Proceedings of the 5th International Conference on Literature, Language, and Culture Development
DOI: 10.54254/2753-7064/2026.34673

Modern Chinese Legal Translation from the Perspective of Cannibalistic Translation: Subjectivity Reconstruction and Discourse Generation

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Abstract. This study takes Cannibalistic Translation Theory as the theoretical framework to re-examine the historical practice and cultural significance of legal translation in Modern China. Different from existing interpretive approaches that simplify modern Chinese legal translation as cultural adaptation, localization or political manipulation, it proceeds from the core issue of "translational subjectivity", and points out that against the historical context of national crisis and institutional transformation, legal translation is not a one-way receptive act, but a subjective practice gradually generated through selective absorption, semantic restructuring and term renaming. On the basis of sorting out the historical context of legal translation in Modern China, this study analyzes the power structure, discourse reconstruction and ideological shaping mechanism reflected in the translation process by combining representative legal texts and legal dictionary cases. The study finds that the formation of modern Chinese legal terminology system involves not only the import of foreign concepts of the Rule of Law, but also the selective appropriation and reproduction of other-oriented discourses. The cannibalistic perspective helps break the linear narrative of "passive acceptance" and provides a new theoretical path for understanding the subjectivity and cultural strategies in legal translation in Modern China.

Keywords: Translation Cannibalism, Legal Translation, Subjectivity, Cultural Power

1. Introduction

Since the Opium War, a series of legal translation activities carried out in modern China have laid the foundation for the modernization of China's rule of law. The modern Chinese legal system bore strong imitative features and was deeply influenced by Western legal ideas. Mr. He QinHua once described modern Chinese jurisprudence as "translation-based jurisprudence" [1]. In the context of globalization, legal translation serves as a vital link to promote legal exchanges and cooperation between countries with different cultures. The modernization of China's legal system took place amid a severe national crisis, representing an unprecedented legal reform. Given the uneven strength between China and Western countries at that time, China had to learn from Western capitalist countries to modernize its legal system, making this reform an externally driven transformation. In this process, the Westernization Faction built a bridge connecting Chinese and Western cultures and

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acted as an intermediary [2]. As an important part of China's modernization drive, modern legal translation was influenced by traditional Chinese culture and institutions, while also impacted by Western legal systems. Modern China went through various hardships and profound changes across all social sectors. The introduction of foreign legal works and jurisprudence was only a minor part of these changes, yet this often overlooked undertaking exerted an immeasurable influence on China's development then and thereafter [3]. Exploring the characteristics and impacts of modern Chinese legal translation is essential for understanding the history of China's modern rule of law and the process of legal modernization.

The innovation of this study lies in adopting the cannibalistic perspective to break the narrative of passive acceptance and reveal the construction process of subjectivity in modern legal translation. From the perspective of Cannibalistic Translation Theory, this paper analyzes the operation of culture, politics and power in legal translation activities, and explores the uniqueness of modern Chinese legal translation. As an important analytical framework for translation studies, Cannibalistic Translation Theory mainly focuses on conflicts and games between texts as well as between cultures in translation practices.

2. Cannibalistic translation theory

This chapter elaborates on the basic concepts and core viewpoints of Cannibalistic Translation Theory, and further discusses the rationality and explanatory power of applying this theory to legal translation research. The sorting and definition of relevant theories provide theoretical support for the subsequent analysis.

2.1. Theoretical overview

Cannibalism is a post-colonial critical discourse originated from Brazil's historical and cultural background. It carries a spirit of irreverence, mockery and defiance towards the culture of Western suzerain states. The theory advocates absorbing foreign cultures, extracting their essence to strengthen local cultures and highlight local cultural features, so as to establish independent cultural identity [4]. From the cannibalistic perspective, translation is regarded as a process of power operation. Translators do not merely convey the original meaning of texts; instead, they reinterpret and reconstruct texts within specific cultural and power frameworks. In this sense, translation evolves from a simple linguistic conversion into cultural interaction and power games. Its essence is a reproduction process that integrates the source text into the target cultural system.

2.2. Analytical dimensions

To distinguish the cannibalistic perspective from existing research ideas such as cultural adaptation, localization and politically manipulated translation, it is necessary to clarify the definition of the "subject" in translation studies first. The subject discussed here does not refer to individual translators, but the actors who hold the power of selection, interpretation and decision-making in translation activities. In other words, the core question of this research is: who decides which texts can enter the target cultural system, which concepts are retained, revised or discarded, and how these choices shape the specific discourse order.

