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The paper is an effort to investigate the roles women played and the status they enjoyed in the Lê Dynasty (1428-1788), the period when the influence of Confucian culture on Vietnamese society was increasing. Although the question of women's status can be approached from many different angles, here I focus on the relationship between husband and wife, the wife's economic power and her rights in the case of divorce. This research shows that, while wives of the ruling class were more submissive to their husband, those of the lower classes were less likely to be subordinated to their husband.

Keywords: family history, *Lê Code*, wife's economic activities, wife's property, divorce

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I

Up until the 1960s, historians had mainly focused on investigating political, economic and cultural issues on the state level. From the late 1960s, however, a considerable number of historians began to have an interest in the new field of ‘family history’ and choose the daily life of the common people as their main research topic.¹ There is an increasing interest in social customs and practices such as childbirth and child-raising, married life of adult men and women, and ownership and inheritance of family property. The newly emerging interest in women's issues—which have long been neglected in historical research—is closely related to the increasing interest in the history of family (Banner, 1973, p. 159). The influence of the women’s right movement, which has burgeoned since the 1960s in the West, is another important reason why historians have taken an interest in women’s issues (Banner, 1973, pp. 159-160; Chun, 2008, pp. 133-134). Regardless of whether one agrees or disagrees with those advocating the liberation of women, historians have

¹ The new interest in family history was sparked by Phillippe Ariès’s work, *L’enfant et la vie familiale sous l’ancien régime* (Paris, 1960).

been influenced by the movement and become interested in issues of women's role and position in the family and society.

In addition to the two aforementioned reasons, more importantly, interest in the history of women's role and position in Vietnamese society has sprung from efforts to re-discover traditional Vietnamese society's indigenous characteristics. As is generally known, Vietnam was subject to Chinese political control even prior to the beginning of the Common Era and was under Chinese rule for thousands of years. Even after Vietnam gained political independence, it continued to maintain its relationship with China and adopted Chinese political system and culture. Thus the question arises: how much did Chinese culture influence pre-modern Vietnamese society? Many scholars point to the example of the high social status of Vietnamese women in contrast to traditional Chinese society's strict patriarchy to illustrate the limit of Chinese influence on Vietnamese society.

Most agree that the position of women in traditional Vietnamese society was comparatively higher than that of Chinese women. Anyone who knows even just a little about Vietnamese history has heard about the revolt of Trung sisters against Chinese rule in the middle of the first century C.E. Trung Trac, who came from the District of Me-Linh in the Prefecture of Chiao Chi, was married to Thi Sach, a prominent man from the District of Chu Dien. Angered when the Chinese Governor of the Prefecture of Chiao Chi, Su Ding, illegally arrested her husband, Trung Trac with her younger sister, Trung Nhi, started a movement against Chinese rule. While the sisters obtained support from many local leaders and enjoyed considerable success for a short period of time, they were defeated by a Chinese expeditionary force. Even though their efforts ended in defeat, the Trung sisters are respected even today as heroines in the history of Vietnam.

Another example of a woman who played a leading role in resisting Chinese rule is Trieu Kieu. At the young age of 23, Trieu Kieu, who came from the District of Nong Cong in the Prefecture of Cuu Chen, led

a rebellion against the Wu Kingdom rule in Vietnam. Like the Trung sisters, Trieu Kieu did not succeed but a shrine was erected in Phu Dien village, where she died, and she has been worshiped as a guardian spirit and people have been performing memorial services for her up until the present day (Katakura, 1977, pp. 46-47).

Even though there have not been distinctive female leaders like the Trung sisters or Trieu Kieu in the following generations, women's social status in Vietnam was quite high in the pre-modern era. In the 17th century, Ko Sang Young [고상영], a Korean castaway from Jejudo who landed in Vietnam, reported that among the Vietnamese, "Men are of low rank and women enjoy a noble status," upon his return to Korea (Choi, 1966, pp. 103, 107). In fact, there is a similar Vietnamese saying: "A bunch of men are only worth three *tien*. Put them in a pen and they only amount to ant feed. However, one woman is worth three hundred *tien*. One should place a luxurious cushion in the place where she sits" (Nguyen Van Ngoc, 1967, vol. 2, p. 21; Nha Trang, 1973, p. 214). Here, the question is, what degree of status did Vietnamese women actually enjoy?

