Hong Kong Chinese in the Legal Context:  
from a Sociolinguistics Perspective  
從社會語言學角度探討法律文體中的港式中文  
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18 July 2011

Key words: Hong Kong Chinese, Sociolinguistics, diaspora language, Standard Chinese, and Putonghua

1. Introduction

Hong Kong is a well-known melting port where various cultures and languages exist at the same time. Due to the historical background, English has taken root in the territory for over a hundred years. Thanks to the hectic financial activities taking place every day in Hong Kong, other languages with their own cultures have also had contacts with the local language, Chinese or more specifically, Hong Kong Chinese. After the handover in 1997, Putonghua has enjoyed a great popularity in the society thus the use of Putonghua words and phrases are encouraged. Such phenomenon has formed the so-called Hong Kong Chinese, as against the mainland Chinese and Taiwan Chinese. 

As the mainland Chinese is seen to be the Standard Modern Chinese with official status, and the Taiwan Chinese has its political resistance, Hong Kong Chinese is always regarded as a diaspora language. Like the Hong Kong Chinese, diaspora language are categorised as neither fish nor fowl that has received a huge number of criticisms about its improper syntax, word choice, rhetoric and style. Chinese linguist Prof Shi at Hong Kong Polytechnic University (2006) points out that Hong Kong Chinese is a language of mixed codes, vernacular and classical lexis, Cantonese and Putonghua words that stands afar from the Standard Chinese. In the meantime, other linguists have confirmed the status of Hong Kong Chinese and its language and cultural values. Though Hong Kong Chinese in a way may advocate impure Chinese polluting the standard use of the language, it is undeniable that Hong Kong Chinese

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1 Modern Chinese/Standard Chinese: The phonology is based on the Beijing dialect of Mandarin Chinese. The vocabulary is largely drawn from this group of dialects, The grammar is standardized to the body of modern literary works that define written vernacular Chinese, as in Chen, P. (1999). Modern Chinese: History and Sociolinguistics. Cambridge: Cambridge University Press.

2 In the field of sociolinguistics, by diaspora it refers to a variety of languages used and spoken in a place that such variety has blended with the main stream language resulting in a new form of language.

3 石定栩，《港式中文兩面睇》，香港：星島出版有限公司，2006年。

4 Original text: “中英夾雜、半文半白、不粵不標，是遠離漢語規範的一種混雜語文” in 石定栩，《港式中文兩面睇》，香港：星島出版有限公司，2006年，第6页。
embodies local cultures and colloquial language characteristics that echoes the fundamental rule of modern vernacular Chinese⁵.

The use of Hong Kong Chinese not only finds in daily life communications, but also in the legal context for laws have a very close contact with the society and the people thereof. The question is, seldom is there any discussion about the use of Hong Kong Chinese in laws, legislations and other legal contexts. This paper will be divided into four parts investigating Hong Kong Chinese in the legal context from a sociolinguistic background, the first part being the language condition in the society, the second being the languages in the legal context, the third being the definition of Hong Kong Chinese, and the fourth being the discussions of Hong Kong Chinese and its examples found in laws. It is hoped that the points discussed in this paper can raise attention to the use of Hong Kong Chinese in the local society as well as in the legal profession.

2. Language Conditions in Hong Kong

2.1 Geography

Hong Kong is part of the Guangdong Province where Cantonese (Guang-fu hua⁶) is the major language and is a homogenous community both in terms of race (98% of Chinese) and language (over 80% of the population speaking Cantonese) (S0, 1989)⁷. Although this was a finding from some 20 years ago, statistics from the Census and Statistic Department Hong Kong still sings in the same tune. According to the last Census Report carried out by the HKSAR government in 2001, the number of people speaking the vernacular language (Guang-fu hua i.e. Cantonese) for the purpose of communication in casual contexts still hits an all-time high of 89.2%, and only a mere 3.2% of people speak English as their mother-tongue nowadays, which suggests that Cantonese has been the mainstream of spoken language in the region.