In theories of cultural adaptation and localization, the primary goal of translation is to bridge cultural gaps and improve the acceptability of texts in the target context. The translation subject is often constrained by standards such as "acceptability" and "functional equivalence", and translators

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are mostly regarded as intermediaries or coordinators between different cultures. The theory of politically manipulated translation focuses more on how translation serves the established power structure, and analyzes translators' behaviors under the restrictions of state institutions and ideologies. In both research approaches, the translation subject is depicted as a role that passively adapts or obeys, with its subjective initiative greatly limited.

In contrast, the cannibalistic perspective highlights an active and confrontational subjective stance. From this theoretical view, the purpose of translation is not to eliminate cultural differences, but to absorb foreign texts through the process of "swallowing, digestion and reconstruction", so as to consolidate and develop the local cultural system. Translators and their cultural communities do not simply copy or reconcile source texts. Instead, they selectively absorb and restructure the original meanings, leading foreign discourses to be redefined and repositioned in a new linguistic environment. Although such subjectivity cannot completely change the existing power structure, it demonstrates the capacity to symbolically appropriate and reproduce foreign discourses under an unequal cultural context.

When applying this subjective perspective to the research on modern Chinese legal translation, we can find that the formation of modern Chinese legal terminology system is not a one-way acceptance of Western legal thoughts. Instead, a new set of legal discourse system was gradually established through introduction, transformation and renaming. Key terms such as "immovable property", "legal person" and "kinship" were derived from Western legal concepts, and meanwhile went through semantic screening and systematic reconstruction within the Chinese linguistic system. It is evident that modern Chinese legal translation is more than a simple act of cultural adaptation; it is a subjective practice that took shape amid the historical crises of modern China.

The application of Cannibalistic Translation Theory in legal translation research can be divided into three specific aspects. First, in terms of legal cultural transformation, the theory emphasizes the transformation and absorption of advanced Western ideas under the rule of law in translation. Translators need to take both linguistic conversion and cultural differences into account. Large-scale introduction of Western legal works officially began in the Westernization Movement period. At that time, Western countries had completed the modernization of the rule of law and formed complete judicial procedures, while China's legal system remained autocratic with vastly different legal concepts. Therefore, translators had to make translated texts conform to the acceptance habits of traditional Chinese legal concepts.

Second, the theory reveals power relations embedded in translation, namely the process in which translators reinterpret and recreate source texts. Through translation, translators convey not only linguistic information, but also cultural implications and power relations, which further influence the reception and understanding of translated works.

Third, the theory addresses cultural conflicts in cross-cultural translation. Cultural conflicts frequently arise in cross-cultural translation practices. For instance, after the First Sino-Japanese War, Chinese people realized that Japan, an eastern neighboring country, also had valuable experiences to learn from. Major law revision institutions launched large-scale translation of Japanese legal documents. The prevailing trend of translating Japanese legal works in this period introduced Japan's police system and municipal administration system to China, promoted the enlightenment and spread of civil and commercial law, and greatly transformed China's traditional official system and administrative governance. It also paved the way for a series of measures of constitutional imitation in the late Qing Dynasty.

In short, Cannibalistic Translation Theory puts forward a solution to cultural conflicts: treating foreign texts as food to be swallowed and digested. Legal translators no longer engage in simple

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imitation and copying. Instead, they swallow, interpret and digest source texts, draw on the essence of source-language works, and build a legal system and legal culture suited to national conditions.

3. Historical context of modern Chinese legal translation

From the cannibalistic perspective, the historical context of modern Chinese legal translation is not merely an external background, but also a factor that shapes the translation subject. A review of the development of modern Chinese legal translation reveals its unique historical and cultural context.

From the mid-19th century to the early 20th century, China was forced to engage with and introduce Western legal systems and norms under the invasion of Western powers and the constraints of unequal treaties. To maintain its rule, the Qing government carried out a series of legal reforms. From the Westernization Movement to the Hundred Days' Reform, the imperial court attempted to transform the legal system through institutional reforms. During this period, legal translation activities became increasingly prevalent, including officially organized translation and private translation by individual translators, which laid a foundation for the spread of Western legal knowledge. However, restricted by traditional institutions and ideological concepts, these reforms achieved limited results. It was not until the 1911 Revolution overthrew the Qing Dynasty that China entered a new stage of modern rule of law construction. In the following years, China's legal concepts and legal system experienced turbulent changes including the initial development of the legal system in the Republic of China, the War of Resistance against Japanese Aggression and the Liberation War, and gradually improved amid hardships.

