



RESEARCH ARTICLE

STUDY OF TRANSLATION PURPOSE OF CHINESE LEGAL CLASSICS

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ABSTRACT

Translation of Chinese legal classics has become the subject of great attention due to the increasingly prominent role of China in the world stage. This study intends to probe into the background of translation practice and thus reveal the translation purpose behind those endeavors with cases of The Qing Code, The Tang Code and The Great Ming Code. It argues that translators, more often than not, influenced by such factors as traditional value, academic communication, and cultural interaction, instead of being impartial but rather more like patriarchs of the Codes, would make use of their position to cater for target readers or retain the exotic culture, via various linguistic means; as a result, certain purposes have been achieved.

INTRODUCTION

The systematic translation of Chinese legal classics is characterized by Staunton's *Ta Tsing Leu lee*. It was not until in 1979 that Wallace Johnson translated another Chinese Code, that is, *The T'ang code*. Then there exist William C. Jones' *The Great Qing Code* in 1994 and Jiang Yonglin's *The Great Ming Code* in 2005. No other completed English translation of Chinese legal classics has yet been found. Obviously, it is necessary to embark on the above-mentioned three Codes' translation when observing and analyzing the research on translation of Chinese feudal Codes. Unfortunately, English versions of these prominent codes have not been fully explored by scholars. Most of the existing work is confined to the general review of one specific masterpiece failing to research on translation of the three Codes in depth let alone at translator and translation motivation levels. Unlike literary translation, legal text is solemn and serious, which leaves no room for its translation. Nevertheless, the identity of the translator and the purpose of the translator, more or less, wield tremendous influence on the translation. Fan-zhu Hu, the first Chinese scholar applying speech act theory in legal language research, points out that "a speech act is a component of a purposeful activity", and proposes "the Principle of Intentionalism" which, in his view, is the basic feature of Speech Act (Hu, 2009).

The translation act is without exception. Based on the principle of the English versions of such Chinese feudal Codes as *Ta Tsing Leu lee*, *the T'ang code*, *The Great Ming Code*, and drawing on the Principle of the Objective, this article explores in detail English translation of these Codes, accounts for the underlying reasons, and illustrates that certain translation purposes can exert profound influences on translation act, so as to reveal differences between various endeavors.

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English Translation of *Ta Tsing Leu lee* and Translation

Purpose: *Ta Tsing Leu lee*, the epitome of Chinese law codes, was rendered into English and published it in the United Kingdom in 1810. It was the first time that Chinese legal concept come into Westerners' vision, which presented Chinese law and society in the west.

The Translator: Staunton George Thomas: Sir George Thomas Staunton, was an English traveler, born at Milford House near Salisbury. His father was Sir George Leonard Staunton (1737–1801) who was the first baronet and a diplomatist, and he finished the work "An Authentic Account of an Embassy from the King of Great Britain to the Emperor of China" during the trip to China in 1792. When Staunton was young, he always kept his father accompany, during which time little Staunton was fond of Chinese and then took on learning Chinese. Then he was appointed as Page to Lord Macartney. During the mission his Chinese proved good enough to engage in diplomatic translation affairs and he received a personal gift from the Qian-Long Emperor. He stayed in Trinity College, Cambridge for one year. In 1798 Staunton was appointed as a special commissioner in the British East India Company's factory at Canton (Guangzhou). He lived there for sixteen years, as such his Chinese improved to a considerable degree.

The most well-known work, the English translation of *Ta Tsing Leu lee*, drew enormous attention from Western readers and enabled readers to know more about China. It has to be pointed out that there existed an important event in 1800 directly promoting the endeavor of the English translation of *Ta Tsing Leu lee*. In February 10th 1800, the officers in British Providence Ship shot Chinese fishermen leading to the fact that one was wounded and one was dead. After several severe negotiations, both sides reached an agreement that Chinese government was demanded to offer six legal clauses for them to judge. And since then British officers were

gradually attracted by the legal code of Qing dynasty. They went so far as to ask the Qing government to provide the Code and one translator to render it into English so as to expand the transaction in China.

Staunton's Translation Purpose: Translation as the cross-cultural activity embodies the high level of objectivity; accordingly, translation goals will in a sense exert huge influence on text choices (Xu, 2014) More importantly, translation itself is the political act between different languages. (Li, 2015) and will more or less be affected by power or political factors. The period when Staunton translates *Ta Tsing Leu lee* is that England desires to build diplomatic and trade relations, unveil the mystery of Chinese law and eliminate any possible obstacles in trader interaction. (Qu, 2019). When in China, Staunton wrestled to learn Chinese politics and law and devoted himself to translating *Ta Tsing Leu lee*. It was not just because of his interest in the Qing legal code, but more importantly, such practice would deepen Sino-British relation at that time. Britain desired to build a close relationship with China which was refused by the Qing government which brought about the consequence that a large number of trade conflicts and consequent controversies occurred as a result of the competition for trade interests. Staunton, on behalf of Britain, took the endeavor of translating *Ta Tsing Leu lee* in order to guarantee their rights and struggle for Maritime trade hegemony, for instance, *Ta Tsing Leu lee* has been divided into divisions, books and sections, which are similar to the western book so as to make the Code more acceptable.

