

JOURNAL OF ASIAN STUDIES FEB '89

The Le Code: Law in Traditional Vietnam—A Comparative Sino-Vietnamese Legal Study with Historical-Juridical Analysis and Annotations. 3 Vols. By NGUYEN NGOC HUY and TA VAN TAI, with the cooperation of TRAN VAN LIEM for the translation. Athens: Ohio University Press, 1987. xii, 293 pp.; vi, 360 pp.; vi, 363 pp. \$175.00 the set.

This book is one of those very rare works about Vietnam that may claim to be definitive. It is both a complete translation into English of the most important pre-modern Vietnamese law code and a skillful and judicious brief history of the development of Vietnamese law in relation to China from the early medieval Chinese conquest to the series of independent Vietnamese dynasties that governed the country in the ten centuries before French colonization. The two principal authors display every virtue needed for their enormous task: a knowledge of law, history, and languages, clarity, and a sense of proportion. Their book is obviously a labor of love: the learning is inspired without being worshipful, and the industriousness, although painstaking, never once leads readers down blind or irrelevant alleys. This book is undoubtedly the most important single achievement in scholarship to come thus far from the ranks of Vietnamese intellectuals exiled from Vietnam since 1975. It also represents a significant landmark in Vietnamese-Western cultural relations.

The Le dynasty's penal code, formally operative in Vietnam between the fifteenth and the early nineteenth century and exerting a strong influence thereafter, has fascinated historians of East and Southeast Asia because the code was heavily influenced by Tang Chinese law, which had been applied in Vietnam during the three centuries of Tang rule there. But it also made startling and apparently deliberate deviations from, and additions to, the body of Chinese legal ideas that the Neo-Confucian emperors of Vietnam's Le dynasty (1428-1788) were renewing or importing. To Vietnamese specialists around the world it has been an article of faith that the Le law code would make an "excellent instrument for gauging not only the extent of Chinese influence but the limits of that influence as well" (1:2) in Vietnamese civilization. The authors are the first scholars anywhere systematically to appraise the creative genius lurking in the pages of the Le code.

They find that a majority (412) of the 722 articles of the Le code were unique to the Vietnamese code when compared article by article with its chief foreign inspiration, the law code of Tang China. These articles "represented Vietnamese originality in legislation" (III:24); the way in which they were classified "suggests that the Le code drafters were more conscious than the Tang legislators of the modern differentiation of law into administrative, civil, and criminal statutes" (1:57). What sort of medieval Vietnamese legal world emerges from these findings? As explored meticulously by the authors, Vietnamese law of the Le dynasty used village officials, not household heads as in China, to control the population; demonstrated in its terminology, both with respect to foreign residents and with respect to its own dynasties, a stronger sense of a nation-state than could be found in Chinese law codes; showed a much greater interest in the control and conscription of military manpower and in the preservation of military discipline than its Chinese counterparts; favored a more varied judicial administration than China's, in which district magistrates played a less central part in the initial management of legal cases; made sharper distinctions between criminal and civil liability than did Chinese law and stressed reparation for moral damage more; and, most famously, validated Vietnam's more feminist tradition of social customs by giving women personal and property rights that Chinese women did not enjoy.

The authors have done their work so well that they have created an interesting new imbalance between our knowledge of Vietnamese law and our less firm knowledge of the political thought behind that law. The authors argue that the bulk of the Le code was composed and promulgated before 1450, earlier than previous scholars have suggested. They defend this dating with many strong arguments. But one less strong argument may be that the Le code would have been more heavily influenced by the law of Ming China if it had been compiled later. It is not clear that Vietnamese dynasts and literati, even the greatest Le ruler, believed categorically that each new Chinese court's institutions and codes stood for evolutionary progress over those of their predecessors. As Matsumoto Nobuhiro pointed out more than forty years ago, the memory of the Tang dynasty remained so potent in Vietnam that the Trinh lords even revived the land-labor-cloth tax of early Tang China, in 1723, about one thousand years after China had abandoned it. Our understanding of the purposeful medieval Vietnamese discrimination among various Chinese models going back to the Zhou city states is still inevitably in its infancy.

In the meantime, Nguyen Ngoc Huy and Ta Van Tai have written a formidable political and social history of Vietnam as well as an absolutely indispensable legal study. They have also produced a basic reference work for translators of Sino-Vietnamese; their volume 2 masterfully assesses the translation problems the Le code presents, ones that often disabled the courageous pioneer Deloustal. The study of Vietnamese law and indeed of law in Confucian societies has now been lifted to a much higher plane.

