The designation given to wife/mother and husband/father’s ancestral properties refers to the property that each brought into the marriage. The term, “*trang liêm*, 粧奩,” which technically translates as “powder box,” refers to the personal property that a woman brought into a marriage. This personal property included land as well as moveable goods. The Lê Code decreed that the “fire and incense property,” would be comprised of one-twentieth of the total household landed property.<sup>15</sup> Ideally, this portion of household property would be used to maintain the parents’ tombs and to

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<sup>14</sup> *Quốc Triều Hình Luật*: Art. 374-388.

<sup>15</sup> *Id.*, Art. 389.

pay for offerings to their spirits after they died. The “newly created property” referred to that which the spouses bought or gained together during the span of the marriage.<sup>16</sup> As we shall see in the ensuing discussion, this designation of “newly created property” created special forms of authority for widows, but first, we turn to the property rights of daughters.

### **An Equal Share for Daughters?**

Daughters’ inheritance rights lie at the crux of the debate on inheritance and succession in the Lê period. The most compelling evidence supporting the notion that Vietnamese women enjoyed almost equal civil rights in the Lê Code rests upon an interpretation of Article 389 of the Lê Code. The most prevalent interpretation of Article 389 concludes that it guaranteed daughters an equal share of household property. Based on this reading, scholars have argued that Lê Code guaranteed that “brothers and sisters would share equally in their parents’ general estate.”<sup>17</sup> Such a guarantee, regardless of sex, appears to deviate from contemporary conceptions of the Chinese model of inheritance, in which the law guaranteed equal division for all sons.

When examined closely, however, the famous edict guaranteeing daughters an equal share in household division is much more ambiguous than we have been told. A careful examination of the edict illustrates that such an interpretation distorts the meaning of the law and the implications thereof. The original text of the edict states:

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<sup>16</sup> Id., Art. 374.

<sup>17</sup> Tạ Văn Tài, referring to Art. 387, in “The Status of Women in Traditional Vietnam: a Comparison of the Code of the Lê Dynasty (1428-1788) with the Chinese Codes,” *Journal of Asian History* 15, 2 (1981), 123.

“If, at the mother and father’s death, they have landed property, but did not promulgate a testament in time, the brothers (*huynh-đệ* 兄弟) and the sisters (*ti muôi*; 姊妹) shall reserve first 1/20 [of the property] for the ancestral property (*huong hỏa* 香火) to be entrusted in the hands of the eldest son . . . they shall divide it among themselves (*tuong phân*; 相分). If, [however], the father and mother have left a testament (*chúc thư*, 囑書) then their will shall be followed.”<sup>18</sup>

The preceding excerpt from Article 389 of the Lê Code highlights three important issues with respect to the inheritance claim of daughters. First, nowhere in the text does the statute guarantee daughters *an equal share* to the parents’ property. Any presumed explicit promise to daughters is glaringly absent from the statute.

Second, the statute specifically mentions that the brothers and sisters shall divide the parental property “among themselves” (*tuong phân*, 相分). These two characters prove to be critically important for interpreting the intent of the statute. If the law did in fact want to establish that the siblings should divide the household property equally, the statute would have included the phrase “to divide equally” (*quân phân*; 勻分)<sup>19</sup>, instead of simply having the siblings “dividing among themselves” (*tuong phân*, 相分). This phrase can only be understood in the most general terms, that siblings of a household may divide the household property—minus the “fire and incense” property, among themselves. How the power dynamics within families affected the division of this property was not addressed in the Code.

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<sup>18</sup> *Quốc Triều Hình Luật*, Hán-Nôm Institute, (A.341).

<sup>19</sup> Vietnamese and Chinese legal conventions, as well as a careful examination of the way in which “equal division” is used in this text and other supporting documents, lead me to this conclusion.

Third, the ability of the brothers and sisters to divide the property among themselves was conditional. The statute clearly decreed that *only in the absence of a will and testament* could the siblings follow the procedures set forth by the law. However, if the parents had promulgated a testament, then by law, their will would have to be followed. At the very least, we can say that the law that has so often been used as evidence for the claim that daughters enjoyed equal inheritance rights did not decree it. Both Raymond Deloustal and Tạ Văn Tài's translations of this article support my interpretation that the language of the law does not guarantee daughter's equal inheritance rights.<sup>20</sup> Thus, the strongest evidence pointing to the claim that the Lê Dynasty codified some custom of equal inheritance for daughters is ambiguous.

Moreover, the various statutes and cases in the *Book of Good Government* (洪德善政書), a collection of legal statutes and cases recorded in the sixteenth century, do not support the claim that Lê legal statutes guaranteed equal property rights for daughters. Rather, they demonstrate that the law only protected a son's claim to an equal share of household property. In addition, several statutes serve to limit a daughter's claim to household property. In the various statutes that involve household division and disputes

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<sup>20</sup> "Lorsqu'un père et une mere seront tous les deux decedes en laissant des rizières et des terres pour la disposition desquelles ils n'auront pas eu le temps de transmettre leurs dernieres volontes par un testament, et que les freres et les seurs procederont au partage entre eux, ils devront reserver la vingtieme partie de ces biens a la constitutions du huong hoa destine a assure le culte de leur parents. Cetter part sera attribuee au fils aine qui en aura l'administration et la garde. Ils se partageront le surplus." See, R. Deloustal, "La justice dans ancien Annam," *BEFEO* 10:2 (1910), 500. In Tạ Văn Tài's own translation, there is no indication of the "equality clause," but he and others make the conceptual leap from one to the other: "When the father and mother have died intestate and left landed property, the brothers and sisters who divide among this property among themselves shall reserve one twentieth for this property to constitute the *huong húa* property which shall be entrusted to the eldest brother—the remainder of the property shall be divided among them." Tạ Văn Tài, (1981, 1987)

thereof, daughters are not even considered. For instance, in the law proscribing household division disputes, the *Book of Good Government* proclaims,

[With regard to] the power of the parents to promulgate a testament, or that of the brothers (*huynh-đệ*, 兄弟) to draw up a contract (*văn khế*, 文契) to divide [it]; the state has laws so that the sons and grandsons (*tu-ton*, 子孫) can inherit for generations without extinction . . . This is the king's law to be left for future generations.<sup>21</sup>

The state's position on the principles of household division is clearly displayed in this statute. It specified that those who enjoyed the right to draw up a contract to divide the household property were the brothers (*huynh-đệ*, 兄弟) of a household. The characters used to designate brothers include that for elder brother (*huynh*, 兄) and younger brother (*đệ*, 弟), which can only refer to sons in a household. Elsewhere, Nguyễn Sĩ Giác has translated this statute as "older brothers and younger siblings" (*anh-em*) in modern Vietnamese.<sup>22</sup> The lack of distinction in Giác's translation may have led some to interpret that the statute referred to daughters as well. However, when examining the original text of the statute, one discovers the absence of any mention of a daughter's right to participate in the division process.

Statutes included in the chapter on landed property in the *Book of Good Government* spelled out in a much clearer fashion how household division should take place. These statutes confirm that the principles of equal division of household property only applied to sons. One statute proscribed family feuding over the division of

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<sup>21</sup> *HDTCT*, A.330, Art. 2; Chapter on Landed Property.

<sup>22</sup> Nguyễn Sĩ Giác, trans. *Hồng Đức Thiện Chính Thư* (Sài Gòn: Trường Luật Khoa Đại Học, 1959), 24.

household property. The text of this statute demonstrates to whom the equal division clause applied:

[If, according to] the will and testaments and various documents (*chúc thư văn khế*, 囑書文契) the brothers (*huynh-đệ*, 兄弟) have already divided [the property] equally (*quân phân* 勻分) and seek to re-divide [it], then whoever does so shall carry the crime of impiety (*bột đạo*, 孝道), and shall be punished with 80 strokes of the cane, and be sent to hard labor; he shall be required to forfeit his share.<sup>23</sup>

In the statute cited above, we see that the text does not relate to daughter's share at all. It simply refers to the elder brothers and younger brothers' duties (*huynh đệ*) to divide the property *equally* and without conflict. A daughter's absence of duty in this provision suggests that the law did not consider her a relevant actor in the division of household property.

