

Chan, C. (2007). Translated Chinese as a legal language in Hong Kong legislation. *The Journal of Specialised Translation*, 7, 25-41. <https://doi.org/10.26034/cm.jostrans.2007.715>

This article is published under a *Creative Commons Attribution 4.0 International* (CC BY):  
<https://creativecommons.org/licenses/by/4.0>



© Clara Chan, 2007

# **Translated Chinese as a legal language in Hong Kong legislation**

**Clara Ho-yan Chan, Instituto Politécnico de Macau**

## **ABSTRACT**

The main purpose of this study is to establish the properties of translated Hong Kong Chinese as a language of law, and suggest ways to improve the lengthened and complicated sentence structures that result from the influence of the Western legal genre, in order to create a more user-friendly form of technical Chinese and strengthen its effective use for legal purposes. It is widely and traditionally recognised that the translator of legal statutes is inclined to use a literal and faithful approach to translation, in order to minimize the loss of original meaning and reproduce the full legal effects of the legislation. The adoption of such an approach naturally results in the widespread preservation of the linguistic and cultural features of the original legal texts. This paper examines nine linguistic patterns in the Chinese version of the Sale of Goods Ordinance that may be deemed “Europeanised”, of which five are either unexplored or little explored.

## **KEYWORDS**

Legal translation, legal language, Chinese, Hong Kong legislation, Europeanised, legal effects

## **1. Introduction**

The legal translator of legislation is at the same time a legal drafter. The translated Chinese texts of Hong Kong law are intended to carry the same legal effects, if not the same meaning, as the English version (Sarcevic 1997: 71). Accordingly, in the field of legal translation, it is widely and traditionally recognised that the translator of legal statutes is inclined to use a literal and faithful approach in order to minimize the loss of original meaning and reproduce the full legal effects of the legislation. In presenting legal translation as a specialized form of communication leading to the operation of the legal system in more than one language, Wagner (2003: 177) states, “Every legal professional would like to have translations being as close as possible of the source text”. The adoption of such a translation approach naturally results in the widespread preservation of the linguistic and cultural features of the original legal texts. Through the example of the Chinese version of the Sale of Goods Ordinance (Cap 26), this paper sets out to explore some linguistic patterns of Chinese legal language that, having resulted from the translation-based importation of English borrowings, may be deemed as “Europeanised”. It will provide suggestions to improve the lengthened and complicated sentence structures that result from the influence of the Western legal genre, in order to create a more user-friendly

form of technical Chinese and strengthen its effective use for legal purposes. It is also hoped that improved awareness of the features of legal Chinese will lead to less rigidity in the work of legal translators. While there is literature on the linguistic features of English as a legal language, there are few systematic studies of the Chinese legal language of Hong Kong (Ellgård 1978; Gustafsson 1984; Tiersma 1999). This study aims to fill this gap and offer insights into the properties of legal Chinese and ways in which Chinese may become better qualified to function as a language of law.

Contract law is one of the most studied areas of English law, since it provides one with a good foundation to study other areas of law such as commercial law, company law, employment law and land law. The Sale of Goods Ordinance (Cap 26) (English version: about 10,000 words, Chinese version: about 15,000 words) is selected primarily because it is an important chapter in contract law that governs contracts for the sale of goods in Hong Kong, and must be studied in contract law courses. Under common law, legal principles are mostly developed through decisions of the courts in the area of contracts. Cap 26 is based on the Sale of Goods Act 1893 of England & Wales. Its principles are derived from decided cases relating to sales of goods at that time, and have been updated from time to time following changes to the law in England. The significance of this particular piece of legislation in the common law system make it a good subject for a study of this kind which can serve as a good indicator for the more general need for legal translators and drafters to reflect on and improve their use of translated language, in order to promote better public understanding of the statutes. Furthermore, the Sale of Goods Ordinance contains relatively few terms such as 'consideration' (*yueyin*) and 'possession' (*guanyou*) that have meanings specific to the English legal system and that may impede the general comprehension of the original text. The study can thus concentrate on the study of the linguistic and stylistic features.

