
REINTERPRETING EAST-ASIAN CULTURE AND HUMAN RIGHTS: THE CASE OF TRADITIONAL VIETNAMESE LEGAL CULTURE

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"What you do not want others to do to you, do not do to others"

-Confucius (551-479 BC), Analects-

*'Winning brutality by doing humanity and righteousness,
Replace cruelty by intelligence and humanity'*

*-Nguyen Trai (1427), The Great Declaration to the Enemy's
Defeat-*

This paper's overall goal is to search for human dignity and tolerance, as cross-cultural values of human rights and a contribution of East

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Asian Culture to the Evolution of Universal Human Rights through examining the traditional Vietnamese legal culture and its influences on modern Vietnam. The paper explores Vietnam's traditional values of humanism, humanitarianism and human rights which were exposed through the lenses of Feudalism and flowered from the presence of Buddhism, Confucianism, Taoism and Vietnamese belief (animism) from 10th century onwards, until 1858 at which Vietnam began to fall into the French rule while still remained semi-Feudalism. By looking at the Vietnamese Imperial dynasties, especially from the Ly, Tran, Le and Nguyen, the paper seeks for solid proofs demonstrating traditional Vietnamese legal culture did exist the ideas of human rights as enshrined in international human rights treaties and that the East Asian Culture, embraced by Confucianism, by which Vietnamese legal culture had received, significantly contributed to the evolution of universal human rights. The paper is also based on the argument that Vietnamese traditional culture, as well as the East Asian Culture, is embraced by both negative and positive elements that affect, either sides, the evolution of human rights in Vietnam and East Asia, as well as to the emergence of universal human rights.

The Socialist Republic of Vietnam (SRV) is located in the heart of South-East Asia. It lies between the People's Republic of China in the North and the Gulf of Thailand in the South. Vietnam is bordered by China in the North, the Pacific Ocean and the South China Sea in the East, the People's Democratic Republic of Laos and the Kingdom of Cambodia in the West and Southwest. Vietnam's mainland territory roughly resembles the shape of the letter "S". Its land area is 331,689 square kilometers and it has territorial waters with an area approximately three times larger than its mainland territory. The recent census, in 2009, indicated that the population of the country is

ranked the 2nd in Southeast Asia and the 13th in the world with approximately 86 millions people¹.

What is now modern Vietnam is traced back to the very early ages of the first Vietnamese people who settled in this land dozens of thousands of years ago; and to the Vietnamese first kingdoms of several thousands of years. The nation was first occupied by the Chinese many times in the periods of 111BC and 938 AD, got its independence from 938 to 1858 before it fell into French colonization. Vietnam regained its independence from French domination in 1945. Just less than 10 years later, Vietnam was again invaded by the Americans and in 1954 it was divided into North Vietnam (Democratic Republic of Vietnam) and South Vietnam (the Republic of Vietnam) under the Geneva Arrangement. The fight for the unification and independence of the nation had also been the fight for the entire Vietnamese people's human rights. Of the most important rights is the right to freedom from foreign suppression and repression, or the right to life in human dignity and freedom. Vietnamese people have paid with their lives to gain independence, freedom and happiness. Unsurprisingly, it is said that there might be no country in the world which had suffered so many wars against foreign invaders as the Vietnamese. Throughout several thousands of years, the Vietnamese people have developed a heritage of solidarity, humanity and perseverance that has formed the unique Vietnamese culture during their regular struggles for the establishment and prosperity of their country.

1. THE LY DYNASTY (1009-1225)

As early as 11th century, the Ly dynasty (1009-1225) of traditional

Vietnam is characterised as a period of national development where Buddhism challenged rigid Confucian hierarchical structures². On the contrary to the Chinese counterparts, the Ly dynasty applied Buddhist ideology onto the entire socio-political, legal and cultural life, rather than Confucianism³, and took it as an official and national religion of the Great Viet⁴. Obviously, humanitarianism of Buddhism had remarkably influenced the legal system and culture of human rights of Great Viet at that time. For example, in 1042, Emperor Ly Thai Tong promulgated the *Hinh Thu* (Book of Punishments), which was praised by the historian of the later Le Dynasty in *The Complete Book of Historical Records of The Great Viet*: ‘Up to that time, lawsuits in the country were very complicated. The judges stuck to the letter of the law to the extent of being harsh and condemning against the innocent. The emperor, having sympathy for them, thereupon ordered that the laws be edited to bring them up to date, to classify them and reduce them to articles in the Book of Punishments, so that people could easily understand them.’⁵

Due to this humanitarianism of Buddhism, the Vietnamese following scholars strongly criticized the Ly dynasties’ humane legal system as well as their human rights policy. For instance, the well-known fifteenth-century Confucian historian Ngo Si Lien was also critical of Emperor Ly Nhan Tong’s decision to impose only exile on Le Van Think, who was charged with the most serious offence of attempt to murder the Emperor, in 1096, ‘To exempt from death a subject who attempted to kill the emperor and seize the throne was a mistake in criminal policy. This was due to the emperor’s faith in Buddhism’⁶. He also added that, ‘The emperor, deluded with the Buddhist doctrine of love and humanitarianism, pardoned a traitor. Therefore, his benevolence became marred. That was his defect’⁷.

As a central feudal society, however, the Ly dynasty's legislation could not avoid being severe, even savage as the history still records. Of the very severe and strict means used to punish the criminal offenders is "Thuong moc ma"⁸ which is used to nail the offender on a board, hanging in the market, cutting parts of him off in the execution ground. For those were charged with the offence of burglary and robbery shall be punished by cutting off fingers and toes"⁹. Such cruel and inhumane punishments reflected the negative points of the Ly Code. Under the Ly dynasty, there was also a tradition of burying or burning alive for those who were charged with several special criminal offences. For example, in 1117, the Emperor made a decision of burying alive 3 imperial maids together with the burnt body of Empress Y Lan. In 1128 The King ordered a lot of imperial maids to be buried with the body of Emperor Ly Nhan Tong¹⁰. In relation to the right to freedom of marriage and form a family, the Ly's legislation also contained some historical deficits as it restricted women's rights and interests. In 1129 the Emperor gave an imperial order: "Daughters of Mandarins are not allowed to get married before having made in a maid selection for the Emperor. Only after the selection, those who failed to be the palace maids can get married"¹¹.

2. THE TRAN DYNASTY (1225-1400)

Unlike the Ly who placed Buddhism as the national legal-political ideology, its successive dynasties, including the Tran (1225-1400), the Ho (1400-7), the Le (1418-1788), the Nguyen (1802-1945), the role of Confucianism was highly appreciated and placed the most important as the nation's official ideology. These dynasties' legal-political ideology was strongly influenced by the neo-Confucianism. The

longer Vietnamese Feudal dynasties existed, the greater influence of neo-Confucianism they have. For instance, the Lê and especially Nguyen dynasties were extensively influenced by Tang and Ch'ing Dynasty laws and bureaucratic processes. Influences eventually produced an elite political-legal culture more inline with Chinese than earlier Ly and Tran dynastic practices¹².

Of Vietnam's distinctive most important cultural characteristics was the unification of the three major religions (or the 'reduction of religions into the same source' (*tam giao dong nguyen*), which syncretically blended Confucianism, Mahayana Buddhism and Taoism¹³. By this time, the traditional Vietnamese society coexisted with Confucianism, Buddhism, Taoism, that was the school that united these three religions.

Until the Tran Dynasty, Buddhism still had strong influence on the political-legal ideology of Vietnam, though neo-Confucianism was embedded in the nation's socio-political, cultural, family structures. At least two codes that were promulgated are Quoc trieu Thong Che (General Statutes of the Dynasty) in 1230 and Hinh thu (Book of Punishments) in 1341.¹⁴ During the Tran dynasty, Vietnamese society became a complete aristocracy-based political institution in which the empire was governed by the Tran family's aristocrats. The Nation's governance was under the royal family-based hierarchial system. This characteristic led to the very typical hierarchy of society and the legal system; which mirrored the absolute protection of this system and the aristocrats's interests. The legal system was very strict and reflected the influence of Confucianism. For instance, the punishment of the unfaithful husband or wife who had illegal sexual relationship with others, who was charged with this offence was either execution or being forced to become his or her own family's servant¹⁵.

