A Comparison of Sino-Vietnamese Women's Status in Confucian Societies under the Qing and Hong Duc Codes

การเปรียบเทียบสถานภาพสตรีจีน-เวียดนาม ในสังคมลัทธิขงจื๊อ ภายใต้ประมวลกฎหมายราชวงศ์ชิงและประมวลกฎหมายฮ่องดึ๊ก

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Abstract

This study examines the status of women in Confucian societies, with a primary focus on China under the *Qing Code* and a comparative reference to Vietnam's *Hong Duc Code*. The central research question asks: how did Confucian ideology, when institutionalised into legal systems, shape women's rights and social positions, and why did China and Vietnam diverge in their legal treatment of women? Methodologically, the paper employs an intellectual history analysis, combining textual analysis of legal provisions with an institutional comparative framework to situate them within broader socio-political contexts. The findings indicate that while the *Qing Code* codified patriarchal principles such as the "seven grounds for divorce" and restricted inheritance rights for women, the *Hong Duc Code* incorporated more pragmatic measures — granting daughters inheritance rights, protecting widows' property management, and limiting arbitrary divorce. These differences suggest that Vietnam localised Confucian norms to align with its agrarian economy and social structure, whereas China reinforced rigid patriarchal orthodoxy for political legitimation. The study contributes to the literature by highlighting intra-Confucian diversity, demonstrating that Confucian legal traditions did not uniformly suppress women, but were selectively adapted in response to distinct social realities.

Keywords: Confucian Culture, Women's Status, Sino-Vietnamese, Feudal legal laws, Comparative Study

บทคัดย่อ

การศึกษานี้วิเคราะห์สถานะของสตรีในสังคมขงจื๊อ โดยมุ่งเน้นที่ประเทศจีนภายใต้ประมวลกฎหมายราชวงศ์ชิง (The Qing Code) และอ้างอิงเปรียบเทียบกับประมวลกฎหมายฮ่องดึ๊ก (Hong Duc Code) ของเวียดนาม คำถามวิจัยหลักคือ: อุดมการณ์ขงจื๊อ เมื่อถูกสถาปนาเข้าสู่ระบบกฎหมาย ส่งผลอย่างไรต่อสิทธิและสถานะทางสังคมของสตรี และเหตุใดประเทศจีนและเวียดนามจึงมีความแตกต่างกันในแนวทางกฎหมายเกี่ยวกับผู้หญิงในเชิงระเบียบวิธี บทความนี้ใช้การวิเคราะห์ประวัติความคิด โดยผสมผสานการวิเคราะห์เนื้อหาข้อกฎหมายกับกรอบการเปรียบเทียบบริบทเชิงสถาบัน เพื่อนำไปเชื่อมโยงกับบริบททางสังคมและการเมืองที่กว้างขึ้น ผลการศึกษาชี้ให้เห็นว่า ในขณะที่ประมวลกฎหมายราชวงศ์ชิงตรากฎเกณฑ์ปิตาธิปไตยอย่าง “เจ็ดเหตุแห่งการหย่าร้าง” (qi chu) และจำกัดสิทธิในการสืบมรดกของสตรีอย่างเข้มงวด ในขณะที่ประมวลกฎหมายฮ่องดึ๊กของเวียดนามกลับมีมาตรการเชิงปฏิบัติมากกว่า — เช่น การให้สิทธิในการสืบมรดกแก่บุตรหญิง การคุ้มครองสิทธิของหญิงหม้ายในการจัดการทรัพย์สิน ตลอดจนจำกัดการหย่าร้างโดยพลการ ความแตกต่างเหล่านี้ชี้ว่า เวียดนามได้ปรับใช้บรรทัดฐานขงจื๊อให้สอดคล้องกับโครงสร้างเศรษฐกิจเกษตรกรรมและสังคมของตน ในขณะที่จีนเน้นการธำรงค์หลักปิตาธิปไตยอย่างแข็งขันเพื่อสร้างความชอบธรรมทางการเมือง งานวิจัยนี้มีส่วนช่วยเติมเต็มองค์ความรู้โดยเน้นย้ำความหลากหลายในแนวปฏิบัติของกฎหมายขงจื๊อ ทั้งยังแสดงให้เห็นว่าจารีตประเพณีเชิงนิติศาสตร์แบบขงจื๊อไม่ได้กดขี่ผู้หญิงอย่างเป็นเอกภาพ หากแต่มีการคัดเลือกและปรับเปลี่ยนตามบริบทสังคมที่แตกต่างกัน

คำสำคัญ: วัฒนธรรมขงจื๊อ; สถานภาพสตรี; จีน-เวียดนาม; กฎหมายจารีตประเพณี; การวิจัยเชิงเปรียบเทียบ

1. Introduction

As the core of traditional Chinese culture, Confucianism has profoundly shaped the social structures and value systems of East Asian countries over more than two millennia. Its gender norms, in particular, have exerted a lasting influence. Principles such as the *"Three Obediences and Four Virtues"* (三从四德, sān cóng sì dé) and *"male superiority and female inferiority"* (男尊女卑, nán zūn nǚ bēi), long serving as fundamental social norms that defined women's roles within the family and society.