2.2 History

In 1842, China signed the Treaty of Nanjing after losing to Britain in the Opium War, in which it stated that Hong Kong was to be ceded to Britain until 1997 (Goodstadt, 1969)⁸. The treaty commenced a history of 154 years colonial citizenship

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⁵ Modern vernacular Chinese promotes “write the way you speak” (我手寫我口), in 胡裕樹,《現代漢語》, 香港: 三聯書店, 2003 年, 頁 4-5.
⁶ Guang-fu hua: Guang-fu is the old name of Guangdong.
⁷ So, W. C. (1989). Implementing Mother-tongue Education Amidst Societal Transition from Diglossia to Triglossia in Hong Kong. Language and Education, 3(1), 29-44.
⁸ Goodstadt, L. F. (1945-63). Urban Housing in Hong Kong. In I. C. Jarvie (Ed.) Hong Kong: A
for Hong Kong. English was introduced into Hong Kong whilst being governed by the British Government. As Trudgill and Hannah (1994) infer that an official language is usually under the impacts of colonialism, particularly English, English language landed in Hong Kong in an invasive manner because the British government wanted to retain their own language in their colonies. What more is that English language was exclusively superior to the local dialect, Cantonese, as it helped manifest the power by being the only official language. Therefore, English in Hong Kong was hooked up with upper-class people, allowing it to accumulate its high social status.

2.3 Education

English boasts a very high status in Hong Kong schooling (Ramsey, 1987). When English was brought into Hong Kong, it was a prestigious language and was solely for the rich and high-class in the society (Li, 1996). Noble people were the very few ones to have chances to learn English at schools since only they could afford to receive formal education. It generated an adverse cycle in which only a small amount of people from certain background could acquire this distinct language during the early colonial period. In the mid of the 50’s, Hong Kong was recovering from the Japanese invasion and its economy was developing in a rapid pace (Topley, 1967). The British government noticed that there was a growing need for education and the city was thirsty for people who could speak good English to improve the prosperity of the society. The Educational Department (Education and Manpower Bureau, 2004) then launched a compulsory and free 9-year education for citizens aged from 6 to 15. English was made one of the core units both at primary and secondary levels in the educational system alongside Chinese ever after. Concurrently, English is the medium of instruction (MoI) of assessments and examinations regardless the principles in eight universities and most of the tertiary institutes (So, 2002).

Chinese, on the other hand, is another core unit in primary and secondary education. Chinese is a general norm of language in China. Usually it refers to the written form of Chinese
schools. Cantonese is the medium of instruction for all Chinese-related subjects. Yet all schools are free to opt to use either English or Chinese as the instructional medium according to their own needs and curriculum designs. However, Cantonese is always an explanatory teaching language even if English is the MoI over many primary and secondary schools (So, 2000). Only when it comes to assessments and examinations do students need to answer in English.

The Educational Department (the former name of Education and Manpower Bureau) officially introduced Putonghua as an optional subject into primary and secondary schools in 1986 and 1988 respectively. In 1998, Putonghua was inaugurated to be one of the core units and since then it has been a unit in the HKCE examination. In a consultation document made by the Curriculum Development Council, a department under the Education and Manpower Bureau (2000), it once suggested that Putonghua should be the teaching language for all Chinese-related subjects throughout all secondary levels starting from 2010. Although such suggestion has not come to exist, changing from a bilingual medium system to a trilingual one may probably be the trend in coming years, which would therefore alter the language conditions in the near future.

Pennington (1998) deduces that the bilingualism in Hong Kong has to do with its educational system. And in fact bilingual education has been implemented for over decades and most of the Hong Kong people aged from 5 up to 45 are knowledgeable about the two languages at various levels.

3. Multi-lingual in Social Dimension

One may question that Hong Kong is still a monolingual society, as most of the people there are more than likely to speak and use one language i.e. Cantonese only.

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16 Ibid.
17 Putonghua: this is the official language (oral) in Mainland China, which is slightly different from Mandarin (generally refers to the spoken language in Taiwan, Singapore and Malaysia, according to linguists).
18 HKCEE: stands for the Hong Kong Certificate of Education Examination, equivalent to GCSE in the UK.
However, So (2004) reaffirms that Hong Kong has been having a societal bilingual identity that two languages are widely used/accepted, although some of the bi-dialectal citizens in Hong Kong are to be confused as bilingual. Despite the imbalance between Chinese and English, So (1998) describes Hong Kong as a bilingual (diglossia) city and he attributes this to the internationalisation, modernisation and colonisation factors. He believes that the rapid economic development of the English-speaking countries has made their language an important global lingua franca. Lau (1999) points out that Hong Kong converted from an entry port into an international financial centre makes English a must in the region.

Several professionals in the field of sociolinguistics have proposed reasons to account for the bilingualism in Hong Kong. Pennington (1998), Chan (1984) and So (2004) have suggested a number of similar reasons for the presence of bilingualism in Hong Kong, which are summed up succinctly below:

i. The use of English predominates in governmental administration. However, Chinese still dominates in daily life communications. These languages of different roles turn Hong Kong into a bilingual society;

ii. Hong Kong is an international financial centre. Foreign enterprises usually settle down here then transfer their businesses to China. It is then necessary to be capable of speaking at least two languages in order to run a business in Hong Kong;

iii. The former British government established English-medium educational institutions and made English a compulsory unit in schools, English is valued and learned in the society; and

iv. Westernisation spreads through mass media, culturally affects people in Hong Kong in terms of pop culture, language contacts and thoughts.