Furthermore, the law also recognised the legitimacy of trading slaves, servants or giving away wives and children to be servants in lieu of paying debts to the aristocracy¹⁶. The provisions indicate that the Feudal society under the Tran dynasty contained the inequality between classes of people and between men and women. However, the Imperial Penal Code (*Quoc Trieu Hinh Luat*) of the Tran contained many humanitarian elements and humanity¹⁷. For example, the law protected property rights, especially the right to ownership of land. Additionally, in order to protect the rights and interests of the whole people, the emperor put in place laws to ensure that innocent people were not wrongly charged and allowed the accused the right to the ‘the big bell’ hanging in the front of mandarin offices which they could ring to ensure their case were heard.¹⁸ The Tran dynasty also respected people by actively hearing their voices, placing them as the foundation of their dynasty. As the Tran’s most prominent General, Tran Quoc Tuan¹⁹, recommended the emperor and mandarins, as well as the Tran’s government, that ‘respect for the people, as well as delivery of a well-treatment policy to them, is the best solution of governance’ (*khoan thu sức dân để làm kẻ sâu rễ bền gốc*).²⁰

For most Vietnamese Confucian-scholars, Vietnam had its own culture, civilisation and ideology that shaped the nation distinct from China since the dawn of the nation’s foundation. Vietnam’s famous fifteenth Century- Confucian and Great Poet, the World’s Cultural Personality and National Hero Nguyen Trai (1380-1442) once asserted in his outstanding essay, *Dai Cao Binh Ngo* (*Great Declaration to the enemy’s defeat*), that the Great Viet had its own culture and civilisation,

*‘...Insofar as our Great Viet has existed,
So long had Its Culture and Civilisation,*

*Had its own separate mountains and rivers,
Had distinctive Customs between North (China), South
(Great Viet),
Throughout Trieu, Dinh, Ly, Tran Dynasties,
Along with Han, Tang, Sung, Yuan Dynasties.
Each built its own independence and ruled its own land.
Though strong or weak, depends upon time.
But heroes never disappear ... '21*

3. THE LE (1418-1788)

The Le dynasty (1418-1788) legal-political ideology reached a new height of humanitarianism in traditional Vietnamese society. In his *Great Declaration to the Enemy's Defeat*²², Nguyen Trai asserted the values of humanity, humanism and humanitarianism that were well embedded in the Vietnamese tradition. As he wrote,

"The work of humanity and righteousness is to stabilize the life of people"

"The most important thing in military is first to abolish violent disturbances"

*"Thus, wining brutality by doing humanity and righteousness, Replace cruelty by intelligence and humanity"*²³

Humanity, humanism, and humanitarianism have always been Vietnamese traditional values. However, these values were expressed remarkably and profoundly in the Le dynasty through Nguyen Trai's political and military ideology. For Nguyen Trai, as a Vietnamese scholar commented, humanitarianism is not only the policy at peacetime but also the ideology of military strategy and at wartime. That is not

*only the right policy for the state to treat its own people, but also the forgiveness policy for the defeated enemies. That is not only the policy of short- but also the long-term, for the independence and sovereignty of the state, peace and friendship with other countries. Those ideas still have the same values at present day*²⁴.

A Vietnamese born American scholar, Dr Ta Van Tai, in his book *The Vietnamese Tradition of Human Rights*, asserted that Vietnam has had a very long tradition of human rights, at least a thousand years old. As he emphasized,

'The legal norms and practices of traditional Vietnam adhered to many of today's international standards and even exceeded them in the area of many economic and social rights (made them enforceable). The reader who is interested in the total subject may read this general treatise of the thousand-year history of human rights in Vietnam'.²⁵

According to Ta, it is Buddhism, rather than Confucianism, that plays a vital pillar and stood as a first and foremost foundation of Vietnamese tradition of human rights. Throughout Feudal dynasties in Vietnam, Buddhism, with the plenty of ideas on humanity and human rights, penetrated the laws, government policies and practices. Ta regarded Buddhist influence on human rights policies as remarkable²⁶. Ta also claimed that Buddhism contributed a lot to constituting human rights ideas and policies in Confucianism-based Feudal dynasties in Vietnam. Traditional Vietnamese emperors or Confucian-scholars applied the Buddhist ideology of humanity and human rights into lawmaking and governing society. He asserted, 'the influence of the Vietnamese Buddhists on the human rights policy of the governments

in traditional Vietnam is clear. This is not to say, as we have alerted the reader at the beginning of this paper, that the Confucians in the government were the big bad boys. Endangering human rights, because our broader study, i.e. the book *The Vietnamese Tradition of Human Rights*, gives ample evidence that the Confucians, whether emperors or scholar-officials, did respect human rights standards to a great extent²⁷.

In terms of the legal development of traditional Vietnam, the Le Dynasty contributed so much to the extent that it produced a very advanced and well-known Code called Hong Duc Code (1483)²⁸, which is regarded as one of the best ever codes in East Asia and the best ever code in Imperial Vietnamese dynasties. Significantly, though influenced by neo-Confucianism, this Code is remarkably distinctive from the Chinese contemporary code (such as the Tang's Code and the Ming's Code) and contained a lot of advances. Of the Code's seven hundred and twenty two articles, only two hundred were substantially influenced by the Tang Code and seventeen were similar to those of the Ming Code. ²⁹

The Hong Duc code was also influenced by the principles of neo-Confucianism, such as the ideas of 'Heavenly Mandate' (*Thien Menh*), virtue-based rules (*Duc Tri*), and moral indoctrination³⁰. Despite these influences, the Hong Duc Code marked remarkable progress in the respect for and protection of human rights in general and women's rights in particular. For example, under this Code, the status of women was especially highlighted. The code protected women's rights and interest. By implementing many reforms, the Code ensured that women were entitled the same rights as men. Bearing in mind that this was done in the 15th century, this was, by all accounts, a remarkable and rare achievement in the whole the world's

legal system. The advanced ideas enshrined in Hong Duc Code have become standards and good practices for Vietnam's later feudal dynasties; it has become the focal point of the modern ideology of human rights.

In this regard, it is the East tradition that pioneered progressive ideas of human rights, and not the West. The Western ideas of human rights for all only came not sooner than the end of the 17th century and gained momentum from the American Declaration of Independence in 1776 with the claim that every man is born free and equal. As one Western scholar commented, the Hong Duc Code, similar to other mandarin law, contained the elements of natural law which is the law for all people³¹. Many scholars have mentioned that human rights for women were first mentioned under this Code. For example, a woman's right to inherit the family's ancestral lands provided that she had no living male relatives³². The Code covered many areas of women's human rights, notably economic, social and cultural rights. A wife who brought her own property when she married, had a say in its disposal; furthermore, she had equal share in the joint property of marriage from the time of the marriage to when she left (widowhood or divorce); she was entitled to legally administer part of her deceased husband's share; the sale of family property required wife's signature; she enjoyed equal inheritance and great freedom of movement.³³

The Lê Dynasty's Hong Duc Code was a brilliant achievement of the Vietnamese legal tradition. During the Lê Dynasty, law had recognized and respected role in governance and significantly became an effective tool of human rights protection. Soon after ascending the throne, Emperor Lê Thai To proclaimed to the people that "[f]rom the beginning of time, to govern the country, there must be law. Without law, there will be chaos. Therefore, our forefathers have made laws to

teach people what is good, what is evil; to do good, to avoid harm; and not to break the laws"³⁴.

Brilliantly, Hong Duc Code reached its highest development of humanism and humanitarianism within the period of Oriental Feudalism. Of the 722 articles, there were many specific provisions for the protection of human rights of a number of groups: women, children, the elderly and the disabled, and the people who are in especial circumstances. For example, Article 322 stipulates that, "a girl who has been engaged in marriage with (but not married to) a boy who is disadvantaged or has committed crime or wasted his whole estate shall have the right to complain for annulment of the engagement". Under this Code, the right to freedom of marriage and family was also highlighted. Article 308 recognised a woman's right to divorce if betrayed by her husband, "a husband who abandons his wife for more than 5 months (the wife's claim is witnessed by a village's mandarin) shall lose his wife. One who has already divorced but prevents his former wife from re-marrying shall be punished by reducing rank"³⁵. Additionally, Articles of 376 and 391 provides for women's inheritance rights.³⁶ Article 680 protects women's rights to freedom from inhumane or degrading, cruel treatment and punishment in case they have committed criminal offences. For example, if a woman who committed an offence and sentenced to be beaten by canes or imprisonment, but is pregnant is exempted from receiving such punishments within that period. They had the right to have a reduction or exemption from punishment and punishment of death penalty. As it stipulates, "the execution of a death penalty of woman who is pregnant shall be delayed until 100 days after the birth [of the baby]. Officials who have executed those sentences against women before birth or within 100 days from birth shall be reduced in rank or punished".

The Code protected children's human rights, especially those of females. Article 404 provides the death sentence for those who violate or abuse female children. It prohibits sexual intercourse with an under-age girl. The article states one that had sex with girl under the age of 12, even with her consent, shall be punished as if he had committed the offence of rape (and shall be sent to a remote area or sentenced to death)'.

The Code was also very strict towards those who apply torture to prisoners. Article 622 states, "anyone who commits misconducts or an injustice against a prisoner imprisonment or application of cangue and stocks towards prisoners shall be beaten by cane for 70 times", and article 422, "robbing a person at a sensitive place, and committing arson causing a person to die shall be treated as manslaughter".

Notably, the Le dynasty's Hong Duc Code contains many advanced provisions which still remain worth today. It is not only a great achievement of the Great Viet's history or Vietnamese Feudal regimes, but also of the East Asian Civilisation. Since the Western civilisation have been officially thought to have contributed to the birth and development of the concept, and theories, of human rights, the recent discoveries of Eastern ideologies and thoughts have brought a re-thinking of the Western origin of human rights ideas. Unarguably, Phan Huy Chu, a famous historian, commented in his well-known Lich Trieu Hien chuong Loai Chi (Historical Notes of Imperial Bibliography) that "the Code was a standard ruler for country management, a frame for ruling people".³⁷ Unsurprisingly, many modern scholars and historians have especially emphasized the advanced

*values of Hong Duc Code as a great development of East Asian legal-political ideology. In his forewords for the Le Code (by Nguyen Ngoc Huy and Ta Van Tai, eds., 1987), an American scholar, Professor Oliver Oldman, director of the East Asian Law Centre of Harvard Law School (USA) commented: "The Le Code of Vietnam is a truly immortal work of the rich-in-tradition Great East Asia. ... During this special period of development, Vietnam had put great efforts to build a strong state that protected individual rights of citizens through an advanced legal system which, in some functions, could be equal to modern western legal thoughts"*³⁸

4. THE NGUYEN (1802-1945)

Following the Le, the Nguyen Dynasty also applied neo-Confucianism into the Nation's primarily socio-political, legal, cultural ideology. More than the Lê dynasty, however, the Nguyen emperors especially emphasised on this neo-Confucian ideology and mirrored the socio-political institutions of China's Ching dynasty³⁹. As a result, the Nguyen's Code, well-known as Gia Long Code,⁴⁰ which is also regarded as one of the best Codes of traditional Vietnam, was remarkably influenced by the Ching's Code.