ALEXANDER WOODSIDE
University of British Columbia

THE LÊ CODE: LAW IN TRADITIONAL VIETNAM: A COMPARATIVE SINO-VIETNAMESE LEGAL STUDY WITH HISTORICAL-JURIDICAL ANALYSIS AND ANNOTATIONS. By Nguyen Ngoc Huy and Ta Van Tai, with the cooperation of Tran Van Liem for the translation. Athens, Ohio: Ohio University Press, 1987. 3 vols., Pp. 293, pp. 360, pp. 363.

*Reviewed by John Quigley**

This work is the first English translation of the code of Vietnam's Lê Dynasty (1428-1788). This event is significant because the Lê Code is the only extant authentically Vietnamese code of laws. Codes adopted by previous dynasties have not been preserved. The code adopted by the only subsequent dynasty (Nguyen dynasty, 1802-1945), while better known outside Vietnam,¹ was practically a carbon copy of the Chinese code of the period, that of China's Ch'ing dynasty.

The only previous translation of Lê Code was a 1908 translation into French by Deloustal. In addition to the translation itself, the authors provide extensive commentary, article by article, that includes comparison with the Chinese codes that influenced the Lê Code. They also include a brief account of Vietnam's legal history and an article-length piece describing differences between the Lê Code and the Chinese codes.

The Lê Dynasty was important for Vietnam as a state. The Lê took territory from the neighboring Khmer and Cham peoples to give Vietnam its present-day boundaries.

The Lê Code is the only code that reveals Vietnam's approach to law in the pre-modern period. Because of its authentic domestic roots, it exerted an influence even during the Nguyen dynasty, when it had officially been repealed. The authors make the point that while Lê Dynasty Vietnam was under strong influence from China, as Vietnam had been since ancient times, nonetheless it developed its own approach to substantive law and legal institutions. There is a definite tone of nationalistic pride underlying the authors' frequent reiteration of the uniqueness of various Lê Code provisions, in comparison to Chinese codes.

The distinctiveness is revealed in two major areas of the law. The first is procedure. The Lê Code marks out procedure more clearly as law distinct from substantive law than is true of the Chinese codes. In criminal cases it distinguishes more sharply than the Chinese codes between the pre-trial investigation and the trial, ensuring that the two are not conducted by the same official.

The second is civil law, where the Lê Code regulates more comprehensively than the Chinese codes. While the Chinese codes were

* Professor of Law, Ohio State University.

1. Philastre, *Le Code Annamite: Nouvelle Traduction Complète* (1909, reissued 1967).

The Vietnamese Tradition of Human Rights

By Ta Van Tai

Appearing at the time of the 40th anniversary of the Universal Declaration of Human Rights, observed world-wide as a broad moral consensus and international law basis for upholding the rights to the dignity and freedom of the individual in any society, this study of traditional Vietnam's human rights, measured against the 20th century international human rights law, provides ample evidence on the universality and timelessness of the international human rights standards.

"An important, timely and even daring piece of scholarship... Highly original both in its general conception and in the specific analytical tasks it performs along the way. The comparison of medieval Vietnamese law codes with twentieth century international law is a first. [It] deals with all kinds of issues that no one has even seriously raised before... It clearly facilitates the study of premodern East Asian law, as well as makes an enormous contribution to Vietnamese studies... Dr. Tai... does not take Vietnamese legal sources at face value, but tries to support his findings, where possible, with the recorded observations of those in eyewitnesses."

— Alexander Woodside
Professor of History
University of British Columbia

"...all it offers on daily life among the early Vietnamese... is rarely available to students and the general public... The way the framework of the book brings out aspects of human life generally ignored by historians, especially those of Asia, is very impressive... The strength of the volume lies in its encyclopedic nature. Mr. Tai succeeded admirably in the approach he has taken, getting across very well the interaction of human and legal affairs... A major resource for the study of Vietnamese historical development."