3.1 Roles of Languages in Society

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22 Societal bilingual: it differs from individual bilingual as it means a person could use two languages but not the whole society, usually happens in monolingual societies.
23 Bi-dialectal: people who speak two dialects which belong to the same matrix. For instance, many older people in Hong Kong speak Cantonese and one other Chinese dialect (e.g. Hakka, Shanghainese etc.) they are categorised as bi-dialectal.
27 陳原, 《社會語言學》，香港：商務印書館，1984年。
29 Chinese: here refers to Cantonese and written Modern Chinese.
Many scholars predict that Cantonese, English and Putonghua would undergo a
dramatic change in their social status after the political handover. Studies have been
carried out to prove such notion. A survey conducted by So in 1998\textsuperscript{30}, namely
\textit{Language used for Important Communication with Sources either outside or inside
the Firm over an One-week Period}, also shows that Cantonese is regarded as an
informal (home and leisure) language whereas English is a formal (work) one by the
respondents. Lai (2005)\textsuperscript{31} conducts a study on how secondary school students rank
the three languages and she discovers that students had an inclination to Cantonese
while they still believed that English had a high status in Hong Kong. On the other
hand, Lai (2005)\textsuperscript{32} also reveals that students were less aware of the raising of
Putonghua, though there was an intention shown in the study that the students noticed
Putonghua was going to be more important due to the economic purposes.

The privilege that English has should attribute to colonialism as mentioned
before. Wright (2000)\textsuperscript{33} explains that the main difference between a language and a
dialect depends on the official recognition. After the governance of Britain, English
became the first official language in Hong Kong which even came ahead of Cantonese.
Sharwood-Smith (1999)\textsuperscript{34} believes that English started to become a lingua franca in
the seventeenth century when Britain was influential in its colonial trade and military
successes. Chan (1984)\textsuperscript{35} insinuates that introducing foreign languages and cultures
has always been a manipulative tool in colonialism. Due to the fact that English has
been the official language, all governmental departments would employ it as the
administrative language as a consequence (Li, 1996)\textsuperscript{36}. Documents in legislative,
judicial, economic as well as social matters were all once only written and recorded in
English and that has limited the accessibility of the public to the governance in a way
the British government could consolidate and centralise the management without any
diverse opinions, for people back then had little knowledge about the language at the
very beginning. Therefore, that explains to us why English has reached a higher
position because it symbolises authority, power and academic in Hong Kong.
Moreover, as English is one of the core units in education, it is necessary for all

\textsuperscript{30} Supra note 24.
\textsuperscript{31} Lai, M. L. (2005 July). Language Attitudes of the First Postcolonial Generation in Hong Kong
\textsuperscript{32} Ibid.
\textsuperscript{33} Wright, S. (2000). \textit{Community and Communication: The Role of Language in Nation State Building
and European Integration}. Clevedon: Multilingual Matters.
\textsuperscript{34} Sharwood-Smith, M. (1999). British Shibboleths. In E, Ronowicz & C. Yallop (Eds.), \textit{English: One
Language, Different Cultures} (pp.46-82). London: Cassell.
\textsuperscript{35} Supra note 27.
\textsuperscript{36} Li, C. S. (1996). \textit{Issues in Bilingualism and Biculturalism: A Hong Kong Case Study}. NY: Peter
Lang.
students to master the English language otherwise their study progressions and future
development will be seriously affected. McArthur (2003)\(^{37}\) explains that the British
tend to make English the language of government, preferment and education, and
most importantly, incentives to the citizens, for instance, civil service recruitment and
opportunities to study, which as a result cultivated English to possess a higher status
in Hong Kong.

Cantonese is the local dialect of Hong Kong which is always intimate with most
of the population, although the information above suggests that it may be inferior to
the English language. The geographical factor has left Cantonese no choice but to be
the basic mean of communication amongst Hong Kong people, as well as a reason for
the amalgamation of an official language later in the 70’s. Holmes (2001)\(^{38}\) reckons
that an official language has a very close relationship with identity. It is normally seen
that speaking a particular code is to show solidarity ethnically whereas being
restricted to use one is an insult to a racial group. From 1842 to 1974, English was the
sole official language in Hong Kong. In 1974, the former British government enacted
the Official Language Ordinance under the public appeal, in which Chinese language
was acclaimed to be another official language that has an equal status to English.
Although many scholars at that time rendered such action was mainly preparing for
the handover in 1997, ethnic identity was undoubtedly a key reason why the public
raised the appeal.