The position of women in Vietnamese society differed considerably with the historical period and was closely related to the degree to which Chinese culture had permeated Vietnam. Namely, the greater the influence of Chinese culture, the lower the position of Vietnamese women. This paper attempts to investigate the roles Vietnamese women played and the status they enjoyed in the Lê Dynasty (1428-1788), the period when the influence of Confucian culture on Vietnamese society was increasing. Furthermore, through this investigation, I will attempt to address, even if only indirectly, the question of the degree to which Chinese culture influenced Vietnamese society during the Lê Dynasty. Although the question of women's status can be approached from many different angles, here I will focus on the relationship between husband and wife, the wife's economic power and her rights in the case of divorce.

II

It is not easy to investigate the husband-wife relationship in Lê Dynasty society and it is especially difficult to determine the wife's actual position with respect to her husband. This is due to the fact that there is a great difference between the status of wives as seen in historical documents and the status of wives as portrayed in popular sayings which had been passed down by the common people. The 'wife' who appears in historical records is often portrayed as a figure oppressed and subordinated to her husband. A representative example can be found in *Gia Huan Ca*, written by Nguyen Trai, who served as the right-hand man of Lê Loi during the establishment of the Lê Dynasty. In this book, the obligations of married women are described by phrases such as "Even though the wife sleeps intimately on the same bed and shares the same cover with her husband, she must treat him as if he was her king or father," (Nguyen Trai, 1953, p. 27; Nha Trang, 1973, p. 36)² and "A wife must completely submit to her husband's command if there is to be harmony in the household" (Nguyen Trai, 1973, p. 15; Nha Trang, 1973, pp.38-39). In contrast, there are many examples found in the sayings of the common folk where a wife's status is described as higher than that of her husband's. For example, the saying "The gong of the husband is not equal to that of the wife" (Huynh Dinh Te, 1962, p. 77) means that a husband's position is below that of his wife's.

Despite these different versions of the relative status of husband and wife, the fact cannot be disputed that in the Lê Dynasty the husband generally enjoyed higher status than his wife. The husband's higher status was more apparent in theory than in practice; this was largely due to the influence of Confucian ethical concepts. Confucianism—especially, Neo-Confucianism, which started developing during the Song Dynasty in

² Recent research shows that *Gia Huan Ca* was written in the 17th century, not by Nguyen Trai.

China—was adopted as Vietnam’s ruling ideology in the 15th century with the establishment of the Lê Dynasty. After its adoption, Confucianism greatly influenced the ethical practices of the ruling class. Confucian moral ideology did not acknowledge women’s autonomy and women were always supposed to rely on men in accordance with the “three dependences.” Namely, prior to marriage, a woman was to obey her father; after marriage, she was subordinated to her husband; and upon her husband's death, she was dependent on her son.

The ideal of a husband and wife relationship based on these kinds of Confucian concepts was accepted by the Lê Dynasty rulers and government officials. Theoretically, a wife was completely subordinate to her husband; she was not allowed to engage in any activities without his approval. During the reign of Huyen Tong in the first year of Canh-Tri (1663), a royal order was promulgated that was meant to regulate the ethical behavior of government officials. On the surface, it speaks of love and respect between both marriage partners, but in actuality it approves of the husband’s superiority over his wife. For example, the order shifts the responsibility for the wife’s education to her husband and prohibits the wife from harboring jealousy or not submitting to her husband’s command (*CLTC*, 1961, p. 282). Furthermore, the royal order emphasizes the wifely virtue of obedience and demands that the wife immediately correct herself without harboring any discontent if her husband points out any mistakes she has made. The demand for the wife’s obedience comes from the idea that family harmony provides the basis of the social order and this harmony is closely related to the wife’s conduct.

In other words, the wife’s complete obedience to her husband was demanded since the wife’s independence was thought to destroy household peace. A wife was not permitted to protest or report her husband to the authorities even if her husband made a mistake or committed a crime. According to the Lê Dynasty’s criminal code, if a wife reported her husband's misdeeds to authorities, she was guilty of committing one of the ten abominations, namely ‘discord’ (*Lê Code*, 1987, art. 2).

