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Towards an Ethical-Based Approach to the English Version of *The Great Ming Code (Da Ming Lü)*

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Abstract

Based on the English version of *The Great Ming Code* (Da Ming $L\ddot{u}$), and drawing on the translator's subjectivity, this article probes into the role of translator's ethics and subjectivity in the translation process. It is found that the translator's ethical value, more often than not, influences the translation purpose, source text selection and further the translation strategies. This finding confirms the interactive relationship between ideology and translation purpose, facilitates understanding the Chinese legal classics of *The Great Ming Code* (Da Ming $L\ddot{u}$).

Key words: Translator's subjectivity; *The Great Ming Code (Da Ming Lü)*; Ethics

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INTRODUCTION

It is well acknowledged that the pragmatic turn of Western philosophy in 1970s and cultural turn of translation studies in 1990s opened a new perspective for translation research. The emergence of postmodern theories such as deconstruction and postcolonial studies elevated the translator to a salient position and as such promoted the ethical turn of translation studies, which provided a

brand-new perspective for the research on the translator's subjectivity.

The word *ethics* dates back to *ethos*, that is, custom, fashion, nature and model of thinking. In China it refers to the norms that restrain the relationship between people. As Derrida has put it there is such an issue of translation's responsibility implied in structuralist philosophy (Davis, 2001, p.91). Lawrence Venuti (1995) put forward such concepts as domestication and foreignization in 1995, which, in fact, involve the contradicts between two different kinds of values and ethics. Antonie Berman (2000) distinguished positive and negative ethics, wherein the practice that is true to the source language is called positive ethics and the one that is not loval to the original text because of the sociology and value difference is thus categorized as negative ethics, or rather, positive ethics intends to maintain the foreign culture and value and negative ethics is not likely to practice such. Chesterman (2001) illustrated the translation ethics resorting to such five models as ethics of representation, ethics of service, ethics of communication, norm-based ethics and ethics of commitment). Pym (2001) pointed out that the translation studies returned to ethics in The return to ethics in translation studies.

Whereas the research on translation ethics is far from systematic and sound, and relevant literature arises from translation practice. Lü (2001, p.270) placed emphasis on the necessity of introducing ethics in translation studies. He proposed that translation practice involves the requirement of morality and obligations and translation is the embodiment of ethics. Yang Zijian stressed that ethics is the mental and objective factor influencing the rewriting process (Zhang, 2002, p.13). Zhang (2004, p.39) put that translation action is one kind of social activity and it must be constrained by morality; as such translation is inescapably concerned with ethics. Tang Jun discussed the theoretical value and social significance of translation ethics from the level of social ethics and personal ethics

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and further illustrated that the former is interpersonal ethics research and the latter is about subjective ethics research (Tang, 2007).

Translation is, of course, a rewriting of an original text. All rewritings, whatever their intention, reflect a certain ideology and a poetics and as such manipulation literature to function in a given society in a given way and inescapably involve certain subjects' social interaction. Translator is engaged with the source language/original and with the ethics of the target language/receptor, therefore, the translation process needs ethical norms to coordinate the relationship between different subjects. The implications of such a new claim for translation studies, comparative literature, or for any single language department are far-reaching.

The main emphasis in translation theory has shifted from interlingual to cultural transfer, as a result of which translation s widely regarded as a cross-cultural event and the translator as a cultural operator. Having assumed the role of an active text producer, the translator consciously selects certain translation strategies based on the purpose of the target text.

