

Cultural Differences in the Legal System between China and the West from the Perspective of Geographic Environment

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Abstract: Law serves as a manifestation of cultural expression, with its diverse manifestations influenced by geographical factors. Within the same social and historical context, legal culture develops distinct patterns of thinking, modes of expression, and value judgments. The translation of law across different cultural backgrounds is inevitably impacted by variations in legal culture. This paper aims to provide a concise analysis on the influence of Chinese and Western legal cultures on legal translation from the perspective of geographic environmental disparities.

Keywords: Geographic Environment, Cultural Differences, Legal Culture, Legal Translation, Legal System.

1. Introduction

Legal culture, conceptualized as a cultural phenomenon, refers to the enduring legal values collectively sustained by a nation or community throughout its historical development. Consequently, it manifests as a pervasive, persistent, and relatively stable pattern of legal thought and conduct that underpins the effective operation of legal systems. Embedded within the collective consciousness, legal culture exhibits historical continuity and stability while maintaining a degree of social inclusivity. The emergence, formation, and evolution of any legal culture are intrinsically shaped by specific socio-historical conditions. Given the complex interplay between China and the West across historical, geographical, social, and ethical dimensions, discernible disparities in legal cultures inevitably arise. Within this framework, geographical factors constitute one fundamental source of divergence between Chinese and Western legal traditions.

The differences between Chinese and Western legal cultures, rooted in distinct historical paths, social institutions, ideologies, and value systems—partly attributable to geographical separation—have long presented considerable challenges in the field of legal translation. These divergences frequently hinder a comprehensive and coherent understanding of certain legal phenomena, thereby significantly influencing translation practices within the context of cross-linguistic and cross-cultural communication.

2. Literature Review

Qian Mu observed that the fundamental divergence in cultural and spiritual dispositions across regions stems primarily from variations in the natural environment, which shapes distinct modes of living[1]. These lifestyles, in turn, exert a formative influence on the development of culture and spirit. From the perspective of origin, he posits that human culture can be categorized into three basic types: nomadic, agricultural, and commercial. Nomadic culture originated in the vast grasslands, agricultural culture in river-irrigated plains, and commercial culture in coastal regions and offshore islands.

Montesquieu similarly emphasized the profound impact of geographical factors on the human spirit, contending that

inhabitants of hot climates tend toward timidity, akin to the elderly, whereas those in cold climates exhibit a youthful boldness[2]. He further argued that tropical populations are more inclined to endure servitude, while peoples of colder zones cherish freedom. Barren land, in his view, fosters industriousness, frugality, hardiness, courage, and martial aptitude, as necessity compels its people to secure through labor what the land does not provide. Conversely, the richness of the land is seen to encourage weakness, indolence, and a heightened fear of death, born from an abundance that diminishes struggle.

When considering the role of geography in civilizational development, it is evident that during the nascent stages of civilization, when productive forces remained markedly underdeveloped, the geographical environment played a substantial, often decisive, role in shaping economic models, shaping levels of humanistic and spiritual development, and even determining the fundamental forms of civilization.

2.1. A Comparison of the Geography of the Origins of Chinese and Western Civilizations

The divergent geographical environments of China and the West have fundamentally shaped the respective development of their legal cultures, resulting in a pronounced dichotomy between the relative closure of Chinese law and the greater openness characteristic of Western legal traditions[3]. The origins of Western law can be traced to ancient Greece, a peninsula situated at the crossroads of Europe, Asia, and Africa. This advantageous geographical position fostered the growth of industry, commerce, and navigation. The development of these sectors enabled individuals engaged in them to gradually loosen their dependence on land and direct labor. Furthermore, the expansion of maritime trade accelerated the production and circulation of goods. Following the Greco-Persian Wars, the ascendancy of a commodity-based economic logic further weakened kinship ties, stimulated the evolution of city-state politics, and promoted the emergence of natural-rational thought grounded in contract. Within this context of intense intellectual confrontation, progressive ideas were perpetuated while outdated ones were discarded, allowing law to remain in a

state of relative openness and receptivity to external influences.

In contrast, the Chinese civilization originated in the Yellow River Basin, a region geographically enclosed by the Gobi Desert and grasslands to the north, the sea to the east, and high mountains to the west, creating a relatively isolated environment. Despite experiencing dynastic transitions and the tumult of war, the unified imperial structure established during the Qin Dynasty remained largely intact. This prolonged geographical seclusion fostered a distinctive psychology and worldview, different from those of maritime nations. Consequently, Chinese legal culture exhibits strong stability and historical continuity, demonstrating less capacity to assimilate foreign elements compared to the more open Western societies. Simultaneously, agrarian life led to the formation of small-scale farming units centered on the family. The inherent stability of agricultural civilization encouraged generations to settle on the same land. Lacking viable alternatives for survival away from the land, the self-sufficiency of this natural economy suppressed desires for mobility, fostering a deep-seated contentment with settled life[3]. Limited interaction with the outside world cultivated a closed, rather than open and inclusive, mentality[5].

Ultimately, the disparities in economic foundations, themselves largely determined by geographical factors, gave rise to a multitude of distinctions between Chinese and Western cultures.

2.2. A Contractual Society and an Ethical Society

Based on the foregoing analysis, it is evident that the fundamental distinction between Chinese and Western legal cultures stems from the divergent economic paradigms—namely, the natural economy in ancient China and the commodity economy in ancient Greece—which were themselves shaped by distinct geographical conditions. These differing economic foundations subsequently gave rise to contrasting social architectures: a contract-based society in the West and an ethics-based society in China.