## **2. Chinese and the language of law**

The language of law, first and foremost, is characterized by the presupposition of a legal system and particular rules of law, from which legal language derives its meanings (Hart 1954:41-45). Since modern Chinese law was imported from the West in the Qing Dynasty, many English legal concepts and terms have been translated into Chinese (Yu 2000). However, the Chinese language is still widely considered as being unable to express common law concepts. Cao (1997:662) notes,

In the case of Chinese and English legal language, English is more sophisticated in terms of legal terminology and legal systems whereas Chinese is a less developed technical language of law. This results in the frequent non-existence of corresponding or equivalent legal terminologies in Chinese.

While the issues of 'equivalence' and terminology are always central in legal translation, the stylistic and linguistic features of legal Chinese in Hong Kong legislature is also directly related to the development of Chinese as a technical legal language. The following discussion will start with little-explored features, and make suggestions for English-Chinese legal translation in general, using the example of the Sale of Goods Ordinance.<sup>1</sup>

### 3. Europeanised influence on Chinese legislation: previously unexplored and little-explored features

The Europeanised features of Modern Written Chinese can be summarised as a trend toward 'grammatically complete' sentences, bringing forth the appearance of many patterns and markers in the Chinese language. The main resultant features in normal language are more frequent use of affixation, prenominal modifiers and embedding levels, passive voice, pronouns, conjunctions and so on (Chan forthcoming). There are nine kinds of Europeanised features prevalent in the 62 sections of the Chinese version of the Sale of Goods Ordinance, some of which seldom receive attention. I will first discuss them in the following (a)-(e):

#### a. *Huo* (或) (or)...*huo* (或) (or)

This is the first type of Westernised structure in legal texts that deserves further treatment. Consider this example:

(1)

In this section, "necessaries" (必需品) means goods suitable to the condition in life of **such infant or minor or other person**, and to his actual requirements at the time of the sale and delivery. (Section 4(2))

在本條中，“必需品”(necessaries) 指適合幼年人或未成年人或其他人士的生活狀況，且在售賣和交付時是適合其實際需要的貨品。(第4(2)條)

The three noun phrases (NPs) *younianren* (幼年人) (infant), *weichengnianren* (未成年人) (minor) and (其他人士) (other person) in question are linked with each other with the connective *huo* (或) (or), exactly corresponding with 'such infant or minor or other person' with two instances of 'or' in the English original text. This is a common feature in legal English that is called *conjoined phrases* with the conjunctions *and* and *or*. In identifying this

property of language as *recursion*, Tiersma (1999: 62) notes, “The possibilities of creating tremendously long phrases and sentences by use of conjunctions like *and* and *or* are virtually limitless.” The pattern in the Chinese version is an exact copy of that of the English version. The following example offers a variation on this structure:

(2)

Where, in pursuance of the contract, the seller **delivers the goods to the buyer or to a carrier or other bailee** (whether named by the buyer or not) for the purpose of transmission to the buyer, and does not reserve the right of disposal, he is deemed to have unconditionally appropriated the goods to the contract. (Section 20(2))

凡賣方依據合約，將貨品交付買方或交付承運人或其他受寄人(不論是否由買方指名)以轉交買方，並且不保留該等貨品的處置權，賣方即被當作已將該等貨品無條件地撥歸該合約。(第 20(2)條)

In the underlined pattern of *huo* (或) (or)...*huo* (或) (or) conjoining the three NPs, the main verb *jiaofu* (交付) (deliver) is repeated one time after the second instance of *huo* (或) (or). Similarly, in Section 21(1), it reads *jishi gaideng huopin jiaofu maifang, huojiaofu chengyunren huojita shoujiren yizhuanjiao maifang* (即使該等貨品交付買方，或交付承運人或其他受寄人以轉交買方) (notwithstanding the delivery of the goods to the buyer, or to a carrier or other bailee for the purpose of transmission to the buyer) in which the verb *jiaofu* (交付) (deliver) is also repeated after the second instance of *huo* (或) (or).