1. TRANSLATOR'S SUBJECTIVITY

The translator, as the subject of translation, actively decides how to translate so as to foster the realization of translation goal, during which process the translator's subjectivity related to his cultural consciousness and aesthetic creativity is, to a certain degree, embodied. The translator's subjectivity has undergone such period as being ignored, being selected to be manipulated. Since the cultural turn of translation studies, such literal theories as hermeneutics, deconstructionism, aesthetics have brought new energy and vitality to the translation studies, laying a solid foundation for the study of translator's subjectivity. Systemic approach pioneered by Itamar Even-Zohar and Gideon Toury and Manipulation school, represented by Sussan-Bassnett and Theo Hermans all offered new methods for approaching translation, maintaining that translation is the rewriting of culture, in other words, manipulation. Subjectivity is constituted by cultural and social determinations that are diverse and even conflicting, that mediate any language use, and, that vary with every cultural formation and every historical moment. Human action is intentional, but determinate, self- reflexively measured against social rules and resources, the heterogeneity of which allows for the possibility of change with every self-reflexive action. As Kratz (1986, p.27) put "Certainly my ego and personality are involved in translating, and yet I have to try to stay faithful to the basic text in such a way that my own personality doesn't show". Similarly, Venuti (1995) highlighted the creativity of the translator, for he or she is inevitably engaged in a complex creative process. To his credit Venuti uses Derrida's deconstruction in order to demonstrate how discontinuous any is, original or translation, and to show how the translator is involved in the production of culture, inviting critical analysis of the power relations implied in the translation. So important has researched into the visibility of the translator became in the 1990s, that it can be seen as a distinct line of development within the subject as a whole. Translation scholars such as Venuti, Douglas Robinson, Anthony Pym and Mary Snell-Hornby, translators who have written about their own work such as Tim Parks, Peter Bush, Barbara Godard, have all stressed in different ways the importance of the translator's role. This new emphasis on subjectivity derives from the growing importance of research into the ethics of translation.

Since 1990s, Chinese scholars have embarked on the study of the translator's subjectivity. Yang (2002) probed into the translator's personality psychology, putting that the subject of literary translation is also a person, namely writer, translator and reader, and the source text and target text are the tools or vehicles between mutual communications. He pointed out the central position and active role of the translator during the translation process. Xu (2003) held that during the process from understanding, interpretation to creation, writer, translator and readers form a field where a great many factors interact with each other and the translator occupies the central position, from the traditional writer monologue, reader interpretation to the active talk among writer, translator and readers. Chen (2004) illustrated his point of view from the philosophy perspective. He held that the subjectivity is dialectical between activity and passivity, that is to say, the subjectivity can be embodied through the relationship between subject and object. Hence, both extreme situations, where the subject's activity is exaggerated and the object's passivity is overemphasized, must, of course, be avoided. Obviously, the development of new translation theory foster the research on the translator's subjectivity in both eastern and western world and further provides a new perspective for translation study.

Nowadays, in the twenty-first century, political, geographical and cultural boundaries are perceived as more fluid and less constraining than at any time in recent history and the movement of peoples across those boundaries is on a steady increase. In such a world, the role of the translator has never been attached to greater significance. Through concepts of rewriting and manipulation, it aims to tackle the problem of subjectivity in the translation of *The Great Ming Code (Da Ming Lü)* and so assert the central function of translation as a shaping force.

2. INFLUENCE OF TRANSLATOR'S SUBJECTIVITY ON TRANSLATION PROCESS

The translation process is, to a certain degree, influenced by the translator's educational background, personal experience, cultural level and model of thinking. Therefore, the translator plays such role as reader, illustrator and re-creator during the translation process wherein the first step is the translator's understanding about the source text, or rather, the translator reads the original text with his own ethical thought, which is the basis of translation. Then the translator needs to analyze the source text's social significance resorting to the critical competence. During the third phase, translators can "artificially create the reception context of a given text. [They] can be the authority who manipulates the culture, politics, literature, and their acceptance (or lack thereof) in the target culture" (Román & Carmen, 1996b, p.2). The role of the translator is thus closely connected to the issue of subjectivity as the translator often functions as a double agent caught between two camps, "representing both the institution in power and those seeking empowerment" (Gentzer & Tymoczko, 2002, p.xix).