In China, Confucianism gradually solidified as the orthodox ideology of imperial governance. This transformation followed Dong Zhongshu's seminal Han-era policy of "dismissing the hundred schools and revering Confucianism alone." Further developed through Song and Ming Neo-Confucianism, it became increasingly institutionalised and moralised, forming a gendered hierarchical structure under patriarchal order. By the Qing Dynasty, the Great Qing Legal Code (《大清律例》, Dà Qīng Lǜ Lì) codified and reinforced this gender order in legal terms, severely restricting women's rights in marriage, property, and inheritance. For instance, the "Household and Marriage" section of the code stipulated that women could inherit ancestral property only in cases of "household extinction" (户绝, hù jué), effectively excluding them from inheritance rights in almost all other circumstances. Similarly, the "Seven Grounds for Divorce" (七出, qī chū) clause legally justified a husband's unilateral right to divorce, underscoring women's vulnerable position within the marital system.

A comparison with Vietnam, which also belongs to the Confucian cultural sphere, reveals a different trajectory of development. Although deeply influenced by Confucianism, Vietnam's 15th-century *Hong Duc* Code (Bộ Luật Hồng Đức) introduced relatively progressive provisions regarding women's rights in several key areas. For example, the code's marriage clause permitted women, under specific conditions, to legally divorce and remarry.

Its inheritance clause also allowed daughters to share equally in parental property under various circumstances. While not entirely transcending patriarchal constraints, these legal arrangements demonstrate Vietnam's more flexible and humanistic adaptation of Confucian norms.

To clarify its methodological rigour, this study adopts a multi-method approach. This approach examines the historical and legal dimensions of women's status in Confucian societies through four key lenses. First, *intellectual history analysis* traces the evolution of foundational concepts such as the "Three Obediences and Four Virtues" from pre-Qin rituals to Song-Ming Neo-Confucianism. This reveals how these ideas became entrenched as the ideological foundation of patriarchy. Second, *institutional history research* examines specific clauses in the Qing Code, including the "Seven Grounds for Divorce" and "Household Extinction" provisions. This demonstrates how Qing law institutionalised gender inequality. Third, *comparative legal analysis* contrasts marriage and inheritance statutes in the Qing Code and the Hong Duc Code. This identifies divergent legal approaches to women's rights within their shared cultural frameworks. Finally, *a social history perspective* integrates factors such as education, family norms, and daily practices. This illustrates how legal structures and Confucian cultural norms collectively shaped women's lived experiences.

This paper is structured into five sections to systematically address its research objectives. Section 2 analyses the ideological foundations and practical characteristics of women's status in Confucian China, establishing a baseline understanding of patriarchal norms. Section 3 examines institutional arrangements pertaining to women in Vietnam's Hong Duc Legal Code, highlighting its distinctive legal provisions. Section 4 offers a comparative analysis of the Qing and Hong Duc legal codes, focusing on their differing approaches to women's rights in marriage, divorce, inheritance, and property. It also situates these differences within broader historical and cultural contexts by examining how sociopolitical conditions shaped legal interpretations.

Section 5 concludes by synthesising the comparative findings and emphasising how varying manifestations of Confucian gender orders inform our understanding of women's agency in historical East Asia..

Through this research, the study seeks to address a central question: Why did women face stringent legal restrictions under the Qing Dynasty in China, while their counterparts in Vietnam received relatively progressive protections under the Hong Duc Code? This divergence not only reveals the varied interpretations of Confucian tradition across societies, but also offers a new comparative perspective for understanding the particularities of women's status in China.

2. Chinese Women's Status in Confucian Society

2.1 Ideological Roots and Cultural Norms

Confucianism emerged during the Spring and Autumn and Warring States periods — an era of profound socio-economic upheaval in Chinese history. Confronted with this social reality, Confucian thinkers sought to explain societal problems and devise methods to transition from chaos to order. It is for this reason that many scholars regard Confucian doctrine as fundamentally a theory of state governance. The core tenets of Confucian moral education are embodied in such foundational concepts as the "Three Guiding Principles" (三纲, sān gāng), "Five Constant Virtues" (五常, wǔ cháng), and the "Rectification of Names" (正名, zhèng míng) (Vietnam Fatherland Front Online Newspaper, 2017). For women, Confucian moral instruction was primarily realised through the norms of the "Three Obediences and Four Virtues". Thus, it is evident that Confucianism exerted a profound influence on traditional Chinese social structure and ethical order, with its "concept of women" constituting one of its core components. Classical texts by Confucius, Mencius, and the *Book of Rites* (《礼记》, Lǐ Jì) established the normative

system of the "Three Obediences and Four Virtues", which regulated women's behavior and identity at the institutional level and ultimately shaped family structure and social hierarchy.

Gradually, the concept of the "Three Obediences and Four Virtues" evolved from pre-Qin ritual systems and became the foundational behavioral standard for ancient women. The *Book of Rites* (仪礼, Yí Lǐ) articulated the Three Obediences as "obeying the father before marriage, the husband after marriage, and the son after the husband's death" (Zeng, 2013). Initially, this principle pertained to mourning rituals, specifying which male relative a woman should depend upon, rather than serving as a universal moral code. However, with the Han Dynasty's policy of "revering Confucianism alone", this tenet was progressively reinterpreted as an absolute obligation for women to submit to their fathers, husbands, and sons at different life stages. As noted by some scholars: "Classical Confucianism (pre-Qin to early Han) centered on the people with humaneness (仁, Rén) at its heart, while Neo-Confucianism (Han to Ming-Qing periods) shifted its focus to the ruler, emphasising hierarchical ethics (纲常, gāng cháng) as its core principle" (Gao, 2018).

