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## Traditional Law of the Ede

### Abstract

The traditional law of the Ede in Vietnam is valuable in a number of ways: it provides insights into the ethnic society and culture of the Ede; it illustrates the original cultural heritage of the Ede; and it preserves folk knowledge for governing a community. For every society, the stability of the basic village organization is very important. The more modern a society becomes, the more attention is paid to the problem of local management. This article shows that traditional law was and is an important aspect of village management among the Ede.

**Keywords:** Ede—traditional law—social relations—Vietnam

**A**T THE BEGINNING of the 1920s, Leopold Sabatier, a French administrator in the province of Dak Lak (then, Darlac), began collecting the traditional law of the Ede (Rhade) and recording it in the new romanized Ede script that had been devised under Sabatier's patronage. This collection of *klei due bhian kdi* (traditional law) was completed and published in the Ede language in 1926. In 1940, Dominique Antomarchi translated this compendium of customary law into French, publishing an annotated edition in the *Collection de textes et documents sur l'Indochine* of the École Française d'Extrême-Orient (SABATIER 1940).

After the South was liberated in 1975, Nguyen Huu Thau, an expert on the study of the Central Highlands (Tay Nguyen), translated the texts of the traditional law from French into Vietnamese, and deposited a copy of the manuscript in the library of the Ethnology Institute (Vien Dan toc hoc) in Hanoi. In 1984, the translator revised these texts to serve the program of study and investigation on Tay Nguyen II (State Project 48c). In 1991, when the four-volume work *Tuyen tap van hoc cac dan toc it nguoi o Viet nam* (Collection of Literature of Vietnamese Ethnic Groups) was compiled, the above-mentioned translation in Vietnamese was published in the first volume (DANG 1992, 214–68).

Many ethnographers and folklorists have continued to investigate and study the culture of Tay Nguyen ethnicities, among them the Ede, since 1975. They paid attention to collecting and gathering several versions of the traditional law of the Ede. From 1993, in order to respond to both the needs of scholars as well as the practical demands of the local people, we (Ngo Duc Thinh and Chu Thai Son) collaborated with the Department of Scientific Technology and Environment of Dak Lak Province to systematize, edit, and revise this traditional code. We made the first steps to study and offer some solutions to practical problems of rural management in the present Ede area.

Nguyen Huu Thau, on the basis of Leopold Sabatier's texts of the traditional law of the Ede, and with references to two traditional codes that have been collected recently in the field, has compared, revised, and edited

his text in order to have a new version of the traditional law in both the Ede and Vietnamese languages.<sup>1</sup> These two versions, although they are not perfect, are revised and edited in a way that reflects the living language of the Ede more accurately than Sabatier's original Ede-language compilation and Antomarchi's translation into French.

Thus far, after more than a half century of work by Vietnamese and international researchers, who have collected, edited, translated, and studied the traditional law of the Ede, the texts of the traditional law are still not perfect, but they show the benefit of great efforts and constitute a new step on the difficult path of collecting and research. Surely, this is not the final collection of the traditional law of the Ede.

#### CONTENT OF THE TRADITIONAL LAW OF THE EDE<sup>2</sup>

In the newest version (*Luat tục Ede: tap quan phap*, Hanoi: Nha xuất bản Chính trị quốc gia, 1996), we retain the order of the contents as organized by Sabatier, who divided the code into 236 articles in 11 chapters. The structure is as follows:

- Chapter 1: the opening chapter on general regulations (23 articles)
- Chapter 2: on crimes of offense against village head (33 articles)
- Chapter 3: on crimes of head of village (11 articles)
- Chapter 4: on crimes against the community (27 articles)
- Chapter 5: on marriage (48 articles)
- Chapter 6: on relationships between parents and children (6 articles)
- Chapter 7: on crimes of adultery (11 articles)
- Chapter 8: on serious crimes (21 articles)
- Chapter 9: on wealth and property (38 articles)
- Chapter 10: on buffaloes and cows (10 articles)
- Chapter 11: on land and land ownership (8 articles)

From the distribution of these 236 articles, we note that marriage problems are given by far the greatest attention; they make up the largest number of articles (48), and these articles are the strictest. The pattern of marriage here is governed by matrilineal tradition, i.e., a woman plays the principal role, post-marriage residence is uxorilocal, and children bear their mother's surname. Clearly, it is the human element (the highest value of any society) that is given greatest importance by this traditional law.

The subject of second greatest attention is the possession of property (38 articles), that is, the property of the matrilineal family. The third most important topic is covered in the 33 articles that provide for the protection of chiefs and leaders, i.e., the protection of *po pinla*, the landowners, heads of

villages, managers of land, protectors of villages and swidden fields, and supervisors of society that are governed by the traditional law. The fourth topic of concern is crimes against the community (27 articles).