3.2 Languages in the Legal Context

The Hong Kong Basic Law allows both Chinese and English to be the official
languages of Hong Kong which enjoy same legal status. The common situation in the
legal profession is that superiority inheres in the English language that neither the
Cantonese nor the Putonghua can compare. English is undoubtedly the primary
language of the law in Hong Kong as it is still the major language in the legal
profession as it is seen as the unifying lingua franca for inter-lawyer communications,
despite the fact that Chinese and Cantonese do exist in some legal practices and lower
courts.

The handover underlines the relations between Hong Kong and Mainland China
as well as the correlation between English and Chinese. Hong Kong is an international
financial centre and more specifically a Chinese centre with international features and
cultures after 1997. This is a two-side phenomenon: on one side, Hong Kong has to
keep its English up in order to have a strong footing in the international market, while
on the other side Chinese must be raised to a status which equals to that of the English

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\(^{38}\) Holmes, J. (2001). *Learning about Language: An Introduction to Sociolinguistics*. Edinburgh:
Pearson Education Limited.
language so as to serve as the interface for China. This trend will have serial impacts on the legal field, law schools in the universities as a consequence, are the first to face the music as they will have to train their law students to be bilingually competent in using both languages when they practise law. It will definitely help balance the power and status of English and Chinese in the future.

It is revealed in the Legal Education and Training in Hong Kong: Preliminary Review (2001)³⁹ that being bilingual is a definite advantage for local lawyers over their Chinese or European counterparts in opening up the market in the mainland. However, the Commissioner for Official Languages⁴⁰ highlights that the standard of written Chinese (Standard Chinese) has dropped in recent years that many students fail to write in accordance with the formality of Putonghua. This may only be an academic matter. When it comes to real practice the judiciary sees the use of Chinese in courts very sociolinguistically: it is not just a bilingual system but rather the fostering of a culture in the legal profession in which both the official languages can be readily used. The fact is in section 10C(1) of Interpretation and General Clauses Ordinance Chapter 1 of the Laws of Hong Kong provides⁴¹:

> where an expression of the common law is used in the English language text of an Ordinance, and an analogous expression is used in the Chinese language text thereof, the Ordinance shall be construed in accordance with the common law meaning of the expression.

The above text is the gravity of the discussion in this paper. First of all, the judiciary wants the use of Chinese in the law to be readily use which in the very beginning allowed the use of Hong Kong Chinese in the lower courts first; secondly, requiring the Chinese equivalents to be in consistent with the common law of that expression will simply turn the Chinese to be mere symbols in the most unsophisticated sense of those words (since a legal word may consist of several concepts and perplexing ideas) thus producing local legal terms that cannot be found elsewhere. More examples will be discussed later.

Although the first case tried in Chinese can be traced back to 1995 (Fig. 1), before 1989 the judiciary in Hong Kong only published ordinances in English. In May 1997, the translation of all established legislations were done but than most likely

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⁴⁰ Ibid.

English was still the major language in trial and testimony in Cantonese had all to be translated and transcribed into English. Yet most cases in the High Court are still tried in English, the spread of Chinese in courts will cater for the public interest. The former Secretary of Justice Elsie Leung once said in a speech\(^{42}\) that the wide use of Chinese in the legal field can eliminate language barriers allowing more common people to understand the contents of the laws\(^{43}\).

<table>
<thead>
<tr>
<th>Courts</th>
<th>Types of cases</th>
<th>Date on which Chinese could be used</th>
</tr>
</thead>
<tbody>
<tr>
<td>High Court</td>
<td>Civil action: HCA3770/1995(^{44}), first case tried in Chinese</td>
<td>1995</td>
</tr>
<tr>
<td>District Court &amp; Lands Tribunal</td>
<td>Civil cases, matrimonial cases, employees’ compensation cases, criminal cases and Lands Tribunal cases</td>
<td>16 February 1996</td>
</tr>
<tr>
<td>Court of First Instance of the High Court</td>
<td>Appeals from Magistrates' court, Labour Tribunal, Small Claims Tribunal and Obscene Articles Tribunal Appeals from the Minor Employment Claims Adjudication Board Any other cases including civil and criminal cases</td>
<td>1 December 1996 2 June 1997 27 June 1997</td>
</tr>
<tr>
<td>Court of Appeal of the High Court</td>
<td>Any appeal from the Court of First Instance of the High Court, the District Court and the Lands Tribunal</td>
<td>27 June 1997</td>
</tr>
</tbody>
</table>

Fig. 1 The Use of Chinese in Courts Programme\(^{45}\)

\(^{42}\) Speech by the Secretary for Justice, Ms Elsie Leung on "The Continuity of Hong Kong's Legal System" delivered at the Asia Pacific Society, Oxford University in the U.K. on March 4, 2001.

