Traditional Vietnamese Law--The Le Code--and Modern United States Law: A Comparative Analysis

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* The author dedicates this Note to his father whose life is a constant source of guidance and inspiration.

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I. INTRODUCTION

In the fifteenth century, the Vietnamese developed a comprehensive legal code which became the country’s governing body of law for more than 300 years. That body of law is considered the most important legal document in Vietnamese legal history.\(^1\) The work is popularly known as the “Hong Duc Code”\(^2\) or the “Lê Code.”

The Code reflected the unusual genius of the Vietnamese legal tradition. Although influenced to some extent by Chinese law, the Code addressed the unique customs and practices of Vietnamese society\(^3\) and became a model for subsequent legal development in Vietnam.\(^4\) Some practices were even accepted into modern Vietnamese law.\(^5\) Although subsequent rulers rejected the Code, many of its provisions became customs in Vietnamese society. These customs traditionally had binding force superior to that of official law.\(^6\)

The Lê Code contained several advanced legal concepts that are comparable or equivalent to those in modern western law. These concepts included statutory rape, spousal immunity, a prohibition against ex post facto law, a statute of limitations, the incapacity of minors to contract, adverse possession, and easement. The Lê Code also recognized the rights which Americans today regard as “fundamental civil liberties.” An accused under the Lê Code was entitled to a warrant before arrest, release on bail, a speedy and public trial, and the confrontation of

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2. Historical literature written in Vietnamese generally refers to this document as the “Hong Duc Code.” The name refers to the title by which the reign of Emperor Lê Thanh Tong is known. This reign was believed to be responsible for the promulgation of the Code. However, there is evidence indicating that a substantial portion of the Code was in existence even before the Hong Duc period. The Code was also modified from time to time by subsequent rulers of the Lê dynasty. Therefore, an accurate name for the document should be “Lê Code,” rather than the “Hong Duc Code,” to reflect the authorship of the Lê dynasty as a whole. See infra text accompanying notes 209-214.
4. Vu Van Mau, *supra* note 1, at xii, xxi.
5. See infra text accompanying note 39.
6. See infra text accompanying notes 34-37.
witnesses. This Note selects these concepts for comparison because they most closely resemble concepts found in United States jurisprudence. An examination of the similarities between these concepts and their counterparts in modern United States law shows the advanced state of traditional Vietnamese law during the fifteenth century.

This Note examines traditional Vietnamese law from the perspective of modern United States law to study the meaning of the former, its advanced features, and its application in traditional Vietnamese society. This analysis seeks to enhance an understanding of how Vietnamese society dealt with legal problems which are common to modern United States jurisprudence and how some legal concepts were formulated and applied in a society that is very different from modern American society.

II. BACKGROUND OF THE LÊ CODE

A. Historical Context

1. The Establishment of the Lê Dynasty

At the beginning of the fifteenth century, Vietnam was briefly occupied by the Chinese. This occupation led to a liberation struggle that lasted for more than ten years. In 1427 under the leadership of Lê Loi, the Vietnamese drove out the Chinese, reclaimed their independence, and re-established the Vietnamese state.

Lê Loi ascended the throne in the same year and established the Lê Dynasty. The Lê Dynasty lasted for 360 years, from 1428 to 1788, and consisted of two major periods, the “unified” and the “decline” periods.

Most of the accomplishments attributable to the Lê Dynasty occurred during the unified period, the first one hundred years of the dy-

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8. 1 Tran Trong Kim, Viet Nam Su Luoc (Brief History of Vietnam) 218 (1971).

9. D.V.S.K., supra note 7, at 281-82; 1 Tran Trong Kim, supra note 8, at 234. The Vietnamese forced the Chinese to accept a negotiated withdrawal. Id.; see also Nguyen Luong Bich, Nguyen Trai Danh Giac Cuu Nuoc (Nguyen Trai — Fighting to Save the Country) 469-70 (1973).


nasty. After Lè Loi, the throne passed to nine other emperors during the unified period. Among these rulers, Emperor Lè Thanh Tong was considered the most able. He was credited with many of the legal works published during the Lè Dynasty. These achievements earned him a reputation as the most "imaginative and creative lawmaker" in Vietnamese history. He devoted more attention to the development of law than to most other areas during his reign. The Lè Code was enacted during his rule.

During the decline period, the next 260 years, there was no significant contribution to the codification of the Lè Code. When the Lè Dynasty collapsed in 1788, the Tay Son Dynasty came to power and ruled the country until 1802, followed by the Nguyen Dynasty which ruled until 1945. These subsequent dynasties did not recognize the Lè Code to any substantial extent.

2. The Government Structure Under the Lè Dynasty

The study of a country's laws requires an understanding of the structure of its government. Political institutions provide the medium within which law develops and operates.

The government under the Lè Dynasty was an absolute monarchy. 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 to Professor Lè Kim Ngan, was reflected in the will of the people. In short, to serve the will of the people was to

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12. 1 TRAN TRONG KIM, supra note 8, at 276. The nine emperors were: Lè Thai Tong (1434-1442), Lè Nhan Tong (1443-1459), Lè Thanh Tong (1460-1497), Lè Hien Tong (1497-1504), Lè Tuc Tong (1504), Lè Uy Muc (1505-1509), Lè Tuong Duc (1509-1516), Lè Chieu Tong (1516-1526), and Lè Cung Hoanh (1526-1527). Id. at 248-68.
13. See D.V.S.K., supra note 7, at 522-24 (eulogy of Emperor Lè Thanh Tong written by contemporary scholars upon his death).
16. Id. at 15.
17. VU VAN MAU, supra note 14, at 251, 258.
19. Id. at 40, 45; VU QUOC THONG, PHAP CHE SU VIET NAM (Vietnamese Legal History) 50, 53 (1972); see also Young, supra note 15, at 4.
20. LÈ KIM NGAN, supra note 18, at 40, 45; VU QUOC THONG, supra note 19, at 50-51.
21. LÈ KIM NGAN, supra note 18, at 40; see also VU QUOC THONG, supra note 19, at 55, 60.
serve the mandate of Heaven.

The governmental apparatus directly under the emperor consisted of six Ministries (Bo): Civil Services (Lai), Civil Affairs (Ho), Protocol (Le), Military (Binh), Punishments (Hinh), and Public Works (Cong). Officials serving in these Ministries were selected through examinations or nominations. The selection process sought to recruit only qualified people for government service.

Each Ministry was charged with specific functions. For example, the Ministry of Punishments enforced the law, managed litigation, and reviewed judgments rendered by the courts. The functions of this Ministry were generally limited to judicial matters. Each Ministry had a separate and independent review agency which was empowered to inspect its daily operations. The review agency of the Ministry of Punishments was called the Criminal Review Agency.

Under the Lê Dynasty, there was no independent and separate judiciary as in a modern constitutional government. Instead, the chief official at each political division conducted all judicial proceedings within his jurisdiction as well as performed his administrative duties.

Since there was no legislature or lawmaking body, the emperor was officially responsible for handing down the law. In reality, the emperor would delegate the task of drafting the law to certain scholars who would complete the work and present it to the emperor for approval. If approved, the emperor would decree that the work become the official body of law. This document would then become binding on all individuals and government agencies.

The Lê Code was a comprehensive code. It established the framework upon which the government was organized. The governmental structure during the Lê Dynasty was, to some extent, a creature of the Lê Code. Thus, it was created to function within and reinforce the law.

22. Lê Kim Ngan, supra note 18, at 52;Vu Quoc Thong, supra note 19, at 96; see also D.V.S.K., supra note 7, at 413; 1 Tran Trong Kim, supra note 8, at 255-56.
23. 1 Tran Trong Kim, supra note 8, at 249.
24. D.V.S.K., supra note 7, at 303-04; see also Young, supra note 15, at 6.
25. Lê Kim Ngan, supra note 18, at 69-71; 1 Ngo Cao Lang, supra note 7, at 38.
26. Vu Quoc Thong, supra note 19, at 96; 1 Ngo Cao Lang, supra note 7, at 38.
27. Lê Kim Ngan, supra note 18, at 97; see also 1 Ngo Cao Lang, supra note 7, at 391; Tran Trong Kim, supra note 19, at 256.
28. Lê Kim Ngan, supra note 18, at 99; Vu Quoc Thong, supra note 19, at 403-04. Independent and separate judiciary means an independent court system or judicial branch of the government.
29. Vu Quoc Thong, supra note 19, at 407, 409. Levels of political division consisted of, in descending order, province, prefecture, district, and village. Id. at 148, 409.
30. Lê Kim Ngan, supra note 18, at 45.
B. Influence of the Lê Code on Subsequent Legal Development in Vietnam

The Lê Code was a brilliant achievement of the Vietnamese legal tradition. During the Lê Dynasty, law had a recognized and respected role in governance. Soon after ascending the throne, Emperor Lê Thai To proclaimed 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."32

The law of each society reflects not only the social conditions of the state, but also the spirit and traditions of the people. The existence of certain laws indicates the presence of a particular problem the law was intended to address. The factual contours of the problem may change, but certain underlying principles such as fairness to litigants, integrity of the judicial system, or preservation of cultural values and national heritage remain consistent. Although the subsequent rulers of the Nguyen Dynasty enacted a new legal code, which was copied from the Chinese Ching Code, the Vietnamese continued to adhere to the Lê Code under the guise of traditions and customs. The people resisted change partly because the Nguyen Code was not concerned with the "pragmatic social arrangements such as contract, inheritance or land tenure" which were norms under the Lê Dynasty.