The following two examples from Section 49 shows inconsistency in the usage of this ‘tripling pattern’, that also contains a solution for the compactness of the structure. The first part of Section 49 states:

(3)

Provided that where a document of title to goods has been lawfully transferred to any person as buyer or owner of the goods, and that person transfers the document to a person who takes the document in good faith and for valuable consideration, then, if such last-mentioned transfer was by way of sale, the unpaid seller's **right of lien or retention or stoppage** in transitu is defeated, and if such last mentioned transfer was by way of pledge or other disposition for value, the unpaid seller's **right of lien or retention or stoppage** in transitu can only be exercised subject to the rights of the transferee. (Section 49)

但如貨品的所有權文件已合法地轉讓給任何身為貨品的買方或擁有人的人，而該人將該文件轉讓給另一出於真誠和以有值代價換取該文件的人，則如該後述一次轉讓是以售賣方式進行，未獲付款的賣方的留置權或保留權或途中停運權即告廢棄，但如該後述一次轉讓是以質押或其他有值處置方式進行，則未獲付款的賣方的留置權或保留權或途中停運權，只可在受承讓人權利限制的情況下行使。(第 49 條)

Again, in this example, the three NPs in question, namely *liuzhiquan* (留置權) (right of lien), *baoliuquan* (保留權) (retention) and *tuzhong tingyunquan* (途中停運權) (stoppage) are also linked with the connective *huo* (或) (or). Both of the above examples (2) and (3) show that such a juxtaposition jeopardises the readability of both the original text and target text, especially in legal texts where long and complicated sentences are already prevalent. On the other hand, in the first part of Section 49 as follows, the three kinds of rights are arranged with the help of a slight-pause mark after the first NP in the Chinese version:

(4)  
Subject to the provisions of this Ordinance, the unpaid seller's **right of lien or retention or stoppage** in transitu is not affected by any sale or other disposition of the goods which the buyer may have made, unless the seller has assented thereto: (Section 49)

除本條例另有規定外，未獲付款的賣方的留置權、保留權或途中停運權，不受買方對貨品可能已作出的售賣或其他處置影響，但如賣方曾對此表示贊同，則屬例外：(第 49 條)

Undoubtedly, the insertion of a slight-pause mark in this combination of 'rights' allows the three NPs of 'rights' to be marked as items in a series, allowing Chinese readers to pause at this point before reading on. The slight-pause mark naturally expresses the applicability of the assertion to each of the rights.

b. *Zhe* (者) used at the end of a long clause

An unexplored linguistic feature in legal translated Chinese, is the use of *zhe* (者) as a final particle at the end of a long clause, in order to give a rhetorical pause, according to Dictionary Compilation Division, Institute of Linguistics,

Chinese Academy of Social Sciences [Dictionary Compilation Division, Institute of Linguistics, Chinese Academy of Social Sciences] (2005:1726). It should be noted that in this study a clause is defined as a sentence in a larger sentence, and a sentence is called a clause when linked to another sentence (Li & Thompson 1981:631). The example (7) below is a sentence containing two clauses. Of the three avenues of influence, namely, Classical *wenyan*, dialects and foreign language that have been active in the formation and enrichment of the Chinese language (Chen 1999:82-88), this usage is believed to have resulted from a combination of the Westernised style and the classical *wenyan* style. It gives an air of elegance to the text but also creates confusion. Consider the following examples:

(5)

The term includes emblements, industrial growing crops, and things attached to or forming part of the land **which are agreed to be severed before sale or under the contract of sale.** (Section 2(1))

此兩詞亦包括庄稼、農作物及附屬於土地或作為土地一部分的東西，**而該等庄稼、農作物及東西是議定須在出售前或根據售賣合約與土地劃分者**；(第 2(1)條)

(6)

Goods of any kind are of merchantable quality within the meaning of this Ordinance if they are-

- (a) as fit for the purpose or purposes for which goods of that kind are commonly bought;
- (b) of such standard of appearance and finish;
- (c) as free from defects (including minor defects);
- (d) as safe; and
- (e) as durable,

as **it is reasonable to expect having regard to any description applied to them, the price (if relevant) and all the other relevant circumstances**; and any reference in this Ordinance to unmerchantable goods shall be construed accordingly. (Section 2(5))

任何一種貨品，如其~

- (a) 對於通常購買該種貨品所作用途的適用性；
- (b) 外觀及最終修飾的水準；
- (c) 並無缺點(包括輕微缺點)的程度；
- (d) 安全程度；及
- (e) 耐用程度，