Other statutes recorded in the *Book of Good Government* reinforce the interpretation that the law only served to protect brothers' shares of household property. In another statute clarifying of how household property should be divided, the text of the law specifically placed the responsibility of overseeing the division upon the eldest son. Whatever ambiguity might have lingered regarding the so-called equality of daughters' rights disappears when we examine what the statutes decreed. In instances where parents passed away before dividing the family property, the law established that "the will and testament (*chúc thư văn khế*, 囑書文契) be entrusted to the eldest son (*trường nam*; 長男) [to administer]; his portion [of the property] must be equal to that of the rest of the

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<sup>23</sup> *HDTCT*, p. 40.

sons' (*chúng tử* 眾子)<sup>24</sup> The law is very specific as to who had the right to equal division: the brothers in the household. In this statute, the phrase "*chúng tử*, 眾子) can only be translated as "the rest of the sons." In classical Chinese, female children will always be designated with the "female" character (*nǚ*, 女).<sup>25</sup>

A corollary statute detailed even more clearly to whom the "equal division" clause applied. It specified that parents were obliged to divide the property fairly among their sons. In this instance, should the parents pass on and "the sons and grandsons' (*tử tôn*, 子孫) landed property is not equal (*bất quân*; 不勻), with one son having much and another having little; then [one] may use that reason to establish a new will and testament."<sup>26</sup> Here again, we see that the law is not concerned with daughters' property claims. The language of the statute reflects the logic of the code: that it sought to protect the property claims of sons and grandsons in a household. A daughter's claim to the household property appears not to be of immediate concern for early modern law-makers. Moreover, when daughters' claims to property were mentioned in the legal statutes, the statutes served to limit their claims.

In the Lê Code and the *Book of Good Government*, there is only one instance in which the law guaranteed a daughter a share of the inheritance equal to that of her brother's share. This particular statute regulated widows' remarriage and provided

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<sup>24</sup> *HDTCT*, Hán-Nôm Institute, p. 38.

<sup>25</sup> The term *chúng tử* can only refer to sons. In this text, regulations on mourning also refer to *chúng tử* and their wives, making it clear that this text only uses the term to refer to sons. *Id.*, p. 30.

<sup>26</sup> *HDTCT*, p. 40.

hypothetical scenarios for the woman's children to inherit and divide hers and her late husband's property. In one scenario, the law specified the succession procedure if woman conceived a son in the first marriage and a daughter in the second marriage. In that hypothetical scenario, the law stated that "upon the latter husband's (*hâu phu*, 後夫) death, the *huong hóa* property shall be returned to his daughter, with respect to the husband's rights and cannot be returned to the first husband's son to succeed (*tu* 嗣)."<sup>27</sup> The logic behind this provision is clear, that the child of another man (the first husband's son) cannot succeed the second husband. Allowing another man's son to succeed one's ancestral property would create *disorder* (*loạn* 亂) with respect to the ancestral offerings. Thus, in this scenario, the daughter may accept the "fire and incense" property and maintain the spiritual sacrifices for her father. But, even if the daughter accepted this property, the law specified that she could retain it only for her own lifetime.

More telling, however, is the statute that regulated household division. It stated, "As for the mother's property, [it] shall be divided in two, the first husband's son to receive one portion and the latter husband's daughter to receive one portion."<sup>28</sup> Here is the only instance in which a daughter is specifically given the same claim to her mother's property as her brother. However, this provision should not be read in isolation. If this scenario is read in tandem with the preceding scenario, it becomes evident that the logic behind this particular regulation was not to protect a daughter's claim to her mother's property, but to restrict it severely. This first scenario was outlined as follows:

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<sup>27</sup> *HDTCT*, page 55.

<sup>28</sup> *Id.*

In instances in which the mother has a son with the first husband [and] he prematurely passes away; she remarries and has a son with the second husband, who passes away; and she passes away without remarrying, then the mother's ancestral property (*mẫu tông điền sản*, 母宗田產) and her share of the newly created property shall be regarded in the will as the *huong hoả* property and given to the latter husband's son so that he can maintain the ancestral rites.<sup>29</sup>

The first portion of the regulation clearly stated that the mother's property would be given to the son of the second husband; the logic behind this provision is clear: upon remarriage, the mother became a stranger to her deceased husband's family, and it would thus have little claim over the property she brought into her second marriage. In this scenario, the son in the second marriage acquired *all* of the mother's property. However, returning to the scenario described above, in which the mother had a daughter in the second marriage, the law provided that the daughter had to split that portion of the mother's property with her half brother: the son of the first husband. The implication of these two portions of the regulation is such that the law is explicitly limiting a daughter's claim to her mother's property. Thus, in this single instance where equal division is mentioned, the law limited a daughter's claim to household property severely, further suggesting that daughters did not share the same inheritance rights as sons.

### **Daughters' Inheritance Rights in Practice**

The preceding discussion demonstrated that the Lê Code's statutes on inheritance were intended to guarantee sons an equal share of household property. Article 389 of the Lê Code, which has often been cited as the evidence to support the interpretation that

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<sup>29</sup> HDTCT, page 54.

daughters enjoyed equal inheritance rights, at best allowed daughters to inherit *some* of the household property *the absence of parental will and testament*. That said, the testaments themselves would reveal more about Vietnamese custom with regard to female inheritance than the law. Very few private testaments remain from the early period under discussion here. The only testaments available to study were written in the last part of the eighteenth century. The limited evidence available does suggest, however, that daughters did not enjoy the right of equal division of household property in practice.

**Example I: Vũ Văn Bản and Trương Thị Loan<sup>30</sup>**

Vũ Văn Bản and his principal wife, Trương Thị Loan, issued a testament in the 8<sup>th</sup> year of Cảnh Hưng (1748) to make clear their wishes for the distribution of their property to three children.<sup>31</sup> The eldest son, Vũ Đức Thắng was their biological son, while the second son, Vu Van Lien and daughter, Vũ Thị Hợp, were the children of a concubine, though it is unclear whether the two were born of the same woman. In their testament the couple carefully designated the source of the property: the couple's property can be divided into that earmarked for the maintenance of ancestral rites (*huong hóa điền sản*, 香火田產); that originating from the father (*phụ điền sản*, 父田產) and the mother (*mẫu điền sản*, 母田產); and the portion of the property the couple acquired

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<sup>30</sup> Since writing this chapter, I discovered that Nguyễn Ngọc Huy and Tạ Văn Tài have seen the collection. They provide a translation of two Nguyen Dynasty documents from the selection (a loan contract and a land sales contract) but make no mention of the testamentary records that I present here. Nguyen Ngọc Huy & Tạ Văn Tài, *The Le Code*, op. cit., vol. 3: 50-51.

<sup>31</sup> *Chúc Thư Văn Khế Cừu Chi*: Chúc Thư Vũ Văn Bản.

together (*tân tạo điền sản*, 新造田產).<sup>32</sup> In this family, the principal wife, Trương Thị Loan, brought an unusually large amount of property to the marriage.

Table I below details the amount of property that each of the children received from the parents. As the chart details, the eldest son, Vũ Đức Thắng, received four times the amount of property that the daughter received, while the second son, Vũ Văn Liễn, received three times as much property. The amount that the eldest son received for the “fire and incense” property appears to conform to the specification that one-twentieth of the property be reserved for the ancestral rites (21%). If we subtract the amount of property earmarked for the *huong hỏa* property (0.69 mẫu) and the dowry absorbed into the eldest son’s property (from his wife) (0.7 mẫu, not displayed in this chart), then the two sons were promised roughly equal amounts of property (6.49 mẫu & 5.99 mẫu, respectively). However, the daughter’s share is remarkably less than either of the son’s property. The total amount of property that she inherited was only equal to 1.83 mẫu of property.

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<sup>32</sup> During the later Lê Period, the character for “new” (新) was tabooed. The character in this text was written with the two radicals switched.

**Table I: Will and Testament of Vũ Văn Bản & Trương Thị Loan**

Child's Name	Fire & Incense Property 香火田產	Father's Property 父田產	Principle Wife/"Mother" 母田產	New Property 新造田產	Other	Total
Vũ Đức Thắng	0.69	1.61	3.5	1.22	.087	7.88
Vũ Văn Liên	0	1.3	3.16	1.1	0.39	5.99
Vũ Thị Hiệp	0	0.9	0.6	0.27	0.06	1.83

All figures are calculated in *mẫu* (畝). One *mẫu* was equal to 3600 square meters.  
Source: Chúc thư văn khế Vũ Văn Bản & Trương Thị Lan

In the above example, we see that the household property was not divided equally between the sons and daughter.