Unlike the Le's Hong Duc Code, which mainly mirrored Vietnamese traditions and customs, The Nguyen's Gia Long Code (adopted in 1813 by Emperor Gia Long) was slavishly copied from the Ching's Code⁴¹. There is no doubt about this huge influence of the Chinese Ching Code in the Nguyen Code. Of its three hundred and ninety eight articles all but one are either identical to or closely based

on Ching Code articles. It strengthened the existing criminalisation of neo-Confucian morality, removing most indigenous provisions found in the Lê Code. Also contrasting with the Lê Code, provisions showing the social reality of everyday commerce, land dealings and womens' rights were stripped away⁴².

The Nguyen Code established a legal architecture enmeshing village leaders and family heads into Imperial-Confucianism. Consequently, the most substantial criminal penalties (five-relationships (*ngu luan*)) reached into village and family life. Crimes by wives against husbands and especially by children against parents (filial piety (*hieu*)) were considered more heinous than offences against social inferiors⁴³. The meaning of filial piety is nothing but a strict principle imposed upon the people and society based on the nature of inequality. The disrespect of filial piety could break the whole society, which was based on this solid family-based relationship.⁴⁴

Influenced by the Chinese legal tradition, the Nguyen's Gia Long Code (or the Vietnamese Imperial Penal Laws and Orders, *Hoang Viet Luat Le*) was none other than the code of the Ch'ing dynasty, itself largely a copy of the Ming Code of 1397. The Nguyen rejected the Le Code as a model because the Ching statutes were presented more thoroughly and consistently⁴⁵. The Gia Long Code only inherited one article of the Le Code (article 164). Nevertheless, the Gia Long Code did not inherit thirty-nine articles of the Ching Code on the ground that the Ching Code represented the apex of Confucian thinking about punishment and as such commanded respect⁴⁶. Thus, under the Nguyen, the traditional Vietnamese village customs (customary laws), which were once dominant during the Le dynasty and embedded in the people's consciousness, were abandoned. As a

result, the Nguyen's Gia Long Code seemed to be in existence at central feudalism's governmental institutions and urban areas, rather than did it adjust the people's village life; and there existed a big gap between villages' customs and imperial orders. Initially many advanced provisions of this Code was missing on laws and orders of the later dynasties, of other countries at the time and modern time. Though they were missing to be included in formal and written legal system of post-Le dynasty's successors, villagers continued to live according to the rules of the Le Code as enforced by village councils⁴⁷. This was because Vietnam's dynasties after the Le did not inherit the Code, instead they tried to create themselves their own legal system by borrowing that of the Chinese counterparts. For example, the Mac, Trinh-Nguyen's Dynasties had borrowed many provisions and laws of the Ching Dynasty of China. Traditionally, the new dynasty's elite and scholars did not want to apply their predecessors' legal and political ideology just because of political reason and East Asian culture. Thus, many good practices and advanced legal provisions on human rights were not promoted continually throughout Vietnamese imperial dynasties.

Under Gia Long Code, the right to freedom of private property was also somewhat respected and ensured, though on the ground of a person's hierarchical status in society recognised by the government⁴⁸. For example, the right to ownership of land were first stipulated in a law of 1804 which regulated that every three years land was re-divided amongst claimants. People who were as first-ranking civil officials could claim fifteen parts. A tax-paying adult male could claim six and a half parts while the elderly, orphans, widows and disabled could each receive from five and a half to three parts⁴⁹.

In 1840 the proportions of allocation were revised on the ground

of giving more equality towards people. For instance, land given to active duty soldiers was replaced in a separate category and the remainder was allotted to officials, soldiers and commoners equally with each other receiving one part, the old and infirm one half of a part and orphans and widows one third of a part. Public land used for special purposes such as supporting teachers and students or the poor was also classified separately⁵⁰. When public land in a village was built upon by the central government, the village was paid compensation for the loss of productive land⁵¹. Furthermore, uncultivated land could become privately owned through exploitation and payments of taxes to the state⁵².

It is worth to note that at the time of feudal regimes existed, for example the Le and Tran dynasties, land and land use were only granted to mandarins and high-ranking warriors while ordinary people did not have the right to use land nor did they claim to that right. Additionally, since land was regarded of the emperor's most valuable property, that it was granted and divided to ordinary people and the poor was a great recognition of economic rights of people. Thus, the Nguyen's provisions on land use indicate that its law ensured somewhat people's rights in term of socio-economic field.

However, as the seniority in society as well as in the village council was based on the people's official hierarchy⁵³, the human rights given to people were still limited and on the ground of discrimination and inequality. Though there were a lot of achievements providing certain human rights for all people, the Nguyen's Code was, after all, made to protect the privileges of royal family and mandarins based on their hierarchically social status and rewards, rather than to protect the whole people regardless of any distinctions. For example, reflecting the legalist belief in the power of

rewards, this judgment of the Nguyen's Emperor Minh Mang also evinced a reliance on the framework of official sanctions to set effective incentives for village leaders.⁵⁴ Compared with the Le dynasty's Code, as well as with that of the Tran and Ly, the Nguyen Code became not only more strict and systematic towards people and the village life that made people less freedom and equality, but also it was aimed at enhancing neo-Confucianism's conservative ideology and at building up a strong totalitarian feudal state. In addition to the French invasion and dominance upon the entire country, the Nguyen's legal and political ideology became strict and defensive towards Vietnamese people life and culture during mid-19th and early 20th centuries.

Of these very strict provisions which are discriminatory against and intolerant towards people include several provisions related to restrict the right to freedom of religions of non-Confucianism followers⁵⁵ (other than Confucianism), such as Buddhists, Taoists, Catholics and Protestants. It is worth to note that the Nguyen's laws and orders were discriminatory against those people. It was the Nguyen who carried out the bloody repression of Vietnamese Catholics, which began only with the Minh Mang Edict of 1833 and ended in 1862 under Emperor Tu-Duc⁵⁶. There was a provision stipulating that the clergy had to be under the emperor's control and 'any attempt to obtain private ordainment certificates or to enter monkhood or priesthood without a certificate would lead to the punishment of the stick penalty'⁵⁷.

The Nguyen Government also carried out the policy of control over temple building and statue casting. For instance, it regulated that there could be no new monasteries or convents built without any approval of the Imperial authorities; any one who might breach this

regulation would be punished and sentenced to exile⁵⁸. The Imperial authorities also took control over printing of religious books and the popular cults. The Nguyen's Code stipulated some provisions that gave the Imperial authorities powers to take control over the religious practices and restrict the people's right to freedom of religion and beliefs. In the nature of religious oppression, the Nguyen's imposed death penalty on those who attempted to follow or practiced the so-called "perverse religions"⁵⁹. Article 75 of the Nguyen's Code, as well as the Decree 3 following that Code, stipulating that if there is no limit imposed on the number of Buddhist monks and Taoist priests, who were not listed in their family households and were thus exempted from corvee, the population would be decreased; also, since the clergy did not till land or exercise any trade and depended on the people for their food and clothing, national resources would be wasted. Therefore any attempt to put young men sixteen years old or older outside the family (i.e., into the clergy) would lead to punishment⁶⁰.

The Nguyen Code also adopted several other strict provisions that aimed at punishing those who might not follow them, and to strangulate those are religious masters or "sorcerers" who evoked "diabolical spirits", "saints, and all other "faked religious doctrines", or who formed unauthorized religious societies, thereby "sowing confusion among the people". Neighbours who did not denounce and officials who failed to suppress these offenders would be themselves punished⁶¹.

As the Nguyen imposed the entire Confucian ideology on the society, the more this ideology entered socio-political, legal, cultural institutions, the more strict and conservative policies it had against reformed elites, scholars and ordinary people. Additionally, as an absolutely authoritarian feudal regime, more than any other dynasties

prior to them, the Nguyen dynasty borrowed and applied the Ching's neo-Confucianism based Code which was extremely strict and discriminatory against non-Confucians. Additionally, since the Nguyen took neo-Confucianism as its official legal and political ideology, Confucianism's conservative ideas were again multiplied. The idea of superiority of man over woman ('man first, woman second'), scholars over businessmen 'scholar first, businessman last', and many other form of the hierarchical order of people in society, made discriminations to the recognition of rights and affected the way in which people enjoyed their rights. Most notably, the role of women and their rights became less respected and protected.

As the Nation's greatest poet Nguyen Du (1765-1820)⁶², In his famous work *The Tales of Kieu*⁶³, drew this situation of society through the destiny of women and concluded that her destiny was also common to everyone and the whole feudal society that gave them nothing but unhappiness, suppression and inequality. As Nguyen Du sympathetically uttered this word,

*'How painful the destiny of woman is
That her unhappy destiny is also of all human beings'
Or,
'Having gone through a play of ebb and flow,
The things that have been seen make one painful and hurt'*⁶⁴

Nguyen Du's Tale of Kieu was inspired by a Chinese classic literature work, the Tale of Kim-Van-Kieu, written by a Chinese writer⁶⁵ in Ming dynasty. The story was about a Wang family lived under the reign of Gia Tinh (1522-1566) of the Ming dynasty. The historical, socio-economic context was in Chinese feudal society in the 16th century, however it was so much similar to that of Vietnamese feudal society under the Nguyen at which Nguyen Du lived. The story,

written by the Chinese writer, itself was forgotten, as was its author. However, it was so inspired by Nguyen Du that made him re-create it and write it in verses of a poem, and made it one of mankind's greatest literature works. Thus, the socio-economic context of Nguyen Du's character Kieu lived was exactly of Vietnamese feudal society in early and mid 19th century, at which Nguyen Du lived.