\(^{43}\) The Judiciary's objective in the use of Chinese in courts is to put in place a bilingual court system in which either English or Chinese can be used. The Judiciary does not push parties and lawyers to use the Chinese language. The responsibility for the proper conduct of a case always remains that of a judge. Before deciding whether the use of the Chinese language is appropriate for a particular case, the judge will consult the parties concerned. The guiding consideration in the choice of languages is to ensure the just and expeditious disposal of a particular case.


4. Definition of Hong Kong Chinese

Before discussing the examples of Hong Kong Chinese in the legal context, it is critical to define the concept of Hong Kong Chinese. However, Hong Kong Chinese has not been well defined despite the sophisticated studies about the local language. Shi, Shao and Chu (2006)\(^{46}\) firstly provide a definition for Hong Kong Chinese. They refer Hong Kong Chinese to a language that takes Standard Modern Chinese as the base, while blends in colloquial elements which is deeply influenced by Cantonese and English, and the variations found in morphology, semantics, sentence structure, syntax, and word choice differentiate Hong Kong Chinese from the Standard Modern Chinese\(^{47}\).

Putonghua, the Standard Modern Chinese\(^{48}\), is officially defined, regulated and revised solely by the Chinese Government so there should not be much dispute about the definition\(^{49}\). To put it simple, any form of Chinese that is not based on the phonology of the Beijing dialect of Mandarin Chinese, the vocabulary is not drawn from such group of dialects, and the grammar is not in line with the body of modern literary works, then it could be regarded as non-standard Chinese. In the book by Shi, Shao and Chu\(^{50}\), they put Hong Kong Chinese into three grades as below:

1. Grade A: Standard Chinese, completely identical to the Chinese texts in China that mainland people can understand 95% of the text
2. Grade B: Hong Kong Chinese, in principle it is still standard, just that it is influenced by Cantonese and English thus mainland people can understand 50% to 95% of the text
3. Grade C: Canton Chinese, involving a lot of local Cantonese words and forms that are exclusively found in the Cantonese dialect so mainland people can only understand not more than 50% of the text

Chan (2000)\(^{51}\) and Chan (2010)\(^{52}\) both call Hong Kong Chinese a diaspora

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\(^{46}\) 石定栩、邵敬敏、朱志渝，《港式中文與標準中文的比較》，香港：香港教育圖書公司，2006年。

\(^{47}\) Ibid p.6：以標準中文為主體，帶有部分文言色彩，並且深受粵語和英語的影響，在辭彙系統、詞義理解、結構組合、句式特點以及語言運用等方面跟標準中文有所不同，主要在香港地區普遍使用的漢語書面語。

\(^{48}\) in Chinese: 標準漢語 or 規範漢語。

\(^{49}\) in 胡裕樹，《現代漢語》，香港：三聯書店，2003年，頁9-15。

\(^{50}\) Ibid.

\(^{51}\) 陳瑞端，《生活語病》，香港：中華書局，2000年。

\(^{52}\) 陳雲，《中文起義》，香港：天窗出版社/信報，2010年。
language (三及弟中文). They attribute such condition to three reasons: the reading habits of Hong Kong people as they are apt to read easy and short articles, the media tend to use non-standard Chinese with local expressions gradually shaping the use of Hong Kong Chinese, and the chaotic language policy in schools.

Shi (2006)\(^{53}\), in the meantime, gives descriptions to the three characteristics of Hong Kong Chinese: syntax with obvious influence from English sentence structure, the frequent use of classical Chinese, and new creative Chinese terms only found in Hong Kong. In the following content, examples from the legal context will be provided to discuss the above three characteristics.

5. Hong Kong Chinese in the Legal Context

5.1 Syntax

5.1.1 English Sentence Structure

The slogan in the new advertisement of fight against drugs by Narcotics Division is translated as “向毒品說不” which is a concrete example of Hong Kong Chinese following the English sentence structure. Such language condition can be attributed to the poor translation method. If we compare the source text and the translated text it is apparent that the Chinese version is a literal translation of the English one, as “向毒品” is the rendering of “to drugs” while “說不” is the rendering of “say No”. Many scholars in translation studies (Yu, 2006; Si, 2008; Chan, 2003; Jin, 1998)\(^{54}\) have pointed out that when translating English into Chinese one must pay attention to the differences between syntax and pragmatics of the two languages. Before 1997, such slogan was once translated into “拒絕毒品”, “謝絕毒品”, and “遠離毒禍” which were praised by language teachers and translators for they are more like correct Chinese.