The most concrete expression of the Confucian conception of the husband-wife relationship in the Lê Dynasty is the criminal code, especially the *Lê Code*. This code, which drew on the Chinese Tang and Ming Codes, likens the husband-wife relationship to the father-child relationship. For example, a wife who strikes her husband is ‘exiled to an outlying region’ (*Lê Code*, 1987, art. 481). This punishment is simply one level lighter than the punishment of ‘exile to a district region’ given to children who strike their parents (*Lê Code*, 1987, art. 475). If you consider that the punishment for assaulting a third-party non-family member is ‘sixty strokes with a heavy stick’ (*Lê Code*, 1987, art. 465), it becomes clear how severely a wife who had assaulted her husband was punished.

The wife’s legal status was lower than her husband’s. In other words, the law granted a superior status to husbands. While a wife who assaulted her husband was punished severely, the husband’s right to physically punish his wife was recognized by law. The husband would be punished only if he had injured or killed his wife, but this punishment would be three degrees lighter than the punishment given if he had injured or killed an unrelated third party (*Lê Code*, 1987, art. 482).

One should remember that these various regulations do not accurately reflect the actual relations between husband and wife in the Lê Dynasty. Rather, these regulations reflect the ideas of law-makers who had been trained in Confucianism.

III

Moving beyond legal theories, one finds that actual husband-wife relations differed greatly depending on the economic conditions and social positions of the two partners. Wives of the ruling class were more submissive to their husbands because of Confucian influences. However, even among the ruling class, there would naturally be a tendency for a wife to consider herself superior to her husband if she came from a

wealthier family or had more influence than her husband. Furthermore, even though a husband's physical punishment of his wife was legally allowed, if such punishment was frequent, the wife's family would protest. Moreover, even though a wife was prohibited from formally charging her husband, some husbands were, in fact, formally accused by their wives. For example, in 1757 when Pham Cong Tien, who had just passed the civil servant examination and taken a second wife from a wealthy family, returned to his native home, a conflict arose between Pham and his first wife over a question of ceremonial etiquette between the two wives. When the first wife took this problem to the authorities, Pham Cong Tien's official appointment was revoked (Pham Dinh Ho, n. d., pp. 97a-b).

Among the lower classes, the wife was less likely to be subordinated to her husband. The reason why husbands could not enjoy a dominant position is closely related to wives' economic power. According to scholars, women tend to have a lower status than men in the family and society, in large part, because they are economically dependent on men and often do not possess much property. In many traditional societies, women's economic activities were limited, and they were demanded to devote their energy to housework. Moreover, their properties were often taken over by their husbands or families. Without economic power, women were in general subjected to a lowly position in such societies. This was not the case, however, with Lê Dynasty women. Lê Dynasty women played an active economic role and possessed property just like their husbands.

Since I have already discussed in detail wives' right to possess property during the Lê Dynasty in my book entitled *Law and Society in Seventeenth and Eighteenth Century Vietnam* (Yu, 1990, pp. 91-95), here I will make only a few brief general comments. Previous research has shown that household property during the Lê Dynasty comprised three parts, namely, the husband's property inherited by the husband from his family, the wife's property inherited by the wife from her family, and

common property acquired through the married couple's joint effort during their marriage. The property inherited individually by a man or woman was not combined with marital property even in case of marriage, and continued to be kept separate. This separately inherited property was managed jointly and profits from its investment were considered to be the married couple's common property. A husband did not have the right to assume control of his wife's property nor did a wife have any rights to her husband's estate. In case of divorce, the husband's property and the wife's property were completely returned to the man and woman, respectively. Common property acquired during the marriage was divided equally between the former husband and wife. As will be discussed below, it is a traditional Vietnamese custom that a coin be broken into two halves or chopsticks smashed when a couple divorces, as proof of their separation. Here, the breaking of a coin into two halves can be understood as symbolizing the division of the married couple's property. The smashing of chopsticks indicates that the couple will no longer eat together; it symbolizes the end of the couple's co-habitation.

It is worth emphasizing, in regard to the issue of the husband's and the wife's property rights, that the husband had no right to inherit his wife's property. If the wife died leaving no offspring, her property reverted back to her parents or to her relatives and her memorial rites were performed by her relatives (*Lê Code*, 1987, art. 375-376). These facts show that Vietnamese women were not entirely subjected to the authority of their husbands. In traditional Vietnamese society, a daughter continued to maintain her relationship with her relatives even after she married. Furthermore, a daughter's personal property as well as her own person was not subordinated to her husband's authority. Trung Trac was able to fight against Chinese rule, together with her younger sister Trung Nhi, precisely because Vietnamese custom allowed married women to continue to maintain connections with their relatives (Katakura, 1977, p. 41). The wife was completely absorbed into her husband's family and

became a full member of her husband's family when the couple had a child. After the birth of a child, the wife officially cut off her connection with her own family. From this time on, the wife's property would be passed down to her children upon her death, and her children would conduct her memorial rites.