Simultaneously, the Four Virtues originated from the *Rites of Zhou* (周礼, Zhōu Lǐ) as guidelines for educating women in the imperial court. These virtues defined the ideal woman through cultivation in ethics, speech, demeanor, and household management. With the development of Song-Ming Neo-Confucianism, this framework was imbued with stricter moral demands. Cheng-Zhu School philosophy emphasised "preserving heavenly principles and eliminating human desires", elevating women's chastity and obedience to core elements of social order. By the Ming and Qing periods, the notion that "starvation is a minor concern, while loss of chastity is a major one" became deeply ingrained in society. Chastity was not only a moral expectation but also a critical standard in state laws and social evaluation (Shi, 2022).

This ethical system, underpinned by the "Three Obediences and Four Virtues," constructed women's basic social status. Concretely, they were

excluded from the public sphere, with strict limitations on education and political participation. They were expected, concurrently, to serve as "moral symbols" upholding familial ethics and patriarchal order.

2.2 Chinese Women's Realities in Social Practice

Centered on the doctrines of the *Three Obediences and Four Virtues, gender segregation, and male superiority*, Confucian gender norms permeated legal codes, kinship structures, and daily life, shaping a comprehensive system regulating education, marriage, property, and bodily autonomy. Its essence lay not in abstract ideology but in enforceable practices upheld by rewards and punishments: men occupied the public sphere, while women were confined to the domestic realm, judged by ideals of the *virtuous wife and devoted mother* (贤妻良母, xián qī liáng mǔ) and female chastity. Within this order, the maxim *"men govern outside, women govern inside"* institutionalised gendered labour divisions, reinforcing male authority in public life and restricting women to familial roles (Chen, 2023, p.1).

Simultaneously, the ideal of the virtuous wife and devoted mother framed female education, while Neo-Confucian orthodoxy from the Song onward further exalted chastity — summed up in the dictum "starvation is minor, loss of chastity is grave" (饿死事小，失节事大 , è sǐ shì xiǎo, shī jié shì dà). These norms collectively entrenched chastity as a primary criterion for evaluating and disciplining women. On this basis, the present study examines the structural subordination of women under Confucian gender regimes through the dimensions of education and political exclusion, marriage and family institutions, and property inheritance.

First, institutional exclusion from education and political participation.

In terms of political participation, women were excluded from the imperial civil examination system, the only legitimate path for elite mobility in Ming-Qing society. Although there was no explicit prohibition against female

participation, the male-only examination settings and the male-centric curriculum (e.g., themes like "loyalty, filial piety, chastity, and righteousness") systematically reinforced the social discipline that *"a woman's lack of talent is a virtue"* (女子无才便是德, nǚ zǐ wú cái biàn shì dé) (Zeng, 2013). This structural exclusion tacitly designated women as "non-examinees". Benjamin Elman (2009), a historian of the imperial examinations, also notes that the examinee pool in late imperial China explicitly excluded women (along with monks and Daoists), making "female exclusion" an institutional "hidden curriculum" that severed their access to public office and created structural inequalities in educational resource allocation.

Under these circumstances, women's limited educational pursuits remained confined to subsidiary role competitions: as unmarried maidens enhancing their marital value through cultural capital, or as mothers achieving intergenerational mobility through their sons' success — *"a mother honoured through her son"* (母凭子贵, mǔ píng zǐ guì). In other words, contemporary "education" for women was primarily conducted through virtue texts like the "Four Books for Women" (《女四书》, Nǚ Sì Shū), which included *Admonitions for Women* (《女诫》, Nǚ Jiè), *Women's Analects* (《女论语》, Nǚ Lúnyǔ), and *Inner Training* (《内训》, Nèi Xùn), prescribing obedience, chastity, and domestic management to reinforce the gendered division of labour and ethical hierarchies rather than cultivating public participation skills (Bragg, 2015). Thus, women were guided into "inner chamber culture", viewing self-cultivation and domestic skills as the core of "learning", while knowledge production and public ethical discussions became male-exclusive domains. This distorted process of educational functionalisation structurally conspired with the evolution of the "Three Obediences and Four Virtues" from ritual norms to institutional discipline.

Second, marriage and family: From the "Seven Grounds for Divorce" (七出, qī chū), "Three Exceptions" (三不去, sān bù qù), and chastity worship to concubinage.

Within the Confucian ritual system, marital ethics imposed extremely strict norms on women, with the "Seven Grounds for Divorce" and "Three Exceptions" being the most representative institutional clauses:

— The Seven Grounds were: (1) failure to bear a son, (2) adultery, (3) disobedience to parents-in-law, (4) gossip, (5) theft, (6) jealousy, and (7) serious illness.

— The Three Exceptions were: (i) the wife had no natal family to return to, (ii) she had observed the three-year mourning period for her parents-in-law, or (iii) the husband had risen from poverty to wealth after marriage.

These provisions served distinct functions. The *Seven Grounds* provided comprehensive legal justification for a husband's unilateral repudiation. In contrast, the *Three Exceptions* offered only limited constraints on this arbitrary power. Together, this framework reinforced women's subordinate and unstable position within the family. It persisted through the Tang, Song, Yuan, Ming, and Qing dynasties and was repeatedly affirmed in legal codes such as the *Tang Code* (《唐律疏议》), *Song Penal Code* (《宋刑统》), *Great Ming Code* (《大明律》), and *Qing Code* (《大清律例》), making the "right to divorce wives" a highly operational institutional tool within patriarchal households (Lu, 2010, pp. 62–63). Unlike the unilateral repudiation framework embedded in the Qing Code and earlier imperial Chinese codes, the Hong Duc Code permitted wives to initiate divorce under specified conditions — a notable divergence that will be examined in detail in Section 4.