— Dr. John Whitmore
University of Michigan

"A legal history of human rights in traditional Vietnam, enriched with a wide range of relevant political, economic, social and cultural data... Can even be viewed as preliminary survey of data [and] working hypotheses on China, Korea, and Japan, at least when similar statutory laws were found in the codes of The T'ang, Ming, Ch'ing, Yi (Korea) and Tokugawa Japan. The books, as a case study using international human rights standards as tools for data compilation and analysis of a traditional society, has vindicated the universality and timelessness of modern international human rights standards. This methodology may become blueprint for research on the human rights record of any country... [It] will appeal to lawyers and legal scholars, historians, and social scientists studying Vietnam and Asianists in general; and to human rights activists [of] the United Nations and nongovernmental organizations... A proud symbol for the Vietnamese... Objective evidence of their rich tradition [that] makes the case for their claim to an ancient humane civilization."

— Oliver Oldman
Learned Hand Professor of Law
Director, East Asian Legal Studies,
Harvard Law School

"A truly unique study. Cutting across time and culture, it explores in depth how one premodern society handled issues relating to the rights and duties of its people... Every student of Asia will learn much from this pioneer work."

— Robert Scalapino
Director, Institute of East Asian Studies
University of California, Berkeley

"There was general consensus about the importance of this subject and the thoroughness of coverage."

— Florence Trefethen,
Executive Director, Council of
East Asian Studies Publications
Harvard University

TA VAN TAI is Research Associate, East Asian Legal Studies, Harvard Law School. A former attorney and professor of law and political science in Vietnam prior to 1975, he now practices law in Massachusetts. To cite some of his publications, he coauthored *The Laws of Southeast Asia* (1986), *The Le Code* (1987), *Doing Business in Vietnam* (1974), and authored *Research Methods* (1972 & 1974), and articles in *Journal of Asian History*, *American Journal of Comparative Law*, *Vietnam Forum*.

CONTENTS: Introduction: International human rights as a framework for analysis. 1. Integrity of the person: life, liberty and security of the individual (home, correspondence, honor, security against arbitrary arrest and detention, cruel and inhuman treatment and punishment, fair trial, appeal, exceptions of national security) 2. Equality or discrimination: family status, social status, sex, racial consideration. 3. Civil and political rights: freedom of movement, asylum; freedom of thought, religion and expression; freedom of assembly and association; access to public offices. 4. Economic, social and cultural rights: social security, medical care, freedom from hunger, property, family and educational rights. 5. Degree of government commitment and enforcing government compliance (judicial and other remedies).

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The Vietnamese Tradition of Human Rights

Ta Van Tai

The Institute of East Asian Studies
University of California, Berkeley

Southeast Asia Program
120 Uris Hall
Cornell University
Ithaca NY 14857

30 November, 1987

Dear Profesor Ta Van Tai,

Pat Pelley has handed over the three volumes on the Lê Code. I had been out of the country and unable to reply earlier. I cannot thank you sufficiently for this magnificent gift. These volumes are certain to become a landmark in Vietnamese studies, and I, for one, will benefit. I have already noted your shrewd observation on page 14 of the first volume that Quát and Manh were able to make changes during Du-tôn's reign ! I hope that I shall have the wit to make use of your scholarship in my study of the Trần period.

With renewed thanks for the gift,

Yours sincerely,

O. W. Walters
O. W. Walters

*From Inochina Chronology 11
(Univ of California, Berkeley,
Institute of East Asian Studies)*
BIBLIOGRAPHY

BOOKS AND MONOGRAPHS

The Lê Code: Law in Traditional Vietnam, Vols. I, II, III, Nguyen Ngoc Huy and Ta Van Tai, with Tran Van Liem. Probably the most impressive piece of Vietnamese scholarship in the last decade. In a sense it is a narrow study of the law at one period in Vietnamese history, but it also is a wealth of insight into Vietnamese culture and personal behavior past and present. Reading between the lines of legal text one can infer much about how early Vietnamese society regarded such matters as deceit (38 articles dealing with lying, dissembling, verbal fraud, etc.); marriage and running a household; sex crimes; and, perhaps most interesting of all, what is called military policy (whose strictures certainly foreshadow the praetorian society that Vietnam became). Both the authors and their underwriter, East Asia Legal Studies, Harvard Law School, are to be commended. Ohio University Press, Scott Quadrangle, Athens, Ohio 45701-2979. \$175/set.

Nguyen Ngoc Huy and Ta Van Tai. THE LE CODE: Law in Traditional Vietnam, A Comparative Sino-Vietnamese Legal Study With Historical-Juridical Analysis and Annotations. March, 1988. Vol., 19. No. 1. pp. 166-168.