From the text of the testament, we can also tentatively infer several characteristics of the gender dynamics within this family. First, although neither the second son nor the daughter were the natural children of the principal wife, the second son was represented in the testament as if he were her son (reference to their relationship is *mau-tu*, 母子). However, the daughter was represented simply as the daughter of a concubine (reference to their relationship as *đích-mẫu-nu tu*, 嫡母; 女子). In this family, then, a son's standing was related to his gender, while the daughter's standing was related to her mother's status as a concubine. Second, on the last page of the testament, the parents, witnesses and children acknowledged the validity of the document with a signature or a fingerprint. While the two sons signed for themselves, the daughter's husband's acknowledgement of the validity of the document *before her own* fingerprint suggests that the family and local authorities involved viewed the son-in-law as the one with authority over the daughter's

share of the household property. Finally, although conventional wisdom tells us that Vietnamese women enjoyed complete autonomy over the property they brought into the marriage, the way in which the principal wife's property was allocated suggests that she might not have had much authority over the testament, an issue I revisit below.

### **Example II: Trương Thị Khanh**

Vũ Văn Liễn, the second son of Vũ Văn Bản, had passed away within the next ten years and his mother, the concubine Trương Thị Khanh, promulgated a testament in his name in the twenty-second year of the Cảnh Hưng reign. Here, Trương Thị Khanh, in her capacity as Vũ Văn Liễn's natural mother, promulgated a will and testament to divide his property between his natural son and daughter and his adopted son. In this family, we see that Vũ Văn Huân, Vũ Văn Liễn's eldest son, received almost twice as much property as his sister (3.8 mẫu vs. 1.8 mẫu). Although the daughter in this family did receive a far greater percentage of the family property than in the previous family, even more remarkable is that the adopted son, Vũ Xuân Đông, received slightly more property than she did. Although the law specified that the natural descendant receive more than the adopted children, in practice, the adopted son was promised more of the father's property. The specifications made in the will are detailed below in Table II.

**Table II: Testament of Trương Thị Khanh**

<b>Child's Name</b>	<b>Fire &amp; Incense Property</b> 香火田產	<b>General Property</b>	<b>Other Property</b>	<b>Total</b>
<b>Vũ Văn Huân</b> (natural son)	0.38 mẫu	2.63	0.7	3.08
<b>Vũ Thị Sơ</b> (natural daughter)	0	1.83	0.04	1.87 mẫu
<b>Vũ Xuân Đồng</b> (adopted son)	0	1.86	0.04	1.9

*Source: Chúc Thư Trương Thị Khanh.*

In the case of Trương Thị Khanh and her heirs, we see again that the daughter did not inherit as much property as the natural son. In fact, in this case, she even inherited less property than the adopted son. Although Trương Thị Khanh's distribution of her son's property seems a little more equitable than in the previous example, it still suggests that a daughter does not enjoy the same property rights as either her natural brother or her adopted brother.

### **Example III: Vũ Xuân Dương**

Finally, in my third example, in the sixth year of the Cảnh Thịnh Reign (1798), Vũ Xuân Dương and his principal wife, Bùi Thị,<sup>33</sup> promulgated their will and testament. They decreed that their four children, which included sons and daughters, adhere to their will, under penalty of un-filial behavior. This was perhaps an extreme circumstance, in

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<sup>33</sup> The character for her first name was damaged in the paper.

which the brothers received roughly equal amounts of property while the two daughters received nothing.

**Table III: Testament of Vũ Xuân Dương**

<b>Child's name</b>	<b>Hương Hòa</b>	<b>General Property</b>	<b>Other Property</b>	<b>Total</b>
<b>Vũ Xuân Thu</b>	0.79 mẫu	2.16 mẫu	0.14 mẫu	2.99 mẫu
<b>Vũ Xuân Hoàn</b>	0	1.94 mẫu	0.11 mẫu	2.05 mẫu
<b>Daughter 1</b>	0	0	0	0
<b>Daughter 2</b>	0	0	0	0
<b>Vũ Xuân Bân (Grandson)</b>	0	0.1 mẫu	0	0
<b>Vũ Xuân Lien (Grandson)</b>	0	0.1 mẫu	0	0

In this family, the principal wife has brought little or no property to the marriage (there is no distinction). Furthermore, after detailing what the parents promised the two sons and their sons, the testament ends, without any mention of the daughters' names or shares. We simply see that the Vũ Xuân Dương signed the document to verify its validity, along with the village head's signature and those of the witnesses.

The above examples suggest that in practice as in the law, daughters were not guaranteed equal inheritance rights. Rather, we see that they did not enjoy an equal share of household property and that it varied between families. Even when daughters were allowed to inherit from the family estate, this claim was not absolute: the statutes clearly stated that the division of the family estate was subject to the will of the parents. As the

examples above show, daughters may inherit or may not, depending on the parents' mandate. Moreover, although additional evidence is needed, the above examples suggest that a daughter's ability to inherit property was related to her mother's status. Third, the fact that the law stated that the parents' property should be divided among brothers and sisters may have simply meant that daughters should receive a dowry, a practice common in imperial China. Article 389 of the Lê Code, oft cited for its preservation of gender equality in early modern Vietnamese society, is unusually vague about who gets to decide on the division of that property. Statutes from the *Book of Good Government* reveal that the state was interested in protecting the rights of sons and grandsons to an equal share of family property, thereby putting to rest any notion that daughters shared that same right. Samuel Baron's observations of inheritance practices in Tonkin in the seventeenth century demonstrate that in practice, daughters did not share equally in the division of the household property:

Everyone enjoys what he gets by his own industry, and may leave his estate to his heirs and successors . . . The eldest son's portion is much larger than the rest of the children of the deceased; the daughters have some small matter allow'd them, yet can claim but little by law, if there be an heir male.<sup>34</sup>

Finally, a daughter's claim to family property was conditional. The power to decide who could inherit a family's property lay in the hands of her parents. Thus, as in the third example, sometimes a daughter did not receive *any* portion of the family's property. The law did not guarantee equal division for daughters nor did it grant daughters an absolute right in the division of household property. It only allowed daughters to inherit property,

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<sup>34</sup> Samuel Baron, *A Description of the Kingdom of Tonqueen, by Samuel Baron, a Native thereof*. In *A Collection of Voyages and Travels*, (London: A&W Churchill, 1732), Vol. VI, pp 1-40: 10.

subject to the parents' wishes. Having seen that the Lê Code did not decree an equal division law for brothers and sisters, we can no longer consider it as evidence of Vietnamese lawmakers' attempt to protect women's rights in the early modern period.

## **B. Wives' Rights: Ownership, Autonomy & Authority**

A second claim made to support the notion of a near-gender blind property regime in the Lê Code is that wives enjoyed complete right of ownership and authority over the property they brought into a marriage. While it is true that wives, in their capacity as mothers and widows, maintained ownership rights over their property on paper, it is less clear how much the recognition of that ownership played out in their daily lives. One clear difference between the Lê and the Chinese codes is that the law specified that a wife's ancestral property remained hers, at least in name, after marriage. The law also recognized that the husband-wife unit shared equal ownership of the "newly created property" (*tân tạo điền sản*, 新造田產).

In the code, a wife's claim over her property came into play only in instances of a spouse's death or through dissolution of a marriage.<sup>35</sup> A careful reading of the Code, as well as evidence from the testamentary records, suggest that women may not have had much authority over the property they brought into a marriage. Their claims and authority

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<sup>35</sup> I choose to translate the term *li dị*, which in contemporary usage means "divorce" as "the dissolution of a marriage" because of the implications that the term "divorce" has in contemporary usage. *Li dị* refers to the process whereby a magistrate dissolves a marriage, an act the magistrate performs. Calling the process "divorce" would intimate agency on the part of the woman, who, unlike her husband, can not initiate the dissolution. Her husband, on the other hand, can "leave her" if she violated seven principles.

over property were intricately linked with their ability to represent themselves within the gender and piety model that local society expected.