However, constraints on women extended beyond legal provisions like the "Seven Grounds and Three Exceptions" to include strict requirements and institutionalised glorification of chastity. Since the Ming and Qing dynasties, the court continuously transformed this private virtue into a public exemplar

through *official "commendation systems"* and the erection of arches such as "Chastity Arches" (贞节坊, Zhēn Jié fāng) and "Filial Piety Arches" (节孝坊, Jié Xiào fāng), integrating the morality of chaste women into the state and legal systems. This not only publicly recognised "inner virtue", but also exerted strong moral-material incentives and disciplinary pressures on women (Liu, 2023). For example, in Taiwan from the Qing dynasty onward, "chastity arches" and "temples for chaste and filial women" became important ways to honour women, including bestowals of plaques, silver, arches, and temples. Arches, often placed in public spaces, ensured women's virtues were remembered by local society while reinforcing the community effects of Confucian indoctrination (Taiwan Women's Network, n.d.). Clearly, women's virtues were constrained not only by the family, but also disciplined by state discourse and honorary systems. Thus, while publicly honoured as role models, their social identity remained structurally subordinate, confined within a normative system that prioritised chastity over individual autonomy.

Additionally, the marital structure of monogamy with concubinage exemplified the *corrosive aspects* of the patriarchal system and oppressed women's conditions: the primary wife (正室, zhèng shì) was responsible for lineage continuation and internal order, while concubines (侧室, cè shì) were incorporated into household economies and inheritance strategies as reproductive and labour resources, further intensifying stratification and competition among women. For instance, ritually, the primary wife could wear formal attire and participate in noble social interactions, while concubines were limited to secondary colors and could not share seats with the primary wife.

Legally, the *Tang Code* stipulated that a concubine assaulting a wife was punished as "inferior assaulting superior" with one year of penal servitude, while a wife assaulting a concubine received lighter punishment. Ming-Qing laws explicitly prohibited "elevating a concubine to wife status" ("If a wife exists, elevating a concubine to wife status results in 90 strokes of the heavy bamboo and correction. If a man marries another wife while having

a living wife, he also receives 90 strokes", *per the Household Laws of the Qing Code*). Even if a concubine bore sons, her social status as a "concubine" remained largely unchanged (Leung, 2025). Analysis reveals that concubines' legal status, inheritance rights, and social labels profoundly shaped their life trajectories and household power distribution.

Third, property inheritance rights: Typical institutional restrictions under doctrinal systems.

To clarify the institutional constraints on women's property and inheritance rights under Confucian influence, this study will conduct a specialised analysis using the "household extinction" case as a starting point. According to encyclopedic and dictionary definitions, "household extinction" refers to "having no heirs" or "the state of patrilineal bloodline interruption, i.e., 'extinction due to lack of posterior heirs'", with its core meaning being the absence of any form of male heir. Regarding "household extinction", the Tang *Funeral Orders* stipulated: "When a household becomes extinct upon death, all retainers, servants, slaves, shops, residences, and assets shall be sold by close relatives to cover funeral expenses and charitable deeds; the remainder goes to daughters. Without daughters, it is distributed to next-of-kin; without kin, it is confiscated by the state" (Dai, 2004). The *Household Orders, Great Ming Orders* stated: "For extinct household property, if there are no agnatic heirs, biological daughters inherit. Without daughters, it reverts to the state" (Liu, 2018). The *Household Laws, Great Qing Legal Code* prescribed: "For extinct household property, if there are no agnatic heirs, daughters inherit. Without daughters, the local official reports to superiors for appropriation into public funds" (He, n.d.).

Consequently, from the Tang to the Qing dynasties, daughters were consistently excluded from the priority inheritance sequence. Their rights functioned only as a secondary option when patrilineal inheritance completely failed. The so-called "household extinction inheritance rights" operated as an emergency mechanism designed to preserve patrilineal continuity. Only

when there were no sons, no heirs, and no agnatic successors could daughters serve as temporary substitutes to prevent property confiscation. The goal of this mechanism was not to protect daughters' interests; rather, it aimed to prevent family assets from passing to external surnames (or to the state). Through limited property concessions, it reinforced the patrilineal nature of property transmission (Chen, 2021).

Inheritance practices also varied by marital status. Unmarried daughters, married daughters, and returned daughters — those who re-entered their natal household after events such as divorce — were treated differently. These distinctions show that women's inheritance rights were not only inferior to men's but also conditioned by social identity and circumstance. In most cases, such rights remained subordinate to family interests and Confucian doctrinal norms.

2.3 Status and Significance

In summary, women in Confucian China were disciplined ideologically by the "Three Obediences and Four Virtues", constrained in practice by *educational, marital, and property systems*, and further subordinated through codified norms in feudal legal codes — most notably the *Qing Code.* This triple-layered structure perpetuated women's marginal and subordinate status in society.

Nevertheless, it is important to note that women were not entirely devoid of agency. Within the "inner chamber culture", some women gained limited power through literary activities, household management, and mediating mother-in-law relationships. However, such agency remained constrained by the Confucian patriarchal order and could not fundamentally alter women's social identity (Meng, 2023).

Thus, the status of women in Confucian China was both a product of ideological culture and a result of legal institutions. As the highest statutory

law of the Qing Dynasty, the Qing Code further institutionalised this gender inequality, cementing women's social status as perpetually subordinate and vulnerable.