The Lê Code: Law in Traditional Vietnam, A Comparative Sino-Vietnamese Legal Study With Historical-Juridical Analysis and Annotations. 3 Volumes. By NGUYEN NGOC HUY and TA VAN TAI with the cooperation of TRAN VAN LIEM for the translation. Athens and London: Ohio University Press, 1987. Vol. I: Pp. xii, 293; Vol. II: Pp. 360; Vol. III: Pp. 363. Tables, Appendices, Sketches, Bibliography, Glossary, Index.

Journal of Southeast Asian Studies
(Singapore)

The publication of this work has been eagerly awaited by specialists of Vietnam, and it is clear that expectations have not been disappointed. These three volumes not only provide a readable translation of the Penal Code of Law of the Lê dynasty as it took form in the fifteenth century, and was developed during the three following centuries, but they also contain invaluable research aids for analysing the relationship of Vietnamese law to Chinese law.

The first volume contains an introduction under three headings: "a brief legal history of Vietnam", "preparation and organization of the work", and "special features of the Lê Code"; the rest of the first volume is taken up by the translation itself. The second volume contains annotations to the code; the annotations include comparisons with other Vietnamese and Chinese law codes, references to episodes recorded in the annals and in other Vietnamese works that throw light upon legal provisions, discussions of secondary literature, and expositions of problems in translating terms and defining legal concepts. The third volume contains "tables of conversion" between the Lê code and the codes of the T'ang, Ming, and Ch'ing dynasties of China as well as the Nguyễn dynasty of nineteenth-century Vietnam; it also contains forms for certain legal acts: parents' testament, property distribution among brothers and/or sisters, mortgage sale of riceland or ponds, sale of land or ponds, loan contract, covenant of serf emancipation, and boat sale agreement; this volume also contains a bibliography, a glossary, and an index, all well-done and usable; finally, there is a list of Vietnamese rulers, and also sketches of seventeenth-century Vietnamese metropolitan life that were published in the early eighteenth century in London with Samuel Baron's description of the country.

The meticulous comparative analysis clearly documents the distinctively Vietnamese character of the Lê code. Of the 722 articles in the code, not more than 200 reveal discernible influence from the T'ang code and only 17 from the Ming. In their introduction, the authors provide an analysis of the distinctive features of the Lê code. They draw two general conclusions.

The first general conclusion is that the Lê code adopted "many provisions of public law appropriate to a modern nation-state". This assertion is a bit obscure in the absence of any clear definition of what comprises a "modern nation-state"; but, judging from the introduction, it seems that the authors base their observation upon what appear to be provisions in the Lê code that prescribe stricter compliance with norms of obedience to authority than can be found in Chinese codes and a judicial system exemplifying organizational principles and procedural criteria with greater similarity to some modern legal theories and practices than can be found in China.

The idea of relatively strict standards of obedience to authority in premodern Vietnam being understood as evidence for the beginning of a "modern nation-state" is, in my estimation, the weakest part of the analysis. There are four parts to the authors' argument: provisions "fortifying the paramount position of the emperor" by insuring the emperor's personal security and establishing preventive measures against treason, sedition, and rebellion; "imposing standards for, and restrictions on, the behaviour of officials"; control of population through the maintenance of village registers and enforcing norms of moral behaviour among the village people, as well as provisions defining the legal status of and enforcing loyal behaviour among ethnic minorities and preventing the mingling of foreigners with the Vietnamese people (this point is taken as evidence of "the early emergence in Vietnam of the concept of nationality and nation-state and the idea of nationalism"); and provisions for "an efficient military apparatus" and enforcing strict standards of discipline during military campaigns (this point is taken as exemplifying "the tradition of a strong and disciplined military organization" that "has been the hallmark of Vietnam since independence from China in 939" and has made Vietnam "the Prussia of Southeast Asia"). In all of these areas, Vietnamese law is more detailed and stringent than Chinese law. There may be other ways to interpret these differences without intro-

almost entirely penal, the Lê Code provides detailed treatment of tort, property, and family law. The Lê Code provided better protection to the civil-law rights of women than did the Chinese codes.