### **Within the Marital Unit**

Although the law specified the origins of family property, there is little evidence that while her spouse was still alive, she maintained authority over that property. The code is especially silent about these issues, and thus we need to look to other evidence to support the claim that a wife maintained complete authority over her property while her husband was still alive. Evidence from the wills and testaments in the preceding examples suggests that wives did not maintain authority over her family property. Recall that in Example I, the daughter's husband acknowledges the validity of the document before she does, while the document does not require the acquiescence of the sons' wives. The son-in-law's acknowledgement suggests that it will be the husband who lays claim over property disputes regarding her family's property. Second, the principal wife divided her property almost equally between her natural son and the son of a concubine. Although it is possible, it seems improbable that she would have given her family's property to a concubine's son, the child in the most likely position to challenge her own son's status, if she had complete control over her own property. Third, within the document, the dowry given to the family for the eldest son's marriage is earmarked for the son, not for his bride.

In the second example, too, we see that while *Truong Thi Khanh* was able to promulgate the testament in lieu of her deceased son, the testament had to be written and

approved by the village head. In addition, we know nothing about why Vũ Văn Liễn's widow (if she survived him) was not given the power to act in his stead. Finally, in the third example, except for a mention of the principal wife's name in the preface of the testament, she does not appear elsewhere. In fact, although we know that Xuân Dương had two daughters, neither of them appears in the document. The authentication of the document did not even require the principal wife's fingerprint. Though the evidence is far from conclusive, I would tentatively argue that women's control over the property they brought into a marriage might not have been as complete and autonomous as previously suggested. From the examples above, it is likely that the property a woman brought into a marriage was controlled by her husband until his death.

### **Widowhood**

Upon her husband's death, a woman's claim over household property seems to have increased manifold. The law recognized a widow's right to hold custodial power over the property earmarked for her children. Although the law does not specifically address her claims over her husband's property, it did recognize her children's claims against those of a second wife:

In all cases in which the husband with the deceased wife (lit., *tiền thê*, 前妻)<sup>36</sup>, has a son [and] is without a son with the later wife, (*hậu thê* 候妻) {and cases in which the wife has a child with the deceased husband [and] without child with the latter husband}, whomever passes away first without a will and testament, then

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<sup>36</sup> Here, I choose to translate "first wife" as "deceased wife" to avoid confusion between wives and concubines. In theory, there could only be one wife at a time, thus a man could only have a "later wife" if the original wife had passed away. The same applies for women, who (especially) could only remarry upon the death of their "first husband."

the landed and movable property shall be entrusted to the children of the deceased wife or husband [respectively].<sup>37</sup>

Here, then, there is no mention of a wife's authority over her husband's property upon his death. The law, however, specifically recognized his children's claims to that property and took great pains to protect their claims against those of a step-parent. Thus, the second portion of the statute prescribed that the step-parent would be punished with fifty strokes of the light whip and a demotion of one degree in status should they encroach upon a child's claim.<sup>38</sup> Although the statute included no direct link to a widow's property rights, we can infer that the state's protection of her child's claims to her property reflects a de-facto right she maintained over her familial property, even after her death.

In protecting a deceased wife's property, the state also provided limited protection of her contribution to the accrual of household property. The commentary to Article 374 reads,

With respect to the newly created property, [it shall] be divided into two parts, with the deceased wife given one portion and the deceased husband given one portion. The deceased wife's portion shall be absorbed into her first husband's children's portion and shall be divided as above.<sup>39</sup>

The logic behind these provisions clearly protected a deceased wife's children and their property from the reaches of a second wife. However, the wording of the commentary distinguished between the rights of a deceased husband and a wife. Upon the first wife's

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<sup>37</sup> Art. 374, *Quốc Triều Hình Luật*.

<sup>38</sup> *Id.*

<sup>39</sup> *Id.*, Commentary.

death, the law clearly stated that her portion of the newly created property was to be given to her husband's children. This stipulation allowed the sons of concubines to receive part of the first wife's property. A "husband's sons" can be interpreted as any son who could be considered his natural children, including the children of later wives or concubines. Thus, a deeper examination of the statute reveals that although the property a woman inherited from her parents was protected against the claims of "outsiders," her claims over property she had acquired was not afforded such protection. Men's property, however, could not be transferred to any child but his own, revealing the patrilineal logic of the code.<sup>40</sup>

In theory, as mothers, women enjoyed the right to pass on their familial property to their children in the process of household division by testament. The law recognized, at least on paper, the origins of that property even after marriage.<sup>41</sup> Even while recognizing a wife's ownership over property, provisions for household division of the spouses' property upon the death of one spouse or dissolution of the marriage limited a woman's authority over that property. Legal practice also demonstrates that a married woman's property was effectively absorbed by her husband. A woman's authority over

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<sup>40</sup> The second (literally, later) wife is to be distinguished from a concubine, who does not hold the status of wife. By law, a man can only have one legal wife but as many concubines as he can maintain. Although in practice, the institution of concubinage amounted to polygamy, the concubines were without legal status, and amounted to servants. The second wife refers to a woman of that status following the death of the first wife (*tiền thê*, 前妻).

<sup>41</sup> Under Chinese law, a wife's property was absorbed into her husband's share. However, in a recent monograph, Bettine Birge argues that throughout the Song period, the law and custom guaranteed daughters a portion of household property in the form of a dowry, which was never absorbed into her husband's estate. See Bettine Birge, (2002), chapter 1.

her property, the evidence suggests, generally increased following her husband's death, but only so long as she was able to demonstrate her worthiness.

### **Sonless Widows**

The Lê Code acknowledged that the property that a woman brought into the marriage and a wife's contribution to the "newly created property" gave her ownership rights over that property. In theory, these regulations were applied equally, regardless of gender. For sonless couples, the law stipulated that the surviving spouse held custodial power over one half of the deceased spouse's ancestral property and two thirds of his or her portion of the newly created property. Article 375 states,

In all cases in which the husband and wife are without children, whoever passes away first without a will and testament, then the landed property shall be given to the husband or the wife to maintain the rites. If the parents [of the deceased] are alive, then [the property] shall be dealt with differently (*biệt luận*, 別論).<sup>42</sup>

The first clear exception to the above statute indicates that the regulation was void if the parents of the deceased were alive. In that case, the property was presumably returned to them.

On the surface, as the statute above seems to suggest, a widow shared the same claims over her deceased husband's property as her husband would over hers. However, the commentary to the statute included a specific limitation on a widow's authority over her husband's property: her claim was inextricably linked to her demonstration of sexual fidelity to him. The commentary specified that the deceased spouse's ancestral property

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<sup>42</sup> Quốc Triều Hình Luật Art. 375.

be divided into two equal parts, one to be entrusted to the surviving spouse and the other to maintain the deceased spouse's tombs and ancestral rites, to be entrusted to his or her lineage. However, there was a clear difference between a widow and widower's claim over his or her deceased spouse's property. The law specified that the surviving spouse only held custodial power over said property. The exception was that if a woman remarried, the custodial power she held over that property was suspended:

The law declares that the husband's ancestral landed property shall be divided into two portions. The husband's lineage shall receive one portion to maintain his rites, and the wife one portion; [her portion] shall be used to support her during her lifetime, and may not be made her personal property. Should she die or remarry, then her portion shall be returned to the husband's lineage. If his parents survive him, then all the property shall be given to them. Should the wife die, the husband shall do the same, exempting the remarriage clause.<sup>43</sup>

In the Lê Code, then, we see that a sonless widow's custodial power over her husband's estate was linked to demonstration of her fidelity to him. New local evidence suggests, however, that the law circumscribed her claims over her own property, as well.

Magistrates' instructions for the adjudication of property disputes in the eighteenth century reveal that in local society, a woman's claims to her own property were even more tenuous than the state legal code suggested. These instructions, written in 1711, detailed the methods whereby local magistrates should adjudicate property disputes. In cases regarding sonless widows, the manual instructed,

[In all cases in which] sonless widows (妻夫亡無子) maintain their chastity (*thù chí*, 守志者), they shall inherit the husband's property. In consultation with the head of the lineage, [they] shall choose an appropriate person to succeed him. [In] all cases in which the wife remarries, her husband's estate (*phu tài sản*, 夫財產) and the dowry that she brought into the marriage (*nguyên hũu trang liêm*, 原

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<sup>43</sup> Id., Commentary to Article 375.