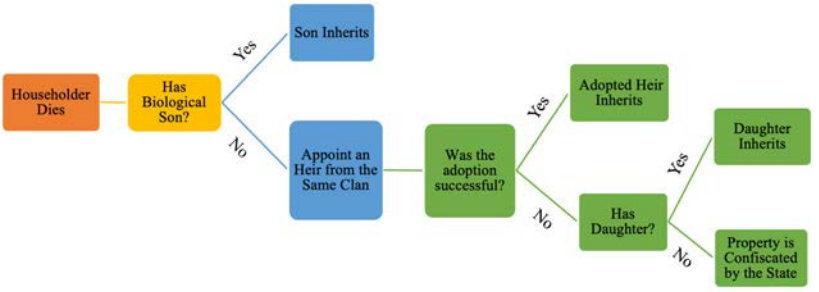

Figure 1: Gendered Hierarchy in Traditional Chinese Inheritance Sequence

Source: Created by the author.

3. Women's Status in Confucian Vietnam: An Analysis Through the Lens of The Hong Duc Code

3.1 Historical Context of the Hong Duc Code

Vietnam had long been within the cultural sphere of Chinese influence since the Han and Tang dynasties, with Confucian ethics gradually becoming a foundational ideology for social governance. However, Vietnam did not merely replicate the Central Plains model wholesale. Instead, it adapted Confucianism by integrating local social traditions and practical needs. In the mid-15th century, Emperor Le Thanh Tong, aiming to strengthen centralisation, restore social order, and safeguard agricultural production, promulgated the *Hong Duc Code* in the 1470s. This code covered various aspects, including criminal law, marriage, property, land ownership, and rituals, making it the most systematic and comprehensive legal document of feudal Vietnam (Nguyen, 2001).

Since the early Le period, Vietnamese society was deeply influenced

by Song Confucianism, which imposed harsh and extreme norms on women. These included the saying "one boy counts as having an heir, ten girls count as having none" (一男曰有，十女曰无, yī nán yuē yǒu, shí nǚ yuē wú), and the doctrine of "obey the father at home, the husband after marriage, and the son after the husband's death". *Nonetheless, the Hong Duc Code demonstrated attention to and protection of women's rights in several critical area*. For instance, provisions related to marital autonomy, property inheritance, and the status of widows were more progressive compared to Qing Dynasty laws in China (Trung Kien, 2024). These differences reflect both the practical role of women in Vietnamese social production and the diverse interpretations of Confucian culture during its localisation process. Moreover, the Code's timeless humanistic values continue to exert a profound influence up to the present, a characteristic scholars have noted as distinctive (Pham, 1995).

3.2 Vietnamses Women's Rights in the Marriage and Divorce Systems

In terms of marriage institutions, the *Qing Code*'s "Seven Grounds for Divorce" clause allowed men to repudiate their wives for reasons such as "disobedience to parents, failure to bear a son, adultery, jealousy, grave illness, gossip, and theft", effectively placing the power to control marriage entirely in the hands of men. In contrast, the *Hong Duc Legal Code*'s marriage clauses offered relatively greater protection for wives.

First, The Hong Duc Code prohibited coercive marriage and protected women in cases of forced unions. Articles 320 and 338 stipulated severe penalties for those who forced women into marriage against their will. The Hong Duc Code established strict provisions to safeguard women from infringements. Articles 403 and 404 prescribed harsh punishments for crimes such as rape, bodily injury, or murder of women. Even in cases where a husband assaulted his wife, the code contained specific regulations to protect women from domestic violence (Nhân Dân Online, 2024).

Second, within marital relationships, women could also initiate divorce (file a lawsuit). Article 322 of the *Hong Duc Code* stipulated: "If an engaged man suffers from a severe illness, the woman may petition the authorities to annul the engagement"; "If the husband humiliates his wife's parents, she is permitted to sue for divorce" (Institute of History, 2009, p. 154). Besides, Article 308 of the Hong Duc Code stipulates: "If a husband abandons his wife for five consecutive months without contact (the wife may report to local authorities with certification from village officials), he shall be deemed to have forfeited his wife. If the wife has given birth, a grace period of one year shall be granted" (Institute of History, 2009, p. 153). From this, the requirement for village certification underscores the role of community governance in legal enforcement, a feature distinct from centralised Chinese models.

Furthermore, the *Hong Duc Code* demonstrated a remarkably humane and progressive spirit by recognising not only the husband's right to petition for divorce but also granting the wife similar initiative under specific circumstances. During periods of mourning for parents, divorce proceedings could not be initiated. In the event of divorce, children typically remained with the husband; however, if the wife wished to retain custody, she had the right to claim half of the children. *Article 167 of the The Hong Duc Code of Good Governance (Hồng Đức Thiện Chính Thư)* explicitly stipulated the form of consensual divorce: the divorce document was to be structured as a contract, with both the wife and husband retaining a copy as proof. This demonstrates that, alongside the crucial consent of parents or senior relatives, the mutual agreement of both the man and woman was also a factor emphasised by legislators. Personal relations between the wife and husband were completely terminated after divorce, and both parties had the right to remarry without legal restrictions (Past and Present Journal, 2006). This differed markedly from the Qing Code, which imposed legal restrictions and social stigma upon widows seeking remarriage. The provision offered Vietnamese women a degree of marital agency absent in the Qing Code, reflecting a legal

pragmatism adapted to local social structures, as further explored in Section 4.

Thus, this demonstrates that Confucianism, upon entering Vietnam, became less stringent towards women compared to its application in China. While the *Hong Duc Code* did not completely dismantle the patriarchal framework, it provided women with greater stability and a degree of agency within the marriage system. In other words, The Hong Duc Code contained none of the discriminatory laws against women seen in the Ming or Qing dynastic codes. Women were not entirely confined to domestic roles; they could participate in social activities such as trading, running shops, practicing crafts, and becoming household economic managers.