Regime changes and wars formed the specific social and cultural context for modern Chinese legal translation. Firstly, Western legal systems and cultures largely dominated the selection and standardization of modern legal terminology. Forced by unequal treaties, the Qing government had to study and refer to legal systems and documents of Western powers. As a result, legal translation widely adopted Western terms and translation norms, and generally leaned towards Western legal culture. Secondly, the signing of unequal treaties triggered ideological changes and legal reforms in Chinese society. Chinese people came to realize that modernization reforms were necessary to cope with external pressures, which drove the large-scale introduction of Western legal ideas and institutions, and promoted research and translation of foreign legal documents and literatures. After the founding of the People's Republic of China in 1949, China stepped into the stage of socialist rule of law construction, and gradually established a legal system with the Constitution as the core. The scope of legal translation was further expanded, and the translation of numerous international legal documents provided discourse resources for China's participation in international affairs. Overall, modern Chinese legal translation activities were far more than linguistic conversion; they represented communication between different legal concepts.

4. Discourse swallowing and regeneration

This chapter analyzes how Western legal discourse swallowed and replaced traditional Chinese legal systems in the process of translation through typical cases. It also discusses how modern Chinese translators re-absorbed foreign legal discourses and reshaped the linguistic system of local laws.

4.1. Restatement and distortion in Western legal discourse

The English translation of *The Great Qing Legal Code* and the compilation of *Dictionary of the Chinese Language* are typical cases for the research of modern Chinese legal translation. Both

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works reflect discourse reconstruction in the cross-cultural transmission of legal texts. Limited by personal knowledge and cognitive level of the era, translators of these works did not handle source texts out of simple misunderstanding or technical errors. In the cannibalistic framework, the translation subject does not refer to a single translator, but a collective cultural actor taking shape in translation practices. Under an asymmetric power structure, such cultural actors carried out selective absorption and structural restructuring, and interpreted Chinese laws within the framework of Western discourse. In this way, translation became a process of redistribution of discourse power, and the image of Chinese laws was reshaped accordingly.

Sir George Thomas Staunton translated *The Great Qing Legal Code* in 1810. As an important written code of the Qing Dynasty, this work is the core carrier of ancient Chinese legal culture. Research shows that Staunton's misinterpretations of *The Great Qing Legal Code* fall into two categories. On the one hand, he evaded and simplified much cultural information of China in translation. On the other hand, he interpreted and replaced traditional Chinese legal names and terms purely based on Western legal vocabulary [5]. In the translation process, Staunton applied European civilizational models to China, ignoring the fact that traditional Chinese laws were closely linked to social structures, governance needs and historical evolution. He portrayed China as an autocratic, backward and isolated other. His translation principles were strongly utilitarian and politically oriented, aiming to seek legal legitimacy for Britain's interests in China. It is clear that this translation was no longer a simple exchange of information, but a redistribution of discourse dominance. Within the framework of European legal knowledge, Staunton recoded Chinese legal texts. Through term replacement and institutional analogy, he explained the laws of the Qing Dynasty under the conceptual system of British law.

Dictionary of the Chinese Language was compiled by Robert Morrison on the basis of an early Qing dictionary of the same name. It contains a large number of early Chinese legal terms, which represent the discourse system of Chinese people before the modernization of China's legal system [6]. The translation strategies and models adopted in this work set a precedent for the compilation of later Chinese-English bilingual dictionaries. Morrison explained and expanded relevant entries in the dictionary based on Western legal and religious knowledge of his time. For example, in entries related to punishments and torture instruments, the translated texts elaborated on the shapes, functions and execution methods of various torture tools in detail, exaggerating the cruelty of punishments. This selective interpretation strategy presented a brutal and uncivilized image of Chinese laws, reinforcing Western stereotypes about China through biased representation. Meanwhile, Morrison downplayed traditional ideas of ritual governance, legal procedures and social ethics, and put Chinese laws into the preset framework of Western legal discourse.

4.2. Dilemma and reconstruction of modern Chinese legal discourse

In the mid-to-late 19th century, China lacked mature experience, theoretical systems and standardized terminology for legal translation, while facing intense diplomatic pressure and institutional crises. Restricted by limited resources and political pressure, Chinese translators had to conduct external communication within the existing discourse framework. Translation practices including the English version of *The Book of Great Harmony* and the translation work during the negotiation of the Treaty of Shimonoseki all took place under such a background. To gain recognition in the international community, the terms and expressions of these translated works were largely aligned with Western legal culture. Under the asymmetric power structure of that era, such translations were constrained by the international order and cultural hegemony, and gradually became part of political negotiations. Nevertheless, these predicaments also promoted the

DOI: 10.54254/2753-7064/2026.34673

subsequent compilation of dictionaries and the systematization of legal terminology. As stated: "Everything from the past is the other that deserves negation. In other words, it is worthy of being swallowed up" [7]. The semantic difficulties in early translation became a strong driving force for the reconstruction of modern legal terminology.