It can be said that the traditional law is a kind of unwritten historical document. It reflects clearly the features of a matrilineal social organization, which was still very typical in the Central Highlands in the first decades of the twentieth century. It must be noted that through these general regulations, the traditional law of the Ede rises beyond simply being a form of custom or tradition as was typical of early class societies.

The first chapter refers to procedural matters: standards of evidence and proof, the process of judgment and trial, and who maybe considered an accessory (one who harbors or conceals criminals). Chapters 2 and 3 concern key relationships in the society of the Ede people. As we know, traditionally the basic social institution of the Ede is the *buon* (village), comparable to the *lang* of the Viet people or *ban* of the Thai. This is a survival of the primitive commune with more than one lineage that is in the process of becoming a class society. It is a residential community and, at the same time, a social organization and cultural institution. The dominant principles that cover all relationships are communal relationships. Among them, the relationship between the head of the village (*khoa pin ea*) and its members is most important. The principles governing this relationship are as follows:

1. The villagers have to respect and are not allowed to offend the honor and person of *khoa pin ea*, the head of the village, nor to threaten or bribe him; everybody has to follow the regulations of the commune for which the village head is the manager.
2. The head of the village is not allowed to abuse his power, use the authority entrusted to him to make arrests without sufficient evidence, entrap or condemn innocent people, neglect his duty, or fail to care adequately for his villagers.

The relationship is reciprocal, and the responsibilities, duties, and rights of residents as well as of the village head are clearly defined. The relationship guarantees social regulation and at the same time ensures the democratic and equal rights of residents within the village commune.

After defining this reciprocal relationship between the head of the village and the village commune, chapter 4 of the traditional code of the Ede provides for specific crimes against the community such as the crimes of loitering, loafing, not observing the regulations of the commune; the crimes of not helping the unfortunate; the crimes of spreading contagious diseases; the crimes of burning a forest and causing a fire; the crimes of offending the

customs of the village.

After these preliminary chapters, chapters 5 through 7 (which make up nearly one third of the code) focus on the regulations of communal and social relations, a key problem that guarantees the survival and operation of Ede traditional society. These regulations are adapted to the communal relationships and deal practically with them. Chapter 5 concerns marriage, the most complicated and subtle problem of social relationships of any community, and it is natural that it receives the greatest attention in the code.

In traditional societies, incest is a gravely serious crime that, according to folk conceptions, angers the God of the Land (Yang Lan) and causes a bad harvest and disease within the community. It should be condemned. The argument is as follows: “He commits a domestic crime who falls in love with a relative. If he falls in love with one of his blood sisters who was born in the same place and of the same parents, he wilts the water-taro and bananas on the river banks. Mangos in the forest do not bloom, mangos in the home garden do not bear fruit. He has to offer rice wine and a pig to worship the Master of the Land and offer his own blood by pricking his finger to venerate the God of the Land.”

The dominant feature in the marriage principles of the Ede that the traditional law protects is the custom of preserving the lineage (*tuc noi noi*). There are nine articles that refer to different aspects of this custom.

Ede people conceive of marriage as a permanent bond between spouses who are not allowed to divorce. “Having married a woman, a man has to live with her until he dies; if one holds a drinking tube to drink rice wine, one should continue drinking until the wine becomes flavorless; having beaten a gong, one must continue beating until someone stops his hand” (article 109). Ede people accused whichever side was seen as responsible for causing the separation of the married couple. If a man agrees to be a husband but abandons his wife, he is guilty. He should be brought to the court for judgment (article 110). Adultery is a common occurrence, and is the main reason for damaging a family’s happiness. Therefore, the traditional law of the Ede focuses on many articles to prevent and limit this behavior, including punishment of people who slander others or commit adultery that leads to family conflict and separation.

The traditional law of the Ede touches upon different aspects of marriage and family relationships such as betrayal of the betrothal ritual, not providing enough wedding offerings, having affairs with another person’s husband or wife, mistreating one’s wife and children, and abortion. The traditional law refers to adultery in eleven articles (149–159). There are three different cases of this behavior: incest (i.e., violating regulations requiring that marriage be conducted among those who are not of the same matrilineage);

committing adultery; and rape (including child abuse, which is condemned sharply).

Chapter 6 includes articles on relationships between parents and children. Parents' first responsibility to children is in educating and training them to be good people. "If children misbehave; roam around without supervision; take to drinking and gambling; vomit, urinate and defecate next to gongs; snoop around; or steal something from other people, and if their parents ignore or tolerate their children's misbehavior, the parents are held responsible." Parents who fail to maintain proper discipline and respect from their children are condemned: "A father who is directed by his children, a mother who is led by her children, are people who do not prevent thefts by their children. Therefore, they are guilty people and liable to others" (article 148).