Consequently, Vietnamese women within the family were not solely subservient to their husbands' commands but could discuss and collaborate on family and clan matters (Pham, 2013). Regarding the economic role of Vietnamese women, Charles Chapman, who was sent to Vietnam in 1778 by the British Governor-General of India, described: The ladies are the most active class, they often manage all business affairs (Lamb, 1970, pp. 130-131). Another Western observer, John Barrow, who traveled to China and Vietnam in the late 18th century, highlighted the difference in women's roles between the two societies: A Chinese man would feel disgraced to entrust any important matters to women. In the assessment of the Cochinchinese (Vietnamese), however, women are deemed the most suitable to be entrusted with essential family affairs (Barrow, 1806, p. 302). Therefore, Vietnamese women were not isolated in society.

3.3 Egalitarian Tendencies in Property and Inheritance Laws

Regarding property inheritance, the *Hong Duc Code* established principles of relative equality between spouses in joint property and inheritance rights. This reflected a sophisticated civil system blending Confucian legal norms with local customary practices.

In cases of divorce or the husband's death, the wife had the right to enjoy and claim a share of the property jointly acquired during the marriage. Articles 374 and 375 of the *Hong Duc Code* stipulated: "division of land and assets among heirs and children" and "division of land and assets in the absence of a will" (Institute of History, 2009, p. 156).

Additionally, while feudal legal traditions emphasised bequeathing property to males for ancestral worship and lineage continuity, the Code also recognised daughters' inheritance rights — whether unmarried or married. Article 388 of the *Hong Duc Code* stated: "If a mother dies without a will, siblings shall divide the property equally, but must reserve 1/20 of the land as an ancestral worship share, entrusted to the eldest son. If there is no eldest son, this share shall be inherited by the eldest daughter" (Article 391) (Institute of History, 2009, p. 157).

Furthermore, women had the right to own private property, as articulated in Article 376: "If the wife predeceases her husband, her land shall be divided into three parts — two parts go to the husband, and one part to her heirs". This provision was a significant breakthrough in feudal legal traditions, as women were typically "propertyless" and often treated as their husband's property themselves. The right of a wife to inherit her husband's property was uniquely acknowledged in the *Hong Duc Code*.

3.4 Cultural Environment and Social Evaluation

In Vietnamese history, traditional culture was profoundly influenced by early matriarchal systems and agricultural village structures. In wet-rice agricultural societies, women not only played crucial roles in production and household economic management but also served as the force preserving and transmitting customs, beliefs, and communal activities. Village culture — with its system of customary laws (hương ước), village associations (hội làng), seasonal festivals, and traditional crafts — created a social space where

women had opportunities to participate and affirm their status. The close integration of family and village life contributed to maintaining women's relatively high social standing across many periods of Vietnamese history, before the heavy influences of Confucianism were introduced and reshaped gender relations (Tran, 2008). However, it was precisely this deep-rooted cultural foundation that enabled Vietnam to resist the full force of Sinicisation. In other words, while Confucianism profoundly impacted social structures and gender norms, Vietnam nonetheless preserved its own cultural values, especially the recognition and protection of women's roles within both the family and society.

In contemporary societies, the principle that the state bears responsibility for legislating to protect women's rights is now firmly established. The Hong Duc Code, however, instituted a cognate principle of codified, state-sanctioned protection for women a remarkable 550 years ago. Evidently, although the Code was inevitably influenced by Confucian tenets such as the "Three Obediences and Four Virtues" and "male superiority and female inferiority", which imposed institutional constraints on women's rights, its clauses protecting women's interests remained landmark achievements in the history of Vietnamese feudal law. Over centuries of implementation, the Code fostered a more democratic, civilised, and harmonious development of Vietnamese society. It was precisely this progressive ethos of respecting and protecting women that nurtured pioneering figures in Vietnamese history, such as Doan Thi Diem, Ho Xuan Huong (the Queen of Nôm Poetry) who championed women's rights.

4. Comparative Analysis of the Qing Code and the Hong Duc Legal Code

Before comparing specific legal provisions, the socio-economic foundations of each tradition must be outlined. Vietnam's divergence from the Qing model arose from its agrarian, village-based society. Wet-rice

agriculture required active labour from both sexes, elevating women's role in household and community economies. Historical accounts confirm women managed finances, farming, and local trade (Lamb, 1970; Barrow, 1806). Crucially, denying women all property rights would have destabilised the basic economic units of household and village. Law therefore adapted to recognise their practical economic contributions (Tran, 2008). The Le dynasty's reforms, thus, granted women inheritance, divorce, and property rights in the Hong Duc Code, aligning law with village-level stability.

In other words, unlike China's centralised bureaucratic empire, which used law to reinforce patrilineal hierarchies for state control, Vietnam selectively adapted Confucian norms while preserving indigenous traditions that acknowledged women's socio-economic agency. After independence, dynasties like the Le adopted Chinese administrative models, but modified Confucian principles to suit local realities (Tran & Tran, 2025). In this context, following centuries of Chinese domination, these codification efforts were also part of a broader project of asserting Vietnam's political independence and selectively adapting Confucian norms to local needs. This created a hybrid system blending state centralisation with village autonomy (Pham, 2014). Consequently, the Hong Duc Code institutionalised more flexible protections for women in marriage, inheritance, and property than the rigid patriarchy of the Qing Code.

4.1 Differences in Marriage and Divorce Systems

In terms of marriage institutions, the *Qing Code's* "Seven Grounds for Divorce" clause, *articulated in Statute 116 "Repudiating a Wife"* (出妻, chū qī), explicitly allowed men to repudiate their wives for reasons such as *disobedience to parents, failure to bear a son, adultery, jealousy, grave illness, gossip, and theft.* This provision granted men broad legal authority, placing women in a highly passive and vulnerable position within marital relationships.