The value of a body of law depends more on its acceptance than on the fact of its enactment. This is particularly true in Vietnamese society where the people are accustomed to the maxim Phep Vua thua le lang (Village customs take precedence to the King's orders.). As a result,

31. See generally Young, supra note 15, at 13-21.
32. D.V.S.K., supra note 7, at 292. History records an instance in which Emperor Lê Thai To used law to deal with an immediate social problem. In the first years of his rule, there were many vagrants who did not work. Instead, they engaged in unproductive activities such as gambling and drinking. Emperor Lê Thai To issued an edict imposing a stiff penalty for such conduct. The edict read:

Whoever is caught drinking shall have three centimeters of his finger cut off; for gambling, if caught, shall have one centimeter of his finger cut off; whoever gathered to drink shall be punished with 100 strokes of stick penalty; whoever tolerates them shall be subject to the same punishment but with one degree reduction.

Id. at 299.
33. 1 Vũ Văn Mậu, supra note 14, at 5.
34. Id. at 7; see also Whithmore, supra note 10, at 374; Young, supra note 15, at 2; Correspondence from Professor Ta Van Tai to Patricia Elisa, Ohio University Press 5 (Apr. 22, 1981) (Available at Hastings Int'l & Comp. L. Rev.) [hereinafter Correspondence].
36. Vũ Quốc Thông, supra note 19, at 57-58. See generally Young, supra note 15, at 1.
the fifteenth century’s laws became the nineteenth century’s customs.\textsuperscript{37}

The resistance to change demonstrates the significance of the Lê Code and its influence on subsequent legal development. Despite official rejection by the Nguyen Dynasty, the Lê Code laid a concrete foundation for later legal development in Vietnam. Professor Vu Van Mau\textsuperscript{38} commented that:

The law under the Lê Dynasty was a true reflection of Vietnamese society. Because it was in accordance with social and religious conditions, the Lê Court’s law had a significant influence on the people. Today, a large number of customs in marriage or family law still reflect the provisions in the Lê Code.\textsuperscript{39}

Thus, although the Lê Code did not become an official body of law in modern Vietnam, it set the standard upon which the Vietnamese legal tradition subsequently would develop.

\section*{III. COMPARATIVE ANALYSIS}
\subsection*{A. The Purposes of Comparison}

The Lê Code is different from modern United States law in most respects. It came into existence in a different society, was influenced by different social and cultural values, and was the product of a different way of thinking. Undoubtedly, the drafters of the Lê Code intended that it serve different purposes or assume different missions within the Vietnamese legal and social order. Out of these differences, however, emerge striking similarities between the two legal systems. The similarities establish a bridge of understanding between the two bodies of law.

A comparison with western jurisprudence explains some traditional Vietnamese legal concepts in modern legal language. In comparing Vietnamese concepts to their comparable counterparts in United States law, knowledge of the latter can help explain the nature of the former. For example, understanding the underlying purpose of statutory rape law in United States jurisprudence sheds light on why the Lê Dynasty

\begin{footnotesize}
\begin{itemize}
    \item \textsuperscript{37} Young, supra note 15, at 2.
    \item \textsuperscript{38} Professor Vu Van Mau was formerly Dean and Professor of Law at Saigon University Faculty of Law, First President of the Vietnamese Supreme Court of Appeal, and President of the National Association of Comparative Law. 50 INT’L WHO’S WHO 1986-1987, at 1666 (1986). He authored numerous legal publications including QUAN N%H\textsuperscript{\textsc{\textsc{\textae}}}N CO TRUYEN VE PHAP LUAT DONG PHUONG (Ancient Legal Traditions in East Asia) (1956), CAC HE THONG PHAP LUAT TREN THE GIOI (Legal Systems in the World) (1957), DAN LUAT KHAI LUAN (General Notions of Civil Law) (1961), and CO LUAT VIET NAM LUOC KHAO (Survey of Vietnamese Ancient Law) (1973).
    \item \textsuperscript{39} VU VAN MAU, supra note 3, at 251.
\end{itemize}
\end{footnotesize}
lawmakers promulgated a similar provision. Comparative law furthers
the understanding of one legal system on the basis of knowledge of an-
other system.\textsuperscript{40} Given the age of the Lê Code, its long period of nonuse,
the scarcity of scholarly materials on the subject, and the lack of knowl-
edge about the Code in the West, it is difficult to present traditional
Vietnamese law meaningfully without the aid of literature about United
States law.

This comparison utilizes American legal terms in explaining tradi-
tional Vietnamese law. When two different and unrelated legal systems
refer to a legal concept, they do not necessarily refer to the same thing.
When the lawmakers under the Lê Dynasty promulgated law on some
requirements which resemble the United States concepts of arrest war-
rant, bail, speedy and public trial, they may have been codifying common
practices or customs long adopted in that society. This Note, however,
refers to these entitlements as “fundamental rights of an accused.” The
borrowing of this uniquely American labeling is necessary for a compara-
tive discussion of the concepts in terms of constitutional protection, the
rationale and purpose of each concept, the protection of the accused from
potential abuse of power by the state, and the balancing of state and indi-
vidual interests.

Similarly, when the traditional Vietnamese lawmakers promulgated
the provisions on statutes of limitations or the incapacity of minors to
contract, there is no indication that they meant to pronounce a civil law
on contractual limitations or any “statute of limitations.” Rather the
provisions are technically criminal in nature because they prescribe plain
prohibition of certain practices and provide penal sanctions for viola-
tions. It makes no sense, however, to explain these provisions in terms of
criminal law as they are understood in United States jurisprudence. A
comparative analysis enables us to better relate practices of a traditional
society with more familiar concepts in the United States legal tradition in
order to further understand the traditional society.

Additionally, a comparison provides a different perspective from
which to view the United States legal tradition. From this perspective,
one can appreciate a larger picture of modern United States law. One
commentator reasons that:

When one is immersed in his own law, in his own country, unable to
see things from without, he has a psychologically unavoidable ten-

\textsuperscript{40} \textit{See generally,} Escarra, \textit{The Aims of Comparative Law,} 7 TEMP. L.Q. 296 (1933); LePaulle, \textit{The Functions of Comparative Law: With A Critique of Sociological Jurisprudence,} 35 HARV. L. REV. 838 (1922).
dency to consider as natural, as necessary, as given by God, things which are simply due to historical accident or temporary social situation . . . To see things in their true light, we must see them from a certain distance, as strangers, which is impossible when we study any phenomena of our own country.  

B. Protections Under Substantive Laws

The Lê Code does not distinguish between substantive and procedural laws. The Code, however, provides numerous protections to individuals in criminal proceedings. Using United States legal classification, some of these protections are identified as substantive and others procedural. The substantive law protections selected for comparison here are statutory rape, spousal immunity, and the prohibition of ex post facto laws.

1. Statutory Rape

Rape is generally defined as a "non-consensual sexual intercourse with a female." However, when the female is at or below a certain age, modern law considers such intercourse as rape regardless of the female's consent. This offense is commonly known as statutory rape.

The lawmakers under the Lê Dynasty recognized this class of sex offenses. Article 404 of the Lê Code provides that "[s]exual intercourse with a girl aged twelve or less, even with her consent, shall be punished as rape." An imperial decree issued during the Hong Duc period of the Lê Dynasty states that "illegitimate sexual intercourse with a young girl aged twelve or less, even with consent, is considered rape." These provisions reflect several characteristics of the modern statutory offense. First, they designate a specific age of the victim above which the offense does not apply. Second, the girl's consent or lack of consent is irrelevant to the determination of culpability. These provisions unequivocally dictate that "even with consent" the act still violates the law. Third, the law

41. LePaulle, supra note 40, at 858.
43. 2 MODEL PENAL CODE AND COMMENTARIES § 213.1 comment 6 (1980).
44. G. DIX & M. SHARLOT, supra note 42, at 515-16.
46. HONG DUC THIEN CHINH THU (Book of Good Government of the Hong Duc Period) para. 262 (Nguyen Si Giac trans. 1959) (Vietnam 1560) [hereinafter H.D.T.C.T.].
treats the act as an offense in order to further a public interest, the protection of minors.

United States jurisdictions recognize a very similar concept. The Model Penal Code defines statutory rape as sexual intercourse with a female where the latter is "less than 10 years old" or "less than [16] years old and the actor is at least [four] years older than the [female]." This elaborate definition distinguishes the offense from an ordinary rape where sexual intercourse is imposed upon the female either "without [her] consent," "against her will," or "by force and against [her] will." All of these formulas require the absence of consent.

The Vietnamese and United States laws recognize several comparable concepts. First, the female's consent or lack thereof is immaterial because consent is not an element of the offense. At or below the statutory age of consent, the female is incapable of giving consent or her consent is legally impossible. Thus, in any sexual relationship involving a young girl at or below a certain age the male offender risks punishment because the female's consent is legally invalid.