On the part of children, the traditional law emphasizes their responsibilities to their parents, condemning them if they show disrespectful behavior, fail to obey their elders, leave their home and village to wander on their own, or neglect to care for their parents and grandparents. If they violate the regulations of the traditional law, they are stripped of their rights to inherit property. In the case of assaulting their parents, they are condemned in the traditional court: "If he has a big calf to trample his parents, has a big thigh to step on his parents, and a sharp hoe and large knife to beat his parents, he is guilty. He is liable to his parents" (article 147).

There are articles concerning serious felonies in chapter 8. The articles mainly concern assault or violence against another person. In general, the punishments for these crimes (from insulting and beating to murder) are fines paid in money or in kind, with the death sentence primarily reserved for murder. The crimes mentioned here range in severity:

Crimes of killing a person intentionally, in different ways (stabbing, strangling, poisoning)

Crimes of manslaughter (by accident, while working, when drunk, etc.)

Killing *ma lai* (i.e., a person possessed by the malicious spirit *ma lai*),<sup>3</sup> or slanderously accusing another person of being a *ma lai*

Selling or buying another person

Beating a person until he or she is injured

The popular conceptions on capital punishment and compensation in the traditional law of the Ede are as follows: "If someone kills a rich person he has to compensate for that human life by payment of a gong whose diameter equals the length of a forearm plus a finger span (from the tip of the

thumb to the outstretched tip of the second finger). If he kills a poor person, he has to pay with a gong whose diameter is as big as a forearm plus a fist" (article 160).

Property and ownership rights are always important problems in a community, regardless of its level of civilization. The traditional law of the Ede has 38 articles referring to different relationships of personal property among which several different types of crimes can be distinguished.

Concerning inheritance of property, the Ede people are under a matrilineal system, and problems of inheritance are consequently focused on matrilineal kinship: "When someone dies, a *niet* (hand-weeding tool) and *cha gac* (paring knife) should be given freedom [i.e., they do not become any particular person's property]. Together with a bracelet, necklace, blanket, rice bowl, cudgel, hammer, axe, dagger, sickle and leather slipper of buffalo hide, a small *niet*, *cha gac*, and crossbow with a quiver containing arrows, should be given back to his mother and sisters" (article 182). A part of a dead husband's property is also given back to his younger sister or mother. All property in the family is managed by the mother or oldest sister, as representative of the mother. Article 181 on keeping treasure confirms that "Big or small things, valuable or invaluable, a cauldron or a cup or a bowl are kept by the oldest sister." The property of an unmarried son is entrusted to his sisters: "If he has only a ring, only a silver coin, a necklace, and a bracelet he has to give them to his mother and his sisters. If he does not give them he is guilty" (article 183). A husband is not allowed to give away the property of his wife and her sisters to the children of his own sisters (article 185).

Buying, selling, exchanging, and lending property and objects are also considered in the traditional law. First of all, buying and selling should be considered carefully and thoroughly (article 186). Those involved should ask for the advice of their wife or husband, their parents, and other elders. "A man buys a harrow, a female buys a big bowl. They belittle their husbands, belittle their wives, and anger the chieftain. They do not ask for advice, neither from the old nor the young, and buy anything without heed of others. They are people who disregard the old traditions, who trespass on closed roads, and ignore advice. Therefore, they should be condemned." Taking advantage of children to exchange or to bargain unfairly is also considered a crime (articles 188–189).

People who borrow money or valuables may fail to repay their obligations in time. Thus, "If after the due date one does not repay as promised, he is obligated to pay three times more than what he borrowed." If after the due day he refuses to repay, the lender has the right to take anything he owns: "In his house, there is a gong that one will untie [i.e., take]; in his house, there is a jar that one will take away to recover the debt" (article 190).

If a person breaks a borrowed object, he is liable: "Breaking a cauldron, one has to make another one; if he breaks the handle of a jar he has to make the other jar handle; if he breaks utensils he has to replace them, and if he breaks a precious jar (with a resident spirit, who will be angry) he should be condemned."

The traditional law of the Ede watches over the behavior of those who perform rites of worship and of shamans who use treatment and prophecy for their own benefit. A shaman may use deceit to extend the treatment for disease, concocting reasons to squeeze money from patients: "From the day one gives a bronze bowl and ceramic plate as gifts, the shaman no longer wants to cure.... He is like a jungle leech that sucks in its two mouths, a leech that bites in its two mouths.... A torso has stripes, and he says that they are snakes. Ears have a helix, and he says that they are tiger's ears. He speaks himself, but says that it is from the chieftain's mouth.... Thus, he is guilty, he should be condemned."