The authority of a husband is closely related to his power to dispose of property, more specifically the degree to which he can monopolize property rights. The more one can monopolize property rights, the greater the one's authority; the fewer property rights one has, the lower the one's authority. It follows that during the Lê Dynasty, the fact that a wife had the right to independently possess property which her husband could not exercise any right over, shows the degree to which a husband's authority over his wife was limited. If the wife would engage in outside economic activities, her husband would not have been able to or even have wanted to have strict control of his wife.

In fact, Vietnamese women enjoyed considerable freedom. They could visit neighbors without any particular restrictions and could participate in various village rituals. Perhaps because of this freedom of movement, unmarried women could select their own mates.³ The freedom that Vietnamese women enjoyed, much impressed 17th and 18th century European visitors who contrasted it with the restrictions placed on Muslim and Chinese women. Samuel Baron, who lived in Hanoi in the latter half of the 17th century, wrote the following: "This nation does not keep their women so strict from the sight of others, as the *Moors* and *Chinese* do"(Baron, 1732, vol. 6, p. 30). In the preface to *An Nan Zhi Yuan*, written by an unidentified Chinese author, the fact that Vietnamese women walked about freely and didn't avoid men is mentioned (*NNTY*, 1932, vol. 1, p. 30). The Chinese monk Da Shan, who visited Hue at the

³ Abbé Richard said as follows: "Those always choose their husband according to their liking, which the Chinese are not allowed to do." (Richard, 1778, vol. 1, p. 116). See also *NNTY*, (1932, vol. 2, p. 102)

end of the 17th century, wrote the following impression of Vietnam: “There are more women pedestrians on the sidewalks than there are men”(Da Shan, 1960, vol. 1, p. 15; cf. Choi, 1966, pp.103, 107). As mentioned previously, the restrictions placed on Vietnamese women and the degree to which they could participate in activities outside the household differed depending on the women’s social class.

The wives and daughters of the ruling class such as government officials and scholars tended to stay inside the household and did not venture outside often. These women were trained in Confucian etiquette and taught not to leave the household often, talk in a loud voice, or sit at the same table with men. Patriarchal authority was comparatively strong among the ruling class; thus it was not easy for a woman to deviate from Confucian norms.

However, these Confucian ethical norms were neither accepted nor could they be, for practical reasons, adopted by lower class Vietnamese. Vietnam was an agricultural nation engaging in rice cultivation, which required a considerable amount of labor starting with the preparation of seedbeds up until the harvest. In the low lands of the Tongking Delta, two crops were cultivated per year and there was an especially pressing need for labor. Thus women had to work in the fields just like men. The Vietnamese saying, “The man ploughs, his wife transplants seedlings, the buffalo harrows” (Nha Trang, 1973, p. 159), illustrates the important role Vietnamese women played in agriculture. In this situation, a husband could not afford to restrict his wife’s activities to the home.

Not only through agricultural work but also by engaging in trade, Vietnamese women made significant economic contributions to their household. This is another reason why it was not possible for husbands to restrict their wives’ activities. When both the husband and wife engaged in business, it was not unusual in Vietnam for the wife to do all the actual work. Charles Chapman, who was dispatched to Cochinchina by the British governor-general of India in 1778, reported the following: “The ladies are by far the most active sex; they usually manage all the business

concerns while their lazy lords sit upon their haunches, smoking, chewing betel, or sipping tea” (Chapman, 1817, p. 341). The descriptions of contemporary European observers portray Vietnamese women as very competent and tenacious merchants who at times even pursued profit by manipulating market prices. A British traveler who visited Vietnam in the latter half of the 17th century noted that Vietnamese women were as cunning as the stock brokers in London (Dampier, 1931, p. 41).⁴

While most of the wives engaging in commerce were from lower class poor families, there were also a considerable number of women from the ruling class. After having traveled through Vietnam in 1688, the Chinese Phan Ding Gui wrote in his travelogue that even the wives of mandarins were not reluctant to engage in transactions (Pan Ding Gui, 1964, vol. 13, p. 1a).⁵ It was particularly common for the wives of gentlemen-scholars from poor families to provide for the family's livelihood by selling agricultural and handmade goods at the market while their husbands prepared for the civil servant examination. These wives even supplied their husbands with paper, writing brushes and ink. The following is an old Vietnamese folk song (Nguyen Van Ngoc, 1967, vol. 2, p. 98; Nha Trang, 1973, p. 174):

I am a young woman from Phung Thien,
I sell vegetables to pay for my husband's paper and brushes.
Sometime in the future
When his name is on the list of those who've passed the exam,
My pains of raising vegetables with manure will be rewarded.