The statutory age of consent varies from one society to another, but the statutory rape laws designate an age that is lower than the legal age of maturity. The Model Penal Code reasons that a young girl is "deemed incapable of giving effective consent." The designation of the age of consent at the age lower than the legal maturity age limits the application of the statute to cases in which the victim is at an extremely young age. At an age between the consent and maturity ages, the female is a minor but her consent is valid and thus statutory rape law does not

48. Id. § 213.3(1)(a).
52. Compare People v. Hernandez, 61 Cal. 2d 529, 531, 393 P.2d 673, 674, 39 Cal. Rptr. 361, 362 (1964) (Lack of consent of the female is an element of the offense but the law presumes its absence.) with Lęb C. art. 404.
53. Stevens v. State, 231 Ark. 734, 735, 332 S.W.2d 482, 482 (1960) (The tender age of a ten year old girl makes her consent "legally impossible."); see also Fields v. State, 203 Ark. 1046, 1048-49, 159 S.W.2d 745, 747 (1942) (consent of a 12 year old girl would not protect the defendant in a conviction of rape); People v. Courtney, 180 Cal. App. 2d 61, 62, 4 Cal. Rptr. 274, 276 (1960).
54. The Lęb Code considers 15 to be the age of legal maturity. Compare Lęb C. art. 285 (Men of 15 can be conscripted into military services.) and id. art. 313 (Orphans aged 15 or over can sell themselves.) and id. art. 347 (Person at age of 15 is entitled to distribution of land.) and id. art. 404 (the age of consent is 12) with 2 MODEL PENAL CODE AND COMMENTARIES § 213.3 comment 2 (1980).
55. 2 MODEL PENAL CODE AND COMMENTARIES § 213.3 comment 2, at 380 (1980).
apply. Rather the minor victim must be young enough to invoke the statute. The distinction between the age of maturity and that of consent thus reflects the lawmakers' recognition of the different problems involving sex offenses against females at different ages. A younger child is more vulnerable to adult inducement and needs more protection from the law. The law on statutory rape is designed to provide such additional protection.

Statutory rape is a strict liability crime. Because of the young age of the victim, the law presumes liability on the part of the male even if the victim consented to the sexual act.

The purpose of these statutory rape provisions is to protect young girls from illicit acts of sexual intercourse. The state has an interest in protecting "immature females from older males who would take advantage of [the females]." The law recognizes that "unwise disposition of [a girl's] sexual favor is deemed to do harm both to herself and the social mores by which the community's conduct patterns are established."

The distinct concepts found in both laws address the different problems associated with the law on sex offenses. Apparently the lawmakers in both societies sought to fine tune the laws to balance the interests of both the victim and the offender.

2. Spousal Immunity

Spousal immunity refers generally to the privilege of not being compelled by law to act against the interest of one's spouse. This privilege

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56. People v. Ratz, 115 Cal. 132, 135, 46 P. 915, 916 (1896) ("The protection of society, of the family, and of the infant, demand that one who has carnal intercourse under such circumstances shall do so in peril of the fact, and he will not be heard against the evidence to urge his belief that the victim of his outrage has passed the period which would make his act a crime."). California has created a limited exception to Ratz by recognizing a defense to statutory rape when the defendant has a good faith and reasonable belief that the female is 18 years or more of age, and the female is very close to the age of consent. People v. Hernandez, 61 Cal. 2d at 536, 393 P.2d at 677-78, 39 Cal. Rptr. at 365-66 (The female was 17 years and 9 months of age and voluntarily engaged in sexual intercourse with defendant.); see also Commission on History of Cal., Oral History: Justice Joseph R. Grodin, 16 HASTINGS CONST. L.Q. 7, 49-50 (1988).

57. TA VAN TAI, THE VIETNAMESE TRADITION OF HUMAN RIGHTS 217 (1988); see also 2 MODEL PENAL CODE AND COMMENTARIES § 213.1 comment 6, at 326 (1980).

58. People v. Courtney, 180 Cal. App. 2d 61, 62, 4 Cal. Rptr. 274, 276 (1960) (Statutory rape applies to sexual intercourse with a female who is under 18 years of age and who is not the wife of the male, regardless of whether the female is married or the act is consensual.).

59. 2 MODEL PENAL CODE AND COMMENTARIES § 213.1 comment 6 (1980).

was implicitly recognized in the Lê Code. Article 39 of the Lê Code provides:

The mutual concealment of any unlawful act shall not constitute an offense if committed by persons belonging to the following relationships: (1) relatives of the dài cong (third) or closer degree of mourning [relationship]; (2) maternal grandparents and their grandchildren; (3) a person and his or her paternal grandsons' wives; (4) a woman and her husband's elder or younger brothers; (5) a man and his elder or younger brothers' wives. 61

To implement this privilege, Article 665 also provides that "[p]ersons allowed by law to conceal one another's offenses . . . shall not be summoned to provide testimony." 62

These provisions resemble the modern doctrine of "spousal immunity" except that the latter applies only to the husband and wife relationship. In modern western law, a spouse generally cannot be compelled to testify against the other spouse in a criminal prosecution except where the crime charged is one committed by the accused upon the testifying spouse. 63 Section 970 of the California Evidence Code provides that "a married person has a privilege not to testify against his spouse in any proceeding." 64 Section 971 of the same Code provides that "a married person whose spouse is a party to a proceeding has a privilege not to be called as a witness by an adverse party to that proceeding without the prior express consent of the spouse having the privilege." 65

The earliest traceable ruling in common law which recognized the spousal privilege against adverse testimony was recorded in 1580 where the Chancery Court of England held that the wife's testimony against her husband must be suppressed because she was incapable of testifying against her husband. 66 In 1839, the United States Supreme Court, in confirming that doctrine, held that:

This rule is founded upon the deepest and soundest principles of our nature. Principles which have grown out of those domestic relations, that constitute the basis of civil society; and which are essential to the

61. Lê C. art. 39.
62. Id. art. 665.
63. Annotation, Competency of One Spouse to Testify in Federal Criminal Prosecution of Other, 97 L.Ed. 607, 613 (1952). See generally, C. McCormick, Evidence § 66 (E. Cleary 3d ed. 1984); 8 J. Wigmore, Evidence §§ 2228, 2334 (McNaughton rev. ed. 1961). The spouse was said to be disqualified from testifying either for or against his or her spouse. Id. § 2228, at 212 (quoting E. Coke, A Commentarie Upon Littleton 6b (1628)).
64. CAL. EVID. CODE § 970 (West 1966).
65. Id. § 971.
enjoyment of that confidence which should subsist between those who are connected by the nearest and dearest relations of life. To break down or impair the great principles which protect the sanctities of husband and wife, would be to destroy the best solace of human existence.67

The Court specifically recognized the interest of preserving harmony in a marital relationship. This interest is preferred to the interest of serving justice. However, the doctrine was not settled until recently.68 Not until 1958 did the United States Supreme Court acknowledge that "[t]he basic reason the law has refused to pit wife against husband or husband against wife in a trial where life or liberty is at stake was a belief that such a policy was necessary to foster family peace, not only for the benefit of [the] husband, wife and children, but for the benefit of the public as well."69

The Court now recognizes the interest of society as well as that of the family in providing such immunity. On the one hand, requiring such testimony would do violence to the peace of the family and disrupt the basic unit of society. On the other hand, precluding such testimony would inhibit the administration of justice, perhaps allowing the accused to escape the judgment of law. The opinions of the Supreme Court, however, have recognized the state's prevailing interest in protecting the family unit, even at the cost of excluding reliable evidence.

The Lê Code accepts the same cost when it allows one to conceal an unlawful act committed by one's relative.70 The trade-off reflects the lawmakers' acknowledgement that the administration of justice should not be achieved at any cost. The law instead chooses to preserve familial harmony even at the cost of inhibiting the search for the truth. The laws in both societies apparently balance the competing interests to seek the best resolution of the problem. Society as a whole benefits the most from this balancing act.

67. Stein v. Bowman, 38 U.S. (13 Pet.) 209, 223 (1839) (wife could not testify to facts which would discredit her husband and indicate that he had committed perjury). It is debatable whether immunity from compulsory testimony is necessary to preserve the peace within families or marital unity. See 8 J. Wigmore, supra note 63, § 2228, at 214-21.

68. See infra note 69.

69. Hawkins v. United States, 358 U.S. 74, 77 (1958) (wife could not be allowed to testify, even voluntarily, against her husband in a Mann Act prosecution). The Court, however, in 1980, modified the restriction and allowed spouse's voluntary adverse testimony. Trammel v. United States, 445 U.S. 40 (1980). The Trammel Court held that "the witness spouse alone has a privilege to refuse to testify adversely; the witness may be neither compelled to testify nor foreclosed from testifying." Id. at 53.

70. Lê C. art. 39.
3. Ex Post Facto Laws

It is a deeply rooted tradition in modern law that a person cannot be charged with a crime that is not proscribed by law. The American Law Institute explains: "[T]hat American courts cannot declare new offenses and apply them to facts that have already transpired should be beyond doubt. Nor do the courts possess general authority to declare behavior to be criminal simply because it violates community morals."71

The lawmakers under the Lê Dynasty adhered to a very similar idea. The last article of the Lê Code, placed as if it were an epilogue to the entire body of law, states that:

In determining whether a wrongful act constitutes an offense of a specific name governed by a provision of law, any trial judge who takes the liberty of going beyond, or failing to apply fully, a specifically applicable article of law, or who refers to peripheral articles in order to mitigate or aggravate the case on his own shall receive a penalty one degree higher than that imposed for mitigation or aggravation of a case.72

The official function of the judge, under the Lê Code, was to apply the law and not to make it.73 The Lê Code contains several provisions aimed at ensuring proper application of the law. First, judgments must quote "the original texts of all relevant statutes, decrees, rulings, and instructions."74 For example, in a criminal case, the judge would cite the specific provision of law which applied. This requirement was included to ensure strict application of the law. The lawmakers of the Lê Dynasty were concerned that paraphrasing the law would subject it to inconsistent interpretations or improper applications. Second, a ruling based on stare decisis is allowed only if the prior decision has been "promulgated as a permanent ruling."75 This provision underscores the distinction between binding and non-binding precedents. The distinction implies that a judicial ruling does not automatically become binding unless it has been reviewed and recognized by appropriate authority. Third, judges are not allowed to modify the law, either by aggravating or mitigating an of-

71. 2 MODEL PENAL CODE AND COMMENTARIES § 1.05 comment 3, at 80 (1980). Model Penal Code § 1.05(1) states that "[n]o conduct constitutes an offense unless it is a crime or violation under this Code or another statute of this State." MODEL PENAL CODE § 1.05(1) (1980).
72. Lê C. art. 722.
73. Id. It is debatable, as in any common law legal system, whether judges make law by pronouncing the meaning of a particular statute or code.
74. Lê C. art. 683.
75. Id. art. 685.
fense. Adjusting the offense would simply be one way to modify the law. A 1718 decree, issued near the end of the Lê Dynasty, ordered that "[f]or all cases involving penal sanctions, the penalty can be imposed only when the law takes effect; prior to that time, any different judgment should adhere to the old regulations with respect to the more lenient sanction provisions. This is to reflect the generosity of the State."  