2.1 Influence of Translator's Subjectivity on Translation Purpose

Since people act out of certain obligations or purposes, that is, a person decides in advance exactly what it is that he is trying to accomplish, then such behavior must has relevance with ethical value. Translation objectives can be divided into: general objective, communicative objective and specialized objective. Hans J. Vermeer postulated the *skopos* theory by recognizing translations in which the function of the target text is to satisfy the expectations of the target receivers for a text within that particular function. Any act has its purpose, the same is true with the translation as a certain behavior. The most issue that the translator is concerned about is the translator's responsibility, or rather, the translator's ethics (Vermeer, 2000, p.231), which motivates us to recognize the translator's task from the perspective of ethics.

Jiang Yonglin, a visiting associate professor of East Asian studies at Bryn Mawr College, takes huge interest in East Asian legal culture especially ancient Chinese law and culture. He is the author of *The Great Ming Code* (Da Ming Lü) (Da Ming Lü) and The Mandate of Heaven and The Great Ming Code (Da Ming Lü), through which Jiang Yonglin intends to illustrate ancient Chinese legal culture, religion and society so as to thus disclose the mysterious veil of the significant educational function of The Great Ming Code (Da Ming Lü) and further enrich western scholars' background knowledge. As Weiting Guo puts it Jiang Yonglin reassesses the significant role of The Great Ming Code (Da Ming Lü) in the promulgation of cosmic and religious beliefs, particularly through the lens of the concept of the "Mandate of Heaven," which has been extensively discussed in studies of Chinese political thought (Guo, 2015). Thus, admittedly, Jiang Yonglin's translation purpose is closely connected with his own interest and beliefs to renew scholars' traditional thoughts and opinions about The Great Ming Code (Da Ming Lü).

The English version of *The Great Ming Code* (Da Ming Lü) was completed in 2005, during which period of time diplomatic ties were re-established and relationships began to normalize between China and the United States. With the intense interactions between China and the United States and in view of these cultural trends, it seems inevitable that cultural communication, of course, will be part of its conversations between these two countries.

2.2 Influence of Translator's Subjectivity on Source Text Selection

As noted by Gentzler and Tymoczko, power and translation is not only concerned with translation products but power is also "inherent in the translation process itself", e.g. seen in the relationship between the translator and the author, source text and translation. Therefore the selection process, through which translators decide which works are worth being translated or not, is an ethical act in the context of translation (Gentzler & Tymoczko, 2002, p.xxi). As a matter of fact, the source text selection is, to a certain extent, connected with translator's ethic, obeying the constraints of the discourse into which it is integrated.

It is not surprising that translation, as the tool between two different cultures, is necessarily constrained by certain norms from text selection to specific translation operations, wherein norms involve a group's common value, indicating that some behaviors are regulated and banned and others are tolerable. The translator's subjectivity is embodied from the very moment that the source text is chosen to be translated according to the translator's own ethics. Jiang Yonglin, a visiting associate professor of East Asian studies at Bryn Mawr College, takes huge interest in East Asian legal culture, especially ancient Chinese law and culture. He devotes plenty of time to explore Chinese culture, customs, and religion and so on and is the author of *The Great Ming* Code (Da Ming Lü) and The Mandate of Heaven and The Great Ming Code (Da Ming Lü). The Great Ming Code (Da Ming Lü) provides a wealth of information for historians, social scientists, and scholars of comparative law and thus occupies a pivotal role in Chinese history. A large number of scholars are likely to regard Chinese legal practice and justice as separate worlds, which are obviously misleading and not true. Jiang Yonglin reassesses the significant part of The Great Ming Code (Da Ming Lü) in the promulgation of religious beliefs by translating it into English, making it more accessible to western scholars and target readers. Therefore, the very reason why Jiang Yonglin translates The Great Ming Code (Da Ming Lü) is out of his interest and beliefs about the momentous role of it. Apart from the influence of his own ethical values, the translation is inevitably affected by readers' reception, which has to be taken into account while translating.