有粧奩) shall be regarded as the property of her deceased husband's lineage, and they shall have authority over [it].<sup>44</sup>

Two important issues emerge from the above regulation. First, the law provided sonless widows with a choice, however limited. That is, if the widow demonstrated sexual fidelity to her husband—and the law suggests that refraining from remarriage was enough-- then she could gain custodial control over her husband's property. She also stood to gain greater authority in the eventual transfer of that property toward an heir. As the law specified, a chaste widow (or one who could represent herself as such) enjoyed influence in deciding her husband's heir.

Despite this limited choice, the language of the law severely restricted her options. If the widow chose to remarry, she forfeited any claim over her "personal belongings" (*trang liêm*, 粧奩). This choice, it should be stated, probably was only a viable one for women who stood to control a considerable amount of property after her husband's death. For many women, particularly those of the lower class, there might not have been a choice, for widow remarriage was often a mechanism of survival in a subsistence agricultural world.

Ironically, sonless widows claimed more authority over their deceased husband's property than those with children. Although the inability to give birth to male heirs made a sonless widow's position vulnerable during the husband's lifetime, after the husband's death, we see that the law allowed her the greatest potential autonomy. Widows with sons, however, were given no special rights over their deceased husband's property; it

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<sup>44</sup> *Công án Tra Nghiệm Bí Pháp* (公案查驗秘法) Han-Nom Institute, Ms. A.1760; p. 24. (Page identifications indicate the numeric equivalents of the corresponding Chinese marks, i.e., 24 is 二四)

was simply a claim reserved for his male children. She might enjoy de-facto authority over that property, but that authority could change subject to the power dynamics of the family. However, a sonless widow was given custodial rights over the majority of household property, conditional upon her demonstration of sexual fidelity to her deceased husband. Finally, a sonless widow could acquire influence with respect to designating an heir for her husband. Though the logic behind giving sonless widows participation in the designation of a successor was deeply rooted in patriarchal values, the restrictions placed upon their private lives ironically created spaces of opportunity for women to assert their will.

Some women who demonstrated particular piety (a peculiar mixture of fidelity to a late husband and dedication to community in the form of donations) gained immensely public and everlasting roles as they transferred theirs or their husband's property to public institutions, making a real economic contribution to village life and ensuring lasting recognition of their worthiness. This practice of *endowing public succession* was at once a mechanism for women to assert authority over household property and an alternative for female transmission and succession within a patrilineal custom. To see how the endowment of village stèles became sites of negotiation for women, we must now turn to the issue of female succession in Vietnamese society.

### **III. Succession: Remnants of a Bilateral Tradition?**

Many claims about the alleged Vietnamese gender equality and the Lê Code's preservation of this equality rest in the argument that a daughter's ability to succeed a

parent's ancestral rites revealed remnants of a bilateral tradition that was emblematic of Southeast Asian patterns. The inheritance and succession provisions for daughters, then, demonstrated to some scholars that the Lê Code codified bilateral kinship, "indicating [their] resistance to patriarchal influence from China."<sup>45</sup> This interpretation relies on a binary between Vietnamese custom and that of patriarchy, symbolized by China. A re-examination of the Code, legal cases relating to succession, and succession records themselves reveal, however, that the law was wholly congruent with the principles of patrilineal succession. A daughter's right to succession was limited to her lifetime only; upon her death, the property and the religious duties associated with it returned to the lineage; she could not pass the maintenance of those duties to her children, male or female.

Despite these legal restrictions on women's ability to succeed their parents, many did find a way to ensure their claim over property in perpetuity. By doing so, they engaged in a kind succession that did not fit patrilineal or bilateral patterns. This process, which I call the *endowment of village succession*, allowed women to transfer property to a communal institution—usually the village—in return for a promise to maintain the rites to her property. The phenomenon of transfer of private property for communal use through the endowment of village succession demonstrates the complexity of succession

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<sup>45</sup> Taylor is discussing Vietnamese society to the tenth century, and the reference to "later Vietnamese dynasties" implies that of the Lê. Keith Taylor, *The Birth of Vietnam* (Berkeley & Los Angeles: University of California Press, 1983), 1977. For a more direct link to this assumption, see, Trần Mỹ Vân, "The Position of Women in Traditional Vietnam," in *Asian Panorama: Essays in Asian History, Past & Present*. 274-83.

in Vietnamese society, and the inappropriateness of labeling Vietnamese succession patterns “bilateral” for categorical convenience.

### Succession and the Lê Code

One reason that scholars of Vietnamese and Southeast Asian history have coded Vietnamese succession patterns as “bilateral” rests in one statute that allowed daughters to succeed to the “fire and incense” property in the absence of male heirs.<sup>46</sup> However, the statutes regulating succession in the Lê Code clearly demonstrate that law did not codify bilateral succession. Rather, they suggest that daughters were not seen as potential successors in the same fashion as sons or nephews. An edict promulgated in 1463 (Art. 387) decreed that of the parents’ landed property, one twentieth would be set aside to maintain the ancestral rites.<sup>47</sup> The following edict recorded in the Lê Code, promulgated in the third year of the Hồng Thuận reign (1513), clearly specified the order for succession rights.<sup>48</sup> The edict detailed that maintenance of the ancestral rites would first go to the eldest son of the principal wife (*đích thê chi tử*, 嫡妻之子) and then to his son {lit. the eldest grandson (*trưởng tôn*, 長孫)}. If there were no grandsons, then the right to succeed went to the next son [of the principal wife] (*thứ nam*, 次男). Then, should the principal wife not have any other sons, (*đích thê hựu vô chúng tử* 嫡妻又無眾子), a suitable son of a concubine (*thiếp tử chi hiền*, 妾子之賢) could be chosen to succeed

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<sup>46</sup> See, for example, Oliver Wolters, “A Cultural Matrix,” in *History, Culture & Region*, op cit., 1982, 15.

<sup>47</sup> Art. 387, *Quốc Triều Hình Luật*, Hán-Nôm Institute, A.341: 71. Page numbers refer to number of pages counted from the cover of a copy of the wood block printing, available at the Hán Nôm Institute

<sup>48</sup> Art. 388, Id.

the father. Finally, in instances where the eldest son or grandson was deemed unfit (or unable) to perform the ancestral duties, then the law *allowed* the father's (male) relatives to choose an appropriate heir of the same generation.<sup>49</sup> This decision, however, was subject to authorization from the local magistrate.<sup>50</sup>

Conspicuously missing in the line of successors is a daughter. The absence of daughters in the succession line can be interpreted as a reflection of the logic of patrilineal succession within the property regime of early modern Vietnamese society. This logic, which the *Book of Good Government* described simply, was one premised on the theory that “the *huong hũa* lands and ponds [were intended] to be kept for generations; [with regard to] maintaining them, if there is no son, the clan may keep them to maintain the ancestral rites and may not divide them among themselves”<sup>51</sup> If the Lê Code was so specific with respect to succession, then how did other scholars infer a tradition of bilateral succession?

The inference that the Lê state codified a long-standing tradition of bilateral succession appears to have been derived from an edict promulgated in 1518. This edict decreed that “[With regard to] entrusting the *huong hoả* property, if there is an eldest son, then he shall be used. If there is not an eldest son, then the eldest daughter shall be used (*dụng trưởng nữ*, 用長女).”<sup>52</sup> On the surface, this edict appeared to grant daughters

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<sup>49</sup> Id.

<sup>50</sup> Id.

<sup>51</sup> *HDTC*, op. cit., pg. 37.

unusual rights with regard to succession. However, this statute should be read with respect to the previous regulation, ordering a strict line of successors. Only in the last case scenario, when a suitable son could not be found, could a daughter succeed.

Precedents included in the Lê Code and in the *Book of Good Government* severely weakened the daughter's right to succeed to the "fire and incense" property. For example, in dealing with the same issue, the *Book of Good Government* expressed the law as follows: "[With regard to] maintaining the *huong hũa* property, if there is no eldest son, then the eldest daughter is to be used to maintain the rites. [The property] is to be used to support her for one generation; then, it shall be returned to the patriline, as is custom<sup>53</sup>(*lê*, 例)." <sup>54</sup> Whether we translate *lê* as custom or precedent, the result remains the same: that in the last case scenario, when daughters inherit the ancestral property, they may only retain it in their lifetime, in custom or precedent. If daughters may only maintain this property in their lifetime, then the logic of the law could not be one of bilateral succession.

