

A Study of English Translation of *The Great Ming Code* from the Perspective of Ontological Hermeneutics

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Abstract: It is well acknowledged that to translate is to interpret in a different language, and thus research into the English translation of *The Great Ming Code* based on ontological hermeneutics can be regarded as understanding and further interpretation of the ontological truth and value of the law code. Jiang Yonglin's translation has at least such levels as linguistic, theoretical and ontological meanings, thus forming different interpretative circles, in which the ontological level is the most essential and significant one influencing other understanding and meanings. An analysis of the circles of interpretation in English translation reveals that Jiang Yonglin's translation is indeed sufficient to be seen as adequate and acceptable in the interpretation in spite of the differences in legal system and philosophical thinking between China and the West. It is hoped that the present study can provide both theoretical and practical reference for classics translation and appreciation as well as conducive to the construction of the discourse system of Chinese legal cultural and its dissemination.

Key words: ontological hermeneutics, *The Great Ming Code*, Chinese classics

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I. Introduction

The Great Ming Code is enormously influential in China's history as well as Asia, which stipulates Ming legal norms. To be more specific, it is a codification of criminal norms—a penal code. A systematically organized legal document, the Code defines crimes, specifies punishments, and stipulates general principles by which the punishments are applied. Insofar, few studies have been carried out to research into the English translation of the Code. The liability for punishment and those factors affecting such liability as social and political statuses are analyzed (Wallace1995). Marme (2012) holds that Jiang Yonglin's translation of *The Great Ming Code* provides a starting point for scholars who are interested in Chinese legal system and culture in the late imperial period. Weiting Guo (2015) puts that Chinese law is not oppressive through analyzing the translation text.

Etymologically, translation evokes an act of moving or carrying across from one place or position to another, or of changing from one state of things to another. This does not apply only to the words of different languages, but also to human beings and their most important properties. Heidegger holds that translation is interpretation and understanding of the original text. George Steiner further puts "To understand is to decipher. To hear significance is to translate."(1998:12)Understanding is ontology, i.e. to understand, reveal and express the truth. Cheng Zhongying (2017) regards understanding as the grasp of meaning. Interpretation is the reflection of the idea of a

real system. Classic interpretation should maintain the authenticity and perfection of classics, not only to seek the truth of its parts, but also to maintain the truth of its whole or the whole.

Ontological hermeneutics is the science about the validity and authenticity of interpretation and on how to understand texts. Ontological, or more precisely, onto-generatively inevitably involves the dynamic process in which onto, the source and the root, yields the result of generatively, as the objective. The so-called ontology is the viewpoint, belief or understanding of truth and value in the process of development.

II. Interpretative circles of ontological hermeneutics

Ontological hermeneutics holds that interpretation of texts includes at least three basic levels of meaning. At the linguistic level, the meanings of any language unit, such as a word or a sentence, are determined by the historical meaning of the text. At the conceptual or theoretical level, any meaning of a text is the interpreter's independent and rational thinking. Conceptual considerations come from the text itself. In order to interpret the meanings of terms, phrases, etc. in a given text, the interpreter may resort to some hypothesis or presupposed truth or viewpoint, thus the established text becomes a whole framework of many concepts and propositions. The meaning of ontological level is the interpretation and validity of ontological truth of text. The interpreter's balanced consideration of the three levels of meaning can be regarded as a hermeneutic circle of different levels. The truth of ontology is stipulated by the circle of ontological interpretation, which is the most important interpretation of meaning at any level and the decisive factor for the balance of meaning at all levels.

III. Significance of ontological truth of *The Great Ming Code*

From the perspective of ontological hermeneutics, the ontological truth of *The Great Ming Code* is its authentic value. *The Great Ming Code* stipulates Ming legal norms. Zhu Yuanzhang often proclaimed that he endeavored to "establish the law by eliminating the past so that he could guide the people in eliminating Mongol influence. Nevertheless, the times had changed. It was impossible for all the present institutions to follow the traditions of the Tang. What traditions should be kept and what rejected? What new elements should be drawn from the present or even from Yuan institutions? These were not easy questions for the early Ming ruling elite, but through their rigorous efforts, they eventually created a new legal identity for the Chinese empire. Therefore, *The Great Ming Code* is the fundamental law and yardstick of the Ming dynasty. It was decided that judicial activities in and outside the capital should be based on the Code that was promulgated in the thirtieth year. It is not exaggerated to say that the Code regulated all important areas of social relationships.