Although the Code also recognised the "Three Exceptions" (having no family to return to, observing mourning periods, or having endured poverty with the husband), these were only limited constraints that did not fundamentally alter women's status. In other words, the very title of the statute, "Repudiating a Wife", is profoundly revealing. It linguistically enacts the patriarchal structure, framing divorce not as a mutual dissolution but solely as a unilateral right of the husband to "expel" or "send out" his wife. This terminology perfectly encapsulates the Confucian principle of "male superiority and female inferiority" that underpinned Qing law, where the husband held the position of authority and the wife was one of subordination.

In contrast, with the *Hong Duc Code*, for the first time in Vietnamese history, women were granted a special legal "right": the *right to divorce their husbands* (Dang, 2014, p.56). For instance, although marital relationships for children were typically arranged and decided by parents, Article 322 specified: "If a daughter is betrothed but not yet married, and the groom suffers from a severe illness, commits a crime, or squanders family assets, the daughter is permitted to petition the authorities to return the betrothal gifts..." or "if the son-in-law insults his parents-in-law, [the wife] may sue for divorce", and the daughter would not face discrimination for annulling the engagement.

Furthermore, although Statute 116 of the Qing did contain a clause stating that*"if husband and wife are incompatible and both consent to separate, they shall not be punished"*, this provision inherently required the husband's agreement and thus still did not grant women an independent, active right to initiate divorce — a right that was explicitly recognised under the Hong Duc Code. Moreover, regarding the issue of *mandatory waiting periods for remarriage*, Statute 116.02 of the Qing Code stipulated that a woman must wait *five years* if her betrothed fails to marry her without cause, or three years if her husband abandons her, before she can petition authorities for permission to remarry. In contrast, Article 308 of the Hong Duc Code proclaimed that a wife need only wait *five months* after being abandoned

before she could report the matter and be legally free to remarry. This comparison reveals that the Qing Code imposed a significantly longer period of uncertainty and vulnerability on women, reinforcing their legal and economic dependence.

In practice, feudal-era women rarely exercised this right. Nevertheless, the codification of such provisions reflected a formal recognition of women's marital interests and established a legal basis for enforcing husbands' familial obligations. This law reflects the innovative approach of Le Dynasty legislators in adapting Confucian norms to local conditions. Thus, within similarly Confucian-influenced contexts, the *Qing Code* tended to reinforce patriarchal control, safeguard male dominance and delayed women's autonomy; while the *Hong Duc Code* code reflected a certain degree of protection for women's marital stability and personal dignity.

4.2 Comparison of Inheritance and Property Rights

First, the inheritance of ancestral worship land reveal a fundamental divergence between the two the Qing and Hong Duc Codes. The Qing Code's Statute 88 stipulated that "if there is indeed no one in the same lineage who should inherit, the property shall be received by the own daughter[s]; if there are no daughters, the local officials shall report to their superiors and transfer it to the public treasury". The core purpose of this provision was not to protect women's property rights but to ensure the continuity of the patrilineal bloodline. In other words, women's inheritance rights were merely a "remedial measure", inherently subordinate to patriarchal logic. In contrast, the Hong Duc Code's Article 391 proactively integrated daughters into the sacred duty of lineage continuity by decreeing that the ancestral worship land — "if there is no eldest son, it shall be managed by the eldest daughter". This recognition of a daughter's ritual role signifies a profound departure from strict Confucian norms. In other words, by embedding daughters into the sacred

duty of ancestral continuity, the *Hong Duc Code* reframed lineage preservation not as an exclusively male privilege but as a shared familial responsibility, marking a decisive divergence from the restrictive vision of the Qing Code.

Second, the status and property rights of childless widows highlights another crucial dimension of contrast between the two codes. the provision stated: "If a husband died leaving no son, and the widow remained chaste, she could manage her husband's share, but she must rely on the clan leader to select an heir of the appropriate lineage". The widow's authority here was strictly provisional, contingent upon her chastity, and always subordinated to the patriarchal clan. She was permitted to act only as a temporary custodian, never as a rightful owner. By contrast, the *Hong Duc Code* (Articles 374–375) explicitly recognised the widow's right "to enjoy and claim a share of the property jointly acquired during the marriage". This provision reframed marriage as an economic partnership, granting widows co-ownership and an enforceable claim to marital assets rather than mere custodianship. The contrast is stark: while the Qing Code immobilised the widow as a passive placeholder for male lineage interests, the *Hong Duc Code* articulated a more progressive notion of economic partnership within marriage, offering widows an active and legally protected role in property relations.

Third, the regulation of private property and individual ownership further underscores the divergent approaches each legal system adopted toward women's economic rights. In the Qing Code (Statute 78), the provision stated: *"If a woman remarries, then the husband's family property and her original dowry shall be controlled entirely by her former husband's family"*. This rule stripped women of both their dowry and inheritance rights upon remarriage, weaponising economics to enforce chastity and effectively denying them any independent legal identity. Conversely, the Hong Duc Code (Article 376) declared: "If the wife predeceases her husband, her land shall be divided into three parts — two parts to the husband and one part to her heirs". This provision explicitly recognised women's separate property, allowing them to

transmit assets to their own heirs. This recognition of female private property, even extending beyond death, was a remarkable legal breakthrough that granted Vietnamese women a degree of economic agency unparalleled in the contemporary Qing legal framework.

