

then.

Some Chinese legal terms such as the ‘disanzhe (the third party, extramarital lover)’, ‘tanshi quan (visitation rights)’, ‘lihun sunhai peichang (divorce damages)’ already came into being in many legal documents but they have not been taken in the dictionaries yet due to the ‘jet lag’. ‘Si huan (reprieved death penalty)’ system is also unique for China. It was founded in 1950s on the basis of China's national conditions and Cautious Punishment. ⑤ These are the cases reflecting the intertemporal feature in legal language. When these new terms are found neither in Chinese legal dictionaries nor in the foreign legal dictionaries and regulations, particularly when the legal and cultural background of the related systems can't be examined from the history of the foreign legal systems, great challenges would arise in legal language translation.

The lack of equivalence in translation for legal terms sometimes is due to the particular reasons in history. For example, ‘zuigao fayuan’ cannot simply be translated as ‘the Highest Court’, as ‘the Highest Court’ in English should be ‘the Supreme Court’. But in New York State it is ‘the Court of Appeals’ which owes its origin to the legal history of the state.

In Canada, the term ‘civil’ initially meant ‘minshi de (civil)’ or ‘pingmin de (civilians)’ as opposed to the term ‘criminal’. With the evolution of the legal culture in Canada, the meaning gradually extended to ‘civilian crime’ and now it stands for ‘ordinary criminal’ in Canadian Defense Act. Likewise, ‘civil court’ means a court of ordinary criminal jurisdiction in Canada and includes a court of summary jurisdiction. ⑥ Such term with intertemporal characteristics increases the complexities in translation. Thus the misled translation occurs when ‘civil prisoner’ is put into ‘minshi fan’ in Chinese. Similar terms are ‘civil court’ and ‘civil prisoner’. According to the uniqueness of Canadian Law and its cultural implication, ‘civil court’ is no longer the ‘minshi fayuan’ in the common sense as ‘a court with jurisdiction over non-criminal cases’. Instead, it refers to the ‘General Criminal Court’, namely, a court of ordinary criminal jurisdiction in Canada including a court of summary jurisdiction. ‘Civil prison’ means ‘putong jianyu (ordinary prison)’, referring to the prison incarcerating the prisoners under the 2-year prison sentences in civil court trial while ‘civil prisoner’ refers to the ‘putong zuifan (ordinary criminals)’ in civil prison.

IV. CONCLUSION

Translation is regarded as a form of communication and interaction, which is determined by the communicative nature of interlingual translation. For this reason, the communicative behavior theory became one of the foundations for contemporary translation studies. Due to the differences among Chinese and western laws, the active communicative role of a translator as a “cultural operator” (Sarcevic 1997,4), not only at the language level, but also at other levels such as history, tradition, institution, theory and culture, is particularly prominent. Under the guidance of the dynamic principles of the communicative function theory,

more systematic and scientific researchers are to be conducted to all factors in translation process. The theoretical and case analysis in legal language translation has found that the textual communicative theory in translation is in line with the general rules of translation practice and can effectively serve as the practical guidance in legal language translation.

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NOTES:

① The term was coined by Dell Hymes in 1966, reacting against the perceived inadequacy of Noam Chomsky's (1965) distinction between competence and performance. To address Chomsky's abstract notion of competence, Hymes undertook ethnographic exploration of communicative competence that included “communicative form and function in integral relation to each other”. The approach pioneered by Hymes is now known as the ethnography of communication. http://en.wikipedia.org/wiki/Communicative_competence Last modified on 15 December 2012 at 06:33.

② ‘Yellow dog contract’, Black's Law Dictionary (9th ed. 2009), <http://international.westlaw.com> Digital library database of EAST CHINA U OF POLITICS & LAW.

③ ‘Lemon Law’, [http://en.wikipedia.org/wiki/Lemon_\(automobile\)](http://en.wikipedia.org/wiki/Lemon_(automobile)) last modified on 15 December 2012 at 15:19.

④ ‘Lemon law’, Black's Law Dictionary (9th ed. 2009), <http://international.westlaw.com> Digital library database of EAST CHINA U OF POLITICS & LAW.

⑤ ‘Shen Xing’ -- the legal thought recorded in one of the earliest Chinese legal literatures Shang Shu. <http://wenku.baidu.com/view/55085a3683c4bb4cf7ecd1a9.html>

⑥ Canadian NATIONAL DEFENCE ACT (RSC 1985 c N-5) <http://www.canadianprisonlaw.com/misc/national.htm>

REFERENCES

- [1] Bryan A. Garner. 1999. Black's Law Dictionary, 1357. USA: West Group.
- [2] Bryan A. Garner. 2009. Black's Law Dictionary. 141. Thomson West.
- [3] Chen, Zhongcheng. 1992. On Legal Term Translation, 89. Beijing: China Translation and Publishing Corporation.
- [4] Chen, Zhongcheng. 1998. Distinguishing the Error Corrections on English-Chinese Translation of Some Legal Terms, 82. Beijing: Law Press.
- [5] Chen, Zhongcheng. 2000. Pool of Translation in Legal Garden, 256. Beijing: Law Press.
- [6] Collin, P.H. 1998. Colin Learner's Law Dictionary. 302. Beijing: World Publishing Company.
- [7] Hu Dan. 2006: Analysis on the Translation of Some Names in Some Chinese-English Legal Dictionaries. Zhong Shan University Forum. 9: 2.
- [8] Liu Weiming. 2003. On Forensic Linguistics, 78. Beijing: China Economic Publisher.