Nguyen Du's Tale of Kieu is a poet story describing the most beautiful and talent, but unhappy woman. Through his creation of character Kieu, her family and society, Nguyen Du made his great contribution to draw up the whole picture of East Asian Imperial societies, such as China and Vietnam, in relation to the respect for and implementation of human rights. That is also a complete picture of Vietnamese feudal society in which human rights was realised. For Nguyen Du, the destiny of Vietnamese women is also that of the whole people who live under traditional Vietnamese societies. That is also a shared voice of the destiny of the whole mankind living under Feudal regimes. The socio-political context in which Nguyen Du lived was also typical for the traditional Vietnamese society and its legal-political ideology was constituted by neo-Confucianism.

Influenced by Confucianism, Nguyen Du also thought that what made human beings have a good or bad destiny, happy or unhappy, successful or unsuccessful, etc., are caused by the Heaven. Thus, the human being's destiny in general and that of woman in particular are arranged by the Heaven, and they could not change it or improve it. As read in his poems,

*'Think it over; everything is caused by the Heaven,
The Heaven made man had his destiny!
If being doomed to roll in dust, one must roll in dust;
If being granted to be noble, one will live in a noble life!'*⁶⁶

Nguyen Du's viewpoints of the world, human society, and human beings mainly mirrored neo-Confucian ideology, which was more conservative than that of orthodox Confucianism. However, Nguyen Du was a radical neo-Confucian though this character did not help him split away from some conservative ideas of Confucianism⁶⁷. The question why Nguyen Du was unable to escape himself, therefore he could advocate the way to help the whole society to escape from such the Heaven's arranged destiny is explainable.

This is because Nguyen Du used to be a high-ranking mandarin, who was educated in Confucianism and lived in a central authoritarian Feudal society where he did not feel that he was free. As a brilliant Confucian scholar and a high-ranking mandarin, what Nguyen Du had gone through and experienced was a real life of traditional Vietnamese society and people. The image of Miss Kieu in his work was exactly the image of traditional Vietnamese women who did not find out the way to freedom and who were suffering from the repression and suppression of Feudalism in general and Confucianism in particular, as a conservative ideology. That was also the image of the Vietnamese people under Vietnamese feudal regimes.

Since relying upon Confucius' thoughts on Heaven and Destiny, Nguyen Du explained the woman's unhappy destiny was caused by an established order of Heaven and that was unchangeable. This made him could not go further Confucian conservative ideology that shaped Oriental totalitarian feudal regimes. As a Confucius' faithful follower, Nguyen Du relied on the Heaven's mandates and placed human beings' destiny in the Heaven and the existing society's order which was a hierarchical society. Since the Emperors are sons of the Heaven and are given powers to exercise the Heaven's mandates of ruling the people, the Emperor's laws imposed onto the society and people are

also the Heaven's laws. Thus, it obviously indicates that people could not act against the laws, which were normally against them.

The Nguyen Emperors copied to the Ching counterparts even the life style as a superior emperor and son of the Heaven⁶⁸. Thus, most of the Nguyen emperors had dozens of wives and imperial maids. Remarkably it was Emperor Minh Mang who had 142 children in total, of whom 78 princes and 64 princesses⁶⁹. This was probably rooted from the Confucian culture of disrespect against women and of the patriarchal system⁷⁰. During the Nguyen emperors' reign, the strict principles of neo-Confucianism and those of the Chinese Ching Dynasty were heavily embedded in the rulers and their ruling machines, and took over the indigenous legal-political ideology, which was once more open and radical the Nguyen's Dynasty as being combined with Buddhism, Taoism and animism.

In the Confucian world view, emperors were said to have the "mandate of heaven" to rule their people, who, in turn, owed the emperor total allegiance. Although his power was absolute, an emperor was responsible for the prosperity of his subjects (people) and the maintenance of justice and order. An emperor who did not fulfil his Confucian responsibilities could, in theory, lose his mandate. In practice, the Vietnamese people endured many poor emperors, weak and strong. Counterbalancing the power of the emperor was the power of the village, illustrated by the Vietnamese proverb, "The laws of the emperor yield to the customs of the village."⁷¹

In brief, the traditional Vietnamese legal culture, during the periods of early history to French colonization (mid 19th Century), was constituted by a combination between an indigenous culture and foreign legal-political ideology. For instance, the traditions such as caring for children and the elderly, children are required to care for

their parents in old age, reflecting Confucianism based legal culture. While marriage is set forth as a partnership of equals, reflecting socialist law; and much of the family code also is drawn from the French civil code⁷².

5. SOME REMARKS

Due to the autonomy of the villages, it created the weakness of the Vietnamese political system. Under the Vietnamese feudal society, the villages almost existed as a close institution separate from the central government. This explains why the imperial codes had sometimes not reached to the villages and realistically regulated upon people. Rather, the villages', as well as communes', customs were more prevalent than the law and even took over the law. This is particularly true in traditional Vietnamese society in which the people are accustomed to the maxim *Phep Vua thua le lang* (Village customs take precedence to the King's orders, or in other words, the emperor's law.) As a result, the villages' customs and traditions had prevented the laws from coming to effect entirely within the society. Thus, these customs and traditions had significantly weakened the laws and produced many negative points for the execution of laws as well as the protection of human rights for all people, especially those of women.

Such customs created a lot of difficulties in protecting the substantial human rights for people, especially those of women. This has caused to the violations of women's rights, which were stipulated, respected and protected by specific provisions enshrined in the imperial Codes, such as those of Hong Duc Code. Despite the contemporary shortcomings of Confucian ideology and the 15th Century Le dynasty's socio-economic development, Hong Duc Code

contributed a great viewpoint of the liberation of women and human rights ideas.

In general, the imperial law had imposed strongly upon social, family relationships that were based on both orthodox and neo-Confucian moral, legal and political thoughts. Confucian ideology consists of the following components: the *Tam Cuong* (*Three vital relationships: king and mandarins (and his subjects—people); father and child (son)*)⁷³; *husband and wife; elder brother and younger brother; and friend and friend*) and *Ngu Thuong* (*five cardinal virtues: humanity or humaneness (Nhan); righteousness (Nghia); rite (Le); wisdom or rationle (Tri) and trustfulness (Tin)*).

These components are regarded as the foundation of Confucian humanitarianism. At the same time, they also constitute the society's moral-based rules upon which legal and political institutions are established and social relations are adjusted.

Confucianism advocates the social hierarchy and classifies people on their virtues. People who have different social status because they have different virtues. One the one hand, Confucians assumed that these virtues can be obtained through the people's process of life and self-cultivation. On the other hand, they thought that the people's social status is established by Heaven and unchangable. Therefore, social relations of men to men are hierarchial and this is self-evident. This idea is obviously incompatible with modern ideas of human rights which advocate all people are born equal in dignity and rights. Confucian thought of social hierarchy has made Asian Asian societies, including Vietnam and China, a lot of obstacles in realisation of human rights for all people.

The most vulnerable people who has been suffering Confucianism' restrictions are women. Confucianism advocates a

disrespect toward women and gender by tieing them into very strict moral rules. For example, alongside with *The Three Relationships and Five Virtues*, which require all people must respect and follow, are the separate virtues for women. Those are *Tam Tong* (Three Bonds or Three Things Must be Followed) and *Tu Duc* (*Four Virtues*). *Tam Tong* are 1. *Tai gia tông phụ* (a woman was supposed to be submissive to her father when young), 2. *Xuất giá tông phu* (a woman was supposed to be submissive to her husband when married), 3. *Phu tử tông tử* (a woman was supposed to be submissive to her oldest when widowed). *Tu Duc* are 1. *Công* (skillfulness), 2. *Dung* (sophistication), 3. *Ngon* (good communication), 4. *Hanh* (good heartedness). These virtues are needed to every woman and they must be seriously followed. Whenever a woman who breaches one or more than one of those virtues is regarded as the bad woman; she shall be subsequently punished morally or mentally by her family and community. Apparently, this violates the dignity and human rights of women. These very strict rules of Confucianism had tied woman within the solid walls of obedience that deserve her nothing but unrest acceptance and endless sacrifice. Under these rules, women lived an unequal, repressive life and they were treated as the family's servants.

As Confucianism advocated the ideology of superiority of man⁷⁴, women were excluded from both her status in family and society. Women were not allowed to study and to be a Mandarin. In the modern language of human rights, they were not entitled equal rights as so were men, such as the right to education and the right to participation in public life. Neither did they get equal education nor general education. Thus, there was not any female scholar or female Mandarins until mid 20th century. In the lenses of Confucian ideology, it was very hard to accept any woman to be a mandarin or scholar

because such the jobs were only dedicated to men, and that woman's primary and only jobs are domestic works. Additionally, women must be always in piety and obedience towards her parents, husband, and always self-cultivate Confucianism's major virtues. Such the rules of moral gave the woman no rights, but only duties instead. Obviously, Confucianism and Confucianism-based society that treated people on the ground of virtues is the discrimination and inequality between man and man, and especially between men and women.

