Cultural Transfer in Legal Translation: 
A Case Study of Translating the Common Law into Chinese in Hong Kong

Ling Wang
Department of Translation
The Chinese University of Hong Kong

Abstract

This paper addresses the question of cultural transfer in legislative translation in the case of Hong Kong. When Hong Kong became a British colony in 1842, the British brought along a whole lot of “culture-specific” things, both tangible and intangible, of which the common law was one. When the Official Languages Ordinance was amended in 1987 to stipulate that the laws of Hong Kong be available in both Chinese and English, the translation of the English legislation enacted before 1987 into Chinese in Hong Kong was clearly a mammoth legal translation project. The translation was completed before the handover of the sovereignty of Hong Kong to China on 1 July 1997.

Under the bilingual legislation system of Hong Kong, the English text and its Chinese counterpart must fulfill two conditions. First, they must have
equal legal status. Second, they must convey the same legal meaning. The first condition must be, and was in fact, met by legislative measures. However, how the second condition can be met is still not clear to many translation scholars, students and practising law translators. This paper argues that law translation in the context of Hong Kong cannot be a case of domestication in transferring the legal culture of the common law into the Chinese language. It investigates the theoretical aspects of the terminology and the relationship between the common law terminology and the legal concepts they stand for. By analyzing selected translations of translated common law terminology, it shows that translation as an act of interlingual communication and translation as an act of cultural transfer belong to two different levels of linguistic operation. Meta-linguistic and extra-translational mechanisms are required in order to effect successful cultural transfer in legislative translation.

Keywords: legislative translation, legal terminology, legal concept, cultural transfer, meta-linguistic mechanism