2.3 Influence of Translator's Subjectivity on Translation Strategies or Methods (1000)

It is well acknowledged that translation strategies play an indispensable role during translation process. Translation strategies or methods are the image of the translator himself that is presented. Linguistic utterances are widely used or abused in translation for the benefit of the translator. Translation is, of course, a rewriting of an original text. All translations, whatever their intention, reflect a certain ideology and as such manipulate literature to function in a given society in a given way. Translation is manipulation, undertaken in the service of power, and in its positive aspect can help in the evolution of a literature and a society. The question with regard to "how to translation" has been in debate for a long period of time. Venuti (1998) put that the ethics of translation lies in ethics of difference, and translator can't suppress other discourse in terms of cultural value with an attempt to maintain the nature of the source language and cultural differences, form which the translator's ethical value can, of course, be discerned.

凡無故於街市鎮店鎮店馳驟車馬因而傷人者減凡關傷一等 致死者杖一百流三千里若於鄉村無人曠野地內馳驟因而傷 人致死者杖一百並追埋葬銀一十兩 凡因公事應乘官馬失駝蠃驢者除隨身衣仗外私馱載物不得 過十斤違者五斤笞一十

- (a) In all cases of driving carriages very fast or galloping on horses in streets, markets, or towns without good reason, thus injuring others, the offenders shall be punished for injuring others in affrays reduced one degree. If as a result they kill others, they shall be punished by 100 strokes of beating with the heavy stick and life exile to 3,000 *li*. For those who drive carriages very fast or gallop horses in the countryside where no one lives and who consequently injure others and cause death, they shall be punished by 100 strokes of beating with the heavy stick. In all cases 10 *liang* of silvers shall be levied for burial expenses.
- (b) In all cases where those who are sent on public missions ride on government horses, cattle, camels, mules, or asses, the personal goods carried, apart from the clothing and arms they are wearing, shall not exceed to 10 *jin*. Any violations, for up to 5 *jin*, shall be punished by 10 strokes of beating with the light stick.

As Toury puts it that equivalence is a combination of, or compromise between the basic types of constraints that draw from the incompatible poles of the target system and the source text and system (Toury, 1986, p.1123). It can be argued that, conceptually or pragmatically, translation, including the legal kind, is not just a matter of identity or synonymy (Cao, 2008, p.33). The legal vocabulary in a language, including legal concepts and terms, is overwhelmingly extensive. Due to the cultural difference, some words in one legal system do not necessarily find the equivalents in another legal culture. Faced with this situation, the translator of *The Great Ming Code (Da Ming*

Lü) adopted the transliteration strategy, in other words, the pinyin system. As is evidenced above, it is impossible or hard to find any equivalents bearing the same meaning with such Chinese word as the units of measurement, "里", "兩" and "斤", they are respectively rendered into li, liang and jin. It seems that the approach employed here legal translation is predominately SL oriented, but as a matter of fact such method is adopted both in order to maintain the nature of the SL but also to avoid confusion among target readers. Besides, when there are no existing exact equivalent words in the TL, that is, they are linguistically or conceptually absent, new words are introduced by the translator based on a good knowledge of the two legal culture. Examples of such kind involve "保长", "百 户" and "百夫长" which were respectively translated into "security group heads (baozhang)", "company commander (baihu)" and "centurions (baifu zhang)", which are originally used to express the official title. In traditional Chinese culture, household is a basic unit of social organization and ten households a called one bao. and the duty of baozhang is to maintain the social security. Baihu is the hereditary military title in control of 100 solders. Baifuzhang is the military title who is the head of one hundred people. The English conceptions "security group heads", "company commander" and "centurions" do not respond exactly in content to the Chinese "baozhan", "baihu" and "baifu zhang". Nevertheless, they need to be translated as equivalents, as there are no linguistically equivalent alternatives, and any other translation is "simply unthinkable" (Weston, 1991, p.57). Under such circumstance, the translator has to take the both the SL and TL into consideration and thus free translation of "security group heads", "company commander" and "centurions" and transliteration "baozhang", "baihu" and "baifu zhang" are combined to facilitate readers' reception.