Traditionally, Vietnamese society was mainly based on Confucianism that classified the classes of people according to their virtues; people who had different social statuses were entitled different privileges. For example, people were classified into the two main types. The first type are those who are well educated and self-cultivated to understand and practice fully Confucian moral rules; they are called '*ngươi quan tu*' (the gentlemen), or *tairen* (great men). They were much more respected than others. The second type are those who are uneducated, less educated or ordinary people as a whole; they are called '*ke tieu nhan*' (the small men), or *xiaoren*.

Another characteristic is that since traditional Vietnamese society was based on patriarchy, which members of society were ranked on their order as they are in a family, the relationships amongst them and between man and woman were unequal and hierarchical. The relationship between the State (King, Mandarins) and the citizen (subjects) was as parents and children. This was one-way upward relationship, which means the people must always respect their king and mandarins regardless their characters and professional quality are good or not. This is also an unequal relationship. Thus, the people who lived under such the regimes were unable to claim for their rights and interests whenever they were denied or violated.

The family-based hierarchical relationships between father-child (Phu Tu), brothers (*Huynh De*, and husband-wife (Phu The) are the foundation of the social relationships and the model for societal roles. First and foremost, children were taught filial piety (*Hieu*), to obey a respect and honour their parent. The parent-child was at the very core of Confucianism, and therefore of Vietnamese culture, dominating everything else⁷⁵. The second important relationship of the family, and therefore of the society, is the relationship between brothers. Along with the Phu-Tu (father-child), the *Huynh-De* relationship is a paradigmatic example for extending this basic family model to society. One was supposed to behave toward those senior to one, or of higher rank, or older, as if they were older brothers. Unlike most Western cultures where children learned independence and equality, children growing up in traditional Vietnamese families learned dependence and nurturance, the importance of hierarchy, not equality, the rewards to submission to those of senior status, not assertiveness⁷⁶. This is an ideal role model that constitutes a social hierarchy: child towards parents, younger brother towards older brother, and wife towards husband⁷⁷. The third important relationship is the *Phu The* (*husband-wife*). This is also an equal, super-ordinate relationship. Since women were regarded as subordination to men in the nature of things, like children and younger brothers, they were supposed to be submissive, supportive, and compliant toward their husbands. Husbands were supposed to teach and exercise control over their wives as they did their younger brothers and their children⁷⁸. This is absolutely a patriarchal, hierarchical relationship which tied women as if they were just servant.

Additionally, a woman when young is a subordinate to his brothers as girls are not regarded as the equals of boys, but they are also

disrespected due to the Confucian culture of ‘one boy, that is something; ten girls, that’s nothing’⁷⁹, and ‘a hundred girls aren’t worth a single testicle’⁸⁰. After marriage, a woman soon fell into her husband’s control and under the order of husband’s family that again multiplied her submission towards her parents-in-law, her husband, and her brothers or/and sisters-in-law. This is inevitably discriminatory against women’s rights and interests.

Since marriage was arranged between two families and two parents, so spouses were chosen not by themselves but by parents instead⁸¹, they did not have the right to choose their marriage partner, or decide their own marriage, and therefore their future. Such arranged marriage that was not based on the love and voluntary basis between the two persons is inevitably not free. Thus, the right to freedom of marriage affected the right to freedom to decide one’s own life. Historically, there were many arranged marriages that made both persons unhappy and unpleasant. The person who was suffering most had been always woman.

As Confucianism especially emphasizes on the values of family as a key role and foundation of the society, the relationships between the emperor and mandarins and his subjects are based on the family-style, between father and son. The Emperor and mandarins as the people’s parents, therefore they are those to whom the people must always respect. Obviously these relations are unequal. As Confucian doctrine pointed out ‘Mandarins and people must be always loyal to the emperor’.

Neo-Confucians reformed orthodox Confucianism based on the contemporary socio-economic, political context so that it could be kept as the dominant ideology of Vietnamese imperial regimes. In relation to the ideas of moral, legal and political rules, neo-Confucian

thoughts become more conservative than ever before so was orthodox Confucianism. However, neo-Confucians, like Nguyen Trai⁸² and Nguyen Du, among many other Vietnamese neo-Confucians, changed themselves to become a radical Confucian. Their thoughts had significantly contributed to forming traditional Vietnam's legal culture that provided greater freedom to all people. These neo-Confucians advocated that the society's elite and mandarins, along with their loyalty to the Emperor, had to respect people and treated them in humanity, equality and dignity⁸³. Thus, for Vietnamese neo-Confucians, the role of people in the lenses of neo-Confucians was remarkably improved and highlighted. They especially emphasized and practiced the 'people are as the root' principle of governance (*Dan la goc*). Nguyen Trai contended that '[p]eople are as water. Water rows the boat, but also turns it over'. The Vietnamese radical Confucians also advocated a feudalism democracy in the context of Occidental monarchy. Indeed, this type had existed in traditional Vietnamese society, which is regarded a commune-village democracy, or communal democracy.⁸⁴

Since the traditional Vietnamese society was based on a wet-rice political economy, its villages and communes appeared to be a relatively closed, separate entity from one to another and from urban and central areas. As a result, neo-Confucian values, which were so much conservative to the emperors and mandarins, and against the people's rights and interests, were not infused deeply in villagers and uneducated people, but the elite and educated people instead⁸⁵. As John Gillespie pointed out,

'Ultimately, neo-Confucian orthodoxy in villages was never considered as vital as official compliance, because hierarchical distinctions between the morally perfected elite

and uneducated villagers formed a central organising premise of Confucian/legalist culture',⁸⁶

This characteristic shaped the vital space for the people to maintain the Vietnamese indigenous identity and culture though being dominated under the Chinese occupation with the thousand of years. Surprisingly, this created a considerably village autonomy in which ordinary people still felt their rights and equality assured under the commune-village democracy⁸⁷ whilst the Feudalist authoritarian monarchy dominated the whole society and at the central levels. It is worth to note that the level of Chinese and Confucian influences to Vietnamese feudal societies' elite, mandarins and ordinary or villagers was considerably different, and it was reduced at the society's grassroots. Confucian legal-political ideology deeply embedded on traditional Vietnam's later imperial dynasties, especially the Le and the Nguyen. Because of the level of influences was different, Vietnam's indigenous culture has been still alive and flowered. It was the villagers who preserved traditional values and good practices of rules of conduct between men to men and men to the society. Also it was the villagers who relied and obeyed little to the emperor's laws and orders if they were incompatible with the villagers' customs and traditions.

By this time, traditional Vietnamese legal culture was mixed by the Chinese and indigenous characteristics, which appeared to be the contradictions between the imperial Codes and the villages' customs. Consequently, law in traditional Vietnam never decoupled from morality and there was no clear division between legality and morality, and moral consciousness, rather than legal rules, formed the central organising principle⁸⁸ As analysed above, the principle of Confucianism-based rule is nothing but virtue-ruled instead. As John Gillespie commented that the Vietnamese legal-political ideology was

based on the characteristics of *Imperial paramountcy*, *Virtue-rule*, and *Hierarchical state administration*, meanwhile its legal culture was obviously influenced by the Chinese⁸⁹.

Given the legal culture of traditional Vietnam, there are some conclusions that can be withdrawn as follows.

Firstly, traditional Vietnamese laws, especially the Le dynasty's Hong Duc Code, contained many advanced ideas of human rights which are completely compatible to the present-day universal and international human rights standards. Notably, the human rights of women, children, the elderly and the disabled were emphasized and respected. The Le Code protected women's rights and equality, at least in some extent. Both the Le's Code and Nguyen's Code protect the right to freedom from death penalty against a pregnant woman. Such a woman would not have to undergo her penalty until a hundred days after childbirth. Judicial officers who imposed such a penalty to a pregnant woman shall be punished⁹⁰. The Code also protected juvenile defendants. A juvenile under ten years of age who committed an offence could apply for a special petition for clemency addressed to the emperor, who would ultimately make the decision on his care; or a juvenile under seven years were exempted from the penalty.⁹¹ These provisions are absolutely compatible with the modern standards of 'the right to life' and 'the right not to be subjected of being tortured or arbitrarily deprived one's right to life' set forth international human rights law.

The aforementioned evidences demonstrate that traditional Vietnam's legal culture, as well as its norms and practices, contained many positive elements which are absolutely adherent to modern international human rights standards. However, it still contained certain elements or negative effects that are incompatible to modern

ideas of human rights. For example, apart from such the very humane provisions, there were a number of inhumane and cruel punishments still applied. Consequently, there were a mixture of cruelty and humanity enshrined in traditional Vietnamese imperial legislation⁹². For instance, those punishments were applied against women who committed of breaching *Tam tong* (Three Bonds) and *Tu duc* (Four Virtues). Most Vietnamese imperial laws strictly applied the death penalty to not only the individual who committed an offence of attempt, or conspire, to murder an Emperor, but also to his three-generation family⁹³. In the light of modern human rights standards, the Hong Duc Code, as well as other Vietnamese imperial laws, contains several historical shortcomings. For example, the individual's rights to have a lawyer could not be feasible at the time; or the right to have a public hearing; or to have substantive and procedural guarantees of due process.⁹⁴

Secondly, the human rights that women were entitled to enjoy equally to those men basically belong to economic area, for instance, the right to have inheritance. As women had unequal status compared to that of men in the family and in the society, political, social and cultural rights were less likely recognized. As a result of Confucian culture, women were kept in the principles of rites that just asked for their sake, scarify, duties and morals, rather than enjoyment and rights; it also made them enjoy nothing but inequality and no freedom. As clearly taught in the Confucius's *Book of Rites*, the wife not only always obeys the husband during his lifetime, but also remain faithful to him after his death, whereas the husband had no such obligations⁹⁵. In family, she depends upon her husband and had no voice in her family's major activities. In society, she was also seen only as a house worker and had no voice; therefore she had no right to education and

participation in public life.