IV. Interpretation circle in English translation of *The Great Ming Code*

Understanding the truth of *The Great Ming Code* ontology is the basis of linguistic level and theoretical concept level. It is also the most important and decisive factor in integrating and balancing the three levels of meaning. Translator can not only take the ontological level of truth as the starting point of interpretation, but also the presupposition of the theoretical level to form the expression of the meaning according to his understanding of the ontology. Therefore, the meaning of the three levels can be regarded as an interpretation circle. The translator, as an aesthetic subject, is naturally subject to such factors as his personal interests, needs, knowledge, experience, literary and artistic accomplishment, appreciation habits and even personal beliefs with social factors, which constitute the translator's subjectivity while understanding and interpretation the original text.(Xu, Jun, 2014)It is believed that hermeneutics also includes subjectivity, but more emphasis has been placed on the dynamic process where subjectivity and objectivity are interwoven with each other. An analysis of these interpretation circles in the English translation of *The Great Ming Code* will help us to understand the essential features of Jiang Yonglin's translation.

V. At linguistic level

The meaning of any linguistic sign is its translation into some further, alternative sign (Jakobson 1971).It is the cognitive function which "not only admits but directly requires recoding interpretation, i.e., translation"(ibid., 265),and which further more guarantees a general translatability within and between

languages. The translator as a writer of law must have the freedom of an artist, i.e. the freedom to use to the fullest extent everything that language permits (Driedger, 1982b). Since even slight changes in language may affect the substance, translators must always take account of legal factors when making linguistic decisions. As New mark once remarked: "Differences in terminology and function must be noted and as much attention paid to the content as to the intention and all possible interpretations and misinterpretations of the text" (1982: 47). Therefore, it can be discerned that immense square brackets [] are used as the supplementary information or pinyin system to make the translation more acceptable, for instance, regulation for executing military personnel guilty of treason are rendered into: *In all cases where military personnel [junren] in fortified cities of distant frontiers plot treason and the commandant [shouyu] guan seizes them and brings them to the authorities, if there is good evidence that proves the matter clearly, and the criminals make confessions upon interrogation, then hand over the matter to the Regional Military Commission [Du Zhihui Shi Si], which shall assign officials to conduct the interrogation. If there is no injustice in executing them, the criminals shall be executed immediately in accordance with the law.* It is laborious for target readers to figure out what military personnel, the commandant and the Regional Military Commission do really refer to, after all, they are endowed with specific Chinese feature during ancient period. The research material constructs the ancient Chinese phonetic system. He believes that the reconstructed ancient Chinese phonetic system can also be applied to the interpretation of difficult words in *The Great Ming Code*. Explanation helps to scientifically test the meaning of words and expressions. The use of pinyin system in the form of brackets seems to make the sentence complex but instead easy and convenient for readers to read and then further probe into Chinese ancient legal system. In addition, some missing information is provided to make the text more coherent and acceptable, like *the guides, brokers and those who hide [the salt smugglers] and who store [the smuggled salt] shall be punished by 90 strokes of beating with the heavy stick and penal servitude for two and one-half years. Those [who are hired to] carry the goods with poles or haul them in carts or on animals shall be punished by 80 strokes beating with the heavy stick and penal servitude for two years. For those who are not bound [by law] to arrest [the perpetrators of illegal salt transactions] but who can accuse and capture them, ...* in which the object "the salt smuggler", "the smuggled salt" and "the perpetrators of illegal salt transactions", attributer "who are hired to" and propositional phrase "by law" are all supplemented for the convenience of target readers since it can save much time to analyze the implied meaning of the legal text.

VI. At theoretical level

In the introduction part of the translated version, it is said that the Code, as the legal milestone in Chinese history, is a significant source for understanding not only Chinese history and law but also East Asian cultural interactions. The nature of Great Ming Code as the fundamental law of the dynasty is evinced in its comprehensiveness and its intricate relationship with other legal systems of the Hongwu reign. By restricting the Code under the major categories of cosmological significance, the early Ming ruling elite envisioned a legal text that regulated all important areas of social relations. The Great Ming Code was stable and effective throughout the entire Ming period was probably because, to a great extent, the law found the "happy medium" of the time.

At first, the 382 regulations (*li*) that were attached to the Code during the Wanli reign are not translated for acceptability. Regulation for "committing private crimes by civil or military officials", that is, "一凡強盜係親屬首告別官番其聚眾不及十人及止行劫一次者依律免律罪減等等項擬斷發落若聚眾至十人及行劫累次者係大功以上親屬告發附近小功以下親屬告發邊衛各充軍其親屬本身被劫因而告訴到官者徑依親屬相盜律科罪不在此例;一竊盜自首不實不盡及知人欲告而於財主處首還律該減等擬罪者俱免刺;一凡自首強盜除殺死人命姦人妻女燒人房屋罪犯深重不准外其餘雖曾傷人隨即不復不死者亦姑自首照兇徒執持兇器傷人事例問擬邊衛充軍其放火燒人空房及田場積聚之物者依律充徒若計所燒之物重罪者亦止照於火延燒事例俱發邊衛充軍" is one case in point. The original detailed punishment for committing private crimes by civil or military officials undoubtedly provides concrete circumstances for people at that time, but it is inevitably a burdensome task for readers to get the essential elements in the regulation. Admittedly, such a deletion is accessible and acceptable for target readers without changing the main flavor the legal text. Then, Jiang Yonglin

is both a Sinologist and an excellent linguist, who once worked for the Association for Ming Studies. His translation is intended to provide a brand-new approach to legal classics translation different from English translation of *The Tang Code* and *The Qing Code*.