凡橋梁道路府州縣佐貳官提調於農隙之時常加點視修理務 要堅完平坦若損壞失於修理阻礙經行者提調官吏笞三十纂 註橋梁道路以通往來之人若有損壞而不及時修理未免阻礙 經行故提調官吏笞三十

津渡之處未有橋梁而應造未有渡船而應置不造不置則民將 病涉矣故笞四十

條例

- 一條例申明頒布之後一切舊刻事例未經今次載入如比附律 條等項悉行停寢凡問刑衙門敢有恣任喜怒妄行引擬或移情 就例故入人罪苛刻顯著者各依故失出入律坐罪其因而致死 人命者除律應抵死外其餘俱問發為民
- (a) In all cases where the associate officials of prefectures, subprefectures, and districts supervise [the maintenance of] bridges and roads, they shall, during slack seasons, frequently inspect them one by one and repair them. [The bridges] must be durable and solid, and [the roads must be] level and smooth. If there are damages [to the bridges and roads], repairs are not made, and traffic if hindered, the proctorial officials or functionaries shall be punished by 30 strokes of beating with the light stick.
- (b) If, at ferries, bridges should be built but they are not built, or ferry boats should be provided but they are

not provided, the penalty shall be 40 strokes of beating with the light stick.

It is the intended function (skopos) of the target text which determines translation methods and strategies and not the function of the source text (Reiss & Vermeer, 1984). According to Bachman (1990), cohesion comprises ways of explicitly marking semantic relationships such as ellipsis, conjunction and lexical cohesion. As is shown from the above examples, the translator, consciously or not, provides enough missing words or phrases in the forms of subject, pre-attribute and object, complement, such as the maintenance of, the bridges, to the bridges and roads, the roads must be, so as to minimize ambiguity and obscurity that target readers may confront with. In language for special purpose communication, the text is formulated in a special language that is subject to certain syntactic rules (Sager, 1990b). Written legal language thus reflects the essential elements of a legal culture and confronts the legal translator with its multi-faceted implications (Smith, 1995, pp.190-191). Thus the most serious obstacles to comprehensibility are the unstated conventions by which language operate (White, 1982, p.423). Under the guidance of personal ethics, the translator adopts such a coherent and smooth style that the translation is more acceptable and comprehensible. Otherwise, it will frustrate the target reads to have a better understanding of repairing bridges and rods "(Xiuli qiaoliang daolu)". Consequently, domestication is adopted by the translator so as to speed up the legal communication between the East and West. Such textual features indicate that a translation can be acceptable only by taking the target readers into consideration. Besides, his omission of the detailed regulation "一條 例申明頒布之後一切舊刻事例未經今次載入如比附 律條等項悉行停寢凡問刑衙門敢有恣任喜怒妄行引 擬或移情就例故入人罪苛刻顯著者各依故失出入律 坐罪其因而致死人命者除律應抵死外其餘俱問發為 民", is not so much a deviation from the text preserved in The Great Ming Code (Da Ming Lü) and in fact the 382 regulations (li) that were attached to the Code during the Wanli Reign are not all left out, which regulates the allround aspects of the crimes in that dynasty. It seems as if it is unfaithful to the original text to delete the regulations. however, once thinking for while, it can be argued that the strategy is such a wise choice that the tedious and complex source text is converted into brief and short one, making it easier for target readers to read and thus have any further interest to finish it. Thus, pragmatic meaning is reproduced in an appropriate form according to the TL convention and translator subjectivity. The translator is inclined to produce fluent and self-effacing translation.