Thirdly, traditional Vietnam's legal culture was mainly rested upon Confucian moral rules that regulated social relations and governance. This is a culture of duties, rather than that of rights. This is a culture formed designed on the ground of obedience and over-emphasis on one's duties towards another and the society. Under this culture, instead of claiming for one's rights, one is required to demand his duties towards others as a primary resource of enjoying rights. Thus, the human rights implications enshrined in Vietnamese imperial laws were either the privileges granted to the society's most powerful people (King, Mandarins, scholars) or the duties and obedience given to the powerless people (the ordinary and the poor) and the society's most vulnerable people (women, children and the disabled)⁹⁶.

In general, the legal culture in the traditional Vietnamese society was heavily influenced by Confucianism, which is a legal-political ideology that takes moral values as its foundation. Unsurprisingly, the influence of Confucianism in the present-day Vietnamese legal system and culture is evident and Confucianism produced a legal culture of "rule by moral" (righteous rulers), rather than the "rule of law"⁹⁷. That culture so much relies on "morality, custom, kinship or politics, rather than formal legality"⁹⁸.

Though the traditional Vietnamese legal-political ideology was constituted by both the indigenous and alien characteristics, it is eventually shaped by Confucianism. Buddhism once played a key role in Vietnamese ideology and initially dominated its legal culture in the early dynasties of Vietnam. However it was Confucianism that rooted so long in traditional Vietnam's legal and political ideology, and it had shaped Vietnamese feudalism's superstructure of society. Surprisingly, at the heart of traditional Vietnamese society a combined

culture of indigenous belief, Buddhism and Taoism had still flourished and embedded in the people's daily life. Consequently, the traditional Vietnamese legal culture was mixed by the formally Confucianism-based system and the informally Buddhism, Taoism, and indigenous system⁹⁹, which mainly existed in villages and villagers' customs and behaviours.

Undoubtedly, the traditional Vietnamese society contained many elements compatible with and equivalent to modern ideas of human rights. Traditionally, Vietnamese laws enshrined a lot of human rights advanced ideas that were only given to birth in Western thoughts of 18th century. Amongst those advanced legal provisions and laws on human rights are those enshrined in the Le Dynasty's Hong Duc Code of early 15th century. In the light of modern and universal thoughts of human rights, Hong Duc Code's provisions on women's rights are being sparkling as East Asia's great values that are the foundation of humanism, humanitarianism and modern human rights law.

However, these elements were unable to spread to all of Vietnamese feudal dynasties as well as they were died out during the emergence of modern Vietnam's socialist ideology. The decline of traditional Vietnam's advanced legal culture and system, which once played a genesis of human rights ideas in East Asian, was because of the clearance of feudal ideology happened in mid 20th century. Additionally, due to lack of correct understanding of geniusly traditional values, jurists, scholars and elites have abandoned them until the fall of Soviet Union's and East European's communist ideology in late 20th century.

From culture-based approach, it is worthy to conclude that East Asian values consist of Confucianism's theory of humanity (*ren*); Buddhism's theory of transcendent morality, compassion and

tolerance; and advanced thoughts on human rights enshrined in East Asian nations' legal system and ideology, such as those of Vietnam's Hong Duc Code of 15th century. These are universal human rights and enshrined in various international human rights treaties.

In essence, East Asia's Confucianism-based culture contains communitarianism; emphasis on family values; overemphasis on economic, social and cultural rights; invisibility of human rights and human dignity, rights and duties; and national sovereignty over individuals' rights. Traditional Vietnamese society remains the case as it has strongly influenced by these characteristics. Human rights were not seen as rights of individuals, but rather as of persons who are not separate from their family, community, and society; and whose rights are indivisible with their duties. Thus, the traditional Vietnamese legal culture is focused on the rights of people as members of community, rights of community, rather than as individuals; and on people's duties rather than their rights. Until the French imposed their rule upon this land, as an East Asian culture, Vietnam's legal culture was mainly based on Confucianism, which was typical to traditional Vietnamese society. In the field of the society's governance, Confucian moral rules were especially emphasized and they replaced legal rules. Moral rules-based culture has been the basis of traditional Vietnamese legal-political institutions. Additionally, traditional Vietnamese culture mirrored the central feudalism's ideology, of its characteristics, for example, patriarchy, hierarchy and exclusion (as women were most likely not respected), that could not avoid its shortcomings that made a lot of difficulties in relation to human rights realisation and protection practice.

It is worth to note that traditional Vietnam's legal culture has been mainly formed by Buddhism and Confucianism. There are

considerable differences between Confucian tradition of human rights protection and that of Buddhism. While Buddhism extremely advocates a transcendent morality, compassion and tolerance, Confucianism advocates humanity and self-cultivation. Consequently, these traditions entered traditional Vietnamese societies differently and influenced the ways in which the individual's rights were protected. Since Buddhism legal culture prioritizes tolerance, during it was the Ly Dynasty's formal legal and political ideology there were very few people sentenced to death or suffered a very serious punishments. By contrast, Confucian legal culture prioritizes the very strict moral standards, such as Three Bonds and Five Virtues, that imposed on the most vulnerable people in society including women, children and those who might break such Three Bonds or violate such Virtues. Buddhism-based legal culture produces opened and humane legal provisions that are more supportive for protecting the individual's rights. On the contrary, Confucianism-based legal culture produces strict and punishable legal provisions to adjust social relations and the individual's behaviours. Thus, Confucian legal culture has marginalized certain groups of people in society, such as women, as it overemphasizes men to women. However, both these traditions share several key points in relation to the protection of human rights. First, both Confucianism and Buddhism emphasize human dignity, humanity and morality that are the foundation of human rights. Second, they became less conservative and more radical when they entered commune-village life of people. Third, these traditions became dominant in central and urban areas, whereas less likely influential to ordinary people as to elite and mandarins. Fourth, they were both applied into the society's practices of governance and became a component, or an entity, of the national culture in traditional

Vietnam. Fifth, both Confucianism and Buddhism have shaped a legal culture of traditional Vietnam as well as they have been still influencing to modern Vietnamese legal and political ideology and the way in which the individual's rights has been respected and protected.

The Vietnamese traditional culture has been remarkably influencing to modern Vietnam, so as has East Asia, embracing both negative and positive factors to the realisation of human rights for all. Nevertheless, given the aforementioned proofs it is fair to conclude that East Asia culture, through the lenses of Vietnam's traditional legal culture, has somewhat made significant contribution to the evolution of universal human rights. ❖

NOTES:

1. See Vietnam General Statistics Office, 2009, *Gross Survey of Population and Houses in 2009 (Tong Dieu Tra Dan so va Nha o nam 2009)*: at <http://www.gso.gov.vn/default.aspx?tabid=512&idmid=5&ItemID=10798>

2. See Cuong Tu Nguyen, 'Rethinking Vietnamese Buddhist History: Is the Thien Uyen Tap Anh a "Transmission of the Lamp"' in Taylor and Whitmore (eds), 1995, *Essays Into Vietnamese Pasts*, 113-115; Also see Ha Van Tan, 'Buddhism from the Ngo to the Tran Dynasties' in Nguyen Tai Thu (ed), 1992, *History of Buddhism in Vietnam*, 100-103,117-125; Ngo Ba Thanh, 'Influence of Buddhism on Ancient Vietnamese Law and Role of Comparative Law in Contemporary Juridical Science', 1996, *Vietnam Law and Legal Forum* 24, 27-28.

3. Buddhism was still so popular among the people that later on, under the Tran dynasty (1225-1400), the Confucian Le Quat, a doctoral degree holder, complained in a stele set up in Thieu Phuc Temple at the time "*Buddhist temples exist in all villages but nowhere does one find the worship of Confucius.*" See Hoang Xuan Han, supra note..., p.402.

4. See Ta Van Tai, Buddhism and human rights in Traditional Vietnam. Review of Vietnamese Studies 2004-5, presented at Harvard Law School. At www.vstudies.org (accessed 10.06.2006)

5. *Dai Viet Su Ky Toan Thu* (The Complete Book of the Historical Records of Dai Viet), official history of the Lê Dynasty. Translation into Vietnamese by Cao Huy Giu, Hanoi, 1967, I : 219.

6. *Ibid*, I:242

7. *Ibid*, I:228

8. This is an instrument used for torturing offenders, which is made of wood with nails on it to hang the offender. This is a very cruel punishment that could make the offender severely hurt and painful physically.

9. See Le Van Huu, Ngo Si Lien (eds) (1697) *Dai Viet Su Ky Toan Thu* (The

Complete Book of the Historical Records of Great Viet). Translated and Reprinted by the Social Sciences Publishing. Hanoi: Social Sciences Publishing 1993.

10. *Ibid.* Also see Cao Duc Thai, 2003, *Vietnam's traditional values of human rights* in Human Rights-Theory and Practice in Vietnam and Australia. Hanoi: Political Theory Publishing. Pp.

11. Cited in the History of state and law in Vietnam. Vol. 1. Hanoi: Social Sciences Publisher. P. 128.

12. John Gillespie, 2001, *Globalisation and Legal Transplantation: Lessons from the Past*, Deakin Law Review 5. <http://www.austlii.edu.au/au/journals/DeakinLRev/2001/5.html#fn54> (accessed 03.08.06)

13. See Minh Chi, 'Buddhism's Entry into Vietnam and Its Practice During Chinese Control' in Nguyen Tai Thu (ed), 1992, *History of Buddhism in Vietnam*, 1-15.