While introducing such crimes as blows with the bamboo, temporary banishment, perpetual banishment and death, the translator lists detailed circumstances and explained Scale if the Pecuniary Redemption of necessarily redeemable Punishments with charts so as to reveal the relation between different crimes in a more detailed way for the target readers' convenience. Undoubtedly, such translation will inevitably bring such problems as weakening of translation's fidelity and authenticity and misleading of target readers. “吏律” has been rendered into Civil laws which are totally departed from the original meaning. “户律” is translated into Fiscal Laws which doesn't cover marriage and family. Obviously, Staunton translated Chinese legal system based on western legal concepts which are absolutely exotic and different. Another case in point is the interpretation of mourning system and familyhood relations. In the source Code there is a comprehensive description of mourning system covering more than eight graphs while it is decreased to half of one page. What's worse, the mourning system is rendered into the four degree's relative relations, that is, zhansuai, qisuai, dagong, xiaogong and sima are in a sense equivalent to the first degree, second degree, third degree and fourth degree. Nevertheless, it has to be acknowledged that the first degree can't cover zhansuai and qisuai in that they aren't the embodiment of the same meaning or at the same level.

The mourning periods and costumes are absolutely diverse between zhansuai and qisuai. Moreover, zhansuai only involves one's father while qisuai can be extended to grandfather. These regulations occupy prominent role in distinguishing perpetrator crime and non-crime and heavy offence or minor offence. The principles of strategy embodied in the work show that the translator conforms to its asserted ideology. As is mentioned above, such translation for legal concepts and system cater to

the target readers' reading habits but more less are at the expense of authenticity and originality. Indeed, it is easy for target readers to understand and accept but the unfaithful translation will in a sense cause confusion because of the distinction of Chinese and British's legal system. The very reason why Staunton exerts his best efforts to render the Code into accessible to target readers irrespective of the source Code is that a good and easy command of Chinese legal system is beneficial for guard of British's interests and deeper knowledge of Chinese society and law. Accordingly, Staunton's translation to a certain degree wields huge influences on readers' judge on the property of The Great Qing Code (Chen, 2015). To be more specific, The Great Qing Code has been rendered into *Ta Tsing Leu lee; Being the Fundamental Laws, and a Selection from the Supplementary Statutes of the Penal Code of China*, which means that the Code is the penal code. However, it not only regulates crimes but also adjusts such political and civil relations as huji, marriage and so on. Influenced by Staunton's translation, the other translators also adopt such method like Lois fondamentales du code penal de la CHINE; Francisco de la Escosura y Escosura and Leyes Fundamentals del codigo penal de la china. Years later, though Ernest Alabaster has noted civil rules involved in the Code, he still employed such translation, that is, Notes and Commentaries on Chinese Criminal Law. It was not until in the 2000s that scholars put that the translation should be re-examined.

Due to the fact that Chinese concepts were strange and hard to foreigners and very hardly capable of being represented by English equivalents, Staunton held that the untranslated concept should be rendered into an explanation that remained in notes in the margin as less as possible. The simple concept is adopted to make sure that target readers would be able to understand this legal code in their familiar circumstances, and it shows the endeavor of Staunton to eliminate the influence and misunderstanding from Chinese culture for the purpose of deepening the communication and understanding between Britain and Qing dynasty as well as seeking interests for Britain. To reduce the exoticness, creation of Chinese legal concepts but rooted in Britain law is common and popular in Staunton's translation, leading to the loss of authenticity and originality. It is due to the serious consequences caused by such translation that inspires William Jones to take that endeavor to seek the equivalence and authenticity between the source Code and target one.

English Translation of The Tang Code and Translation Purpose: Liu Yingchun (2008) researched into the principle of consistency in the English translation of *the T'ang code*. Geoffrey MacCormack (2013) mentioned the English version when talking about privilege in Tang dynasty. Denis C. Twitchett remarked on the enforcement of *The T'ang Code*. (Zhang, 2002) Brian E. McKnight studied the penalty and category principle. (Gao, 2004) MacCormack (1983) analyzed the punishment about committing crimes. Nevertheless, there are rare studies on the English translation and especially translation purpose of *the T'ang code*. *The T'ang Code* is a masterpiece of the Chinese legal system, specifying the basic principles of Tang law and explains the structural standards for applying these principles. Not only is it China's earliest law code to survive in its entirety, influencing all subsequent Chinese law, but it has also served as a model for codes of law in other East Asian countries, including Japan, Korea, and Vietnam.