Within the traditional commodity economy of the West, the essential social precondition for human survival and development resided in “commodity exchange.” In this framework, individual interests could only be realized through formally constituted “contracts.” The formation of such contracts required that both parties possess genuinely “free” will and occupy a position of inherent “equality.” As contracts constitute a foundational element of economic transactions in industrial-commercial societies, the principles of “freedom” and “equality” embedded within them evolved into dominant humanistic values in commodity-based economies. Furthermore, the enforceability of contracts is fundamentally underpinned by legal institutions, thereby shaping Western society into one fundamentally organized around contractual relations.

In an agrarian society, the mode of agricultural production—organized around family units and communal clan structures—meant that most households within a natural village were typically connected by kinship ties. This is reflected in the prevalence of surname-based toponyms for Chinese natural villages, reinforcing the formation of a “production organization centered on specific geographical and kinship relations.” Consequently, it follows that in traditional society, the regulation and standardization of behavioral norms within the clan took precedence, while interactions with external

individuals remained peripheral.

The traditional Chinese “ritual society” constitutes an ethical type of social order characterized by hierarchical arrangements and reverence for clan-based norms, manifesting primarily as a relationship-driven and sentiment-governed society. In contrast, the Western “legal society” represents a contractual form of social organization rooted in a natural-law conception of equality and equilibrium of rights. The historical adoption of these two distinct social models by their respective civilizations can be attributed to significant initial geographical divergences. These divergent social structures have, in turn, directly shaped the fundamental differences observed in their legal cultures[6].

2.3. The Influence of Cultural Differences on Legal Translation

A profound divergence exists between the legal philosophies and cultural ethos of China and the West, which frequently results in the absence of functional equivalence in legal translation—a phenomenon referred to as “zero correspondence”[7]. This gap often complicates comprehension and translation when navigating between Chinese and Western legal frameworks[8].

Illustrative examples from Western legal culture include concepts such as the parity of power and responsibility, the separation of powers into legislative, executive, and judicial branches, and judicial independence. Additionally, differences in legal philosophy and spirit are reflected in the translation of the well-known Chinese legal principle “坦白从宽，抗拒从严。” Here, “宽” and “严” pertain primarily to the severity of sentencing. Within traditional Chinese legal discourse, “严厉的判决” is commonly rendered as “stiff/harsh sentence.”

By contrast, in Western judicial practice—particularly in the UK and the US—the term “tough sentence” is frequently employed. For example: “Rapists, armed robbers and violent criminals are being given much tougher sentences.” Correspondingly, the opposite of “tough” is expressed as “soft,” as in “soft sentence.” For instance: “Soft sentences only encourage sex offences.” Although English translation may also use terms such as “severe” and “lenient,” a careful comparison reveals that within legal linguistic conventions, “soft” aligns more closely with “宽,” while “tough” corresponds to “严.” The distinct legal cultural methodologies and underlying jurisprudential principles reflected in these terminological choices indeed merit deeper reflection.

It should be noted, however, that differences in legal concepts and spirit between Chinese and Western legal cultures do not necessarily entail mutual exclusivity. Areas of conceptual overlap exist, which may be described as instances of “approximate correspondence”[9]. For example, the Western concept of “human rights,” rooted in the Stoic traditions of ancient Greece and Rome, has a long historical lineage. While some contend that traditional Chinese legal culture lacked a comparable notion of human rights prior to the infusion of Western legal thought in the late 19th century, many scholars—both Eastern and Western—argue that Confucianism, which profoundly shaped Chinese legal culture, embodies principles compatible with human rights ideals. These include an emphasis on the individual within social relationships rather than in isolation; a vision of society as a community founded on mutual trust rather than adversarial relations; and a focus on both individual rights and

duties toward family, society, and the state. Far from conflicting with human rights implementation, such perspectives may enhance their universal resonance.

Thus, the Western concept of “human rights” and the Chinese notion of “人权” share meaningful common ground and are amenable to integration. Recognizing this allows for more accurate and appropriate translation of related concepts, such as “personal right” (人格权) and “dignity of human personality” (人格尊严).

Furthermore, although certain fundamental legal concepts are shared across civil law and common law systems, variations in their interpretation within different legal traditions create additional translation challenges[10]. For instance, the common law term “jury” corresponds to “陪审员”, yet in the Chinese legal context, the equivalent role is termed “人民陪审员” (people’s assessor) or translated as “judicial assessor,” reflecting substantive differences in organizational structure and authority. Direct equivalence between the two is therefore misleading. Similarly, while civil law systems typically use “security” to denote “担保”, common law systems often prefer “guarantee”, another example of conceptual and terminological divergence shaped by distinct legal cultures.

3. Conclusion

The historical adoption of these two distinct social models by their respective civilizations can be traced to profound initial geographical divergences. These structurally divergent societies have, in turn, fundamentally shaped the contrasting legal cultures that emerged in China and the West. The practice of legal English translation consistently encounters substantial challenges due to these deep-seated differences in legal ideology and spirit, which frequently give rise to inaccuracies and misleading renderings.

As a linguistic variant, legal English translation functions not only as an outcome of legal culture but also as its vehicle. The cross-linguistic transfer of legal terminology often entails

the loss or distortion of culturally embedded connotations, necessitating meticulous attention to the underlying disparities between Chinese and Western legal traditions. Only through such culturally attentive engagement can we achieve a renewed perspective on Eastern and Western legal cultures, deepen our comprehension of their foundations, clarify the cultural significances encoded within legal texts, ensure the accurate communication of their meanings, and ultimately realize effective intercultural legal translation.

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