Other statutes on succession in both the Lê Code and the *Book of Good Government* severely restricted a daughter's ability to succeed her parents. In one sub-statute, the code stated that in instances where the eldest son only had a daughter, then the *huong hoả* property would be returned to the second son's sons and grandchildren, so

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<sup>52</sup> QTHL, Art. 390.

<sup>53</sup> One may translate *lê* (*li*) as "custom" or precedent. I have chosen to follow Mathew's Chinese Dictionary, which translates *lê* as custom, and in the village codes consulted for this essay, *lê* means custom.

<sup>54</sup> *HDTCT*, page 37.

that they could sustain the patriline.<sup>55</sup> Thus, even though the eldest did not have a son, the *huong hoả* property did not go to his daughter but to his nephew. However, if the second son only had daughters, then the property would be transferred to the eldest son's daughter. That the daughter would have been able to inherit property was not related to her standing as a female, but to her standing as the child of the eldest son, and therefore, her position in the patriline outranked the second son's daughters. Upon her death, the property would be returned to the second son's daughters. Upon their deaths, the property would be determined extinct and returned to the father's lineage. The logic implicit in this edict is the assumption that male children transmit the family line, whilst daughters maintain it for one last generation. However, upon their deaths, the patriline extinguished. The death of the patriline upon the death of the last female child of the deceased indicates that the logic of the law was not one of bilateral succession but of a patriarchal logic.

### **Daughters' Succession Rights in Practice**

The preceding statutes, as well as a case cited in the *Book of Good Government*, suggests that mandatory nephew succession, a phenomenon common during the Ming and Qing Dynasties, was also the logic behind the Lê statutes. In the second year of the Quang Thuận reign (1461), the official Vũ Chi Đường presented to the emperor a memorial describing his adjudication of a number of cases regarding succession in his

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<sup>55</sup> QTHL, Art. 394.

district. In clear cut cases, where there were no possible male heirs, then he ordered that a daughter be allowed to succeed the father. However he reported that in ambiguous cases, a standard should be set. He reported that:

[In one case,] the grandfather (*tổ phụ*, 祖夫) had three sons, but the eldest son only conceived daughters, the second and third sons both conceived sons. The grandfather divided his property among his three sons, each receiving his share. He then left the *huong hoa* property to the eldest son to maintain. Upon the eldest son's death, the *huong hoa* property and arable land was left to the eldest daughter to watch over. However, the second and third sons brought suit, claiming that the daughter was of a different surname (*dị tính*, 異性).

Vũ Chi Đường decided that the claim to succession (*kế hoàn*, 計還) would be returned to the second and third son's son. Referring to the law, he said that "When designating a successor (*lập đích*, 立嫡), a member of the same surname (*đồng tính*, 同性) must be used; it is forbidden to designate one of a different lineage."<sup>56</sup> Here in legal practice, we see that Vũ Chi Đường advocated mandatory nephew succession. By returning the *huong hoa* and family estate to the sons, Vũ Chi Đường acknowledged that a daughter was of a different surname. Thus, when designating a successor, sonless families were required to designate nephews in a practice Bernhardt has termed "mandatory nephew succession."<sup>57</sup>

Vũ Chi Đường's memorial and examples prompted the following edict: "When selecting an heir (*lập đích*, 立嫡), [it is] required that one of the same patriline [be selected]; it is forbidden to select one from a different surname (*dị tính*, 異性) to

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<sup>56</sup> HDTC, page 12.

<sup>57</sup> Bernhardt, *Women & Property in China*, op. cit., 3

perform the ancestral rites, and cause disorder (*loan*, 亂) in the clan.”<sup>58</sup> The logic behind the Code allowing daughters to succeed in the absence of male heirs, demonstrated by the statutes regarding succession, rests in the maintenance of the ancestral rites for one last generation. Rather than interpret the allowance for daughters’ succession to be a remnant of bilateral kinship patterns or a proto-feminist agenda on the part of Lê lawmakers, we can just as easily interpret it as wholly congruent with the principles of patrilineal succession. Moreover, we see in social practice that even when daughters succeeded to household property for one last generation, they made arrangements to transfer that property to public institutions that could guarantee the transmission of the obligations tied to that property in perpetuity. Sonless couples, too, took advantage of this alternative model of transmission and transferred their legacy through the endowment of village succession.

#### **IV. Toward an Alternative Model: the Endowment of Village Succession**

Up to this point, I have frequently alluded to a process of transmitting household property and religious duties associated with that property that I have termed the endowment of village succession. This process of transferring property from private hands to public use, usually through cash and land donations to village religious and non-religious institutions, was generally marked with the erection of a stone stèle, commemorating the donor’s generosity and detailing the obligations of the village toward

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<sup>58</sup> HDTCT, pg. 14.

the donor, and containing signatures of all significant males in the village. Ink rubbings made from these inscriptions reveal that many women, as only daughters or sonless widows or primary wives, transferred property to the village to ensure that their rites be maintained. That these women could not transmit such duties to others within their families by virtue of their gender indicates the extent to which their private lives were circumscribed. However, their ability to convince village male heads that they were worthy of public veneration and worship and their ability to support that demonstration with real property ensured them a lasting public role.

### *Bia Hậu/Succession Stèlae*

The erection of a public stèle to commemorate events, virtuous deeds, or honors bestowed by the ruler allows rare glimpses into historical trends. In the seventeenth and eighteenth centuries, throughout the Red River Delta,<sup>59</sup> men and women transferred private property to public institutions in exchange for a public promise of the maintenance of ancestral rites in perpetuity. The succession stèlae discussed here marked the virtuous deeds of such donors, but more importantly, also served as a contract between a donor and the village community. Although this research is still preliminary, the evidence suggests that sonless families chose this alternative method of succession. The following examples of women who used these mechanisms illustrate the process.

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<sup>59</sup> I have yet to locate stèle inscriptions for the same period in the Southern portions of contemporary Việt Nam.

### Example I: The Widow Lê Thị Toàn<sup>60</sup>

In the thirty-ninth year of the Chính Hòa reign (1778), Lê Thị (黎氏全)<sup>61</sup>, dharma name Diệu Tú (妙賜), received special recognition for her contribution to the village communal house (*đình*, 亭).<sup>62</sup> A stèle commemorating her contribution and representing the contract to the agreement, recorded that Lê Thị Toàn, the widow and principal wife of Chu Văn Thế (朱文世), having raised three daughters to adulthood, decided to devote her life to Buddhism in her final years. In 1778, fearing that her husband's nephews might one day lay claim over the household property, the virtuous lady (*Đức Ni*, 德妮) entered into a contract with the village community.<sup>63</sup> As a sign of her faith, she donated 180 cash (*quán*, 貫) to purchase lumber for renovating the village communal house and two *mẫu* of arable land to be considered as *huong hóa* property for maintenance of the couple's rites in perpetuity. (*thật điền nhị mẫu phó canh chủng cúng hương hỏa hậu sự*, 實田貳畝付與更種供香火後事). The two *mẫu* of arable land entrusted to the village was to be rotated within the village for cultivation (*luân thú*, 輪

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<sup>60</sup> Vietnamese women kept their own surnames, and though they could be addressed as the wife of someone, in official documents, they were referred to by their given names. Here, I follow this convention and refer to the donors by their given names.

<sup>61</sup> Chu Công Tự chi bi ký (朱公祠址碑記), Hán-Nôm Institute, #2003-006. Steles housed at the Han Nom Institute are listed by number and category only, each number reflects one side of the stone stele. General references shall be noted by the entire series, but specific references by each number.

<sup>62</sup> The *đình* (village communal house, 亭) here should be differentiated from its homophone (*đình* 庭), referring to the village temple.

<sup>63</sup> I call this stele a contract because though it is represented as a commemoration of the widow's virtue, the text of the stele simply specifies an agreement between donor and village community to exchange cash and arable land for specific services, here, the maintenance of ancestral rites in perpetuity.