14. Ta Van Tai, 1988, *The Vietnamese Tradition of Human Rights*. Institute of East Asian Institute, University of California at Berkeley, Berkeley: University of California Press, at. 39

15. See Dai Cuong Lich Su Viet Nam (General History of Vietnam), Vol. 1. Cited at <http://www.cpv.org.vn/details.asp?topic=32&subtopic=227&id=BT2130659666> (accessed 10.08.06)

16. *Ibid.*

17. See Dai Cuong Lich Su Viet Nam (General History of Vietnam), Vol. 1. The Education Publishing, 1997. Also see Le Van HUU, Ngo Si Lien (eds) (1697) *Dai Viet Su Ky Toan Thu* (The Complete Book of the Historical Records of Great Viet). Translated and Reprinted by the Social Sciences Publishing. Hanoi: Social Sciences Publishing 1993.

18. *Ibid.*

19. who led the nation's army to the three-time victory against the world's most powerful army at that time, the Mongols, when they attempted to invade the nation in three times. See supra 29.

20. See Phan Huy Le, *Van de Dan chu trong truyen thong Vietnam* ('The Problem of Democracy in Vietnam's Traditions', http://www.bbc.co.uk/vietnamese/vietnam/story/2006/03/060328_phanhuyle_danchu.shtml (accessed 28.03.06)

21. Nguyen Trai, 1427, *Binh Ngo Dai Cao* (*The Great Declaration to the*

Enemy's Defeat). Ngo Tat To (Trans.). <http://vnthuquan.net/truyen/truyen.aspx?tid=2qtqv3m3237n2n4nnn31n343tq83a3q3m3237nvn&cochu=> (accessed 10.10.05)

22. The Chinese Ming's army invaded Vietnam and then was defeated by the Le in 1427, by which Nguyen Trai wrote this Great Declaration that proclaimed the Great Viet's long civilisation, culture, and independence and asserted the Vietnamese values of humanism and humanitarianism.

23. Nguyen Trai, 1427, *Binh Ngo Dai Cao (The Great Declaration to the Enemy Defeat)*. Ngo Tat To (Translated from the Nom (Old Vietnamese-Chinese characters into modern Vietnamese language). <http://vnthuquan.net/truyen/truyen.aspx?tid=2qtqv3m3237n2n4nnn31n343tq83a3q3m3237nvn&cochu=> (accessed 10.10.05)

24. See Cao Duc Thai, *supra* note....

25. Ta Van Tai, 1988, *The Vietnamese Tradition of Human Rights*. Institute of East Asian Institute, University of California at Berkeley, Berkeley: University of California Press

26. Ta Van Tai, Buddhism and human rights in Traditional Vietnam. Review of Vietnamese Studies 2004-5, presented at Harvard Law School. At www.vstudies.org (accessed 10.06.2006)

27. Hoang Xuan Han, 1949, *Ly Thuong Kiet*. Hanoi. p: 402

28. This name was given after the Great Emperor Le Thanh Tong (1460-1497) and under his reign the nation achieved huge and significant developments, notably in terms of legal system. It is also known as Quoc Trieu Hinh Luat (*The Nation's Penal Code*). See Le Van Huu, Ngo Si Lien (eds), 1697, *Dai Viet Su Ky Toan Thu* (The Complete Book of the Historical Records of Dai Viet). Translated and Reprinted by the Social Sciences Publishing. Hanoi: Social Sciences Publishing 1993. Also see Ta Van Tai & Nguyen Ngoc Huy (1987), *The Lê Code: Law In Traditional Vietnam. Volume 2. Athens: Ohio University Press*.

29. See Ta Van Tai, 'Vietnam's Code of the Lê Dynasty (1428-1788)' (1982) 30 *American Journal of Comparative Law* 523, 525.

30. See Vu Van Vinh, 'Development of Confucianism in the Tran Dynasty and the Struggle of Confucian Scholars against Buddhism at the End of the XIV Century' (1999) 2 *Vietnam Social Sciences* 55, 57-60; John K Whitmore, 'Foreign Influences and the Vietnamese Cultural Core: A Discussion of the Pre-modern Period' in Truong Buu Lam (ed), *Borrowings and Adaptations in Vietnamese*

Culture, Southeast Asia Paper No. 25 (1987) 1, 8-10; R B Smith, 'The Cycle of Confucianization in Vietnam' in W F Vella (ed), *Aspects of Vietnamese History* (1973) 6-24.

31. Haines, David W., 1984, *Reflections of Kinship and Society under Vietnam's Le Dynasty*. *Journal of Southeast Asian Studies* Vol XV No. 2 (September), 307-314. Haines states that the Mandarin Law became "natural Law" for all people. at 309.

32. See Ta Van Tai, 1981, *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) 97-145

33. Ibid. Also see John Whitmore, 1984, *Social Organization and Confucian Thought in Vietnam*. *Journal of Southeast Asian Studies* Vol XV No. 2 (September), 296-306. Here John Whitmore commented that the role of women and her freedom was dependent upon a given ruler's wish to maintain the "flexibility" thought of as "Southeast Asian" or reduce it, in favor of "neo-confucian" morality" and "proper" kin relations. See John Whitmore (1984), supra. At 300

34. See Lan Quoc Nguyen, 1989, *Traditional Vietnamese Law - The Lê Code - and Modern United States Law: A Comparative Analysis*. *Hastings International and Comparative Law Review* (13), pp 141-144.

35. Cited in Ta Van Tai, 1988, Ibid.

36. However, these rights were only granted to women in special circumstances, for instance, in case the family from which she was born has no sons. Obviously, this is a historical limitation as the dominance of Confucianism affected traditional Vietnamese legal-political, cultural ideology where men always became first and women the second. Thus, even during this very progressive period, women's rights were also not fully recognized.

37. Phan Huy Chu, *Lich Trieu Hien chuong loai Chi* (Historical Notes of Imperial Bibliography), Volume II. Hanoi: Social Sciences Publishing House, 1992, at 287.

38. Nguyen Ngoc Huy & Ta Van Tai (eds), 1987, *The Le Code*. Athens-Ohio-London: Ohio University Press, at VIII, volume I.

39. See Alexander Woodside, 1988, *A Comparative Study of Nguyen and Ch'ing Civil Government in the First Half of the Nineteenth Century* (1971), pp 60-110.

Harvard: Harvard University Press.

40. This name was given after the Nguyen dynasty's founding Emperor Gia Long (1780-1820) (real name was Nguyen Phuc Anh) who made a great contribution to expand and unify Vietnam as it is now today. This Code is also known as Hoang Viet Luat Le (Laws and Decrees of Imperial Viet).

41. The Hoang Trieu Luat Le, also widely known as the Gia Long Code, contained 398 articles arranged in 22 volumes that precisely followed the structure, legal categories and provisions of the Ching dynasty legal code. See Tran Thi Tuyet (1997) *The Nguyen Dynasty and its Legislation in the First Half of the 19th Century*, 3(32) *Vietnam Law and Legal Forum* 24, pp 24-25. Also see supra note 37.

42. See Gillespie, 2001, *Globalisation and Legal Transplantation: Lessons from the Past*. *Deakin Law Review*, Vol. 6 (2), pp. 286–310. Also see Lan Quoc Nguyen, supra note 37.

43. See Pham Diem, 1999, *Criminal Offences Under Ancient Laws of Vietnam*, 5(58) *Vietnam Law and Legal Forum* 27, at 27-29; Aslo Pham Diem (1999), *Relationships Between Parents and Children under Vietnam's Ancient Laws*, 6(63) *Vietnam Law and Legal Forum* 29, 29-30.

44. For example, Article 2 of Hong Duc Code indicated the ten heinous crimes were plotting high treason (an attempt on the emperor's life), plotting grave insubordination (desecrating imperial ancestral temples and palaces), plotting treason (working for an enemy state), wicked insubordination (attempts to kill grandparents, parents or actually killing senior male relatives), inhumanity (killing three people in one family), stealing articles from the emperor, lack of filial piety, discord (*bat muc*) (plotting to kill or sell relatives), disloyalty (killing an active official) and incest.

45. Stephen B. Young & Nguyen Ngoc Huy, 1990, *The Tradition of Human Rights in China and Vietnam*. Council on Southeast Asia Studies, Yale Centre for International and AREA Studies. The Lac Viet Series No.10. Pp353-4.

46. *Ibid*, at 354.

47. *Ibid*.

48. *Ibid*.

49. See Nguyen The Anh, 1971, *Kinh te Xa Hoi Viet Nam duoi Cac Vua Trieu Nguyen* (Vietnamese society and economy under the Nguyen Emperors), Saigon:

Lua Thieng. Pp 96-97.

50. Stephen B.Young & Nguyen Ngoc Huy, Ibid.

51. Nguyen The Anh, *ibid*, at 88-89.

52. *Ibid*, at 100.

53. Stephen B.Young & Nguyen Ngoc Huy, Ibid.

54. *Ibid*, at 335.

55. As the Nguyen Emperors really wanted to impose Confucianism as the official and dominant ideology upon the entire society, as well as a result of the misunderstanding of Christianity as a supporting force for the European invasion upon Vietnam, the Nguyen Government imposed the very strict laws towards religions other than Confucianism.