In reference to women's engagement in commercial activities, it is worth pointing out that while Vietnamese government officials and scholars did

⁴ Europeans often appointed a Vietnamese woman as their local agent. See Chapman (1931, p. 341).

⁵ cf. Koffler (1912, p. 585).

not approve of commerce, they were not as opposed to it as the Chinese were. Thus, unlike in China, where merchants and storekeepers were not allowed to take the civil service exam for many successive dynasties, in Vietnam, people who engaged in commercial pursuits were not specifically barred from civil service. In the latter part of the Lê Dynasty, when government posts were bought and sold, it did not matter if the wealth used to purchase a government position came from agricultural, commercial or any other economic activities. This meant that even merchants could purchase a government post and participate in government circles if they so desired. At the time, the Vietnamese attitude towards commercial activities made it possible for wives from upper class families to engage in business.

Traditionally many villages in Vietnam were self-sufficient in producing the handmade goods that were needed. By the 15th century, villages specializing in a particular craft appeared and various handmade items were produced in order to be sold at market (Nguyen Thanh Nha, 1970, pp. 102-103). By the 17th and 18th centuries, commerce with foreign countries expanded and the handcraft industry became more developed. Women came to engage in such work as making pottery, weaving silk, and weaving baskets. In order to stop a craft expertise from being passed on to another village, only married women were encouraged to engage in the handmade goods industry. Mainly women transported and sold completed goods at market.

An interesting fact related to women's economic activity is that the amount of wage paid to a woman in both the agricultural and the handcraft industries was identical to that of a man. The British emissary John Crawford, who visited Hue at the beginning of the 19th century, noted this: "There is no difference in the wages given to men and women" (Crawford, 1828/1967, p. 523). The wage was approximately 30 sapeques to 60 sapeques (1 *tien*) per day. In the *Lê Code*, the daily wage was set at 30 sapeques (*Lê Code*, 1987, art. 2) and Pierre Poivre, a French official who stayed in Hue for close to four months from

September 1749, paid wages of 30 sapeques to 1 tien to his Vietnamese employees (Nguyen Thanh Nha, 1970, p. 158). While there is a considerable discrepancy between the wages of men and women in Korea even now, in Vietnam men and women received equal wages two hundred years ago. This shows the high value on women's labor and the social respect women enjoyed in the Lê Dynasty.

Above we have seen how Vietnamese women contributed considerably to their families' livelihood through economic activities. Because of their contributions, Vietnamese women of both the lower and ruling classes, undoubtedly had a strong voice in family affairs. As was already mentioned above, the woman's income not only made up a significant portion of the family's overall income but at times served as the family's sole income source. Father Christopher Borri, who stayed in Cochinchina for five years during the beginning of the 17th century, left the following report (Borri, 1704/1970, vol. 2, p. 805):

The husbands bring the portion, and leave their own houses to go to the wife's, upon whose fortunes they live, the women managing all the household affairs.

Borri's report refers to an uxorilocal situation, but even in the case of virilocality, the wife often took the lead in economic matters as has been illustrated in the above examples. Given the wife's economic contribution, losing her would be a great loss to the family. This was particularly the case when the husband was poor. Therefore, even though the Confucian-influenced Lê Dynasty's legal system sanctioned a husband's authority over his wife, in reality, it was neither easy nor possible for a husband to exercise this authority when the wife was a bread earner. In other words, a relationship of subordination and control between husband and wife was possible in name only in the Lê Dynasty Vietnam; in reality, the relationship between husband and wife was one of equality. The fact that the husband and wife relationship cannot be