The Constitution of the United States specifically prohibits ex post facto legislation. In Calder v. Bull, the leading case on the ex post facto clause, the Court listed types of penal enactments which would violate the clause:

1st. Every law that makes an action done before the passing of the law, and which was innocent when done, criminal; and punishes such action.

2d. Every law that aggravates a crime, or makes it greater than it was, when committed.

3d. Every law that changes the punishment, and inflicts a greater punishment, than the law annexed to the crime, when committed.

4th. Every law that alters the legal rules of evidence, and receives less, or different, testimony, than the law required at the time of the commission of the offense, in order to convict the offender.

There are striking similarities between the provisions of the Lê Code and the admonitions listed in the Calder opinion. First, the law that criminalizes an act must exist prior to the commission of the act. The Lê Code requires that the act must "constitute an offense of a specific name governed by a provision of law." The Calder admonition clearly prohib-

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76. Id. art. 686, paras. 1-3.
77. 1 Ngo Cao Lang, supra note 7, at 303-04.
78. The ex post facto principle is popularly known in the West as nulla poena sine lege or "no conduct may be held criminal unless it is precisely described in a penal law." In Western Europe, the concept was not recognized until the eighteenth century. There was some manifestation of the principle of nulla poena sine lege in the Magna Carta of 1215, but this is not enough to conclude that it originated from this document. J. Hall, General Principles of Criminal Law 28-31 (2d ed. 1960). One commentator traced the principle's early significance to the French Declaration of the Rights of Man of 1789. G. Williams, Criminal Law: The General Part 575 (2d ed. 1961). The antecedent of the concept, however, did not have a "definite approximation" until the rise of the English Parliament in early seventeenth century. J. Hall, supra, at 30-31.
79. U.S. Const. art. I, § 9, cl. 3. Although the clause does not specifically apply to the judiciary, the courts have refused to violate the principle. See United States v. Harris, 347 U.S. 612, 617 (1954).
80. 3 U.S. (3 Dall.) 386 (1798).
81. Id. at 390 (emphasis in original).
82. Lê C. art. 722 (emphasis added).
its the punishment of an act which was "done before the passing of the law, and which was innocent when done." In short, the law must precede the act that the law condemns.

Second, a law cannot aggravate the offense. The Lê Code prohibits judges from "aggravating or mitigating an offense." The Calder admonition prohibits "[e]very law that aggravates a crime." Although the Calder ruling does not explicitly prohibit mitigation of an offense, the provisions in both the Lê Code and the Calder opinion oppose changes in the law that act to the detriment of the defendant.

Third, both laws prohibit the retroactive application of law if it results in a more severe penalty for the act that was committed prior to the change. A 1718 decree of the Lê Dynasty suggests that if the new law imposes greater penal sanctions, the judge should "adhere to the old regulations" and apply the more lenient sanctions. This provision implies that the defendant may benefit from the new law which imposes a less severe penalty. Similarly, the Calder admonition only prohibits application of any "law that changes the punishment, and inflicts a greater punishment." Both provisions are silent on changes in law that would impose a lesser punishment. Thus, it may be fair to conclude that, in both systems, a new law does not apply to an act previously committed except when the new law imposes a lesser sanction.

The lawmakers in both systems recognized the role of law and the necessity of its proper application. In short, an act must be judged by existing law. Alteration in application of the law may pose a risk of modifying the law itself.

C. Protections Under Procedural Laws

Along with substantive law protections, the Lê Code provides a large number of protections under procedural law. Several of these provisions resemble the fundamental rights of an accused granted under the United States Constitution. These rights are selected for comparison in part because they resemble the constitutional rights in United States jurisprudence, and in part because they show a clear concern for the rights of an accused in criminal proceedings under the Lê Code. These rights include a warrant requirement for arrest, bail, speedy and public trial, and confrontation of adversarial witnesses.

84. Lê C. art. 686, paras. 1-3.
86. 1 Ngo Cao Lang, supra note 7, at 303-04.
1. Warrant for Arrest

An arrest warrant is a written order issued by a court or magistrate authorizing the arrest of a person. The Lê Code provides that to arrest a person, the government must first obtain "a warrant bearing the seal of the responsible head of service." Further, the warrant must be considered and issued by the judge himself. This requirement ensures that the arrest is judicially authorized. The restriction embraces several concepts. First, there is a separation of authority between the officials who want to make an arrest and those who can authorize it. Second, there are only certain predesignated officials who can authorize the issuance of a warrant. Third, the restriction on the government is directed toward the prevention of arbitrary arrest.

The issuance and execution of the warrant must comply with several requirements. First, only the officials specifically designated on the warrant are allowed to execute the warrant, and their names must be written on the document. Second, the warrant must bear the seal of a judge. The presence of the seal as a means of authentication indicates that the judge has seen and authorized the warrant. Upon execution of the warrant, the authorized officers "must present the warrant to the prefectural or district official" and ask the latter to "perform the arrest and turn the accused over to [them]." This special feature contemplates minimal intrusion of the arrestee's privacy because the local officials are presumably in a better position to conduct the arrest with the least disruption.

In United States jurisdictions, the requirement of a warrant for arrest stems from the Fourth Amendment to the United States Constitution. The provision guarantees that:

The right of the people to be secure in their persons, houses, papers,
and effects, against unreasonable searches and seizures, shall not be
violated, and no warrants shall issue, but upon probable cause, sup-
ported by oath or affirmation, and particularly describing the place to
be searched, and the persons or things to be seized.95

To implement this guarantee, modern United States law imposes
several typical requirements. First, the warrant must be signed and
sealed by the judicial officer who issued the warrant.96 Second, the issu-
ance of a warrant must be based on "reasonable ground to believe that
the defendant has committed [a particular offense]."97 An arrest war-
rant, generally, must specify the name of the defendant, the time of issu-
ance, the jurisdiction where it is issued, and it must be signed by a
judicial officer.98 Modern United States law is not as strict about who
can make the arrest as was the Lê Code.99 Generally, it allows an officer,
upon securing an arrest warrant, "to make the arrest at anytime and any
place."100

The provisions on arrest warrants in the Lê Code and modern
United States law display two major similarities. First, the regulations
ensure that an arrest is judicially authorized. The Lê Code requires that
the warrant bear the seal of the judge.101 Modern United States law re-
quires that the warrant be signed and sealed by the issuing judicial of-

101. U.S. CONST. amend. IV.
96. Oates v. Bullock, 136 Ala. 537, 546, 33 So. 835, 837 (1902) ("A paper in the form of
and intended to be a warrant and issued as such is void unless it is actually signed by the
magistrate issuing it."); see State v. Haines, 153 Me. 465, 465, 138 A.2d 460, 460-61
(1958)(warrant is void if not sealed). Rule 4(b)(1) of the Federal Rules of Criminal Procedure
provides: "The warrant shall be signed by the magistrate and shall contain the name of the
defendant or, if his name is unknown, any name or description by which he can be identified
with reasonable certainty . . . ." FED. R. CRIM. P. 4(b)(1). Many jurisdictions have abolished
the requirement of seal as a means of authentication. California no longer requires the seal of a
court to be fixed on legal documents such as writs, summons, or warrant of arrest. CAL. CIV.
PROC. CODE § 153 (West 1982).
98. Id. § 815.
99. Section 816 of California Penal Code states:
A warrant of arrest shall be directed generally to any peace officer, or to any public
officer or employee authorized to serve process where the warrant is for a violation of
a statute or ordinance which such person has the duty to enforce, in the state, and
may be executed by any of those officers to whom it may be delivered.
Id. § 816; Lê C. art. 673, para. 2.
100. N.H. REV. STAT. ANN. § 594:7 (1986); see also MICH. COMP. LAWS ANN. § 764.2a
(West 1982).
101. Lê C. art. 704.
102. See supra note 96.
Second, a warrant must satisfy certain requirements to be valid. The Lê Code requires that the warrant show appropriate authority,^{103} be examined by the judge himself,^{104} and indicate the name of the official authorized to make the arrest.^{105} United States modern law requires that the warrant be authorized by the court,^{106} be based on a reasonable belief that the person has committed a particular offense,^{107} and specify the name of the person to be arrested.^{108} The requirements of both legal systems attempt to minimize the chance of an error in arrest or the abuse of power by responsible officials. The laws in both societies aim at the ultimate goal of preventing arbitrary arrests.^{109}

2. Release on Bail

Bail, in the criminal law context, is money deposited with the court to secure the release of a person from custody. The deposit is posted on the condition that the defendant will forfeit that amount if he does not appear in court as ordered.^{110} Imprisonment of a person while pending trial, even temporarily, raises several issues such as infliction of punishment prior to judicial determination of guilt, undermining the presumption of innocence until proof of guilt is established, and inhibition of the ability to prepare for defense. On the other hand, there are concerns that the accused may flee from the jurisdiction or avoid standing trial. The entitlement of release on bail addresses these very issues.