To diagnose disease, Ede people have the traditional divination method of *sai cay* (measuring the length of the shaman's two outstretched arms against a stick). Not a few shamans take advantage of divination rites to squeeze money and property from patients: "He says that the patient's family has to butcher a cow to make an offering to the spirits.... He says again to butcher a buffalo to make an offering to the spirits, but the disease is not cured and the patient cannot leave his sleeping mat and blanket.... Thus, the pigs are killed, he has to revive them; the fowls are butchered, what can he do?; their cows and buffaloes are killed, he has to repay them sufficiently" (article 193).

Taking property by force or stealing it outright are crimes given special attention by the traditional law of the Ede. In the new version, there are eighteen articles (from articles 195 to 212) that mention different aspects of these crimes. The traditional law clearly requires that a person who breaks into another's house or uses trickery to take other people's property by force is guilty and should be condemned. In other articles, punishments are prescribed for various crimes of stealing and taking by force, including petty theft (article 200), servants who steal from their masters (article 201), stealing grain (article 203), digging for stolen treasure (article 204), stealing treasure hidden in a pond (article 205), stealing honey in the forest (article 206), stealing other people's wild trapped animals (article 206), stealing fish in a bamboo fish trap (article 208), stealing poultry and livestock (article 209), stealing buffaloes and cows (article 210), and stealing boats (article 211).

According to a regulations expressed in the traditional law on stealing buffaloes and cows, "If a person steals an animal and later eats or sells it, in addition to paying for the animal, he has to pay with another two animals,



i.e., he has to pay three times more. Besides the animal he steals, he has to pay 'one in front and one in back' of the stolen animal" (article 21). This is the principle of "stealing one is paying three" in the Ede tradition.

There is a concrete analysis on acting as an accessory or concealing a theft, and on taking other people's property by force. Rewards to people who notify the owner of stolen objects about the place where thieves have hidden the stolen objects are described in lively details that reflect the realities of rural life.

In contrast, people who conceal or harbor stolen objects have to pay three times more; that means, besides the stolen objects, the thief has to pay "the front and the following one," i.e., an additional two (article 213). People who notify the owner about stolen objects are rewarded as follows: "One will measure the boat [i.e., stolen object], the length as well as the width. If the boat is small, the reward is small too; if the boat is big, the reward is big too." More concretely, in a case in which someone informs villagers where to find stolen objects, but the owner of the objects accuses him of being a thief: "the jar [i.e., the stolen object] will be sold to buy clothing, and divided more or less evenly between the two sides" (article 218).

The traditional law of the Ede has a number of provisions on buffaloes, cows, and other domestic animals. Mad, cruel people who slaughter poultry and livestock pitilessly without reason are guilty of a crime; they should be condemned: "He who butchers pitilessly without sympathy for the animals that he rears.... He is a person who refuses to listen to advice. It is time to reject him, even though there is a man or woman who is attached to him. As with killing a buffalo or pig set aside as a sacrificial animal, if he commits this crime he is sentenced to death."

People may also injure other people's animals by accident: "If a large animal such as a horse, cow, or buffalo is wounded, the one who inflicted the injury has to provide for medical care to heal the animal. When the animal recovers, he has to compensate the owner with a pig and jar. If the animal dies, he has to pay with an animal as big as the one that died, and add 'the front and following one' of the dead animal" (article 221).

If a buffalo and a cow in the season of free range fight each other and die or are wounded, nobody is responsible. If, however, a buffalo or cow escape from confinement because it is not being cared for properly, and fights and kills other people's animals, the owner of the escaped animal has to compensate for the other person's loss by providing an animal as big as the animal killed; the meat of the dead animal is then divided between the two sides (article 223).

If an animal injures a person, "its owner has to pay only compensation; if the wound is mild, the compensation is small; if the wound is serious, the

compensation is big. If it kills a person, the rate for the human life is paid in a gong, with a diameter of *heh* (the length from the tip of the elbow to the end of a clenched fist, plus a finger span) (article 224).

If an animal is released before the regular season and damages the crops of other people, its owner is guilty: “If someone who has buffalos or cows is lazy in returning them in the afternoon, lazy in taking care of them in the morning, and lets them wander in the forest like a flock of wild animals, and lets them eat and damage other people’s harvest, he is guilty of a crime, and should be condemned” (article 225). If animals wandering loose are trapped and die, the person who set the trap or spike is not guilty, and does not have to pay compensation (article 227).

In the new edition of the traditional law, the provisions on land are systematized in a separate chapter, chapter 11. These are the principles governing inheritance rights of landowners (*po lan*): “If an uncle dies, his nephew inherits; if a grandmother dies, her grandchildren inherit; if one person dies another inherits; no one dares to wrongfully occupy another’s land, and no one dares to seize it or usurp it in any way” (article 230). The landowner has the duty to take care of his land: “He will take care of his land. He will take care of the forest, and he himself will take care of his own sphere. As children grow up, one has to educate them; as grandchildren grow up, one has to train them ; if something is broken, one has to mend it; if something is weak, one has to strengthen it” (article 229).