In the 20th century, Chinese society underwent drastic changes and entered an era of institutional transformation. Modern Chinese legal translation also entered a new phase. On the basis of understanding and responding to foreign legal texts, Chinese translators gradually developed the awareness to independently construct local legal terminology systems. During this period, numerous legal terms translated from Japan were introduced to China. As Shen Jiaben commented, "Most of the latest legal theories and terms today originated from the West and were introduced to us via Japan." Against this backdrop, a host of legal dictionaries were published one after another, including *New Erya*, *Chinese Translation of New Legal Dictionary* and *Comprehensive Legal Dictionary (with Supplement)*. These works jointly established the Chinese legal terminology system [8].

Published in 1903, *New Erya* is the earliest dictionary explaining new Western academic terms in modern China, compiled jointly by Wang Rongbao and Ye Lan. Instead of adopting the common methods of mutual interpretation and sequential interpretation in traditional exegesis, the compilers used rigorous definition methods to explain new terms. They also grouped related new terms into connected contents, making each entry like a short academic essay [9]. Though not a professional legal dictionary, its Chapter on Laws included 152 legal entries covering general theories, constitutional law, international law, civil law and other fields. In this process, translators and compilers were no longer passive recipients, but builders of a new legal discourse order. Yan Fu once remarked that compiling specialized dictionaries alone was "labor-intensive yet unproductive", which reflected the attitude of Chinese intellectuals towards early legal dictionary translation. They believed that compiling professional legal dictionaries involved great efforts but yielded limited effects. This view stemmed from recognition of the difficulties of translation, respect for professional knowledge, and doubts about the practical value of translated works. Zhang Yuanji's rhetorical question "What is the use of translation?" also reflected public skepticism about the practical significance of legal translation. Even so, Yan Fu also recognized the value of dictionary publishing to a certain extent. These translation practices played a positive role in standardizing and unifying legal translation. Quite a number of terms used in current Chinese laws are derived from modern legal translations, such as "immovable property", "legal person" and "kinship". These terms were gradually accepted by the public in the process of use and dissemination, and eventually integrated into China's legal system. Cannibalistic Translation Theory advocates selective absorption of foreign cultures. It does not mean taking full possession of source texts, but extracting the essence of foreign works and integrating it into local translation practices, so as to achieve cultural independence and create diverse cultures [10]. From this theoretical perspective, translation practices in this period evolved from one-way acceptance into cultural actions featuring selective absorption and structural restructuring.

Translation is fundamentally a linguistic activity. Meanwhile, it is widely acknowledged that translation is far more than linguistic conversion; it is also a linguistic and cognitive experience [11]. In the interaction with Western legal concepts, Chinese legal discourse absorbed foreign ideas, and created institutional expressions with local characteristics through semantic restructuring and category integration. Legal translation thus became an important mechanism for the self-renewal of discourse in modern China.

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5. Conclusion

Based on Cannibalistic Translation Theory, this study re-examines the historical practices of modern Chinese legal translation, aiming to provide historical references and theoretical enlightenment for cross-cultural legal communication and the construction of cultural subjectivity. By defining the connotation of translation subjectivity and analyzing typical cases including *New Erya*, this paper verifies that modern Chinese legal translation is not a simple process of cultural adaptation or passive acceptance, but a cultural subjective practice formed under specific historical contexts. Through term selection, semantic restructuring and conceptual renaming, translation participated in the construction of a new legal discourse structure, enabling foreign ideas under the rule of law to be repositioned and reproduced in the Chinese linguistic context.

Existing research proves that the construction of modern Chinese legal terminology system reflects not only the introduction of Western legal thoughts, but also translators' screening, absorption and reinterpretation of foreign concepts. In a historical context with unequal power relations, the subjective initiative exerted by translation subjects turned legal translation from a mere linguistic activity into an important cultural practice participating in institutional construction and ideological shaping. In this regard, the cannibalistic perspective breaks the single narrative of "passive acceptance of foreign cultures", and offers new analytical ideas for re-examining subjective awareness, power operation and discourse reconstruction in modern legal translation.

This research has two main limitations. First, the scope of application of Cannibalistic Translation Theory in legal translation research needs further exploration. Second, although the selected cases are representative, they cannot fully reflect the complexity of modern Chinese legal translation. Future research can expand research corpus, and conduct in-depth exploration on the formation logic and practical features of translation subjects by tracking the evolution of specific legal terms.

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