次), and each year, the cultivator would be responsible for providing four platters of wine, one piece of silver, and one hundred flowers for maintenance of the rites.<sup>64</sup> The decision to guarantee Lê Thị Toàn and her late husband that their rites be maintained in perpetuity was decided by (male) elders of the village (*huong lão* 鄉老), and signed by the village head, local magistrate, and five men representing the village elders.<sup>65</sup>

In the above example, although Lê Thị Toàn has daughters who could, in theory, succeed her by law, she chooses to transfer the *huong húa* property to the public. The text of the stele gives two reasons for her decision: that she wished to avoid future conflict with her husband's nephews and because of her generosity. Without disavowing Mrs. Lê's faith and generosity, her decision to enter into this agreement with the village community suggests a clever move on her part. At once, by convincing the village elders of her virtue and backing that up with real monetary and land contributions, she bypasses the claims of her husband's relatives and ensures that the maintenance of rites for her husband and herself be absorbed into village custom. Once the local magistrate, the entire council of elders, and village heads agree to this exchange (which they all did), then it would be difficult for any relative to dispute the validity of the contract.

Mrs. Lê's decision to endow village succession instead of her daughters suggests that the restrictions upon hers and her daughters' private lives led her to find a mechanism to guarantee her property rights. The transferring of property to the public for perpetual maintenance of ancestral rites indicates that Mrs. Lê's daughters, by custom

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<sup>64</sup> #2005

<sup>65</sup> #2004.

and law, could not pass on those duties. Because of these restrictions Mrs. Lê enters into a very public position. The erection of the stele is a public sign of her contribution, and her cash and land contributions serve as real economic gains to the village community. Thus, we see in Mrs. Lê's case, private restrictions in customary and state law led to much more public roles for women in village economic and religious life.

### **Example II: Vũ Thị Đôn<sup>66</sup>**

In the fourteenth year of the Vĩnh Thịnh (永盛) reign (1718), the widow Vũ Thị Đôn (武氏屯), the only child of Mr. and Mrs. Vũ (name illegible), entered into a contract with the village community. In exchange for 50 cash and one mẫu of land, the village elders agreed to “elect” her parents to the group of village spirits, and the stele commemorating this event would be placed beside her late husband's burial stone in the Nguyễn family compound. The text of this agreement does not mention her husband by name, only that she is the daughter in law of the Nguyễn family, and that the relatives from hers and her husband's side guarantee that they would honor and respect this agreement (*bản phường nội ngoại thượng hạ đẳng tôn bảo*, 本坊内外上下等尊保). The erection of this stele and the hamlet's agreement to honor the agreement ensured that the parents of Vũ Thị Đôn would enjoy maintenance of their rites in perpetuity. Just as in the previous example, this agreement was acknowledged by the local magistrate and signed by twenty males of the Vũ and Nguyễn surnames.<sup>67</sup>

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<sup>66</sup> Tiên Sư Phối Hương (先師配享), Hán-Nôm Institute, #6354-55.

Although less detailed than the previous example, the case of Vũ Thị Đôn's donation to the village community suggests that she also chose to endow public succession as an alternative method of ensuring her parents' rites. The text does not indicate whether Mrs. Vũ had children, and for our purposes, that detail does not seem to affect the event. The action that Mrs. Vũ took ensured that her parent's rites be maintained in perpetuity, suggesting that as their female heir, she cannot fully succeed her parents. With her death, it seems, the duties of maintaining rites for her parents also extinguish. Thus, we see that Mrs. Vũ employs a strategy similar to that of Mrs. Lê: she transfers property to the public in exchange for a promise of perpetual maintenance of rites for her parents.

### **Example III: Đào Thị Ngọc<sup>68</sup>**

In the twentieth year of the Chính Hòa (正和) reign (1699), Đào Thị Ngọc (刁氏玉) donated two hundred cash and one hundred twenty mẫu of arable land to the village, in exchange for the maintenance of her grandmother's and parents' rites in perpetuity. The stèle records that her grandmother, Nguyễn Thị Quý (阮氏貴), was a woman of particular talent and virtue whose incomparable artistic ability earned her the affection of the Trịnh Lord with whom she had a daughter and a son, Trịnh Thị Ngọc (鄭氏玉) and Trịnh Tông (鄭棕), respectively. The daughter, Trịnh Thị Ngọc, subsequently married a

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<sup>67</sup> Id., #6355.

<sup>68</sup> Phụng Sự Hậu Phật Bi Ký (奉事後佛碑記); Hán-Nôm Institute, #3594-97.

general of the surname Đào, with whom she had the donor, Đào Thị Ngọc.<sup>69</sup> Although the text is unclear as to how many daughters the couple gave birth to, it is clear that there were no sons in this marriage. That Đào Thị Ngọc is referred to as the *trưởng nữ* (literally, eldest daughter 長女), a title, that by definition, cannot exist in the presence of sons, indicates that sons were absent from this family.

In order to fulfill her duties of filial piety, the stèle describes, Đào Thị Ngọc promised the village of Trà Lâm (茶林) two hundred cash and one hundred and twenty mẫu of superior arable land (*nhằm điền* 稔田),<sup>70</sup> in return for which the village would maintain the rites for her grandmother and parents in perpetuity.<sup>71</sup> The cash donated would pay for the land and materials to erect the stele, and the land donated regarded as public property. Perhaps because of the size of the donation, the village and its eight hamlets, the local magistrate, and “all the villages” agreed that henceforth, the maintenance of ancestral rites for the aforementioned would be regarded as village regulation (*Trà Lâm xã, bát giáp, quan viên, hương trưởng, dân nhân thượng hạ chiếu như hương khâm*, 茶林扒甲官員鄉長民人上下照如鄉欽).<sup>72</sup> The contract was witnessed by the local magistrate and village headmen, and over fifty other prominent men in the village.<sup>73</sup>

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<sup>69</sup>Id., #3594.

<sup>70</sup> The character *nhằm* (稔) is an adjective referring to “ripe rice,” and connotes the superior quality of the rice. I translate the adjective here according to intent, superior, and not its literal meaning.

<sup>71</sup> Id.

<sup>72</sup> Id., #3596.

The case of Đào Thị Ngọc's endowment of succession for her mother raises interesting issues about the matter of succession more generally. Here is an instance in which a daughter in a sonless family transfers quite a large amount of property to the public in return for a public pledge to maintain rites for her grandmother and parents. The lady Đào Thị Ngọc's ability to fulfill her filial duties could only be done through ensuring the maintenance of ancestral rites in perpetuity, the document claims. Thus, her transfer of the property again suggests that the endowment of such stèle were sites in which women negotiated the boundaries within their private lives to ensure protection of their property publicly.

Finally, an interesting twist in this story highlights another question. The grandmother in the family, one of the Trịnh lord's consort, had given birth to a son, succeeding Trịnh Lord. That the maintenance of his mother's rites be unresolved to the second generation suggests that women's ability to pass on the maintenance of duties toward her spirits were limited even in the presence of sons, the logic of which remains to be explored in the following chapter.

The preceding examples describe in detail a more general pattern of the endowment of succession by sonless widows.<sup>74</sup> The texts of the stèlae represent the event as a particularly virtuous act each donor took but also note the duties that the villages would take upon itself by accepting the cash and land donations. In all of these

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<sup>73</sup> Id., #3595.

<sup>74</sup> See, also, Nguyễn Gia Từ Chi Bi Ký (阮家祠址碑記); Hán-Nôm Institute, #20007-10; Đặng Gia Phụng Sự Bi Ký (鄧家奉事碑記); Hán-Nôm Institute, #5867-70; Tụ Sự Nguyễn Gia Bi Ký (祠事阮家碑記); Hán Nôm Institute, #1201-04.

instances, the village accepted the duties of maintaining the donor's or her ancestors' ancestral rites, suggesting that her gender restricted her from fulfilling the duties herself or transmitting them to her children. These examples, then, demonstrate the inappropriateness of labeling Vietnamese succession practices as bilateral in nature and practice. That a woman, if she can lay claim over the *huong húa* property at all, can in practice only do so in her lifetime suggests the patrilineal logic of local custom and state law. Even while their private lives were restricted, there were spaces in which women could contest such customs. The erections of these stèles thus mark such sites of contestation, where women bypassed state law and local custom and lay claim over that property publicly, carving out a sphere of economic influence over village society.