Due to the fact that some legal systems contain a number of terms with no comparable counterparts in other legal systems, (Sarcevic 1997), therefore, Jiang Yonglin borrowed or created new terms to when translating *The Great Ming Code*. For instance, there are no equivalents for such copper currency unit as *guan*, unit of length as *li* and *zhang*, unit of measure as *jin* and *liang* in the western world, accordingly, the exotic words and expressions are directly borrowed into the English translation. Besides, the title of concrete article is also presented perfectly without losing Chinese legal flavor, for example, “死囚令人自殺” and “老幼不拷訊” are translated into “prisoners sentenced to death ordering others to kill them” and “old and young persons are not put to judicial torture” with such added information as “siqiulingrenzisha” and “laoyoubukaoxun” where in free translation and transliteration are employed at the same time so as to foster readers’ reception and retain Chinese culture.

VII. At ontological level

From the above-mentioned analysis, it can be seen that Jiang Yonglin’s translation has made a certain degree of academic interpretation of the text of *The Great Ming Code*, with specific reference to the translation of Tang Code and The Great Qing Code. The translated version is thus far more professional and penetrating due to the translator’s impartial standpoint. While interpreting Chinese legal classics, he exerts every effort to figure out the whole and cosmological ancient legal system, and meanwhile upholds perfectly independently position without adopting the views of any particular school of Chinese commentators.

Legal text is different from common one as it has the standardized style and legal translators can’t achieve language purity at the expense of substantive equality. To be effective in their new role as text producers, they must know when, where, and how they can be creative and still honor the restrictions of the profession. Bear the principle of faithfulness and fidelity in mind, Jiang Yonglin chooses to observe the strict rule of legal translation. It is only natural that legal rules are most frequently formulated in conditional sentences (cf. Bocquet, 1994; Cornu, 1990). A case in point is such translation as “*In all cases where two persons jointly commit a crime and one of them takes flight, if the one who has been seized claims that the one who is in flight is the principal and there are no other witnesses, then he shall be punished as an accessory. If the one who is in flight the putative principal is seized thereafter and claims that the one who was first seized is the principal, and the interrogation confirms it, then the criminal who was first seized shall be punished as the principal*”. As such, the nature and flavor of Chinese culture are maintained without changing the sentence order since Jiang Yonglin faithfully follows the syntax of the source text as closely as possible, mainly not of fear that any change might disturb the thought process.

The effectiveness of the translation strategies adopted is proven by the popularity of its version in the target culture. It is also evident that strategies adopted by Jiang Yonglin and the textual-linguistic make-up are to influence the position of the translated version in the recipient system. The interpretation circle of Jiang Yonglin’s translation has presented the ontological truth of *The Great Ming Code* to an immense extent.

Conclusion

The philosophy of two heterogeneous cultures in China and the west is two totally different systems. Nevertheless, it is proper and effective to probe into Chinese philosophy with the theoretical framework of western philosophy. The Chinese legal classics will be authentic and meaningful only after full ontological interpretation while going outside. Truth involves creative changes, and the same is true with understanding, consequently we must constantly strive for creative adjustment to foster the realization of harmonious interaction between China and the western world in enormous aspects.

References

- [1.] Bocquet, C. (1994). *Pour une méthode de traduction juridique*, Prilly: CB Seervice.
- [2.] Cheng B,Y.(2017). *Ontological Hermeneutics*. Beijing: People's University Publication House.
- [3.] Cornu, G. (1990). *Linguistique juridique*, Paris: Montchrestein.
- [4.] Driedger, E. A. (1982b). *A Manual of Instruction for Legislative and Legal Writing*, Ottawa: Department of Justice.
- [5.] Jakobson, R. (1971). On linguistic aspects of translation. *In Word and language*. Vol. 2 of *Selected writings*, 2606. The Hague: Mouton.
- [6.] Marme, M. (2012). The Mandate of Heaven and The Great Ming Code. *Journal of Asian Studies*, 71(1), 215-217.
- [7.] Newmark, P. (1982) *Approaches to Translation*, Oxford: Pergamon.
- [8.] Steiner, G. (1998). "After babel: Aspects of language and translation. Oxford Paperbacks.
- [9.] Wallace, J. (1995). Status and liability for punishment in the Tang Code. *Chi.-Kent. L. Rev.* 71: 217-232.
- [10.] Weiting, G. (2015). Legal cosmology and *The Great Ming Code*, *H-Law, H-Net Reviews*. Retrieved from <https://www.h-net.org/reviews/showpdf.php?id=42799>. Viewed on 10th September 2017.
- [11.] Xu, J. (2014). *On translation*. Nanjing: Yilin Publishing House.