This is the only translation of *the T'ang code* into a Western language. No one has taken this endeavor except the first volume of the Code, published in translation in 1979 and Volume II in 1997 by Wallace Johnson, who was the renowned professor in University of Kansas and thus his translation is more concerned with academic research. At the Oriental Law Seminar held by the University of Pennsylvania, his mentor, Bodie, introduced Chinese traditional law, from which Zhuang Weis realized that there was no foreign translation of Tang Law before, so he decided to translate the Code. His intended readers are Sinologists and people interested in the study of legal history and comparative law, such as historians, anthropologists and sociologists which is consistent with the translation purpose, that is, to introduce the situation of ancient Chinese law. It has aroused strong interest of cross-cultural researchers in that *the T'ang Code* is more than simply a legal document for contemporary readers. Researching into this Code sheds considerable light on Chinese society and culture. The image the construes has huge influences on present Chinese society like the priority over the conservation of the family and the interrelatedness of authority and responsibility. As China plays a pivotal role in the world, it is increasingly significant that individuals have intimate knowledge of a legal system that has developed for more than fifteen centuries. Undoubtedly, the availability of the complete *T'ang Code* in English is of high significance and necessity to achieve the goal.

The objective of Wallace Johnson's translation is to vastly increase access to the rich scholarly heritage to shed light on researches on *the Tang code* and comparative laws, and as such more attention is paid to annotation. Legal vocabulary, in a sense, embodies the distinctive legal culture of a particular legal system. "Famous law" is not just translated as General Principles but further added such explanatory words as Names [of the punishments and Standards [for their Application] , in which way the denotation of General Principles (like ...) is vivid and visualized. Another case in point is the translation "Gauntlet" into decapitation wherein the reason why decapitation is more serious than strangulation in degree: Our body is a heritage from our parents. When it comes to "lanrutaimiaomen", the evolution of this article from Qin dynasty to Tang dynasty is introduced in detail. Moreover, Chinese classics have been quoted to annotate legal regulations, for example, mention of *Shuo-wen chieh-tzu* when explaining "chi" and *Hanshu* while introducing repealing corporal punishment. For the sake of a positive readers' response, the first and foremost task the translator should undertake is to render the target text acceptable and veritable, by avoiding exotic cultural words, by promoting fluency and readability, or by refraining from knowingly misrepresenting any material facts or circumstances in the course of mediation.

Admittedly, the above-mentioned translation strategies enable target readers to understand the obscure legal terms in a easier way and thus arouse their interest in Chinese law. In addition, the discrimination between similar terms are analyzed to ensure the accuracy. "imprisonment" is rendered into "penal servitude" overthrowing Staunton's temporary banishment in that "penal servitude" isn't banishment but "forced labor in a fixed place". (Johnson, 1979) Such translation is beneficial for a better understanding of the difference between Chinese and western law and clearing the specific definition of Chinese legal terms and unification of its translation. It is well acknowledged that translation will be inevitably affected by

cultural elements, which will be present in translation terms or texts. Therefore, translation is not just a process of language transformation, but instead the reflection of one certain culture or even society.

Translation of The Great Ming Code and Translation

Purpose: The Great Ming Code was the last to come into people's vision compared with another two Codes. Only the sinologist Edward Farmer introduced the law promulgated in the Ming Dynasty and analyzed the status of The Great Ming Code for Jiang Yonglin's reference. Edward Farmer's book published in 1995 is accompanied by an English translation of The Great Ming Code. (Farmer, 1995) However, it hasn't been rendered into English until in 2005 by Jiang Yonglin. Jiang Yonglin is an Associate Professor of University of Minnesota, whose research focuses on legal culture in imperial China and ethnicity and law in contemporary China. As early as in 1997 he translated some of the articles in English in his doctoral thesis. His translation makes it possible for western scholars to research into Chinese ancient legal system from 1400s-1700s, and thus enjoys popularity in the western world. The successive appearance of English translation of The Great Qing Code and The T'ang code make Jiang Yonglin concerned about The Great Ming Code that has been left alone. As the former president of the Society for Ming Studies, Jiang Yonglin aims to fill in the gap between English translation of Chinese legal classics and promote the intercultural communication between Chinese and Western world.