This more detailed treatment of civil law reflects not only a difference in substantive law but also a difference with respect to legal institutions. In China, civil litigation was left largely to non-court bodies, like extended families and craft guilds. In Vietnam, such matters were more likely to be taken to court. Thus, courts in Vietnam served a function in structuring economic and other civil relations that the Chinese courts did not serve. It seems likely that this greater regulation of civil law relations helped the Lê Dynasty exert factual control over Vietnam as its territorial boundaries expanded.

In China, one consequence of the Confucian ethic was an avoidance of formal court processes, an effort to resolve disputes by peer groups. This aspect of the Confucian ethic does not seem to have taken hold in Vietnam as much as in China.

Nonetheless, aspects of Confucianism are present in the law of the Lê Code. The significance of filial piety is great. Status relationships within the family are apparent, despite the stronger role for women. The closeness of defendant and victim on the basis of the Confucian degrees of mourning determines penalties for crimes of violence, with those harming persons of higher status in the family receiving more serious punishment than those harming persons in the family of status lower than theirs. A particular penalty is provided, for example, in the law of murder for a woman who plots the murder of her former husband's grandparents or parents (Art. 416).

Like the Chinese codes, the Lê Code permitted judges great latitude in defining criminal conduct. One provision made it an offense to do "what ought not to be done" (Art. 642). Another permitted a judge to punish one who had done an act not prohibited by the Code by characterizing it as analogous to an act prohibited (Art. 41).

At the comparable time period in Europe, codification had not yet taken hold to the extent it had in China and Vietnam. Thus, even with certain provisions importing flexibility, the level of codification was high.

It is to be regretted that reports of cases decided under the Lê Code are not extant. Thus, one cannot, as with China's Ch'ing Dynasty code, study its application.² This lack of data makes it difficult to know whether, for example, provisions importing flexibility were widely used to punish conduct not identified as criminal by the code, which could clearly be done without violating Article 41 and 642. Under the Ch'ing Code, the comparable provisions were not in fact used to punish conduct that the code did not identify as criminal. They were used rather to punish conduct defined as criminal elsewhere in the code, but where the judges thought that it deserved a penalty different from that provided. They therefore punished by

2. Bodde & Morris, *Law in Imperial China: Exemplified by 190 Ch'ing Dynasty Cases* (1967).

analogy to a different provision. Under the Ch'ing Code these provisions were not frequently used to punish conduct not rendered criminal by a code provision.³

Despite the absence of case reports, the comparisons drawn by the authors to the Chinese codes are illuminating. The authors are not, to be sure, the first to note that the Lê Code regulates civil relations more than the Chinese codes.⁴ But they provide detailed explanation of the difference as well as, of course, the code itself, which allows a reader to see the difference firsthand.

The Lê Code is a reference work. It fulfills that purpose well. The only respect in which it might have served it better would have been the inclusion of a more comprehensive index. The index provides references only to Code provisions. The authors' introductory analysis of the legal history of Vietnam and their article on the Lê Code's differences from Chinese codes are not indexed.

Having published English translations of foreign legal codes, this reviewer is painfully aware of the toil required to produce an accurate, comprehensible, and consistent translation. The authors are eminently qualified for this task. Nguyen Ngoc Huy was a professor of law at Hue and Can Tho universities, while Ta Van Tai was a professor of law at Saigon University. Tran Van Liem was a judge on the Supreme Court of Vietnam. The three collaborated to produce the work while research associates in the Harvard Law School's East Asian Legal Studies program.

The Lê Code will provide grist for the mills of comparatists for many years. It grants them access to a legal system about which information is otherwise difficult to obtain. Its authors have performed a great service.

3. Quigley, Book Review: "Law in Imperial China," 83 *Harv. L. Rev.* 699, 701-703 (1970).

4. See, e.g., Vu Van Mau, *Introducción al Derecho Vietnamita*, *Revista del Instituto de derecho comparado* (Barcelona), no. 22-23, at 38, 52-53 (1964). The author's analysis of the civil law provisions of the Lê Code parallels substantially the article by one of them, Ta Van Tai, that appeared in this journal as "Vietnam's Code of the Lê Dynasty (1428-1788)," 30 *Am. J. Comp. L.* 523-554 (1982).

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4 May 1989

Mr Tai Van Ta
Research Associate
East Asian Legal Studies Program
Harvard Law School
1563 Massachusetts Ave
Pound Hall 426
Cambridge, Mass. 02138
USA

Dear Mr. Tai

I refer to your letter dated 14 March 1989 and your 'joinder' to Professor K.W. Taylor's review of your book The Le Code. The editorial board of the Journal of Southeast Asian Studies has decided to publish your 'joinder' in the edited version a copy of which I have enclosed with this letter. Please let me know by the end of May whether you agree or not to our decision.