The rights of landowners and the other members of the community are provided for in the traditional law: “Everybody has rights to set fire to wood, hunt animals, catch fish; no one can ban another [from doing these activities].” But, the law continues, “For the landowner, everybody has to help, give much firewood and water, help build houses and swidden fields, and take care of him during his illness. When the landowner is alive, he is given much rice wine; when he dies many people take care of burying him and must not ignore him. All villagers, children, grandchildren, youngest brother (sister), everybody has to remember that” (article 232).

When the landowner goes to visit his land he is given presents: “All villagers, children, and grandchildren contribute to giving presents to the landowner once every seven years; one person offers a bowl of rice, another offers a basket or paddy. The villagers, children, and grandchildren are healthy, the ground is fertile, the river and stream do not stop flowing, bananas and sugarcane grow luxuriant and the harvest does not turn yellow” (article 236).

The rights of land possession belong to the whole community but the landowner is the representative: “Ground, river, stream, and forest are ours (the landowners). If the ground, river, forest are occupied or divided, if they are occupied by any forces, we do not agree” (article 234). People who trespass

on the land are guilty and are condemned: “he who occupies the forest, who seizes a river or stream, he who usurps the land of a chieftain.... He is very bold and dares to pass through the high mountains. Therefore, there is a claim to be adjudicated between us and him” (article 235).

#### KINDS OF PUNISHMENTS AND PENALTIES

Every injury (physical or spiritual) to a person or to another person’s property is *mkra* (compensated). In addition, the person who causes damage might be brought to *bi kinhal* (the court) for violating the traditional regulations. Punishments in the tradition law of the Ede are provided as follows:

1. Ceremony of *wat* or *kpih* (sacrifice): its purpose is to mollify the spirits (*yang*) whom criminals make angry. It is called *wat* when the ceremony of sacrifice is offered with a chicken, and without the sprinkling of holy water. The ceremony of sacrifice is called *kpih* when it is offered with a pig, a cow, a buffalo, or any mammal, and when a mixture of rice wine and the blood of a sacrificed animal is used to smear on the body and limbs of the animal. Convicted criminals financially support the sacrifice ceremony.
2. Compensation or *kdi* (fine): it can be paid in goods or in money, and it ranges from a *sasang* (bank note) to twelve *tiao ko* (silver coins). When the compensation cannot be paid, the criminal goes to work to pay the debt. He pays by using his body as *tuie aseï* (mortgage) until his family pays off the compensation required. Because there are no written loan agreements and people depend on memory, a person who works to pay off a debt, may in fact become a servant forever. One calculates that his work is only enough to feed him and not bring any benefit to the lord. This situation, moreover, is the same for people who are in debt but cannot pay.
3. Replacement of the borrowed objects that are lost or broken.
4. Returning stolen objects: a stolen object is given back in *ngan the sa kdec ba kdi tiao kdree* (three times more than its value).
5. Payment for *tamenoa* (human life) to the victim’s family in the case of murder: the rate of a human life is estimated as a big gong<sup>†</sup> with a diameter of an elbow and a finger span if the dead person is rich; and a big gong with diameter of an elbow and a fist if the dead person is poor.
6. Becoming a slave: someone who commits serious crimes but cannot pay for a human life is sold as *khon* (slave) in Cambodia, Laos, or in a

neighboring tribe.

7. Capital punishment: the criminal is tied and executed by stabbing with a long handled spear, or by hanging on a tree in the forest. The corpse is then left and eaten by crows, hawks, or vicious animals.

#### SOME REMARKS ON THE VALUE OF THE TRADITIONAL LAW OF THE EDE

The traditional law of the Ede is valuable in a number of ways: it provides a precious and rare source of documents to study ethnic society and culture; it is the original cultural heritage of the nation; and it is the folk knowledge of community government. Unfortunately, until now, these values have been outside the realm of the studies of ethnology, ethnosociology, ethnopsychology, law, ethno-linguistics, linguistics, history, and culture. The last generation that knows the traditional law among villages of the Ede is gradually disappearing to the other side of the mountain. The new generation seems to move ahead in preparing for modern culture, and little by little they forget their ancestors' ways, which are as valuable as diamonds and gold. This invaluable heritage with all its treasures that is useful for life today and in the future is being lost. We can identify a number of ways in which these traditional laws are valuable:

##### *1. They are original documents for studying the ethnic society and culture of the Ede.*

As mentioned above, the traditional law of the Ede touches upon many different aspects of ethnic life: production, ownership relationships, social organization, community relationships, marriage, families, customs, and rituals. One can consider these to be standards of social behavior that have been created over the long development of the community, and accepted by everybody and followed self-consciously as customs. These are not like the feudal laws that were imposed by the government on its citizens. Therefore, there is a certain gap between such state law and customary law in a village: "King's laws are defeated by village custom," the familiar saying goes. Traditional codes of law have been created by community life, reflecting the real face of the traditional society of the nation. Therefore, to study ethnology and ethnosociology, and especially to study traditional society, the traditional law is a unique and original source; nothing can replace it.