simply viewed as a hierarchical one is expressed in the following Vietnamese saying: “Since a husband and wife are bound together forever, even when they quarrel there is no winner or loser” (Huynh Dinh Te, 1962, p. 89, n. 3). And there is another saying: “If the husband takes one step forward, the wife should take one step back. If the husband is conciliatory, then the wife should be affectionate” (Huynh Dinh Te, 1962, p. 89, n.3). This suggests that the husband and wife should both yield to each other. In other words, neither the husband nor the wife should dominate the other. The fact that the wife is not subordinated to the husband is also illustrated in the everyday language the Vietnamese use. While we use the expression ‘husband and wife’, the Vietnamese usually use the term ‘vo-chong’, meaning ‘wife and husband’ (Nha Trang, 1973, p. 139; Nguyen Van Ky, 2002, p. 94). It is not merely incidental that the word ‘wife’ comes before the word ‘husband’. Rather this fact reflects the importance of the wife to the household. In fact, a wife was called ‘noi-chuong’ (a domestic general), a term originating in the fact that wives took care of almost all of the household’s affairs. John Barrow, who accompanied Lord Macartney on his journey to China in the 1790s, wrote the following (Barrow, 1806/1976, p. 302):

A Chinese would consider it as disgraceful to commit any affair of importance to a woman. Women, in estimation of the Cochinchinese, are but suited for, and accordingly entrusted with, the chief concerns of the family.

IV

It is clear, even in the case of divorce, that women enjoyed a high status in traditional Vietnamese society. As is the case in every society, a marriage lasting for life was preferred in traditional Vietnamese society, but when financial difficulties or the loss of affection led to divorce, divorce was not always considered to be negative.

In the legal provisions of the Lê Dynasty, there are three kinds of divorce. The first is 'repudiation' when the husband repudiates his wife. The second is 'compulsory divorce by legal action' and the third is when both parties—the husband and the wife—mutually consent to divorce. In accordance with the ideology of the time—that the control over a woman was passed on from her father to her husband—a husband had the power to 'repudiate' his wife or, in other words, to send her back to her natal family. A wife could be 'repudiated' on the basis of 'seven grounds', namely, barrenness, jealousy, malignant disease, impurity, disobedience to parents-in-law, causing disharmony in the family, and stealing (*HDTCT*, 1959, pp. 66-68). Three kinds of exceptions were applicable to the seven grounds for divorce. Exceptions were made, namely, when one of their parents had died, if the household was poor in the early years of marriage but later became wealthy, and if the wife had no place to turn to (*HDTCT*, 1959, pp. 68-69; Yamamoto, 1938, pp. 305-306). In the above cases, even if a wife committed an act which falls within the purview of the seven grounds, she could not be 'repudiated'. As can be seen in the reasons for 'repudiation', 'repudiation' was mostly related to overall household interests. The husband-wife relationship problems we think of today were not considered as important. 'Repudiation' reflected Confucian thoughts, in that the grounds for 'repudiation' emphasized the family as a social group and de-emphasized individual family members.

It is not clear exactly how often 'repudiation' was actually practiced by husbands in the Lê Dynasty. Even though 'repudiation' was recognized by law, it is highly likely that only a few people exercised this right. Traditional scholars who thoroughly adhered to Confucian family ethics and government officials who worried they might lose their post if they violated the law, would sacrifice their wives and follow the 'repudiation' regulations. Moreover, for those husbands who did not have good relations with their wives and wanted to separate, the seven grounds for 'repudiation' could be a convenient expedient. In fact, the law demanded that a man must divorce his wife if she was guilty of one

of the seven grounds. The *Lê Code* stipulates that a man who does not divorce his guilty wife is to receive a punishment of ‘degradation’ (*Lê Code*, 1987, art. 310). Despite these legal provisions, it is not likely that the ‘repudiation’ regulation was commonly accepted by many people. More than anything else, one should consider the expense of getting married. Since Vietnamese tended to spend great sums of money on wedding gifts and in treating wedding guests in the pre-modern period, there were more than a few examples of households going bankrupt or into debt after a marriage.⁶ For this reason, husbands would neither want their wedding expenditures to go to waste nor would they be able to afford remarriage. Thus a man would usually make an effort to live with his wife instead of divorcing her.

More than wedding expense concerns, another factor which discouraged husbands from repudiating their wives was their wives’ contribution to the household economy. Since wives made a significant contribution to the household income through their agricultural labor, handcraft work and commercial activities, the loss of a wife would greatly threaten the household’s economic welfare. Furthermore, because of the wife’s right to her own property, ‘repudiation’ could have serious ramifications for the household estate. If a man ‘repudiated’ his wife, he would have to return her property and all her other possessions. A mid-18th century French missionary related the following (Richard, 1778, vol. 1, p. 103):

The husband is obliged to return to her all she brought him in marriage, even the presents he had given her, to share all the furniture, and the house where she lived.