**是在顧及就該貨品所作的貨品說明、貨價(如屬有關者)及其他一切有關情況後可合理預期者**，則該貨品即具本條例所指的可商售品質；在本條例中，凡提述不可商售的貨品之處，須據此解釋。

(第 2(5)條)

(7)

**Where goods are openly sold in a shop or market in Hong Kong, in the ordinary course of the business of such shop or market**, the buyer acquires a good title to the goods, provided he buys them in good faith and without notice of any defect or want of title on the part of the seller. (Section 24(1))

凡貨品在香港的任何商店或市場公開售賣，並且是在該商店或市場的通常業務運作中售賣者，買方如出於真誠購買該等貨品，且並不知悉賣方在貨品的所有權方面有任何缺點或欠缺所有權，即取得該等貨品的妥善所有權。(第 24(1)條)

Ambiguity is caused by the fact that *zhe* (者) can also serve as a nominalising particle after adjectives, verbs, and adverbial or verbal with the meaning of 'a person who' and 'a thing which' such as *qiangzhe* (強者) (a person who is strong) (DCDILCASS 2005: 1726). Therefore, example (5) can be read as *tudi huafenzhe* (土地劃分者) (a person who severs the land), example (6) as *heli yuqi zhe* (合理預期者) (something that can be foreseen reasonably) and example (7) as *shoumaizhe* (售賣者) (a seller). Cao (1998:244) says, "Language used in law has its own idiosyncrasies". This is apparently a kind of oddness that is distinct in Hong Kong legislation. The deletion of *zhe* (者) is entirely desirable in the above cases.

### c. Prepositions and prepositional phrases

The Chinese version of Cap 26 displays a frequent use of prepositional phrases that are evidently borrowed from the English original texts. Consider this example:

(8)

there is an implied condition that the bulk shall correspond with the sample **in quality** (Section 17(2)(a))

整批貨品須在品質上與樣本相符；(第 17(2) (a)條)

In example (8), the prepositional phrase *zai pinzhi shang* (在品質上), which corresponds to 'in quality', can actually be replaced by attaching the head word *pinzhi* (品質) (quality) to the subject *huopin* (貨品) (goods), thus creating the more concise sentence *zhengpi **huopin pinzhi** xu yu yangben xiangfu* (整批貨品品質須與樣本相符). There are instances where the use is



habitual: *zai maifang zantong xia* (在買方贊同下) (with the assent of the seller) (Section 20 Rule 5), *zai gaideng huopin de yongyouren tongyi xia* (在該等貨品的擁有人同意下) (with the consent of the owner) (Section 27(2)), *zai...yaoqiu xia* (在...要求下) (on request) (Section 36(2)), and *zai yixia qingkuang xia* (在以下情況下) (in the following cases) (Section 43(1)).

As regards the use of prepositions, *jie* (藉) has emerged as the standard translation of 'by'. Examples are *jie qude dui huopin de shiji guanyou* (藉取得對貨品的實際管有) (**by** taking actual possession of the goods (Section 48(1)), *jie mingding de xieyi, huo jie shuangfang jiaoyi guocheng, huo jie guanli* (藉明訂的協議, 或藉雙方交易過程, 或藉慣例) (**by** express agreement, or **by** the course of dealing between the parties, or **by** usage) (Section 57.1). Consider the following example:

(9)

The price in a contract of sale may be fixed by the contract, or may be left to be fixed in manner thereby agreed, or may be determined **by the course of dealing between the parties**. (Section 10(1))

售賣合約的貨價, 可由合約定出, 或可留待按合約議定的方式定出, 或可藉雙方的交易過程予以釐定。(第 10(1)條)

In example (9), it can be argued that the preposition *jie* (藉) used in the Chinese version is a mistranslation of the original text 'by'. The discollocation of the preposition *jie* (藉) and *guocheng* (過程) (process) can be addressed by replacing *jie* (藉) with *tongguo* (通過) (through).