On the other hand, in 1988, after Jiang Yonglin worked as visiting scholar at the University of Minnesota, he began to help Edward Farmer on revising his translation of Ming legal documents. In 1990, just before he entered Ph. D. program, he assisted William Jones with his translation of *The Great Qing Code*, which not only enable him to be equipped with high level of language capacity but also endows him with new perspective from which to study Chinese legal history. Admittedly, it is Jiang Yonglin that construes the whole network of English translation of Chinese legal classics. Jiang Yonglin's translation wields far-flung influence over target readers since it has successfully presented the Code to western readers via diversified strategies. Translation strategies, more often than not, embody the translator's language style at the level of words, sentences and textual coherence (Leech & Short, 2001) and further are restricted by translation goals (Vermeer, 2000). "Wuxing" and "shie" play a pivotal role in Chinese legal system and is also the combination of Confucianism and feudalism, which are rendered into "The Five Punishments (Wuxing)" and "Ten abominations (shie)" respectively. The word-for-word translation is the easy and direct one for readers to understand. Starting from "Doing what ought not to be done", Jiang Yonglin reveals that there is no difference between imperial and social world in that the government's duty and rights are without limit. Moreover, such cultural-specific conceptions as "liuchen", "tiandi", "tianxia". As is evidenced by the above examples, Jiang Yonglin undertakes the task to make the translation acceptable meanwhile retaining the nature and culture of source language. There are no two countries using the exactly same legal words to express the same meanings (Steiner, 1998). As for cultural-specific conceptions, Jiang Yonglin adopts the literal translation with explaining information, enabling target readers to appreciate the specific culture in those conceptions, particular structure and denotation, in which way the exotic culture is maintained and connotation is also supplemented.

“Fly” is converted into “carriage” with square bracket [emperor]. It is well known that is home to ancient China. The literal translation leaves deeper impression on target readers about Chinese culture. Meanwhile, such supplemented information as “emperor” will make readers get a comprehensive understanding of it. Once “Fly” was translated into “sovereign” and “emperor” directly by Staunton and William C. Jones. Then, Wallace Johnson rendered it into “the carriage of emperor”, which in fact hasn’t reflected the denotation of the cultural word in that “Fly” initially refers to “the carriage of emperor” but gradually can be used to refer to “emperor”. There exist such circumstances as some legal terms in one culture can’t be well embraced by another culture, and thus causes ambiguity. With regard to the linguistic predicament in translating *The Great Ming Code*, Jiang Yonglin exerts every effort to explain some legal words based on his understanding of the source legal system in an attempt to guarantee target readers’ reception. It must be pointed out that Jiang Yonglin’s translation more or less has been influenced by William C. Jones and Wallace Johnson. “《Daming Law》” is translated into “The Great Ming Code” combined with “Da Ming Lü”, the same with William C. Jones’s translation in which “Daqing Law” is “The Great Qing Code”. (2005: xlvi) “Political ambassador” and “Inspect” are “Provincial Administration Commissioner” and “Provincial Surveillance Commissioner”, similar to William C. Jones’s translation. (Jiang, 2005 : xxxvii: 227; Jones, 1994:199) Inheriting Wallace Johnson’s translation of “Famous law” (General Principles), Jiang Yonglin interpreted it as “Laws on Punishments and General Principles”. (Jiang, 2005:17) Nevertheless, different from Wallace Johnson’s “barbarians”, which has caused considerable conflicts in Chinese and Britain interactions, Jiang Yonlin put it as “persons beyond the pale of civilization”, a more neutral and accurate translation loyal to its original meaning”.

Compared with other translators, Jiang Yonglin is aimed to reveal the original text of *The Great Ming Code* and thus foster the interaction between China and Britain in terms of law and culture. Much importance has been attached to the equivalence of terms and acceptability of the text so as to make target readers know more about Chinese law and realize the effective communication between exotic laws, which Johnson and Jones hasn’t taken into consideration. Admittedly, it is due to distinctive purposes that urge various translations.

Conclusion

Translation of Chinese legal classics mainly involves *The Great Qing Code*, *The T’ang code* and *The Great Ming Code*. Diversified purposes bring about different style and wording of the translations concerned. Staunton attempts to reveal the scared veil of Chinese law so as to promote interaction between China and Britain and further enable Britain gain priority in the trade communication. Accordingly, he exerts every effort to make the translation acceptable by target readers without considering the source culture, under which circumstance the translation is unfaithful to the source text and ambiguous. Wallace Johnson and Jiang Yonglin’s translation

intend to provide reference for Chinese law study and fill in the gap in the translation of pre-modern Chinese codes. The former stresses the interpretation of conception and discrimination of different legal rules whereas the latter shows special concern for the specific cultural connotation of legal terms on the basis of faithfulness to source text. The main research object of this paper is the English translation of codes rather than the history of legal classics, although the latter is of great significance for enriching the study of English translation of legal classics. It should be pointed out that this paper is only a preliminary attempt to deepen the study of the translation of Chinese legal codes. It is hoped that this study can shed certain light on English translation of Chinese codes.

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