56. See Ta Van Tai, Buddhism and human rights in Traditional Vietnam. Review of Vietnamese Studies 2004-5, presented at Harvard Law School. At www.vstudies.org (accessed 10.06.2006)

57. Ta Van Tai, Buddhism and human rights in Traditional Vietnam. Review of Vietnamese Studies 2004-5, presented at Harvard Law School. At www.vstudies.org (accessed 10.06.2006)

58. Article 75 of Hoang Viet Luat Le (Vietnam's Imperial Laws and Orders). See *Hoang Viet Luat Le or The Nguyen Dynasty Code*, translated by Philastre as Le Code Annamite, 1909. Cited in Ta Van Tai, *ibid*.

59. Ta Van Tai, *supra* note 69.

60. Philastre, *Le Code Annamite*, I:336. Cited in Ta Van Tai, Buddhism and human rights in Traditional Vietnam. Review of Vietnamese Studies 2004-5, presented at Harvard Law School. At www.vstudies.org (accessed 10.06.2006)

61. *The Nguyen Dynasty Code* in *Dai Viet Su Ky Toan Thu* (The Complete Book of the Historical Records of Dai Viet), hereinafter *TT.*, official history of the Lê Dynasty. Translation into Vietnamese by Cao Huy Giu, Hanoi, 1967, Volume III, p. 144. Cited in Ta Van Tai, *supra* note 69.

62. One of the World's 18th century greatest poets and of the only three Vietnamese scholars who were awarded the World's Cultural Personality. The other two are Nguyen Trai and Ho Chi Minh. Nguyen Du used to hold as a high-ranking official of the Nguyen dynasty of Empire then resigned after serving within many years to become a poet and writer.

63. The tale consists of 3,254 verses (sentences), written in *lục bát* (6/8) meter, the poem recounts the life, trials and tribulations of Thúy Kiều, a beautiful and talented young woman, who had to sacrifice herself to save her family. She unwittingly sold herself as a prostitute to save her father and younger brother from jail. The earliest edition only found was published in 1866.

64. Nguyen Du, *The Tale of Kieu*, (by Vietnamese Literature). The verses of 3-4. <http://vhvn.com/Kieu/1-38.html>. (accessed 10.10.05). Also see Nguyen Du *Selected Writings*. Hanoi: Literature Publishing, 1996. This means that throughout experiencing a life of successfulness and failure, whatsoever one have seen is unhappiness, pain and sorrow. Here Nguyen Du wanted to send a message of the common fate of people, who lived under the central Feudal regimes, to his future generations.

65. His pen name is Thanh Tam Tai Nhan.

66. Nguyen Du (1765-1820), *Truyen Kieu* (The Tale of Kieu). The verses are from 3241 to 3244. http://www.informatik.uni-leipzig.de/~duc/sach/kieu/call_2973_3254.html (accessed 10.10.05). Also see Vietnamese Literature, The Tale of Kieu. At <http://vhvn.com/Kieu/kieu.html> (accessed 24.01.06)

67. Of which is his ideas on Heaven and Destiny, or the recognition of social hierarchy.

68. Basically, the political institution under the Vietnamese Imperial regimes was an absolute monarchy where the emperor had unlimited power and ruled by a mandate from Heaven. The emperor, however, was held accountable to the will of Heaven. This will, according was reflected in the will of the people. In short, to serve the will of the people was to serve the mandate of Heaven. Thus, the Nguyen emperors remained no exceptions. Furthermore, unlike their predecessors who took not only Confucianism, but also Buddhism and Taoism as the nation's official legal-political ideology, the Nguyen's emperors so much relied upon and overemphasized on Confucianism.

69. Open Wikipedia, *The Nguyen Dynasty and Emperor Ming Mang*. http://vi.wikipedia.org/wiki/Minh_M%E1%BA%A1ng (accessed 10.08.06)

70. In the legal sense, the traditional Vietnamese family was a monogamy in which there was only one legal wife, the principle one; other women were not recognized as the legal wives, but as either secondary wives or sefts(slaves).

Therefore, that fact that a man might have many wives constituted a de facto polygamy. This obviously affected to the recognition and protection of women's rights. See Ta Van Tai (1988), at. 111, *ibid*.

71. See Vietnam- A Country Study. <http://www.country-data.com/frd/cs/vntoc.html#vn0023> (accessed 10.08.06)

72. Carol V Rose, 1998, "*new*" Law Development Movement in the post-Cold War era: A Vietnam case study. *Law and Society Review*, 32 (93).

73. In Vietnamese, the word 'Tu' means children. However, it was commonly used as the son only since daughter was not much regarded as important as son. As the role of girl, when young, and of woman when married, was absent in the family, society's hierarchical system. Thus, the relationship between father and child was actually that of father and son.

74. 'man first, woman second', or 'the works of scholarship and governance lied in male characters'

75. See Neil L. Jamieson, 1995, *Understanding Vietnam*. Berkeley-Los Angeles-London: University of California Press. pp. 16-17

76. Neil L. Jamieson, *supra* note. 92, p. 17

77. Neil L. Jamieson, *supra* note 92, p.18

78. *Ibid*.

79. Le Thi Que, 1976, *Changing Structure of the Vietnamese Family from 1925 to 1975*. Unpublished manuscript. Honolulu: Population Institute, East-West Center, at 115. Cited in Neil L. Jamieson, see above.

80. Gerard Chaliand, 1969, *The Peasants of North Vietnam*. Baltimore: Penguin, at 60.

81. Ta Van Tai, 1988, *The Vietnamese Tradition of Human Rights* . Berkeley: Institute of East Asian Studies, University of California. pp 214-215.

82. A Vietnamese well-known neo-Confucian of 15th Century, a great poet and cultural personality, a high-ranking official, and senior advisor to the Le's Emperors.

83. As it is said Mandarins must give *Trung voi Vua* (loyalty to the Emperor) and *Hieu voi dan* (must do filial piety to the people).

84. Many Vietnamese present day historians insisted that in the Vietnamese Feudal society there once existed a democracy, which is mainly based on Confucianism-based ideology. See Phan Huy Le, 'The Problem of Democracy in

Vietnam's Traditions' (1994) 4 *Vietnam Social Sciences* 3, 4-10. What Prof Le called a commune democracy is based on the recognition of democracy and equality of people who existed as members of a certain commune or community, rather than those existed as individuals. This is obviously doubtful and argueable as democracy is always understood as a equal right entitled to everyone. See also Phan Huy Le, 'The Problem of Democracy in Vietnam's Traditions', http://www.bbc.co.uk/vietnamese/vietnam/story/2006/03/060328_phanhuy_le_danchu.shtml (accessed 28.03.06)

85. See Gillespie, 2001, *Globalisation and Legal Transplantation: Lessons from the Past*. *Deakin Law Review*, Vol. 6 (2), pp. 286–310.

86. *Ibid.*

87. See Phan Huy Le, *supra* note,...

88. John Gillespie also emphasized that as such the characteristics the traditional Vietnamese legal culture mirrored the hierarchically moral principles and social norms applied to the people. As he pointed out that 'Confucian/legalist jurisprudence endeavoured to make the punishment fit the crime, and social status fused individual legal identities with families and ensured that law preserved Confucian social hierarchies'. See Gillespie, *supra* note...

89. *Ibid.*

90. Article 680 of the Le Code and 385 of the Nguyen Code, in *Dai Viet Su Ky Toan Thu* (The Complete Book of the Historical Records of Dai Viet), *ibid.*

91. Article 16 of the Le Code and article 21 of the Nguyen Code, *ibid.*

92. As Ta Van Tai concluded that 'Ly, Tran, Le, and Nguyen criminal punishments—consisting of the classic five penalties (the light stick or rod, the heavy stick, penal servitude, exile, or death), along with some other supplementary penalties and the principles for their application—were a mixture of cruelty and humanity', see Ta Van Tai (1988), at 72, *Ibid.*

93. This was the most restrict, cruel, inhumane punishment. In Vietnamese history, many innocent great scholars and mandarins, as well as their families, were victims and cleansed by this punishment. Of those was Nguyen Trai himself and his family.

94. See Ta Van Tai, 1988, at 97, *Ibid.*

95. Ta Van Tai, 1988, at 115, *Ibid.*

96. This is the duties-based relationship in hierarchal society: duties of subjects toward the King, of mandarins towards King, of son toward father, of children toward parent, of younger brother toward elderly brother, of wife toward husband, of junior toward senior. For instance, art 308 of the Le Dynasty's Hong Duc Code pointed out that, 'a husband who neglects his principal wife and dose not personally visit her for five months shall be deprived of his rights over his wife'. Cited in Ta Van Tai (1988), at 116, *Ibid*.

97. See also Hoang Phuoc Hiep et al., 1996, *The Vietnamese Legal System*. Joint paper by Vietnamese Ministry of Justice and Swedish Embassy officials, at 42. Cited in Carol Rose (1998), *ibid*.

98. Alford, William P., 1995, *Tasselled Loafers for Barefoot Lawyers: Transformation and Tension in the World of Chinese Legal Workers*, 141 *China Quarterly* 22-37 (March), at 22.

99. Over many centuries, Taoism, Buddhism, and Confucianism had become intertwined, simplified, and Vietnamized to constitute—along with vestiges of earlier animistic beliefs—a Vietnamese folk religion shared to some extent by all Vietnamese. See Ho Tai Hue Tam. 1985. "Religion in Vietnam: A World of Gods and Spirits." In *Vietnam: Essays on History, Culture, and Society*. New York: Asia Society, at 25-26; Nguyen Ngoc Bich, ed., 1975, *A Thousand Years of Vietnamese Poetry*. New York: Alfred A. Knopf, at 24.