In the field of contrastive language studies, it is very essential to make clear of the differences between one language’s sentence structure and the other’s. Chinese belongs to the Sino-Tibetan language stream while English belongs to the Indo-European language stream so needless to say these two languages do not share many linguistic similarities. As it has been discussed before, English has a higher social, educational, political status than Chinese and Cantonese, it is very logical that the translation of an English text will have a foreign shadow. A typical example is the expression of “It is time to…” in English is often translated into “是時候”. For

\(^{53}\) 石定栩，《港式中文兩面睇》，香港：星島出版有限公司，2006 年。
\(^{54}\) 余光中，《論中文之西化》，《語文大師如是說：中和西》，香港：商務印書館，2006 年，頁 70-86；思果，《翻譯研究》，台北：大地出版社，2008 年，第 176 頁；陳定安，《英漢語序比較》，《英漢比較與翻譯》，香港：商務印書館，2003 年，頁 194-226；金隄，《等效翻譯探索》，台北：書林出版有限公司，1998 年。
example, the sentence “It is time to review the Basic Law since 1997…” will be translated as “是时候回顾一下基本法自1997…” which is seen to be syntactically incorrect in Standard Chinese as “回顧一下基本法” is the modifier and “時候” is the modified and the modifier should always come before the modified as required. It will be fine if it is translated as “是回顧一下基本法的時候了”.

5.1.2 Long Sentence

Another typical example of Hong Kong Chinese in terms of syntax is the feature of long sentences in English directly adopted into Chinese. The following example is taken from a bilingual lease contract:

Source text:

The Lessee shall not without the prior written consent of the Lessor create or permit to exist:

i. any Security Interest over the Equipment or any part thereof or the rights of the Lessee under this Agreement.

Translated text:

承租人未经出租人事先书面同意不得设定或允许存在：

i. 對設備或其他任何部分或者承租人在本協議下的權利的任何擔保權益

English tends to write in long and lengthy sentences while Chinese should be in short and logical chunks as English is a hypotatic language (word → phrase → clause → sentence → paragraph) and Chinese is a paratactic language (logic flow). The above clause is found in general lease contracts that the bilingual texts are readily printed. The translated text has a very strong translationese as it strictly follows the sentence structure of the English text without considering the usual habit of Chinese. One thing often criticised by the readers is that the legal translations tend to stick to the patterns of punctuations in the English text. For example, “The Lessee shall not without the prior written consent of the Lessor create or permit to exist” is one long heading with no comma and in the Chinese

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56 Hypotatic language refers to an arrangement of phrases or clauses in a dependent or subordinate relationship.
57 Paratactic language refers to a language that arranges elements one by one, level by level in a sort of fixed pattern and chronological order. Logical connection thus is essential in this language.
58 Translationese: suggested by Eugene Nida, an American linguist and scholar in translation studies, which means a translated text has a strong accent of the source text that it is apparently a translation but not an original text.
version it is also as lengthy as the source text that goes “承租人未經出租人事先書面同意不得設定或允許存在” Suggestions are made as below:

Suggestion:

未經出租人事先書面同意，承租人不得：

i. 對有關設備，或其中任何部分，或承租人在本協議下的權利，設定成任何抵押權益。

Punctuations in Modern Chinese are indispensable. The May Fourth Movement was the watershed dividing the classical Chinese and the new Chinese i.e. Modern Chinese. Before such period one needed not put down any punctuation in classical Chinese as the old Chinese was shorter which required absolute logic flow so it would be easier for readers to follow and interpret a text. As things develop and change, languages can get more complicated. Punctuations in Modern Chinese are, first of all, to help express a particular tone/emotion on top of the meanings of the words and/or sentences; secondly, to clarify the semantic meaning of a phrase or a sentence so that no ambiguity would appear to hinder the reader’s understanding. It is believed that the adding of certain punctuations in the above example has helped demonstrate the logic and semantic connection of different parts, despite the fact that the shadow of the English text is still slightly visible. This is a controversial topic in legal translation as to retaining the English structure or adapting to the Chinese way of expression. As most laws were firstly written in English and a lot of legal terms are great challenges to translators, for instance, security interest, which is a complicated concept in property law which cannot be translated too concisely, thus sometimes there is not much room for re-writing the text in the Standard Chinese way. The status of English in law has made it a sacred language that most Chinese translations are split images of the original text which are still accepted and referred to for over a decade after the handover, giving birth to such Hong Kong Chinese in many legal texts. The following example is another illustration:

Source text:

The borrower shall not do or cause or suffer anything to be done whereby the lender’s interest may be prejudiced.