Furthermore, the preposition in the Chinese text can also occur under the influence of an adverb, for instance, *zai heli chengdu shang shihe* (在合理程度上適合) (reasonably fit) (Section 16.3).

d. Repetition:

Repetition as a basic technique of translation relates to the prominent feature of redundancy in legal text. There are several kinds of repetition for clarity and rhetorical force as exemplified in the following:

(10)

Subject to the provisions of this Ordinance and of any enactment in that behalf, **a contract of sale may be made in writing (either with or without seal), or by word of mouth, or partly in writing and partly by word of mouth**, or may be implied from the conduct of the parties: Provided that nothing in this section shall affect the law relating to corporations. (Section 5)

除本條例及任何有關的成文法則另有規定外，**售賣合約可以書面(蓋有印章或並無蓋印章)訂立，或以口頭訂立，或部分以書面而部分以口頭訂立**，亦可憑雙方的行為而默示合約關係：但本條並不影響關於法團的法律。(第 5 條)

The verb in the original English text 'may be made' is repeated three times as the pattern of *yi...dingli* (以...訂立) in the target Chinese text. The following is an example in which the repetition of both verb and noun can be observed:

(11)

Where a contract of sale is not severable, and **the buyer has accepted the goods or part thereof**, the breach of any condition to be fulfilled by the seller can only be treated as a breach of warranty, and not as a ground for rejecting the goods and treating the contract as repudiated, unless there is **a term of the contract, express or implied**, to that effect. (Section 13(3))

凡屬不可劃分的合約，而買方**已接受貨品或接受部分貨品**，則賣方違反其須符合的條件，只可以視為違反保證條款，而不得視為可拒絕收貨及將該合約視作已廢除的理由，但如該合約中有表明此意的**明訂條款或隱含條款**，則不在此限。(第 13(3)條)

The verb 'has accepted' is repeated twice as *yi jieshou* (已接受) and *jieshou* (接受) while the noun 'term' as *tiaokuang* (條款) twice. The following example is similar to (11), but the repetition of the verb brings the problem of wordiness rather than clarity to the translation:

(12)

Where a contract of sale is subject to any condition to be fulfilled by the seller, the buyer may waive the condition, or may elect to **treat** the breach of such condition as a breach of warranty, and not as a ground for treating the contract as repudiated. (Section 13(1))

凡售賣合約規定賣方須符合某項條件，買方可放棄該項條件，或可選擇將違反該項條件**視為**違反保證條，而非**視為**將該合約視為已廢除的理由。(第 13(1)條)

The second instance of *shiwei* (視為) (treat) is redundant for two reasons. Firstly, it occurs in a clause that carries another instance of the verb *shiwei* (視為) (treat). Secondly, the first instance of the verb *shiwei* (視為) (treat) can take two objects, that is, *weifan baozheng tiao* (違反保證條) (a breach of warranty) and *jiang gai heyue shiwei yi feichu de liyou* (將該合約視為已廢除的理由) (a ground for treating the contract as repudiated).

e. Restraint in use of punctuation marks

Underpunctuation is common practice in the legal genre (Duff 1995:1109). The following two examples (13) and (14) are both over 40 words in length. I have suggested two ways of adding punctuation marks (marked off in parentheses) to shorten long sentences.

(13)

Capacity to buy and sell is regulated by the general law concerning capacity to contract, and to transfer and acquire property: (Section 4(1))

買賣的行為能力受與訂立合約的行為能力及轉讓和取得產權的行為能力有關的一般法律規管：(第4(1)條)

買賣的行為能力 [,] 受與訂立合約的行為能力及轉讓和取得產權的行為能力有關的一般法律規管：(第4(1)條)

(14)

when he delivers the goods to a carrier or other bailee for the purpose of transmission to the buyer, without reserving the right of disposal of the goods; (Section 45(1)(a))

未獲付款的賣方在以下情況下喪失其對貨品的留置權或保留權 ~ 他將貨品交付承運人或其他受寄人以轉交買方而並無保留對貨品的處置權利；(45.1a)

未獲付款的賣方在以下情況下[, ] 喪失其對貨品的留置權或保留權 ~ 他將貨品交付承運人或其他受寄人[, ]以轉交買方[, ]而並無保留對貨品的處置權利；(第45(1)(a)條)

Firstly, in Section 4(1), a 'false comma' can be inserted after the subject *maimai de xingwei nengli* (買賣的行為能力) (capacity to buy and sell).

Secondly, in Section 45(1)(a), commas can be inserted after the prepositional phrase *zai yixia qingkuang xia* (在以下情況下) (under the circumstance), as well as before and after another prepositional phrase *yi zhuanjiao maifang* (以轉交買方) (for the purpose of transmission to the buyer). The aim again is to set off phrases for easier comprehension.