In traditional society (and even to a degree in modern society), traditional law provides a set of general conventions and standards for every relationship and every social behavior. One of the outstanding features of traditional law is its concrete language, which is appropriate to a certain specific social situation. Thus, on principle, there is no single text of traditional law shared completely by the Ede as a whole; however, the traditional law of

every group of the Ede people such as Mdhua, Kpa, and Adtham in every area is basically the same.

While collecting and editing this traditional law, Sabatier gathered a number of chieftains of the Ede people together to collect information from them and then he compiled the general traditional code. The regulations of this written law are only for this group of the Ede, and not for any other group. Moreover, this work served French administrators who wanted to rule Vietnamese ethnic groups. When scholars use the document to study the traditional society of the Ede, they should pay attention to this shortcoming. It is hoped that in the future, the collecting of the traditional laws of the Ede will be carried out in many localities for comparison with, and in reference to, a number of areas in order to enrich our knowledge of traditional law.

The traditional law of the Ede is an original source document that gives a general cultural picture of some matrilineal peoples living in the highlands who share a variety of basic cultural characteristics such as cultivation of swidden fields, animal husbandry, hunting and gathering, rattan and bamboo basketry, planting cotton for weaving cloth to supply themselves, cooking rice in pots, eating fish, meat, vegetables, and fruit. The men wear loincloths and the women wear dresses with jewelry, including copper rings and necklaces. Both males and females like to drink rice wine and smoke homemade cigarettes. They dwell in extended family groups in the longhouse of the mother's lineage; the village (*buon*) is the highest level social unit and the rural commune is still the dominant form of society. Marriage exchanges take place between two primordial clans or lineages: Nie and Mlo. The culture is similar among all local groups, with a developed oral literature and music of gongs; the agriculture-based religion is primitive polytheism and belief in animism. The society is governed according to traditional law.

## *2. The traditional law exemplifies the cultural heritage of each ethnic group.*

In addition to the document having value for studying ethnosociology, the traditional law of the Ede also has great cultural value. It can be considered one of the valuable and unique cultural artifacts of the nation, and makes contributions to the general legacy of the whole country and the world.

First, it constitutes a national literary treasure. The language of the traditional law is different from daily language; it is rich in imagery, with polished *klei due* (verses). It is easy to remember and learn by heart. The unique characteristic of the traditional law of the Ede, in comparison to texts of Thai law or the village conventions of the Kinh (Viet) people, is a language rich in images arising from concrete thoughts; the images are closely related to the natural surroundings and daily life activities. For example, to talk about

a loafing, erratic, and lazy woman who should be admonished and educated the law states:

As a mosquito strays its flock or a butterfly loses its mother, she is a parentless person. She loiters about like a hen that finds a nest to lay eggs. She comes over to this village and finds it ugly, so she looks for another one; she comes over to this house but it is not good and she immediately finds another house. Because of her wandering, she has a lot to eat: she eats vegetables in this house, and she eats steamed rice in another. She sleeps wherever she arrives; she lies down wherever she goes. She eats without limit, drinks immoderately, does not cultivate the swidden field, gather firewood, or carry water; she has never gone to the watch-house in the swidden field. She does not gather and spin cotton. Her hands have never touched a mortar and pestle. She thinks of wandering with her feet in the east and her head in the west. She is no different from a wild cow walking in a thatch forest. She does not listen to admonishment; she does not follow instruction. She acts as a mad and stupid person. Her mouth is open wide like a fishing basket, her mouth gapes like a large winnowing basket. She is the kind of woman who cannot be trained. Therefore, if a dog is gluttonous, one should throw to it a hot eggplant fruit for punishment. The unruly person has to be admonished and punished.

We will now turn to the aspect of Ede literature that we will call “matrilineal thought.” In referring to a couple made up of a male and a female (such as grandparents, parents, or husband and wife), the language of the Ede always names the female first, then the male; this is consistent in every sentence and situation of Ede poetry. This is opposite the tendency of Vietnamese and other languages that display “patrilineal thought.”

The language of the traditional law is rhyme, a transitional form between daily language and poetic language. For everybody, this form is easily remembered and has been handed down through generations. In daily conversations, when a choice has to be made, one usually remembers the related statements of the traditional law; and those statements are used as an orientation to behavior that conforms with traditional law. *Po phat k̄di* (judges) always learn the traditional law by heart. When judging, they can quote suitable statements and paragraphs to analyze right and wrong, to advise, debate, and sentence a case logically.