Translated text:

借款人不得作出或促使或容許任何事情發生藉以使貸款人的利益可能受損。

Source text:

The borrower shall not do or cause or suffer anything to be done whereby the lender’s interest may be prejudiced.

Translated text:

借款人不得作出或促使或容許任何事情發生藉以使貸款人的利益可能受損。

59 胡裕樹，《現代漢語》，香港：三聯書店，2003 年，第 424 頁。

60 Old Chinese tends to consist of one-syllable words (單音節字) while Modern Chinese suggests the use of two-syllable words, as in 胡裕樹，《現代漢語》。
The translation has no breaking which is more or less the same as the English version. It is suggested to break the source text into several chunks then put them in logical order with the help of punctuations as below:

**Suggestion:**

借款人不得做出、促使、容許任何可導致貸款人的利益受損的事情。

Not only does it involve translation method in the above examples, it also associates with Chinese punctuations and syntax. Undoubtedly, employing a number of ordinary punctuations would help shrug off the image of English thus a more precise and concise translation can be produced.

### 5.1.3 Passive Voice

English has a very distinct tense and aspect system in which verbs play an important role in telling time differences and sequences of actions. The use of passive voice in English is very common which can lay the focus on the action receiver (受動者) or simply make the tone more formal. However, in Standard Chinese, most actions are expressed in the form of active voice while most passive voice sentences have negative implications, especially the word “被” as many scholars have reiterated that such word is only to deal with extremely negative events in Standard Chinese. The following examples are found in some legal texts on website of the Department of Justice:

1. Positive

   …cannot be found… (BOILERS AND PRESSURE VESSELS ORDINANCE Chapter 56 Section 2(1)) translated into “…不能被尋獲…”

2. Formal tone

   …The Registrar shall not be taken to… (PLANT VARIETIES PROTECTION ORDINANCE Chapter 490 Section 7(1)) translated into “…處長不得被視為…”

3. Neutral

   …when his case is called for trial… (CRIMINAL PROCEDURE ORDINANCE Chapter 221 Section 5) translated into “…囚犯的案件被傳喚作審訊時…”

Recently in newspapers the captive of mainland artist and political activist Ai

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61 Ibid: 吳叔湘，《語法學習》，香港：三聯，2008 年；雙語法律文件組，《語法相關》，香港：律政司民事法律科出版。

62 For example: 被殺、被強姦、被冤枉 etc.
Weiwei was all reported as “被失蹤”. Although such passive voice is not grammatically correct (“失蹤” is not as extreme as “被殺” or “被強姦”), to a certain degree it managed to highlight the mysterious disappearing of the person. Be that as it may, a lot of passive voice sentences in English are mechanically translated into “被” generating a mis-concept that English passive voice equals to “被” in Hong Kong Chinese. Where in Standard Chinese, there are other alternatives to express passive voice, for instance, “遭”, “挨”, “罹” for negative expressions, “得”, “蒙”, “獲” for positive expressions and “由”, “受”, “告”, “見” for neutral expressions.

5.2 The Use of Classical Chinese Words

Another characteristic of Hong Kong Chinese is the use of old Chinese words. Tang, Lai and Kwok (2008) believe that many Cantonese words are in fact very ancient and elegant Chinese; while Shi (2006) says that the classical Chinese words (文言) have become part of Hong Kong Chinese; while For many Hong Kong people, the use of classical Chinese words is very common in their daily life communications that even themselves do not recognise, although Standard Chinese does not suggest the use of classical Chinese words in the modern society. The laws are no exception, here are some examples:

i. 此舉違反香港法例
ii. 則屬例外
iii. 所有訴費均須准予 〈香港高等法院規則第4A章第62號命令〉

“此”, “則”, “均”, “須” are all function words (虛詞) but these ancient function words may only be in active use in Hong Kong Chinese since one is very unlikely to find them in Putonghua or in the legal texts in Mainland China. These function words have been in the Chinese language for over a thousand years but in Modern Standard Chinese, they are replaced by “這”, “便”, “都”, “要/得(dei3)”. Another example of classical Chinese words is the use of “即使” in Hong Kong legal context. “即使” could be found in use as early as in the Three-Kingdom Period, and until now it is still being used in Hong Kong Chinese especially when translating “notwithstanding” in the law (Fig. 2). However, in Putonghua and Standard Chinese, it is said that “即使” is a non-standard expression that it should be replaced by “哪怕”.