The lawmakers of the Lê Dynasty were apparently aware of these issues when they provided that "(in the case of minor offenses) whenever relatives or old friends should be allowed to bail the offender out and yet they are not given that option, the penalty to be imposed [on the person responsible] shall be eighty strokes of the heavy stick."^{111} This provision balances several considerations such as the seriousness of the offense, the interests of the state in having the accused appear at trial, and the interests of the accused in minimizing unnecessary hardship.

In the United States, the right to bail is provided by the Eighth Amendment to the Constitution.^{112} It was statutorily implemented by

103. Lê C. art. 704.
104. Id. art. 673.
105. Id. art. 701.
106. See supra note 96.
108. Id. § 815.
109. TA VAN TAI, supra note 57, at 61.
110. BLACK'S LAW DICTIONARY 73 (5th ed. 1983); FED. R. CRIM. P. 46(e)(1).
111. Lê C. art. 663, para. 1.
112. U.S. CONST. amend. VIII ("Excessive bail shall not be required."). One commentator
the Judiciary Act of 1789.113

The right to bail has become a basic constitutional right in the United States judicial system. Section 3142(a) of Title 18 of the United States Code provides that "[u]pon the appearance before a judicial officer of a person charged with an offense, the judicial officer shall issue an order that, pending trial, the person be . . . released on personal recognizance or upon the execution of an unsecured appearance bond."114

This provision reflects several characteristics found in Article 663 of the Lê Code. First, the privilege applies only to less serious offenses. The American privilege applies to an offense not "punishable by death,"115 and the Lê Code extends the privilege to "minor offenses."116 Although the extent of application varies, the underlying idea is the same; for some minor offenses, unnecessarily depriving a person of his liberty prior to trial is not justified. Second, both provisions balance the interests of the accused against the interests of the state. The accused's liberty interest is preferred to the state's interest in assuring the accused's prompt appearance at trial. Third, both provisions recognize that the main purpose of pretrial imprisonment is to assure the accused's appearance at trial and not to punish him. Therefore, when a less intrusive means can achieve that purpose, that means should be pursued. The rationale for both provisions is that the law should avoid unnecessary hardship to the defendant.

The language in both provisions reflects the essential purpose of bail, which is to secure the accused's appearance in court. Thus, that right should never be denied for the purpose of punishment.117 That warning is confirmed in a United States Supreme Court decision in 1835 by Justice Story:

A recognizance of bail, in a criminal case, is taken to secure the due attendance of the party accused, to answer the indictment, and to submit to a trial, and the judgment of the court thereon. It is not designed as a satisfaction for the offence, when it is forfeited and paid; but as a

suggests three alternative interpretations for the clause. One is that the clause provides an absolute right to bail. Foote, The Coming Constitutional Crises in Bail, 113 U. Pa. L. Rev. 959 (1965).

113. Judiciary Act of 1789, ch. 20, 1 STAT. 73, 91 (1789) ("And upon all arrests in criminal cases, bail shall be admitted, except where the punishment may be death.").
115. Id.
116. See supra text accompanying note 111.
117. Reynolds v. United States, 80 S.Ct. 30, 32-33 (1959) (bail application was granted pending appeal); see Bandy v. United States, 81 S.Ct. 197, 197 (1960); see also Stack v. Boyle, 342 U.S. 1, 4 (1951).
means of compelling the party to submit to the trial and punishment, which the law ordains for his offense.\textsuperscript{118}

The Court made clear that the right to bail cannot be denied for punishment purposes. Such improper denial would amount to infliction of punishment prior to judicial determination of guilt. The release of an accused on bail also makes it easier for the accused to prepare for his defense,\textsuperscript{119} as it is more convenient for the accused to consult his lawyer, gather evidence, or prepare witnesses. The granting of this right also preserves the presumption of innocence before proof of guilt.\textsuperscript{120} The notion of "presumption of innocence" suggests that one cannot be imprisoned upon mere accusation pending a judicial determination of guilt.\textsuperscript{121} Finally, availability of this right prevents unnecessary interruption of one's life while waiting for proper adjudication of the case. The entitlement of the right to bail in the Lê Code\textsuperscript{122} serves these same purposes.

Although the lawmakers in each society may have considered different factors in securing this right, both laws reflect the same purpose in minimizing any unnecessary hardship on the defendant prior to a judicial determination of his guilt. Provision of this right further protects the individual from unwarranted government intrusion.

3. Speedy Trial

As with the right to release on bail, undue delay of trial also raises issues such as prolonged pretrial imprisonment, undue hardship prior to the determination of guilt, and impairment of the accused's defense. Under the Lê Code, the accused was entitled to a prompt disposition of his case. Article 671 of the Lê Code provides that "[j]udges examining cases who procrastinate beyond the time period stipulated therefor and fail to render timely decisions shall be punished as provided by law."\textsuperscript{123} The requirement of a speedy trial also applied to retrial. Article 688 states, "Whenever, following an appeal to the Throne, a case is remanded to another court for retrial and the regulation specifying a time limit for a new trial (two months for important cases and one month for unimportant cases) is violated, the prosecutor responsible shall be fined."\textsuperscript{124} Both

\begin{itemize}
\item \textsuperscript{118} Ex parte Milburn, 34 U.S. (9 Pet.) 704, 710 (1835).
\item \textsuperscript{119} Stack v. Boyle, 342 U.S. at 4.
\item \textsuperscript{120} Id.
\item \textsuperscript{121} Id. at 8 (Jackson & Frankfurter, JJ., concurring).
\item \textsuperscript{122} Lê C. art. 663.
\item \textsuperscript{123} Id. art. 671.
\item \textsuperscript{124} Id. art. 688.
\end{itemize}
provisions in the Lê Code emphasize the need for timely adjudications in order to protect the interests of the defendant.

The Framers of the United States Constitution considered the right to a speedy trial important enough to be specified in the Bill of Rights.\textsuperscript{125} The Sixth Amendment to the United States Constitution, in pertinent part, provides that "in all criminal prosecutions, the accused shall enjoy the right to a speedy and public trial."\textsuperscript{126} The right has been recognized as one of the basic and fundamental rights in United States jurisprudence.\textsuperscript{127} Rule 48(b) of the Federal Rules of Criminal Procedure provides that:

If there is unnecessary delay in presenting the charge to a grand jury or in filing an information against a defendant who has been held to answer to the district court, or if there is unnecessary delay in bringing a defendant to trial, the court may dismiss the indictment, information or complaint.\textsuperscript{128}

The right to a speedy trial reflects three main purposes: (1) it protects the accused from prolonged pretrial imprisonment; (2) it relieves the accused from undue harassment caused by an untried accusation; and (3) it ensures that the defense will not be impaired because witnesses are no longer available after a long period of time.\textsuperscript{129} The timeliness of adjudication required under the Lê Code seeks to serve these same purposes.

4. Public Trial

A public trial is one which is open to the public and which any member of the public may attend.\textsuperscript{130} The lawmakers of the Lê Dynasty wrote that "[o]n the day of the trial, the high dignitaries and judges in charge of the case have to conduct a public hearing jointly to discern right and wrong, in such a manner as to satisfy the people's sense of justice."\textsuperscript{131} A provision in the Lê Procedural Code requires that the judge try cases in the "yaman hall" [village house] "so that everyone [could] hear what [was] said or submitted."\textsuperscript{132} The Procedural Code goes so far as to require that the content of the judgment, "including the reasoning, had to be posted for all parties to copy; if the judgment was obscure and

\textsuperscript{125} See U.S. CONST. amend. VI.
\textsuperscript{126} Id.
\textsuperscript{128} 18 U.S.C. app. 48(b) (1982).
\textsuperscript{129} 6 L. ORFIELD, CRIMINAL PROCEDURE UNDER THE FEDERAL RULES § 48:18 (2d ed. 1987); see also United States v. Marion, 404 U.S. 307 (1971).
\textsuperscript{130} Radin, The Right To A Public Trial, 6 TEMP. L. Q. 381, 391 (1932).
\textsuperscript{131} LÊ C. art. 720, para. 1 (emphasis added).
\textsuperscript{132} TA VAN TAI, supra note 57, at 81 n.244.
the litigants were unable to copy it,’ the parties might have grounds for appeal.\textsuperscript{133} The concern underlying these provisions is apparently the appearance of justice. The Lê Code states explicitly that the purpose of the requirement of a public trial is to “satisfy the people’s sense of justice.” Undoubtedly, the drafters of the Lê Code recognized that the “appearance of justice” was necessary to satisfy “the people’s sense of justice.” Thus, the trial must be conducted in a public place and in such a manner as to insure that “everyone can hear what is said or submitted.”\textsuperscript{134}

The appearance of justice also plays an important role in the United States criminal justice system. The Sixth Amendment to the United States Constitution provides, in pertinent part, that “[i]n all criminal prosecutions, the accused shall enjoy the right to a . . . public trial.”\textsuperscript{135} The enumeration of this right in the Bill of Rights reflects a deeply-rooted notion in the common law that “justice must satisfy the appearance of justice.”\textsuperscript{136} In United States jurisprudence, a public trial is “an essential guarantee against any attempt to employ the courts as instruments of persecution. The knowledge that every criminal trial [is] subject to a contemporaneous review in the form of public opinion [is] regarded as an effective restraint on possible abuse of judicial power.”\textsuperscript{137}