Government officials and those of the wealthier classes seemed to be in a

⁶ The Vietnamese people used to over-expend money for a marriage or a funeral.

much better position to divorce since wedding expenses and the household economy were not pressing concerns. However, if a husband from the ruling class ‘repudiated’ his wife, he and his family would have to face uncomfortable relations with his former wife’s family. The wife’s family would make a considerable effort to protect their married daughter’s position, since from their perspective, ‘repudiation’ was a dishonor. Since marriage in the ruling class usually occurred between families of the same level, if a husband was from an influential or wealthy family, his wife would also have a similar background. Since the husband and wife had similar family backgrounds, actual cases of ‘repudiation’ were quite rare even if the wife was guilty of one of the ‘seven grounds’ (Baron, 1732, p. 11; Rhodes, 1651, pp. 102-103). In such cases, problems were solved by other methods. For example, if the couple did not have any children, the man would obtain the consent of his wife and marry a second or third wife. Ultimately, ‘repudiation’—that is, a husband repudiating his wife—was more a matter of legal principle than actual practice. Thus you can say that wives enjoyed a relatively stable position. If a husband’s ‘repudiation’ of his wife is an example that shows the legal system’s discrimination against wives, then a divorce by mutual agreement represents equality between husband and wife. John Crawford stated that in Vietnam unless both parties agreed to a joint divorce, it was impossible to get divorced (Crawford, 1828/1967, p. 521). Women were not only asked to approve their husband’s request for divorce but they could also raise the issue of divorce, themselves. During the beginning of the Lê Dynasty, the law of the Hong Duc Period (1470~1497) officially approved of divorce when both the husband and wife agreed to separate because they could no longer live together in harmony (*HDTCT*, 1959, pp. 68-69). The Lê Dynasty’s law required that official papers be drawn up in the case of a divorce by mutual agreement, and made invalid the traditional custom of divorcing by splitting a coin in half or breaking chopsticks. The husband could draw up divorce papers by writing the date, his and his wife's names, and an oath of

divorce. Then the husband would affix his seal and his wife added her fingerprint (signature). No other witnesses were necessary.

Since most Vietnamese were illiterate, the new regulation mandating the drawing up of documents was not easily followed. Illiterates would have to solicit the help of a literate friend or a third party to draw up the divorce papers (*HDTCT*, 1959, pp. 68-69), and this would have made the divorcing couple feel uncomfortable. Seventeenth and eighteenth century European visitors noted that in Cochinchina, the breaking of one of their copper coins or a pair of chop-sticks between man and wife, before proper witnesses, was considered the dissolution of their formal compact, and the act of separation (Baron, 1732, p. 11; Richard, 1778, vol. 1, p. 103). This reveals that the above customs were the most widely used way of conducting a mutually consented divorce. Thus even though it was unlawful, many people chose the customary way of divorcing, which was in practice recognized as effective.

It is not clear exactly how common a divorce by mutual agreement was in traditional Vietnamese society, but it was by no means unusual. The anthropologist Edmund Leach argues that the divorce rate is closely interrelated to the degree of a husband's authority and the degree of intimacy a wife shares with her own family (Leach, 1966, pp. 114-123). In other words, the weaker the husband's authority and the more intimate the wife's ties with her own family, the higher the divorce rate. In contrast, if the husband's authority is strong and the wife's ties with her family are weak, then the divorce rate is low.

A husband is not an authoritarian figure in the Vietnamese family structure and a wife enjoys a position almost equal to that of her husband. This is possible since a woman is not completely separated from her natal family and absorbed into her husband's clan when she marries. As was mentioned previously, even after marriage, a Lê Dynasty woman continued to maintain her relationship with her natal family. The fact that a woman maintained such close relations with her natal family means that if the woman experienced difficulties during her marriage, her natal

family could come to her assistance. In other words, if the marriage was not harmonious, the woman could ask for a divorce and easily return to her parents. As would be expected, the Lê Dynasty's law, which was based on Confucian family ethics, strictly prohibited a wife from taking such actions. The *Hong Duc Thien Chinh Thu* mandates that when a wife asks for a divorce, she is to be punished with 50 strokes with a light stick and penal servitude as a female serf assigned to a rice mill (*HDTCT*, 1959, pp. 36-38). In the *Lê Code*, the woman was to be subjected to penal service as a female serf assigned to kitchen (*Lê Code*, 1987, art. 321).