#### 4. Europeanised influence on Chinese legislation: previously recognised features

The following features from Cap 26 (a)-(d) are more commonly discussed in the literature on the Europeanised influence on Modern Written Chinese.

##### a. Empty verbs

(15)

Unless otherwise agreed, the goods remain at the seller's risk until the property therein is transferred to the buyer, but when the property therein is transferred to the buyer the goods are at the buyer's risk, whether **delivery has been made** or not [...] (Section 22)

除另有議定外，貨品的風險由賣方承擔，直至貨品的產權轉讓給買方為止，但貨品的產權一旦轉讓給買方，則不論有否**作出交付**，貨品的風險由買方承擔 [...] (第 22 條)

This is a typical *empty verb construction* apparently copied from the original 'making delivery', composed of the empty verb *zuochu* (作出) (make) and an abstract noun *jiaofu* (交付) (delivery, deliver). It is condemned as a weak expression since *jiaofu* is a verb in Chinese that can stand on its own without the use of the empty verb (Yu 1979). There are also the examples of *zuochu guzhi* (作出估值) (making the valuation) (Section (11)(2)) and *zuochu panjue* (作出判決) (judgement) (Section 54).

The following example shows that the Chinese empty verb construction can appear with the influence of passive voice in English.

(16)

The price in a contract of sale may be fixed by the contract, or may be left to be fixed in manner thereby agreed, or may be **determined** by the course of dealing between the parties. (Section 10(1))

售賣合約的貨價，可由合約定出，或可留待按合約議定的方式定出，或可藉雙方的交易過程予以釐定。(第 10(1)條)

In the translated text, *yuyi* (予以) (render) is added as an empty verb before *liding* (釐定) (determine). Similar examples are *yu yi queding* (予以確定) (must be ascertained) (Section 18 Heading, Section 52(3), Section 53(3)), *yu qiangzhi lüxing* (予強制履行) (shall be performed) (Section 54), *zuochu gaizhong chuli* (作出該種處理) (such thing be done) (Section 20 Rule 2) and *yuyi fouding huo biangeng* (予以否定或變更) (be negated or varied) (Section 57(1)). There are also examples in which the structure of empty verbs are formed without the influence of English: *zuochu mouzhong chuli* (作出某種處理) (to do something) (Section 20 Rule 2) and *bu jiyi fouding* (不加以否定) (does not negative) (Section 57 Part VI (2)).

b. *Shi...de* (是...的) / *wei...de* (為...的) construction

The increased use of the copular verb *shi* (是) (to be) before adjectives is recognised as a Europeanised feature of Modern Written Chinese, since it is not necessary in Chinese grammar and tends to change a descriptive sentence into an assertive sentence (Wang 1984:447-449). The constructions of *shi...de* (是...的) and *wei...de* (為...的) produce the same effect. Consider the following example:

(17)

A contract of sale **may be** absolute or conditional. (Section 3(2))

售賣合約可為不附帶條件的，亦可為附帶條件的。(第 3(2)條)

This example (17) displays the use of *ke wei...de* construction corresponding to 'may be' before an object complement in the original English text, that is, *bu fudai tiaojian* (不附帶條件) (absolute) and *fudai tiaojian* (附帶條件) (conditional). The use of *wei* (為) instead of *shi* (是) gives an air of elegance to the text. Consider this example:

(18)

[...] or that **it is unreasonable** for him to rely, on the seller's skill or judgment. (Section 16(3))

[...] 或顯示買方依靠賣方的技能或判斷是不合理的，則不在此限。(第 16(3)條)

This example (18) is an assertive sentence. It shows the translating technique of reversion in that *shi bu heli de* (是不合理的) (it is unreasonable) is placed at the end of the clause, not at the beginning as in the English text. Consider this example:

(19)

Where **there is an available market for the goods in question** [...] (Section 53(3))

凡有關貨品是有現成市場的 [...] (第 53(3)條)

The assertive construction of *shi...de* (是...的) occurs in the translation of the English sentence starting with 'there is'. To a native speaker, however, it is sufficient to use the existential sentence *you* (有) (there is) alone without the assertive *shi...de* (是...的) construction.