The requirement of a public trial serves several purposes. First, the public setting fosters the people’s confidence in the judicial process by allowing them to witness the operation of the judicial system.\textsuperscript{138} This is precisely why the Lê Code required that the trial be held in the yaman hall.\textsuperscript{139} Second, a public trial prevents possible abuse of the defendant’s rights by the court or the prosecution that might arise in a secret trial.\textsuperscript{140} The United States Supreme Court in \textit{In re Oliver}\textsuperscript{141} recognized that:

\begin{quote}
The traditional Anglo-American distrust for secret trials has been variously ascribed to the notorious use of this practice by the Spanish Inquisition, to the excesses of the English Court of Star Chamber, and to
\end{quote}

\begin{footnotes}
\footnotenumber{133} \textit{Id.} at 81 n.246.
\footnotenumber{134} \textit{See supra} text accompanying note 132.
\footnotenumber{135} U.S. \textsc{const.} amend. VI.
\footnotenumber{137} United States v. Kobli, 172 F.2d 919, 921 (3d Cir. 1949).
\footnotenumber{138} State v. Schmit, 273 Minn. 78, 87-88, 139 N.W.2d 800, 807 (1966) (“It is not unrealistic even in this day to believe that public inclusion affords citizens a form of legal education and hopefully promotes confidence in the fair administration of justice.”).
\footnotenumber{139} \textit{See supra} note 132 and accompanying text.
\footnotenumber{140} \textit{In re} Oliver, 333 U.S. 257 (1948) (Defendant was convicted of contempt in a trial from which the public was excluded.)
\footnotenumber{141} \textit{Id.} at 268-70.
\end{footnotes}
the French monarchy's abuse of the *lettre de cachet*\textsuperscript{142} . . . Whatever other benefits the guarantee to an accused that his trial be conducted in public may confer upon our society, the guarantee has always been recognized as a safeguard against any attempt to employ our courts as instruments of persecution.\textsuperscript{143}

The appearance of justice is the major concern shared by both the Lè Code and United States laws. It is important to foster confidence in the judicial process and to legitimize the legal system. This concern goes beyond mere justice; it considers other factors which are important components of a just system: the public confidence in the judicial process and the legitimization of the system.

5. Right to Confront Witnesses

Under the Lè Code, an accused had the right to confront the witness against him at trial. The lawmakers under the Lè Dynasty recognized the importance of allowing the defendant to ascertain the basis of the accusations against him. Article 671 of the Lè Code provides that "if the defendant presents himself in court but the plaintiff or informer fails to come to be confronted, after twenty days, the plaintiff or informer shall be found guilty of [the crime or tort] falsely accused."\textsuperscript{144} Another provision of the Code imposes a penalty on any judge who fails to schedule such a confrontation within a reasonable period of time.\textsuperscript{145}

The right to confront the witness is explicitly stated in the United States Constitution.\textsuperscript{146} The provision requires that "in all criminal prosecutions the accused shall enjoy the right . . . to be confronted with the

\textsuperscript{142} A *lettre de cachet* was a document bearing the King's private seal (cachet) which referred to the means frequently used by the King to interfere with the ordinary course of justice. Radin, *supra* note 130, at 388.

\textsuperscript{143} In re Oliver, 333 U.S. at 268-70 (footnotes omitted). Other benefits identified by the Court were: (1) if the public trial comes to the attention of key witnesses unknown to the parties, those witnesses may voluntarily come forward and testify; (2) spectators learn about their government and acquire confidence in the legal system. *Id.* at 270 n.24.

\textsuperscript{144} Lè C. art. 671, para. 2.

\textsuperscript{145} Lè C. art. 677 ("Any judge who postpones the confrontation of parties to a subsequent date but then, for months beyond that date, fails to organize such a confrontation shall be fined.").

\textsuperscript{146} U.S. CONST. amend. VI. In the West, the right to confront the witness at one's criminal prosecution dates back to 1603 when Sir Walter Raleigh was accused of treason against the Crown. The case against him was based on the confession of Lord Cobham, Raleigh's alleged co-conspirator, implicating Raleigh in a plot to seize the throne and establish Arabella Stuart as Queen of England. Sir Raleigh asked to have Cobham testify as a witness, but his request was never granted. Were Cobham allowed to testify at trial, he would have retracted his confession. On the basis of this confession, Sir Raleigh was sentenced to death for high treason. 1 J. STEPHEN, A HISTORY OF THE CRIMINAL LAW OF ENGLAND 334-35 (1833).
witnesses against him." The right did not apply to state courts until 1965 when the United States Supreme Court held for the first time that the right was fundamental and essential to a fair trial and, therefore, applicable to the states through the Due Process Clause of the Fourteenth Amendment. Without the protection of the right to confront witnesses, criminal justice would have no meaning because:

[Prosecutors] would frequently allege matters which the prisoner denied and called upon them to prove. The proof was usually given by reading depositions, confessions of accomplices, letters, and the like; and this occasioned frequent demands by the prisoner to have his "accusers," i.e., the witnesses against him, brought before him face to face.

Although trial procedures were different in fifteenth century Vietnam, one can assume the lawmakers of the Lê Dynasty were aware that denying the accused the right to confront his accuser would undermine the integrity of the judicial process. The underlying message in both the Lê Code and United States law is that the accused must be allowed to confront his accuser.

D. Contractual Relationships

The Lê Code did not have distinct contract law provisions, except those regulating business transactions. Some of those regulations resemble contract law provisions in United States jurisprudence. The best examples are the provisions on statutes of limitations and the incapacity of minors to contract. These provisions suggest that the lawmakers of the Lê Dynasty were acutely aware of typical problems that might arise in contractual relationships.

1. Statutes of Limitation

The term "statute of limitations" refers to statutory provisions that prescribe time periods beyond which claims may be barred. The Lê Code contained a provision specifying a time period within which a creditor must act to recover his debt. Article 588 of the Lê Code provides that "[a]ny creditor who fails to make a claim before the prescription period ends shall lose the money loaned. (The prescription period is fixed at thirty years for paternal relatives and twenty years for other peo-

147. U.S. CONST. amend. VI.
150. 3 B. WITKIN, CALIFORNIA PROCEDURE Action § 306 (3d ed. 1985).
A decree issued during the Hong Duc period includes similar provisions but adds that "if there is evidence that the debtor requested deferment of payment to a certain year, month, or date, then this prescription period does not apply." In short, a claim to recover debt must be brought within a specified period except when the debtor has made a new arrangement.

In the West, the concept of limitation on personal actions within a prescribed time period did not come into use until the enactment of the Limitation Act of 1623 in England. Patterned after that law, all United States jurisdictions have enacted similar statutes which specify time limits in which to file suit to recover debt. In California, for example, "an action upon a contract, obligation or liability not founded upon an instrument of writing" must be filed "within two years." This statutory period applies to an action to recover debt. A claim to recover the debt is barred if the creditor fails to file his claim before the two-year period has run. If the debtor acts to acknowledge the existing debt, his action may restart the statutory period and thus revive the old cause of action. This doctrine, generally known as the revival doctrine, recognizes that the running of the statutory period does not bar the claim if the debtor has made a new promise to repay the debt. The Second Restatement of Contracts states that "[a] promise to pay all or part of an antecedent contractual or quasi-contractual indebtedness owed by the promisor is binding if the indebtedness is still enforceable or would be except for the effect of a statute of limitations." In other words, a promise to pay, if made before the statutory period has run, has the effect of removing the

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151. Lê C. art. 588, para. 2.
153. The Statute of Limitations, 21 James 1, ch. 16, §§ 1, 2 (1623); see also infra note 182.
155. CAL. CIV. PROC. CODE § 339 (West 1982). The statutory period for a similar cause of action based upon written contract is four years. Id. § 337.
157. CAL. CIV. PROC. CODE § 339 (West 1982).
158. Id. § 360; 3 B. WITKIN, supra note 150, at §§ 516, 517.
159. Note, supra note 154, at 1254.
time restrictions of the statute of limitations.\textsuperscript{161}

The prescription of a statutory period serves two major purposes. It ensures that an interest held by a person is free of "ancient obligations."\textsuperscript{162} Without time limitations, one can have a claim that is hundreds of years old. Even if the claim were valid, it is not fair to require a person to defend a claim where the "evidence has been lost, memories have faded, and witnesses have disappeared."\textsuperscript{163} It is indeed difficult for the court to adjudicate a claim when evidence is beyond the reach of anyone.\textsuperscript{164} Additionally, preclusion of an otherwise valid claim avoids the disruptive effect caused by uncertainty in contractual transactions.\textsuperscript{165} An investment plan, for example, would be spoiled if someone showed up with an ancient debt instrument against the prospective investor.

Although the formulation of the law on statutes of limitations in the Lê Dynasty preceded a similar effort in the West by centuries, traditional Vietnamese and modern United States laws share several common features. In both legal systems, one can forego a valid claim by failing to make the claim within a period of time. Under the Lê Code, the creditor would "lose the money loaned."\textsuperscript{166} Similarly, in California, the creditor is barred from recovering his money.\textsuperscript{167} From the creditor's perspective, this may seem like an outright legalized taking of his money. The laws, however, are concerned not only with the interests of the creditor, but also with those of the debtor and the market. The laws must balance competing interests, including the fairness to debtors, the difficulty in adjudication of claims, and the uncertainty created in business transactions. The statutes of limitations choose to further the interests of society

\textsuperscript{161} See id. comment b, illustrations 1, 2.
\textsuperscript{162} Note, supra note 154, at 1185 n.87 (quoting Holmes, \textit{The Path of the Law}, 10 \textit{Harv. L. Rev.} 457, 477 (1897) ("A thing which you have enjoyed and used as your own for a long time, whether property or an opinion, takes root in your being and cannot be torn away without your resenting the act and trying to defend yourself, however you came by it. The law can ask no better justification than the deepest instincts of man.").
\textsuperscript{164} Note, supra note 154, at 1185 n.90 (quoting 32 Hen. 8, ch. 2 (1540)).
\textsuperscript{165} For as much as the time of limitation appointed for suing ... extend and be so far and long time past, that it is above the remembrance of any living man truly to try and know the perfect certainty of such things, as hath or shall come in trial ... to the great danger of men's consciences that have or shall be impanelled in any jury for the trial of the same.
\textsuperscript{166} \textit{Lê C.} art. 588.
as a whole, even at the cost of the interests of creditors. Such provisions, however, still allow a reasonable period of time within which a person should bring his claim, and they recognize the "revival" mechanism which further protects creditors. Although formulated centuries apart, the laws converge on a very fine point: the protection of society's interests should be furthered only with laws that minimize harm to the individual's interests.