Irrespective of legal provisions, Vietnamese women did not fear divorce and thus tended to demand divorce without much difficulty. A wife would request a divorce if she felt her husband threatened her rights or interests.

While the general inclination of the Lê Dynasty's law was to punish a wife and increase a husband's legal rights, a wife's rights and interests were protected in some areas. For example, the *Lê Code* gave a wife the right to ask for a divorce if her husband did not care for her for a period of 5 months or more (*Lê Code*, 1987, art. 308). In this case, the husband must accept his wife's request. This provision implies that if a husband does not sufficiently fulfill his obligations to his wife, his wife does not need to fulfill her duties to her husband. The Confucian-based Chinese legal concept that 'a wife must obey her husband,' is absent in this law. Here we can see once again the equality between husband and wife in the Vietnamese family structure.

A fact worth mentioning in relation to the equality between husband and wife is that discrimination between sons and daughters in the family was almost non-existent in Lê society. Article 388 of the *Lê Code* is a provision relating to the inheritance of family property, which states that when there are fields to be passed down and both parents have died without leaving a last will and testament, all the property is to be divided equally among the brothers and sisters except for one twentieth of the land known as *huong-hoa* land or land for the cult of the ancestors,

which is used for paying respects to the ancestors. This land was usually given to the eldest son (*Lê Code*, 1987, art. 388; *HDTCT*, 1959, pp. 14-15; Lingat, 1954, vol. 1, pp. 76-79). This article clearly states that sons and daughters had equal rights in inheriting their parents' estate. Furthermore, a daughter could even inherit the duty of performing ancestral rites. In principle, the duty of performing ancestral rites was passed on to the son, but if there were no male offspring, a daughter would inherit these memorial rites. The Lê Dynasty Law mandated that the eldest son inherit the *huong-hoa* land, which was appropriated to meet the expense of performing memorial rites for the ancestors. However, if the eldest son was not an appropriate choice due to his lacking filial piety, illness or other reasons, then the duty of performing ancestral rites was passed down to the second son. When there were no male offspring, the oldest daughter inherited this duty (*Lê Code*, 1987, art. 388-400). The fact that a daughter could inherit the duty of memorial rites shows that sons and daughters held a relatively equal position in the Vietnamese family. The previously mentioned Chinese, Pan Ding Gui, reported that the Vietnamese even preferred the birth of a daughter to that of a son (Pan Ding Gui, 1964, p. 1b). This is clearly an overstatement, but in any case it represents one aspect of the Vietnamese people's attitudes towards daughters and sons.

V

We have detected two sides to the Vietnamese attitudes towards women from our discussion so far. One is from the theoretical side where a husband has much authority over his wife, and the other is from the practical side where the husband and wife have a relationship of relative equality. The husband's authority, which was supported by law, is no doubt the result of the Vietnamese people's adoption of Chinese Confucian ethics. An equal relationship between husband and wife is an indigenous Vietnamese custom. However, later scholars mistakenly

explained this equality as a result of the influence of the Chams (Nguyen Phuc Duc, 1964, pp. 194-196). It is clear that the Vietnamese were influenced by Cham culture in the area of music and such (Woodside, 1971, pp. 23-24), but the high social position of women is a characteristic that can be found in Vietnam many years prior to their contact with the Chams. The high position of women is a characteristic social phenomenon which the Vietnamese shares with other Southeast Asian societies. Thus we must bear in mind that in regard to social customs, Vietnamese traditional society is in many respects a part of Southeast Asia. This was also clear to the 18th century European, Samuel Baron, who wrote the following (Baron, 1732, p. 19):

It is without all dispute that the *Tonqueenese* ever were a nation of themselves different from the Chinese.... and the inhabitants bearing a great affinity with other Indians [Southeast Asian people], in eating penang, colouring their teeth, going barefoot. . . .

Despite the fact that Vietnam traditionally has had close political and cultural relations with China, today many scholars consider Vietnam to be more a part of the Southeast Asian world than belonging to East Asia. This is, of course, related to Vietnam's geographical position, but more importantly, it is because of the cultural similarities mentioned above.

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