### **Conclusion**

This chapter began with a critique of previous scholarship referring to women's property claims in Vietnamese society during the Lê period. To recap, earlier scholarship characterized the Lê property regime as one that practiced gender equality, ensuring equal rights in household division and succession. Such apparent gender equality, scholars have argued, represent remnants of a matriarchal or bilateral cultural tradition attributed to uniquely Vietnamese or Southeast Asian identities. In this chapter, I have tried to demonstrate that such assertions of a gender-blind property regime distort the intent and content of the law. The evidence presented reveals that the law never guaranteed equal inheritance rights for daughters. This was guarantee the law made for male children only. Furthermore, testamentary evidence from the period demonstrates

how such rules affected women's lives. Daughters did receive property, the evidence showed, but only a small portion relative to her brothers. Furthermore, wives' authority over the property they brought into a marriage seemed to be restricted while her husband was still alive. Finally, the chapter dealt with the question of female succession. My own interpretation of the law is that the allowance of a daughter to succeed her parents and accept the duties of maintaining the ancestral rites was not motivated by bilateral or proto-feminist goals on the part of fifteenth century lawmakers. Rather, it was wholly congruent with the patriarchal logic of the law, for upon her death, the rites died with her.

Within these restrictive measures on their private lives, I argue that women found mechanisms of assuring their claims over property, particularly in the absence of male heirs, and assured very public roles for themselves. Widows and only daughters, the evidence suggests, transferred private property to public institutions in return for a pledge that the village would maintain the rites for said donor or her ancestors in perpetuity. The cash donated was generally used to restore village communal houses or temples, while the land rotated within the village for cultivation. By entering into these contracts, women cleverly bypassed the claims of the state upon the property following their death and that of her husband's male relatives. Their donations ensured that they played major roles in village economic and religious life. Land donated to the public could be used so long as the village continued to maintain those rites. The maintenance of those rites, too, meant that those donors entered into the pantheon of spirits that each village had an obligation to appease for generations.

The spiritual nature of these transactions should not be underestimated. This chapter has focused on the practical gains that women's endowment of public succession had on their claims to property, but the spiritual reasons for endowing such stele are also important. If a woman's duties to maintain her ancestors' rites (and her own rites) extinguished with her death, then her own spirit died as well. The endowment of public succession, then, guaranteed women and their ancestors an afterlife as well. As it turns out, women across the religious spectrum employed various mechanisms to ensure an afterlife, an arena that we will explore in the next chapter.

## Chapter 6 Conclusion

By examining Vietnamese history through the perspective of gender, this dissertation has attempted to offer a multi-voiced, variegated pattern of women's experiences in early modern Đại Việt. It challenged the existing paradigmatic framework of Vietnamese womanhood, in which women simply serve as signs of Chinese, or Southeast Asian, or uniquely national identities. Specifically, I argued that the documentary evidence from the early modern period does not support any of these models. Vietnamese women's lives, as the preceding chapters detailed, were far more complex than the three prevailing models of womanhood suggest.

The extant documentary evidence suggests that women's lives were relatively restricted in official domain. In many circumstances, however, women bypassed the prescribed social structures and acquired authority in their economic, political, and religious lives. Poor agricultural conditions and civil warfare in the sixteenth through eighteenth centuries created an environment in which women diverted their attention from agricultural production toward sideline and market activities as survival mechanisms. While turning to the market was initially a strategy to he temporary dislocations fighting between of the Mạc, Trịnh, and Nguyễn civil wars in the sixteenth and seventeenth centuries, it became a way of life in the eighteenth century. The consolidation of Trịnh and Nguyễn power in their respective realms created a period of *relative* peace and prosperity. Women who engaged in market activities benefited greatly. Gradually, women

transformed the money they acquired into social and political capital. They donated this money to village institutions, religious houses, and public works projects and gained prominence in village life.

As discussed in chapter II, the existing three paradigmatic forms of Vietnamese womanhood are contradictory and underline important weaknesses in the existing scholarship on Vietnamese gender relations. If Vietnamese women were oppressed, as international feminist scholars and historians of twentieth century Vietnamese history contend, then how could they demonstrate the superiority of Vietnamese civilization over the Chinese? Moreover, how can an oppressed and marginalized group embody a nation? Vietnamese feminist scholars have tried to resolve the tension by narrating a story of oppression that ended in 1945 with the advent of a communist-socialist state. Western scholars alluding to gender in Vietnamese history have also tried to resolve this tension. They alluded to the Nguyễn bureaucratization of the nineteenth century gave rise to women's oppression, while the older, Vietnamese or Southeast Asian features that underlay Vietnamese society provided Vietnamese women with a spiritedness that could be distinguished from Chinese women. Despite these claims, none of the extant evidence can demonstrate that Vietnamese women can embody either of these three identities. Instead, when we examine Vietnamese women's lives in the early modern period, three major themes emerge as indicators of social experience: class, mobility, and spirituality.

As chapter 3 details, the socio-economic dislocations of Vietnamese society in the sixteenth, seventeenth and eighteenth centuries created conditions in which women could bypass the established gender norms and carve out spaces of autonomy for themselves. The early modern Vietnamese gender system that female children encountered lay out a life course that expected them to be diligent daughters, faithful wives, and nurturing mothers. While these three expectations mirrored the rhetoric of a Confucian morality structure, the socio-economic systems in which women lived required flexibility in adhering to those models.

As the men in their lives joined the army, participated in the *corvée* labor system, or sought their fortunes outside of their natal village communities, lower class women from the Northern and Southern Realms diverted their labor toward sideline and market activities and carved out spaces of autonomy for themselves. By the middle of the eighteenth century, local markets in the Northern and Southern Realms were dominated by women, who participated in and maintained the local infrastructure to support marketing activities. As commoner women began to enjoy the autonomy that the new economic opportunities brought them, they began to transfer their monetary gains toward public works projects, village communal houses, and religious institutions and acquired de-facto authority in village economic, political and religious life.

The increased authority and autonomy that women gained in economic and religious life alarmed *Trinh* officials in the seventeenth century. In chapter four, I argued that local custom and state law attempted to control the political and social order by controlling sexual access to women. Their bodies were the

vessels that transmitted the agnatic line. Thus, in the seventeenth and eighteenth centuries, when women enjoyed prominence in village life and engaged in enjoyed lifestyles that lay outside of the family system, it alarmed state officials. To reign in the potential disorder in the political realm, Trịnh family officials tightened their regulation of women's sexual activities.

Chapter five revisited the theme of economics, autonomy and authority by examining how the property regime of the early modern period affected women's lives. It challenged prevailing notions of equal inheritance rights for daughters in the legal statutes of the Lê Code and argued instead that the law and custom restricted women's claims to property severely. Moreover, in the chapter, I argued that the various statutes regarding succession in the Lê Code and *Book of Good Government* demonstrated a patriarchal logic to succession in the law. Ironically, the limits on women's property rights in their private lives led some to seek methods that would ensure their claims to the property in perpetuity. In the sixteenth and seventeenth centuries, women began to transfer money and property toward religious and village institutions in return for a village guarantee that it would maintain the woman's ancestral offerings forever. By *endowing village succession*, a woman employed a mechanism that assured the maintenance of her spirit. A woman donor thus gained a very public role in village life upon her death.

The various ways in which the structures of early modern Vietnamese society ordered women's lives varied across class boundaries. While it is not completely accurate to say that women of lower classes enjoyed more freedom

than women from wealthy families, it does appear that economic situations often determined the extent to which women could bypass social structures. For the most part, in the early modern period, women who were able to bypass established social and legal structures that limited their autonomy were from the lower classes. Some wealthy women who were able to gain a public role in social affairs did so by representing themselves within the established gender paradigm of a virtuous woman. Thus, the experiences of Vietnamese women demonstrate that they can not be easily categorized into models of reified cultural groups, but that their lives were complex and shaped by socio-economic circumstance and their individual ability to make those circumstances work to their advantage. Vietnamese women should not stand at the crossroads of historiography. Their experiences should be at the forefront of historical writing.

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<i>Bulletin des Amis de Vieux Hué</i>	BAVH
<i>Bulletin d'Ecole Française d'Extrême Orient</i>	BEFEO
<i>Đại Việt Sử Ký Toàn Thư</i>	ĐVSKTT
<i>Hồng Đức Thiện Chính Thư</i>	HĐTCT
<i>Journal of Asian Studies</i>	JAS
<i>Journal of Southeast Asian Studies</i>	JSEAS
Nhà Xuất Bản (Publishing House)	NXB
<i>Quốc Triều Hình Luật</i>	QTHL

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