#### c. Abstract nouns

There are quite a number of abstract nouns in the Cap 26. For example, they are *shiyongxing* (適用性) that corresponds with 'fit' in Section 2(5)(a) and with 'fitness' in Section 16(1) & 16(4); *youxiaoxing* (有效性) that corresponds with 'validity' in Section 23(2)(b). According to Kubler (1985:73), *xing* (性) is used "either to form attributives indicating quality or capacity, or to form abstract nouns meaning state, condition, or quality, somewhat like the English morphemes *-tion*, *-ity*, and *-ness*."

#### d. Conversion

Furthermore, a number of Chinese verbs that are usually not used as nouns have been converted as nouns in Cap 26. In Cap 26. the verb *shoumai* (售賣) (sale) is always used as a noun, as in *yi zong shoumai* (一宗售賣) (a sale) (e.g. Sections 3(3) & 14(1)(a)) and *yi zong huopin de shoumai* (一宗貨品的售

賣) (a sale of goods) (Section 15(2)). Other examples are *zhuanshou* (轉售) (sub-sale) and *chuzhi* (處置) (disposition) (Section 37(6)), *bujiu* (補救) (remedies) (Section 42), *guanyou* (管有) (possession) (e.g. Sections 2(1), 14(1)(b), 27(2), 31(1), 31(3), 43(1))<sup>2</sup>. This phenomenon is due to the technique of consistency of terminology in technical translation to promote clarity, but the usage brings unnaturalness to the Chinese language.

## 5. Conclusion

On the basis of Cap 26, this study asserts the 'Europeanised' nature of the legalese style in Chinese legal language in Hong Kong. It contends that legal texts are not as sacred as many would think and they deserve revision and polishing if necessary. It is understood that the legal language intends to place all information into one single unit, resulting in a style characterised by wordiness and lengthiness (Tiersma 1999:56-57). If translated legal Chinese aims to be more comprehensible to the general public and become an authentic legal language, efforts must be made to address such problems that also face English legal texts. In fact, early in the beginning of twentieth century the Swiss debate represented just such a departure from literal translation in the legal genre to the production of a translation in the spirit of the national language (Sarcevic 1997:36). Today, Zhao states (2000:40-41):

Secondly, the Chinese text must conform to the grammatical rules of the Chinese language. Legislation can serve its function in prescribing social behaviour only when it is effectively communicated to the addressees, particularly the regulated community. In addition, the Chinese language community deserves the right to read the law in real and idiomatic Chinese instead of Anglicized Chinese.

Poon (2002:95) puts forward a more practical translation principle to be used in the translation of legislation.

However, there is no reason why "style" should be discarded if it can co-exist with accuracy in meaning. Therefore, literal translation means to render the contextual meaning as well as the grammatical and stylistic pattern of the source text as closely as the semantic and syntactic structures of the target language allows.

The practical realisation of such theoretical positions is dependent on the understandings drawn from empirical studies like the present one. On the basis of the above analysis, the translation of legal statutes would benefit from more restrained use of conjunctions such as *or*, prepositional phrases, combinations of old and Europeanised style, empty verbs, assertive sentences, and abstract nouns; and the more appropriate use of prepositions, part of speech and techniques of repetition. Furthermore, the

use of commas and pause-marks are strongly encouraged to break down complex sentences. There are other means to tackle the long and embedded sentences in statutes and these should be guided by the principle that "As long as all these parts are expressly linked to one another [...] It should be evident, in other words, that the parts form a single text" (Tiersma 1999: 57). The aim is to develop Chinese as a technical language that is capable of holding large amounts of information while retaining its brevity and purity.

Law relies on language for representation, and it has been claimed that the legal language carries the mission of "embodying the judicial fairness" (Pan 2004: 496). The study of the Hong Kong Chinese legal language is a meaningful and urgent task. Today there has been neither systemic study of legal Hong Kong Chinese, nor definitive legal translation theory that can serve as a guide for practitioners. This paper presents some of the unexplored and little explored stylistic and structural properties of legislative Chinese in an attempt to invite large-scale summative study in this area.