This form of *k̄lei due* is not only used in the traditional law, but also in a popular form in other oral literature of the Ede such as *k̄han*,<sup>5</sup> proverbs, folk songs, and riddles. It creates a special form of language. In fact, *k̄lei due*

is a form of language that developed from the daily language with the usual speaking style of alternation, comparison, repetition, and the use of exaggeration to confirm speech. Thus, the *klei due* in the traditional law and in the other genres of oral literature of the Ede are related to each other. *Klei due* is an element in the creation of a community and is an expression of communicative culture. Thus, in comparison to the spoken language, it is more perfect, closer, lovelier, and more interesting, and the capacity of its transmission is more acute and impressive.

The Ede people had no ancient writing system. French missionaries went to Tay Nguyen to preach Christianity to the highlanders, and they relied on a romanized alphabet to record the spoken language of the Ede. The first script of the Ede was used by these priests to write lectures, Bible stories, and short folk tales, with the intention of making the traditional law of the Ede in the Central Highlands conform to the Christian Bible, and to make Jesus similar to Ae Die, Aae Du of the Ede spiritual system. This distortion brought certain results to Western missionaries: Christianity took root in a number of villages of the highlanders.

In 1923, Y Jut (a teacher and a member of the village of Pan Lam, in the present-day district of Tan Lapon on the outskirts of Buon Ma Thuot) relied on both *quoc ngu* (the Vietnamese alphabet) and the romanized alphabet to create the now-accepted script of the Ede. In the mid-1920s, Sabatier began to collect the traditional law of the Ede and the *khan* of Damsan. Those two long texts, works of literature written in the Ede language, are the oldest efforts to preserve the oral literature of ethnicities in Tay Nguyen. The publication of the *khan* of Damsan and the traditional law of the Ede in the first decades of the twentieth century established the foundation for folklore study of ethnic minority culture in Vietnam.

### *3. The traditional law of the Ede is a treasure of diverse folk knowledge.*

We can say that the traditional law is as an encyclopedia of different aspects of the life of each ethnic group. It contains extremely diverse folk knowledge that has been summed up from the life experiences of many generations. It includes knowledge of the natural environment of the ethnic group; knowledge of cultivation of swidden fields, gathering, hunting, fishing; knowledge of society and of relationships between people; and knowledge of cultural life, rituals, and customs. This knowledge has been created and has become the guiding principles of the people in the community.

However, knowledge of community management is the most outstanding of all, the most crucial point of the traditional law of any ethnic group. This is primarily knowledge of the combination between management and self-management, education, admonishment and punishment, the combination

between personal consciousness and social rumor, the combination between principles of traditional law, a form of primitive law with the conception of spiritual life or religion for solving social conflicts. It is the precious knowledge of ancestors that has been accumulated and handed down to us to learn from and use in community management; it is suitable to every situation and to societies at different levels of development.

#### TRADITIONAL LAW OF THE EDE IN PRESENT-DAY SOCIETY

The traditional law of the Ede is a product of the still autonomous, traditional society organized on the basis of the development level of early class society. Problems addressed in the law are those of community relationships within villages such as possession relationships, the relationship between the head of village and villagers and vice versa, family relationships, and custom and ritual. This traditional law has not dealt with problems of the whole ethnic group. We may say that the traditional law is enclosed within a village.

The present society has changed significantly. Villages of the Ede as well as those of other Vietnamese ethnic minorities are no longer isolated social entities but have become basic units of a large social system, with relations from the local level to that of the central government. The basis of operation of the larger social system is state law, not customary law.

The study of the traditional law of the Ede and the capacity to preserve and sustain it must be undertaken from a systematic perspective, from the part to the whole, from the village to the nation. On the one hand, for every society, the existence and stability of the basic organization of the village is very important. The more a society is modern and developed, the more attention is paid to the problem of local management. Traditional law was an important aspect of village management in the past as well as at present. On the other hand, the once-autonomous village has to gradually overcome its autarkic and isolated characteristics, integrate into the general system step by step, and develop wide relationships to create an impetus and dynamic for the development of local social units. Without such relationships, no village, locality, or nation can develop.

Until now, in fact, the social level of autochthonous ethnic groups in Tay Nguyen is far from the general level of the whole country. In not a few cases, implementing the state law in the lives of the highlanders has encountered many difficulties. Consider for example the problem of theft and the fines levied on a thief. The traditional law requires that "one must repay three times what one has stolen—the item, 'one before, and one after.'" The rule under state law is that a thief must make reparation of equal value for the item stolen. Such fines do little to punish or prevent thefts: the modern system wipes out the guilt of the criminal. The thief is accused, he returns



the stolen object, and there is no punishment.

In traditional as well as modern society, traditional law is brought into play to regulate all social relationships in ethnic villages. As noted above, there are many provisions in the traditional law that still fit the development of modern society, but there are outdated provisions that prevent progress and development of the community. Furthermore, the present-day villages of the Ede are not isolated entities, but have gradually been incorporated into the sociopolitical system of the whole country and become an organic part that cannot be separated from the whole. For such a general sociopolitical system, state law is a tool of efficient adjustment that can be used for the entire country.