2. Incapacity of Minors to Contract

The responsibility of making law often entails the balancing of interests. This balancing task may involve the creation of laws that are inconsistent with existing law, particularly where the inconsistency is necessary to serve a prevailing interest. In the case of incapacity of minors to contract, the law prefers the protection of minors to the enforcement of otherwise valid contracts. Under the Lê Code, a minor has no capacity to contract, and a contract entered into by a minor is void.\textsuperscript{168}

The applicable provision states:

Whenever a minor orphan girl sells herself without being assisted by a guarantor, the purchaser as well as the scribe and the witnesses receive the light stick or the heavy stick in accordance with the law ... [t]he sale price shall be reimbursed to the purchaser and the contract voided. Orphans aged fifteen or over who live alone in a destitute condition shall be authorized to sell themselves voluntarily.\textsuperscript{169}

United States contract law recognizes that a contract is not binding on a party that does not have legal capacity.\textsuperscript{170} Infancy or minority is an example of such incapacity.\textsuperscript{171}

The laws on the incapacity of minors to contract in both legal systems have several similarities. First, under both systems, a contract entered into by a minor is not binding because his manifestation of assent is legally ineffective.\textsuperscript{172} Second, the age of majority is fixed by law. Most American states have adopted eighteen as the age of majority.\textsuperscript{173} The age of majority under the Lê Code is fifteen.\textsuperscript{174} Both designations reflect an arbitrary age at which the law considers that one has reached adulthood.

\textsuperscript{168.} Lê C. art. 313.
\textsuperscript{169.} Id.
\textsuperscript{170.} RESTATEMENT (SECOND) OF CONTRACTS § 12(1) (1979).
\textsuperscript{171.} Id. § 12(2)(b). According to the Restatement, a person reaches majority when he or she turns eighteen. Id. § 14.
\textsuperscript{172.} Id. § 12 comment c; Lê C. art. 313.
\textsuperscript{173.} RESTATEMENT (SECOND) OF CONTRACTS § 14 comment a (1979).
\textsuperscript{174.} See supra note 54 (legal maturity age).
In the Lê Code, a minor can sell herself once she reaches the age of fifteen. Similarly, under United States law, the presumption of incapacity is removed when the minor reaches the age of majority.

Third, upon avoidance of the contract the minor party has to return all consideration, in part or whole. United States jurisdictions are not uniform in requiring the return of the consideration received as a condition for disaffirmance. Both legal systems, however, recognize the unfairness of allowing the minor to unilaterally disaffirm the contract without an obligation to return the received consideration.

The laws on the incapacity of minors to contract present another example of the lawmakers' emphasis on the well-being of society as a whole. To fulfill this objective, lawmakers must balance competing interests. The balancing may result in curtailing the interests of some individuals to further the interests of others. In this case, the contractual interests of an adult who contracts with a minor may be sacrificed to protect the minor. The society as a whole benefits from this compromise because children should not be taken advantage of in contractual relations.

E. Statutes on Real Estate

Land regulation is a major focus of the Lê Code. The Code devotes thirty-two of its 722 articles to regulations on real property. The topic covers a wide range of regulatory matters from land title and labor disputes to land inheritance. The two concepts that are most recognizable in United States jurisprudence are adverse possession and easement.

1. Adverse Possession

Adverse possession is a method of acquisition of title to real property by occupation for a statutory period under certain conditions. The concept of adverse possession was not alien to the lawmakers of the Lê Dynasty. Article 387 of the Lê Code states that:

Men aged sixteen or older and women aged twenty or older who, after the prescription period has passed, forcibly claim ownership of land [once belonging to them] that has been tilled or inhabited by their pa-

175. See supra text accompanying note 169.
176. Lê C. art. 313.
178. TAI, Huy, & LIEM, supra note 11, at 191.
179. BLACK'S LAW DICTIONARY 27 (5th ed. 1983). The claimant must satisfy certain conditions including proof of nonpermissive use which is actual, open, notorious, and adverse to the title holder. Id.
ternal relatives or by outsiders (the prescription period [beyond which former owners cannot claim their land] is thirty years for relatives and twenty years for outsiders), shall receive eighty strokes of the heavy stick and shall forfeit their property. This provision shall not apply in the case when they have just returned after a period of war or of dispersion of the population. In brief, one who has occupied the land for a long period of time without clear title is preferred to one who suddenly appears to claim title to the land, even with a valid deed.

American statutes also limit the time period in which landowners must bring an action to recover land that is adversely occupied by another. A typical statute reads:

An action to recover the title to or possession of real property shall be brought within twenty-one years after the cause thereof accrued, but if a person entitled to bring such action, at the time the cause thereof accrues, is within the age of minority, of unsound mind, or imprisoned, such person, after the expiration of twenty-one years from the time the cause of action accrues, may bring such action within ten years after such disability is removed.

Both the Lê Code and modern United States law share most of the essential elements of adverse possession. First, the provisions on adverse possession of both legal systems specifically prescribe a period of limitations. The statutory period under the Lê Code is thirty years for relatives and twenty years for strangers. In the United States, the periods of limitations vary from state to state, but all statutes provide a specific

180. Lê C. art. 387; see also id. art. 353 ("Whoever improperly denounces unregistered land occupied for a long time by other people or uses a deed dating back to a distant generation to contest forcibly the ownership of such land shall be demoted two grades."); Ta Van Tai, supra note 152, at 540.


182. The western doctrine of adverse possession has a long history dating back to the thirteenth century. Originally, an English statute in 1275 allowed the plaintiff in an ejection action to establish title by evidence dating back to the occurrence of an ancient event such as the first year of the reign of Richard I (1189) or the coronation of Henry II. 3 AMERICAN LAW OF PROPERTY § 15.1, at 755 (1952). The reference time was then changed to 1242, and new reference points had to be fixed from time to time. 2 F. POLLOCK & F. MAITLAND, THE HISTORY OF ENGLISH LAW 81 (2d ed. 1959).

Not until 1540 was the method of fixing the statutory period to a specific date in the past replaced by a period of time starting from the date when the plaintiff was required to assert his title. 3 AMERICAN LAW OF PROPERTY, supra, § 15.1, at 756. This method designated a period of time starting from the time the cause of action arose and within which the claimant must raise his claim or be forever barred from raising that claim. The provision gave rise to the concept of "statutory period" which is used in modern statutes on adverse possession.

183. Lê C. art. 387.
period within which quiet title claims must be brought.\textsuperscript{184} Second, the primary effect of these statutes is the simultaneous extinguishment of old title and the creation of new title by operation of law.\textsuperscript{185} At the running of the statutory period, the old owners can no longer claim ownership to the property, and at the same time title is vested completely in the new owner. By specifying a prescription period, the provisions imply that the owners still have a valid claim to their land until the period expires. Third, the provisions share the same dual purpose, to quiet title and preclude disputes.\textsuperscript{186}

Additionally, both legal systems recognize some defenses to a claim of title by adverse possession. Under the Lê Code, defenses include infancy of the title holder and absence from the land due to war or population dispersion.\textsuperscript{187} Similarly, defenses in United States jurisdictions may include infancy, unsound mind, or imprisonment.\textsuperscript{188}

Despite the differences in time and culture between the traditional Vietnamese law and modern United States law, the Lê Code's provision on adverse possession is strikingly similar to its counterpart in United States law.

2. Easement

Easement is a right of use over the property of another.\textsuperscript{189} For instance, $A$ owns a piece of land which is surrounded by a lot owned by $B$. $A$ may have the right to a passage way through $B$'s land. An imperial decree issued during the reign of Lê Thanh Tong states:

Owners of land, ponds and gardens surrounding state land shall surrender a portion of their properties necessary to build roads and lanes to permit entry into and exit from the enclaved land, ponds, and gardens and shall not obstruct such movements. Violators of this provision shall be reported to the authorities for detention, so that access to the enclave land shall not be obstructed and such land shall not be left uncultivated.\textsuperscript{190}

Similarly, in United States law, section 450 of the Restatement of Property defines an easement as:

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An interest in land in the possession of another which
(a) entitles the owner of such interest to a limited use or enjoyment of
the land in which the interest exists;
(b) entitles him to protection as against third persons from interference in such use or enjoyment; [and]
(c) is not subject to the will of the possessor of the land. 191

These two provisions reflect several similarities. First, both laws recognize that a stranger is entitled to an interest in land possessed by another. The Lê Code prohibits the owner of the surrounding land from obstructing the passage through his land to and from the enclosed land. 192 The Restatement of Property recognizes "an interest in land in the possession of another." 193 The recognition of title by a stranger is significant because ownership normally means total and complete control of the property owned. Here, the laws recognize that under certain circumstances, "complete ownership" is not justified.