Notes:

1. Pan (2004:546-553) points out two characteristics of Hong Kong Chinese as a legal language, namely its reflection of the spirit of common law and the influence of the Cantonese dialect. He emphasises that there is room for improvement in the language.
2. The Chinese translation *guanyou* (管有) of the term 'possession' is a combination of *guanli* (管理) (manage) and *yongyou* (擁有) (own). Much Chinese translation of English legal terms uses this method to translate. For example, in contract, 'conveyance' is *zhuanyi* (轉移), that is a combination of *zhuanyang* (轉讓) (sub-sale) and *jiaoyi* (交易) (transact).



## References

- Cao, D. (1997). "Consideration in translating English/Chinese contracts." *Meta*, 42(4)., 661-669.
- Cao, D. (1998). "The illocutionary act in translating Chinese legislative texts." *Babel*, 44(3)., 244-253.
- Chan, Clara Ho Yan (forthcoming). "A literature review of the development and Europeanization of Modern Standard Chinese." To appear in *The Hong Kong Linguist*.
- Chen, P. (1999). *Modern Chinese: History and sociolinguistics*. Cambridge: Cambridge University Press.
- Dictionary Compilation Division, Institute of Linguistics, Chinese Academy of Social Sciences (Ed.). (2005). *Xiandai Hanyu Cidian (The Contemporary Chinese Dictionary)* (5th ed.). Beijing: Shangwu Yinshuguan.
- Duff, A. M. (1995). "Undertranslation." S. W. Chan & D. E. Pollard (Eds.) (1995). *An Encyclopedia of Translation*. Hong Kong: The Chinese University Press, 1108-1117
- Ellgård, A. (1978). *The Syntactic Structure of English Texts*. Gothenburg Studies in English 43. Gothenburg: Acta Universitatis Gothoburgensis.
- Gustafsson, M. (1984). "The syntactic features of binomial expressions in legal English." *Text*, 4(1-3)., 123-141.
- Hart, H. L. A. (1954). "Definition and theory in jurisprudence." *The Law Quarterly Review*, 70, 37-60.
- Kubler, C. C. (1985). *A Study of Europeanized Grammar in Modern Written Chinese*. Taipei: Student Book.
- Li, C. N., & Thompson, S. A. (1979). "Third-person pronouns and zero-anaphora in Chinese discourse." T. Givon (Ed.) (1979), *Syntax and semantics: Discourse and syntax* (Vol. 12, pp. 311-335). New York: Academic Press.
- Pan, Q. Y (2004). *Zhongguo Falü Yuyan Jianheng (The Appreciation and Criticism of the Chinese Legal Language)*. Shanghai: Hanyu Da Cidian Chubanshe.
- Poon, Emily W. Y. (2002). "The pitfalls of linguistic equivalence: The challenge for legal translation". *Target* 14(1), 75-106.
- "Sale of Goods Ordinance." On line at:  
[http://www.legislation.gov.hk/blis\\_export.nsf/home.htm](http://www.legislation.gov.hk/blis_export.nsf/home.htm) (consulted 3 April 2006)
- Sarcevic, S. (1997). *New Approach to Legal Translation*. The Hague, Boston: Kluwer Law International.
- Tiersma, P. M. (1999). *Legal Language*. Chicago: The University of Chicago Press.
- Wagner, A. (2003). "Translation of the Language of the Common Law into Legal

French: Myth or Reality." *International Journal for the Semiotics of Law*, 16(2)., 177-193.

- Yu, G. (1979). Cong xierbuhua dao xierhuazhi (On the process of Westernization). *Ming Pao Monthly*, 164, 2-7.
- Wang, L. (1984). *Wang Li Wenji (Collected Essays of Wang Li)* (Vol. 1). Shandong: Shandong Jiaoyu Chubanshe.
- Zhao, Y. (2000). "Legal legislation in the legislative genre." *Journal of Translation Studies*, 4, 19-44.

## **BIOGRAPHY**

Clara H. Y. Chan graduated from the Chinese University of Hong Kong, with an undergraduate degree in World History and a Master of Translation. She also obtained a LLB from Manchester Metropolitan University and received her PhD from the University of Queensland. She is now Associate Professor at the School of Languages and Translation, Macao Polytechnic Institute. Her research areas include professional translation, bible translation, history of translation and language change. [hychan@ipm.edu.mo](mailto:hychan@ipm.edu.mo)