Thank you.

Yours sincerely,



Dr Kwan Siu Hing
Review Editor

/ry

ducing an intrusive and poorly-defined model of modernity or a superficial and unhistorical comparison of martial prowess. A historian would probably find a more convincing explanation in the trauma of the Ming occupation which immediately preceded compilation of the Lê code as well as the geo-strategic imperatives and political contradictions of governing a relatively small kingdom on the border of the Chinese empire.

The organization of the judiciary into separate criminal, civil, and tax (to name the most visible) courts, the separation of functions between prosecutor and judge, and procedural rules governing arrest, detention, trial, and use of evidence are all cited by the authors as reflecting distinctive Vietnamese legal practice that are comparable with "modern judicial systems". This line of analysis is carried further in the second general conclusion, that the Lê code "brought into life concepts and rules which may be seen as functionally equivalent to those of modern Western civil law". The authors point out that in Vietnam the concept of civil, as opposed to merely criminal, law was more developed than in China, in particular to guarantee the protection of private interests. For example, the law of contracts nullified contracts based on coercion, provided for formal registration of contracts, and specified a statute of limitations; the authors discern features equivalent to modern contract law concepts in provisions about guarantors for debt, mortgage sales, and rent. Regarding the law of torts, the Lê code distinguishes between criminal and civil liability and applies both kinds of liability to cases of property loss, bodily injury, and death; provision was made for both compensatory and punitive damages in the case of property loss; compensation applied to death as well as bodily injury; compensation was provided for "moral damage" (i.e. to reputation); and reparation was specified for enserfing a person. In the area of property law, relatively high attention was given to land use and ownership; acquisition by occupation or adverse possession was provided for as was a system of recording land rights. Inheritance law recognized the freedom of a testator to dispose of an estate without restraint; in the case of intestate succession, equality among male and female heirs was recognized; furthermore, the rights of children to own property and set up separate households during their parents' lifetime was recognized. A woman had the right to sue in court. Matrimonial property rights were recognized on the basis of equality between husband and wife. This analysis contains many clues about how Vietnamese society differed from Chinese society. What significance one might draw from the authors' desire to link the Lê code with "modern" concepts of law is unclear.

The "brief" historical introduction contains a few clichés based on conventional Confucian historiography, in particular the idea that the Lý and Trần dynasties were centralized bureaucratic states and that the Confucian civil service examination system dates from the Lý dynasty. However, the chief value of this work lies not in the historical interpretations and analytical conclusions contained in the introduction but in the translation itself with all of the accompanying research tools: the annotations, the tables of comparison, the glossary, and the index. Exceptions to this are the discussions about dating the Lê code and the references to specific legal practices during the Lý and Trần dynasties; these are useful.

This work is an achievement that will endure. It is an indispensable reference for anyone engaged in the study of Vietnamese history and culture. It is also a testament to Vietnam's historic participation, with China, Korea, and Japan, in the larger Confucian cultural world.

Hope College

K.W. Taylor

IX:473-93(1957). The rise of the modern territorial state meant that, within countries, "feudal anarchy" of jurisdictions yielded to the ordered centralism of the absolute monarchy, which ruled over a pacified area with the aid of a bureaucracy, a professional army, and the power to levy taxes, and "with the rise of nationalism...states[became] nation-states, considering themselves as representing specific nationality groups" (at 475 and 478). This model of the nation-state is not a poorly defined model of modernity. The reviewer must be unfamiliar with the literature of political science and of history on the issue of nation-state formation.

Of the second general conclusion of the Introduction, we authors say that more than in China, Vietnam has modern concepts of civil law. This Sino-Vietnamese comparison, with the help of the classification scheme of private law which is inspired from both the civil law system of Continental Europe and the Anglo-American common law system, in both of which one of us authors was trained and has practised (besides the training in political science). The Foreword by Law Professor Oldman points out the significance of Lê legislation and Law Professor John Quigley reviewed our book in The American Journal of Comparative Law (Vol 88, 1988), saying that: "At the comparable time period in Europe, codification had not yet taken hold to the extent it had in China and Vietnam. Thus, the level of codification [in the Lê Code] was high". We have thought the linking of Lê legislation with modern concepts of civil (and public) law is meaningful, especially for lawyers and scholars concerned with the role of law in modernizing society.