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63 鄧城鋒、黎少銘、郭思豪，《病語會診》, 香港: 三聯書店, 2008 年。
64 Supra note 3.
65 Sometimes “notwithstanding” is translated into “儘管”, though such Chinese is also very ancient that one may seldom find in Standard Chinese and Putonghua.
66 湯志祥，《廣州話、普通話、上海話 6000 常用詞對照手冊》, 香港: 中華書局, 2006 年。
5.3 New Creative Terms in Hong Kong Chinese

At times new terms in Chinese are translations of English texts. However, in recent years a number of new vocabulary existing in the legal context is artificially created words, among which some receive acceptability but some only invite disagreements as well as negative comments. One debatable example must be translating *posses* or *possession* into “管有”. Experts in the Chinese language criticise that in Standard Chinese there are only “管理” or “擁有” but not such a term. Tony Yen (2002),

67 Tony Yen (2002) explains that when existing Chinese words cannot express fully what the English texts mean, the law draftmen tended to create new words to fill up the semantic gap. There are more local examples as below:

1. Satisfied: 信納 as from 採信及接納
2. Prove/Apply: 申領 as from 申請及領取
3. Resettlement: 徙置 as from 遷徙及安置
4. Supervise: 監管 as from 監察/檢察及管制
5. Intercept: 截聽 as from 截取及竊聽

As pointed out by Shi, it is habitual in Hong Kong Chinese to re-use and add in new meanings to an existing word so as to create a unique term that can only be found
in Hong Kong which may mean something totally different in other Chinese speaking areas. For example, the HKSAR government encourages citizens to peruse further studies by using the word “進修增值”, in which “增值” originally refers to property values and financial appreciation; the word *prosecute* is translated into “検控” while “檢控” in China means “檢驗、控制” restricting to the quality of products; the word *accountability* is translated into “問責” whereas in Mainland China it is called “對人民負責”, and many more. All these are examples of artificially created words in Hong Kong Chinese.

However, it should be noted that such linguistic phenomenon is nothing but an example of *Blending* (混合词), one of the word formation methods in morphology. Typical examples in English are: *Motel* (Motor + hotel), *Smog* (Smoke + fog), *Spork* (Spoon + fork) and many more. These blended words usually come to exist when old words are insufficient to represent new subjects and ideas, which could take some time to be well received by the general users of the language. It is believed that the above new blended legal terms are somewhat undergoing the process of popularisation. If new terms can fill up the semantic gap and serve as a quid pro quo to the legal context, whether being accepted is merely a matter of time but not a matter of grammatical correctness.

6. Conclusions

Hong Kong Chinese in the laws may on one hand, be a good reflection of the social conditions which can be easily comprehensible to the locals, while on the other hand when creating and using those Hong Kong Chinese, one should bear in mind that some of the words, phrases and sentences are grammatically wrong as against the official Standard Chinese.

In this paper, the social, academic, political and legal status of the three languages, English, Cantonese and Putonghua, have been discussed. Due to the historical background, English has always been the advantageous language in politics and the legal profession as the language was linked up with authority and power by the former British government. Moreover, Cantonese remains the language for identity and major dialect in daily life activities and Putonghua is playing a more important role in the HKSAR nowadays thanks to the rising up of the financial market in Mainland China. All these have equipped Hong Kong with a perfect environment for the three languages to mix and blend, influencing each other thus producing a new language, Hong Kong Chinese.

Hong Kong Chinese is the product of the language contacts in the territory. Some

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68 In Mainland China “prosecute” is 起訴.
of the words and usage undeniably violate the standards of Modern Chinese but the use of Hong Kong Chinese is the reflection of local culture. As laws are mainly to deal with the society and the general public, the legal language had better be readily comprehensible for the people involved. Back then when the British government advocated the use of Chinese (Cantonese) in the courts and other legal environments, waves of disagreements were heard and seen but now Chinese and Cantonese have both been positively embraced. Yet the promotion of Chinese in the courts in principal is to suit and facilitate the people concerned, mostly laypersons in law. Moreover, the patterns, the use of the words and sentences of Hong Kong Chinese do not simply come out from nowhere since nearly most of them can be traced, explained and analysed linguistically. More importantly, the Hong Kong Chinese found in the legal context do exist for a reason, only if it is put to its proper use.

This paper investigates if sociolinguistic theories can be applied to the legal texts. It is found out that sociolinguistic conditions would influence thus have impacts on the use of Hong Kong Chinese in the legal context, too. More discussions can be done on comparing the Hong Kong Chinese in legal texts with the English original texts so as to examine if there are any correlations between the form of Hong Kong Chinese and ways of translation.
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