4.3 Comparative Summary

Overall, The Qing and Hong Duc Codes embody divergent legal philosophies regarding gender relations and women's status. The Qing Code entrenched a rigid patriarchal hierarchy, systematically subordinating women's legal and economic agency to male authority. A woman's identity was subsumed under that of her husband's family, as starkly illustrated by Statute 78's provision that a widow forfeited all poperty, including her dowry, upon remarriage. This approach treated women as legal dependents, denying them autonomy and using economic penalties to enforce social control.

By contrast, the Hong Duc Code articulated a markedly more balanced and pragmatic approach. It not only recognised a wife's right to hold and bequeath private property but also granted women limited but meaningful rights to petition for divorce and to share marital assets. The stipulation that a wife's land was to be divided upon her death, with a portion reserved for her heirs, legally distinguished her assets from her husband's and affirmed her autonomous standing. Moreover, the Code acknowledged women's co-ownership of marital property, treating marriage as an economic partnership rather than a unilateral transfer of the bride into her husband's lineage. As French scholar Camille Briffaut (1921, pp. 231-232) observed of the Le dynasty: *It was a profoundly equal system, based on the principle of equality between the two family lines and the equal rights of husband and wife. Regarding property, they contributed equally, enjoyed the common fruits together, bore common expenses and debts, shared wills equally, and divided property equally. They also retained portions of their own private property.*

This contemporary commentary reinforces the conclusion that the Hong Duc Code incorporated a significant degree of reciprocity in marital and property relations, offering a synthesis of Confucian principles with indigenous customs that stood in sharp contrast to the patriarchal rigidity of the Qing Code. To provide a concise visual synthesis of these differences, Table 1 summarises the key legal divergences between the Qing Code and the Hong Duc Code across the domains of marriage, inheritance, and property rights:

Table 1. Key Legal Differences between the Qing Code and the Hong Duc Code

Legal Dimension	Qing Code	Hong Duc Code
Divorce initiation	"Seven Grounds for Divorce" giving husbands unilateral authority (Statute 116).	Women may petition for divorce in cases of abandonment, humiliation of parents, fiancé's severe illness (Arts. 308, 322).
Remarriage waiting periods	Long waiting periods (3–5 years) before remarriage permitted (Statute 116.02).	Short waiting period (e.g., 5 months in abandonment cases) with no legal stigma (Art. 308).
Widow's property	Widows only hold custodial rights, conditional on chastity and clan-selected heir (Household Laws, Statute 88).	Widows recognised as co-owners of marital property (Arts. 374–375).
Inheritance rights	Daughters inherit only in "household extinction" situations (Statute 88).	Daughters may inherit ancestral shares; eldest daughter may manage worship land if no eldest son (Art. 391).

Private property	Woman's dowry absorbed by husband's lineage on remarriage; no separate estate (Statute 78).	Wife retains separate property; part of her land passes to her heirs (Art. 376).
Source: Compiled by the authors from statutory provisions in the Qing Code and the Hong Duc Code.		

While the Hong Duc Code afforded Vietnamese women greater legal standing in areas such as property sharing and divorce initiation, it should not be interpreted as a fully gender-equal legal system. Indeed, it remained firmly embedded within a patriarchal Confucian framework, privileging male lineage and ritual continuity. For example, ancestral-worshiping land was reserved primarily for sons, especially the eldest son and heads of patrilineages, though daughters could inherit in the absence of male heirs (Arts. 374–376, 391). Social norms around arranged marriage and chastity continued to constrain women's autonomy, while rules on marital property, inheritance, and family responsibilities reinforced patrilineal authority in line with Confucian ideals (Haines, 1984). Similarly, the Qing Code's "Seven Grounds for Divorce" institutionalised a stark imbalance of marital power.

Thus, a more nuanced understanding emerges: the Hong Duc Code was relatively more accommodating to women's economic and marital interests than its Qing counterpart, yet it operated within the same patriarchal Confucian order. Its provisions reflect both progressive adaptations and persistent constraint. This demonstrates that advances in women's rights were embedded in Vietnam's own pre-existing Confucian framework, rather than imported from later Chinese legal codes.

5. Conclusion

A comparative analysis of the *Great Qing Legal Code* and Vietnam's *Hong Duc Code* reveals significant differences in how Confucian principles shaped women's status in these two societies. While both legal systems were rooted in Confucian ethics, they diverged markedly in their treatment of women's rights. The *Qing Code* enforced a rigid patriarchal system, systematically restricting women's rights in marriage, property, and inheritance. By contrast, the *Hong Duc Code* incorporated more pragmatic and flexible provisions, granting Vietnamese women greater autonomy in marriage, broader inheritance rights, and protections against arbitrary divorce. This divergence arose from distinct historical and socio-economic contexts. China's deep entrenchment in patrilineal clan structures and state-enforced Neo-Confucian orthodoxy led to extreme institutionalised suppression of women's agency. Vietnam, while influenced by Confucianism, retained stronger local traditions that recognised women's economic roles and social value, resulting in legal accommodations that offered women substantially more protection and autonomy.

These differences demonstrate that Confucianism did not produce a monolithic system of gender hierarchy across East Asia. Rather, its implementation was shaped by local practical needs and cultural adaptations. The Vietnamese approach, as embodied in the *Hong Duc Legal Code*, represents a significant variation within the Confucian tradition — one that balanced ethical principles with pragmatic considerations of social stability and economic productivity.

In summary, this comparison not only illuminates the particular constraints faced by Chinese women under Qing law, but also highlights the diversity of gender systems within Confucian societies. It suggests that cultural traditions, even when sharing common philosophical foundations, can develop substantially different institutional expressions based on local historical conditions and social requirements.

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