"The rule of law in traditional Vietnam and China, as reflected in this book, and in similar traditional practices in Japan and Korea, may be relevant for Singapore in its current search for a national ideology, or for other East Asian societies for that matter. A close study of the rule of law in traditional East Asia such as this book reveals that its component is not only Confucianism but really an eclectic synthesis of Legalism and Confucianism. That is why this rule of law, supplemented by the Confucian commitment to individual perfection and communitarian interests--whether familial or societal, could transcend national cultural lines and appeal not only to Chinese but also Vietnamese, Koreans and Japanese. The Singaporean leaders, in their effort to search for a national ideology to stop Westernization and mercantile pragmatism in their country, may find it more judicious to identify the "core values" of traditional East Asia as not Confucianism only but the rule of law coupled with the Confucian commitment to individual perfection and community interests. This eclectic cluster of values would permit them to escape from the contradictions and difficulties in the promotion of only Confucianism as national ideology: The Confucian mandarin mentality versus the pursuit of profit and commerce, the Confucian-sanctioned particularistic social inequalities versus democratic values (however, the Confucian competitive examination was an egalitarian merit system), and the "Chineseness" of exclusive Confucianism versus the necessity of incorporating the values of the Malay and Indian minorities. The above eclectic East Asian tradition of the rule of law coupled with

Observations on Dr. K.W. Taylor's (Hope College) book review of ~~THE LE~~ ^{Alvin N. S. Hoang} ~~CODE: LAW IN TRADITIONAL VIETNAM~~ ^{by Nguyen Thi Hoang} by ~~Alvin N. S. Hoang~~ ^{Nguyen Thi Hoang} Athens and London: Ohio University Press, 1987.

The reviewer considers this 3-volume study to be "an achievement that will endure", "an indispensable reference for anyone engaged in the study of Vietnamese history and culture", for having "a readable translation" and "invaluable research aids" for analyzing the relationship of Vietnamese to Chinese law.

However, Professor Taylor has some reservation on the two general conclusions: (1) The Code adopted "many provisions of public law appropriate to a modern state" and (2) The Code brought "into life concepts and rules which may be seen as functionally equivalent to those of modern Western civil law". On the first, the reviewer said, "it seems (sic) that the authors base their observation upon what appear (sic) to be provisions in the Lê Code that prescribe stricter compliance with norms of obedience to authority than can be found in Chinese codes" and then said: "the idea of relatively strict standards of obedience to authority being understood as evidence for the beginning of a modern nation-state" is the weakest part of the analysis". On the second, the reviewer said, "this analysis contains many clues about how Vietnamese society differed from Chinese society. What significance one might draw from the authors' desire to link the Lê Code with "modern" concepts of law is unclear."

It is deplorable that the reviewer, an historian with the 1976 Ph.D. dissertation and speciality on traditional Vietnam, does not raise his views beyond that background of his to appreciate the great efforts to synthesize the quintessential features of the Lê legal system from the viewpoints of not only history but also political science and law.

On the Lê public law provisions that were typical of a modern nation-state, our Introduction mentions the five areas of law that worked toward the consolidation of the national power as contrasted to loosely organized power centers in feudal states or empires, but we never say that "obedience to authority as evidence... of a modern nation state" (our views have been distorted by the reviewer). Actually the second and third areas of public law (restrictions on the behavior of officials and modern judicial system) show that the rulers (except the emperor) were bound by many rules that limited their powers--in other words, respect for the rule of law rather than obedience to authority was the overriding theme. The reviewer should have immersed himself more in the discussion among historians of the formation of the modern nation-state in Europe (as mentioned in passing by Professor Oliver Oldman in his Foreword to this book) or the debate among political scientists on nation-states as different from empires, such as Rupert Emerson in his book From Empire to Nation. In the quotations we reproduce on page 57 (Vol. I) from John Herz's article, "The Rise and Demise of the Territorial State" (World Politics

a degree of Confucianization of the law (many Confucian ethical principles were embodied in law codes) is the common denominator for all East Asian peoples, may be comparable to the Western tradition of rule of law and can constitute the core values of a long-lasting national ideology for Singaporeans, whether of Chinese, Malay or Indian origin."

Nguyễn Ngọc Huy & Tạ Văn Tài