Both provisions recognize the need to allow the owner of the enclosed land to use or enjoy his land. The Lê Code allows the easement interest only when it is "necessary to build roads and lanes to permit" access to or from the enclosed land. 194 The Property Restatement recognizes the interest when it is necessary for the owner of the enclosed land to use or enjoy his land. 195 In both laws, this necessity must exist to justify interference with ownership of another.

Both laws recognize an easement as granting only a "limited" interest. Under the Lê Code, the owner of the surrounding land surrenders only "a portion" of his land and only for limited purposes such as building roads or lanes for passage. 196 The Restatement characterizes an easement as a nonpossessory interest. Thus, it involves a lesser degree of control than a possessory interest. 197 For instance, if A has an interest in a way over land possessed by B, A's control of such land is limited to the extent that is necessary for him to use that way, but he does not have the right to exclude others from making use of the land in anyway that does not interfere with his interest. 198 Both laws balance the interest of the owner of the enclosed land with that of the owner of the surrounding land.

191. Restatement of Property § 450 (1944).
192. See supra note 190 and accompanying text.
194. See supra note 190 and accompanying text.
195. Restatement of Property §§ 476, 482 (1944).
196. See supra note 190 and accompanying text.
197. Restatement of Property § 450 comment c (1944).
198. Id.
Finally, in the case of completely enclosed land, the easement interest is taken irrespective of the consent of the owner of the surrounding land. Under the Lê Code, if the surrounding land's owner objects, he is subject to penal sanction.\textsuperscript{199} The Restatement states specifically that an easement interest "is not subject to the will of the possessor of the land."\textsuperscript{200} Thus, both legal systems recognize the prevailing interest of ensuring the right to full use and enjoyment of the enclosed land by its owner, even over the objection of the owner of the surrounding land.

The laws on easement in both legal systems adhere to the rule that all landowners are entitled to full use and enjoyment of their land. However, when the right of one landowner abridges the same right of another, the lawmakers in both societies resort to restricting one owner's right to full ownership to the extent necessary to allow the other owner to fully use or enjoy his land. The purpose of these provisions is not only to protect the individual's interests but also to maximize the benefit to society as a whole.

\section*{IV. CONCLUSION}

From the discussion in this Note, one can formulate some probing questions. Are the fundamental rights of an accused unique to the American civil liberty scheme? Should the search for the origins of some advanced legal concepts be limited to the United States or western legal tradition? Would further study of the Vietnamese ancient legal system help to broaden one's knowledge of the United States legal system, traditional and modern?

Given two legal systems which are separated both in time and distance, such similarities suggest that there may be a universal principle of law that governs this convergency. Although it is not "strange that there is no portion of the law which is uniform in all nations,"\textsuperscript{201} there must be an underlying force that keeps the formulation of traditional Vietnamese law and modern United States law on a convergent course. If one considers the legal concepts found in both bodies of law and their similarities, one can derive some common themes. The most obvious themes include the effort to tailor the law to the peculiar needs of society, the protection of the accused in judicial proceedings, the commitment to fairness and reliability in the judicial process, and the extensive balancing

\begin{footnotesize}
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\item \textsuperscript{199} See \textit{supra} note 190 and accompanying text.
\item \textsuperscript{200} \textit{Restatement of Property} § 450 (1944).
\item \textsuperscript{201} \textit{LePaulle}, \textit{supra} note 40, at 855.
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of various interests in the promulgation of law to achieve social fairness, economic sensibility, and individual dignity.

Even if there were few similarities between the two legal systems, one can benefit from a simple introduction to a different legal system. One commentator recognizes that "[i]ndeed the national law, when compared with actual or ancient institutions of other countries, appears more clearly, like a painting, the colors of which are accentuated, when a landscape is put around the objects or personages in the foreground."\textsuperscript{202}

Understanding one legal system aids in the understanding of another legal system. This premise is the essence of the study of comparative law. In this Note, understanding the United States legal tradition is a tool for exploring the little known legal tradition of early Vietnamese society. Although the traditional Vietnamese and modern American societies are culturally unrelated, the Lê Code still manifests numerous advanced features found in modern United States law. These similarities are not coincidental. They reflect a conscious and ingenious effort on the part of the traditional Vietnamese lawmakers to improve the meaning of law.

A comparison of traditional Vietnamese law and modern United States law is subject to a serious prejudice against the Vietnamese law due to the great difference in time. However, the convergency of the two systems in so many respects is strong evidence attesting to the early advancement, sophistication, and maturity of the traditional Vietnamese law, especially the Lê Code.

\textsuperscript{202} Escarra, \textit{supra} note 40, at 302.
APPENDIX — THE LÊ CODE

A. Time of Codification

The date of promulgation of the Lê Code remains an unsettled matter. Professor Deloustal, who translated a copy of the Lê Code into French in 1911, maintained that the Code was promulgated about 1777. He reached this conclusion based on the date printed on his copy of the Code and on the fact that the promulgation of the work was mentioned in an early nineteenth century publication.

Professor Vu Van Mau pointed out that the date to which Deloustal referred was actually the date of the copy’s edition, not of the Code’s promulgation. He argued that Deloustal mistook the Quoc Trieu Tu Tung Dieu Le (Procedural Code of the Lê Dynasty) for the Lê Trieu Hinh Luat (Articles of Laws of the National Dynasty). The Procedural Code was indeed mentioned in the publication as being promulgated in 1777, but the Articles of Laws was an edition of the Lê Code which was hand copied after the end of the Lê Dynasty. If the work had been copied during the Lê Dynasty, the word “Lê” would never have been used in the title because it would have constituted a serious contempt of the Emperor to refer to the Ten huy or “forbidden name” in any manner. The promulgation of the Lê Code, therefore, must have been completed prior to 1777.

Evidence from various writings indicates that the Lê Code was first promulgated during the Hong Duc period (1470-1497). However, Professor Ta Van Tai has forcefully argued that many articles of the Lê Code were in existence even before the Hong Duc period. According to Professor Tai, many provisions were enacted during the reign of the first ruler of the Lê Dynasty, Emperor Lê Thai To. The first version of the Lê Code was a six volume book entitled Luat Thu (Book of...
which consisted of twelve chapters found in the subsequent Lê Code. As the Code was modified by subsequent emperors, several other chapters were added to the existing body of law. This occurred even after the Hong Duc period.

The debate centers on whether the major portions of the Code were promulgated before or during the Hong Duc period. For the purposes of this Note, the author assumes that a substantial portion of the Code was in existence at least during the Hong Duc period, or before 1470 when Emperor Lê Thanh Tong changed his reign title from Quang Thuan (1460-1469) to Hong Duc (1470-1497).

B. Qualification of the Translation

The Lê Code was translated into English for the first time in 1979 by Professors Ta Van Tai, Tran Van Liem and Nguyen Ngoc Huy. These three distinguished scholars and jurists were exceptionally qualified to translate and annotate the document. Collectively, their backgrounds include expertise in law, history, politics, and Sino-Vietnamese literature. These disciplines are important to a critical study of Vietnamese law.

To ensure the integrity of the translation, the authors took pains to examine numerous Vietnamese documents, compare the original texts of the Code against the French translation, and consult several Chinese

213. Id. One author states that Nguyen Trai, Emperor Lê Thai To's advisor, wrote the six volume book in 1440-1442 but that the work was lost. NGUYEN LUONG BICH, supra note 9, at 583. However, he cites no evidence to support his contention.

214. 1 TAI, HUY, & LIEM, supra note 11, at 24-28.


216. Professor Ta Van Tai formerly taught at Vietnam's National Institute of Administration and Saigon University Faculty of Law. He has authored or co-authored a number of publications in Vietnamese and English, including PHUONG PHAP KHOA HOC XA Hoi (Social Research Methods) (1974). Recently, he has published several articles including The Status of Women in Traditional Vietnam, 15 J. ASIAN HIST. 97 (1981), and Vietnam’s Code of the Lê Dynasty (1428-1788), 30 AM. J. COMP. L. 523 (1982). He is currently a member of the Massachusetts Bar and a Research Associate at East Asian Legal Studies Center, Harvard Law School. See Correspondence, supra note 34, at 3.

217. Justice Tran Van Liem was a former Associate Justice of the Vietnamese Supreme Court. He also taught at Saigon University Faculty of Law. He holds a doctorate degree in Civil Law from Saigon University. Justice Liem published extensively in the Vietnamese Law Review. See Correspondence, supra note 34, at 11.

218. Professor Nguyen Ngoc Huy formerly taught at Vietnam's National Institute of Administration and Faculties of Law at Hue and Can Tho Universities. He holds a doctorate degree in Political Science from Paris, France. Professor Huy wrote several books in Vietnamese and French. He is currently a Research Associate at the East Asian Legal Studies Center, Harvard Law School. See id. at 13.

219. Id. at 7.
Codes that had some influence on the Lê Code. In 1987, the English translation was finally published in a three-volume book titled *The Lê Code: Law In Traditional Vietnam, A Comparative Sino-Vietnamese Legal Study with Historical-Juridical Analysis and Annotations*. This voluminous work contains not only the translation of the Lê Code but also detailed annotations of each article in the Code. The annotations generally explain the provisions, compare them with similar provisions found in other Chinese Codes, and relate the subject matter to other pertinent legal or historical materials. The book was intended to be a "long lasting reference book" on traditional law in Vietnam. This intense effort has produced the most comprehensive discussion to date of the Lê Code, or for that matter, of Vietnamese ancient law, in English. This book is an authoritative reference on traditional Vietnamese law.

220. 1 TAI, HUY, & LIEM, supra note 11, at 44-45; Correspondence, supra note 34, at 5.
221. 1 TAI, HUY, & LIEM, supra note 11.
222. Id. at 45.
223. Correspondence, supra note 34, at 5.