若百官已受誓戒而引喪問疾判署刑殺文書及預筵宴者皆罰 俸錢一月其知有緦麻以上喪或曾經杖罪遣充執事及令陪祀 者罪同

凡各處人民每一百戶內議設里長一名甲首一十名輪年應役 催辦錢糧勺攝公事若有妄稱主保小里長保長主首等項名色 生事擾民者杖一百遷徙 (a) If officials, having started the abstinence period [shou shijie], condole the bereaved [diaosang], visit the sick [wenji], make judgments and sign documents concerning punishments or the death penalty [panshu xingsha wenshu], or attend feasts [yu yanyan], they shall be punished by a fine of one month's salary. If the responsible offices know that some officials are in mourning for their relatives of the fifth mourning degree or closer or have ever been punished by beating with the heavy stick but still appoint them as officiators [zhishi] or let them serve as associates in the sacrifices, the officials in the offices shall be punished by the same penalty.

(b) In all cases where, among people of all localities, one community head and 10 tithing chiefs [jiashou] are selected from every 100 households by discussion, they shall serve in turn for one year to collect taxes and manage public affairs. For those who fraudulently claim to be security group chiefs [zhubao], deputy community heads [xiao lizhang], security group heads [baozhang], tithing chief managers [zhushou], or like and create trouble and harass the people, they shall be punished by 100 strokes of beating with the heavy stick and banished for life.

It is commonly acknowledged that a frequently difficulty faced with legal translator is the translation of legal concepts. As legal translation involves specialized or technical language, the technical nature of legal language stems largely from the extensive use of concepts (Weisflog, 1987, p.207). The translator has to consider what constitutes invariant information with respect to a given system of reference and render cultural materials and agendas domestic, specific to the target language, and of course, specific to later periods. Phrases like "the abstinence period", "visit the sick" "the death penalty", and "officiators" demonstrate the translator was selective at the moment of translating The Great Ming Code (Da Ming Lü) so as to avoid making the foreign text foreign. Obviously, There are no equivalents in the West about such concepts as "jiashou", "zhubao", "xiao lizhang", "baozhang", and "zhushou". Nevertheless, the translator has studied the relevant concepts associated with the terms in question and examined whether they actually correspond (Lane, 1982, p.224). Consequently, the translator employs similar words "tithing chiefs", "security group chiefs", "deputy community heads", "security group heads" and "tithing chief managers" though they are not completely identical. On the other hand, transliteration or a set of pinvin system is used to maintain the flavour of SL and avoid ambiguity among target readers. Admittedly, such translation strategy is considerate enough in terms of source text and the target readers' ethical value.

The influence of translator's ethical thought on translation strategies is characterized by the following features:

The translator's subjectivity is, to a certain degree, influenced by both his own ethical value and the nation's value, and thus the translator will employ certain

translation strategies to the target readers' preferences. The translator is likely to adopt such translation skills as addition or omission, that is, the domestication to render the target text into the accessible one for the target readers. The translation of *The Great Ming Code (Da Ming Lü)* is judged acceptable by most readers when it reads fluently, when the absence of any linguistic or stylistic peculiarities makes it seem transparent, giving the appearance that it reflects the essential meaning of the source text—the appearance, in other words, that the translation is not in fact a translation, but the "original." (Venuti, 1995, p.1)

On the other hand, the most obvious feature of the translation of *The Great Ming Code (Da Ming Lü)* is the use of such a whole set of pinyin system of Chinese terms as *li, liang* and *jin,* rendering the translation more natural and faithful to the source language. Besides, domestication and foreignization are combined while translating certain legal concepts, such as "the abstinence period (*shou shijie*)", "visit the sick (*wenji*)" "the death penalty (*panshu xingsha wenshu*)", and "officiators (*zhishi*)" so as to foster the realization of acceptability and accessibility of the translation.

CONCLUSION

The translator's subjectivity has undergone such a long period of time that its position is increasingly consolidated from being ignored to being discovered. It is obviously embodied during the translation of *The Great Ming Code (Da Ming Lü)* and thus the role of the ethics of the translator's subjectivity has been an indispensable part during the translation process. There's no doubt that such factors as translation purpose, translation strategies and text selection are influenced by ethics. The translator has be responsible the author of the text and target readers while approaching the domestic culture and foreign culture so as to render the harmony of translation.

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