The problem now is how to harmoniously support and supplement a combination of state law and traditional village law. Reality indicates that even a highly developed society with a full system of state law has not solved all the problems of social relationships, especially in those societies marked by ethnic diversity. While both state law and traditional law share the general purpose of guaranteeing the stability of social relationships and stimulating the society to develop, they belong to different fields, or more exactly, to different levels. The traditional laws and customs and village regulations (*huong uoc*) belong to the social management field of the self-managed system of the village and commune community. If we know how to use and combine them, they can offer healthy support for state law in rural management, especially in ethnic minority areas, and particularly among those ethnic groups that have just begun their transformation from a non-class society or early class society.

In traditional society, besides traditional legal codes, there also exist traditional courts such as those in villages of the Ede as well as other ethnic groups (e.g., Mnong, Giarai, Bahnar, Sedang, Coho, and Ma). Actually, there is an organization of people who are very knowledgeable about traditional law, are respected in the village, and who can solve conflicts and contradictions on the basis of the traditional law of the locality and of the ethnic group. The provisions written in the law as well as the methods of judgment in the traditional courts are mainly for conciliation and education rather than conviction and punishment, even though the officiant makes accusations of crime.

Nowadays, this “traditional court” still exists in some localities, alongside the courts and procedures of the local authorities, but in most cases it is used only in small claims or when the judges of the local authority contradict village custom. As with many other cultural phenomena, the traditional court exists in remote areas in larger towns and communes near the main traffic roads. Meanwhile, in some other places, the traditional court does not

exist; instead there is a council of conciliation to solve, on the basis of traditional law, conflicts and contradictions arising in a village. The major method here is of conciliation, education, and admonishment. In cases of conviction, the conciliation group sends the guilty party to the state court of the district or province. Therefore, nowadays, in Ede villages, the traditional court or council of conciliation plays an active role in regulating social relationships on the basis of the traditional law, but in such a way that it does not conflict with the general regulations of the present state law.

We have had occasion to look at hundreds of case files of villages in three provinces of the Central Highlands (Gia Lai-Kontum, Dac Lac, and Lam Dong), and discover that present inadequate conditions (e.g., the gap between traditional law and state law, the distance from the village to the government as well as from the traditional court to the different level state courts) require a transitional form, and a certain coordination to meet the legitimate demands for solutions of all controversies and conflicts happening in the highlands. This is true not only within an ethnic group but also between ethnic groups, especially between the local people and Kinh (Viet) people who come to settle more and more in the highlands. The legal establishments in the provinces of the Central Highlands know the traditional law, the mode of organizing, the role of the traditional court, and the old villagers who are members of the "jury."

#### NOTES

1. The first text (in the Ede script) was collected between 1978 and May of 1980 by Be Van Dang, Chu Thai Son, and Nguyen Nam Tien in Ea Yong Commune, Krong Pach District, Dak Lak Province. Chu Thai Son collected from Mr. Y. Chang, a staff member of the Education-Training Department, the second text (in the Ede script) in 1990 in the Ea Tam Commune, Ale A Village, on the outskirts of Buon Ma Thuot. There are also supposed to have been documents prepared by Ede intellectuals for the Hoi dong sac toc Sai Gon (Council of Races in Saigon) before 1975.

2. All the articles quoted in the paper are from NGO, CHIU, and NGUYEN 1996.

3. Belief in the existence of *ma lai* is common among ethnic communities in the Central Highlands, and resembles beliefs related to "chicken ghosts" (*ma ga*, *ma ca rong*, or *ma ngu hai*) among ethnic groups in the Northern Highlands. As traditionally conceived, a *ma lai* can possess a person and has the capacity to harm people and objects. Therefore, people thought to be possessed by *ma lai* are widely hated, are seen as suspicious, and are attacked in order to protect the security of the community, its crops, and its animals. The traditional law provides strict criteria to identify who is a *ma lai*. The law also protects an innocent person against malicious or slanderous accusations of being a *ma lai*. Slanderous behavior, beating people mistakenly believed to be a *ma lai*, mistreating or even killing a person slanderously accused of being a *ma lai*, all are condemned as serious crimes: "If someone is slandered by being called a *ma lai* only because of ugliness, or because she is a widow rumored to have the intention of marrying another, and she should die, her slanderer will be sentenced to death; if she

is injured, the slanderer must be punished.”

4. The gong plays a very important role in the spiritual life of the Ede. The gong symbolizes not only the material values but also the power, prestige, and wealth of a member among the Ede.

5. A *khan* is an epic in the indigenous language that is performed by singers who sing and tell tales.

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