

**Translation of Treaties Signed between China and Great
Britain during 1842-1911**

Translation, Ideological Reconstruction, and Discursive Power

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Abstract

During the 19th and early 20th centuries, China concluded a series of unequal treaties with foreign powers, which have marked the “Century of Humiliation” of China in modern history. Unequal treaties, as a materialized form of power conflicts, establish power relations in black and white that every single word, phrase or sentence could be a unit of power. Thus, the translation of these Sino-foreign treaties is essentially an invisible battlefield, where the Western countries sought political advantages by exerting ideological control and power abuse in the Chinese discourse. In recent years, scholars have come to realize the important role of translation in shaping history. They have gained new insights by examining the controversial translations of legal terms, and investigating the contextual factors that conditioned the production of these translations, such as the foreign translators as well as the negotiation processes. It is concluded that foreign powers, by manipulating the translation of treaties, managed to reduce China into an even more unfavourable position in the bilateral encounters.

Based on the previous studies, this thesis examines how translation has contributed to the inequality of these treaties by looking at the different discursive patterns in translating these treaties, so as to demonstrate the dynamic power relations between China and foreign states as reflected and reshaped by translation. Taking the translation of the Sino-British treaties signed during 1842-1911 as a case, the study compares how the unequal demands were raised and translated into a Chinese discourse in synchronic and diachronic manners. With critical discourse analysis (CDA) serving as the main approach, the study probes into how translation mediates between two conflicting ideologies represented by imperial China and Western colonizers and facilitates the establishment of a new world order in the Chinese discourse. To compare the discursive discrepancy between the Sino-British treaties and their translations, the present study focuses on the shifts in translating different unequal demands, including reparations, territorial cessions, and extraterritoriality, with each demand addressed by a specific type of linguistic shifts. The results show that both structural asymmetry and semantic discrepancy exist between two discourses, which mirror the power imbalance between two parties in history. Moreover, the discursive patterns were not fixed but transformed at different historical periods, which echoes the dynamic development of the unequal treaty relations between China and the Western powers in the historical progression.

Key words: Treaties, inequality, translation, ideology, discourse, power

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Chapter 1 Introduction

1.1 Background Information

As the historical progress of Western colonization moved forward on a worldwide scale, the Western powers began to cast their attention on the Eastern world¹. Along with the increasingly frequent cultural and commercial exchanges between China and the West, the Western powers became more and more ambitious to explore and expand the potential market of China. However, due to the closed-door policy practiced by the Qing government, the Western call for free trade was not met with enthusiasm in China. Negotiations turned out to be failure on account of the incompatible outlooks on world order and diplomatic relations held by China and the Western states. Disputes and conflicts were then inevitable and finally led to warfare, where China suffered severe defeats and compromised on a series of unequal treaties with the foreign powers for the sake of peace. Against this historical backdrop, the study probes into the translation of the Sino-British treaties concluded during 1842-1911. This section serves as an introduction to the research objects – *unequal treaties*, by tracing the historical origins of unequal treaties in the Chinese context.

¹ In this study, the Eastern world (or the East) mainly refers to the Asia-Pacific region that accommodates countries such as China, India, Japan, and etc. This concept is geographically in contrast to the Western world (or the West) represented by Europe and America. As for the concepts “the Orient” and “the Occident” proposed by Edward Said (1978), they carry postcolonial connotations, with the Orient as the Other which is inferior and alien to the Occident as the Us. In this sense, such concepts essentially reflect how the West gazes at the East. However, this study examines the two world orders represented by two geopolitical camps from an opposite perspective. Therefore, the following analysis applies the West and the East to differentiate from the postcolonial concepts.

1.1.1 What are “Treaties”: Definitions and Nature of Treaties

First and foremost, we need to have a basic understanding of treaties. The following is the definition of the term *treaty* in the *Vienna Convention on the Law of Treaties (VCLT)*²:

an international agreement concluded between States in written form and governed by international law, whether embodied in a single instrument or in two or more related instruments and whatever its particular designation (1969:3)

Similarly, Robert Kolb (2016) also defines the concept of *treaty* under the framework of international law³:

Under general international law, an agreement is a consensual bond, express or tacit, between two or more subjects of international law, designed to produce legal effects and governed by international law. (2016:16)

Both definitions point out the foundation of treaties, namely international law. Therefore, treaty relations can be considered as international relations based on international law, which is a diplomatic mode upheld by the Western countries. However, this mode contradicts the Eastern one in nature, which was represented by imperial China. Immanuel C.Y. Hsu (1960) has mentioned this issue when exploring China’s entrance into the family of nations. He points out that the “Western nations could not accept the Chinese tributary system without sacrificing valued principles of state sovereignty and diplomatic intercourse based on international law” (1960:5). Likewise, China felt a strong antipathy towards the Western philosophy of “equality of states”, as it had challenged China’s traditional mode of diplomatic relations where China assumed absolute dominance over other states as the Celestial Empire. In this sense, the conclusion

² The *Vienna Convention on the Law of Treaties* is an international agreement between states, which was concluded at Vienna on May 23, 1969, and then entered into force on January 27, 1980.

³ According to Kolb, the word *treaty* usually refers to “written instruments”, while the word *agreement* is broader in sense, which also includes those “non-written bonds” (2016:16). As for the present study, the topic is about the translation of Sino-British treaties, and these “treaties” include treaties, conventions, agreements and any other type of legal contracts concluded between states in written form.

of these Sino-foreign unequal treaties has introduced international law into the Chinese legal system, which accounted for the transformation of China's ideology of world order and consequently its mode in dealing with diplomatic relations in history.

In defining *treaties*, we should also consider the context under which a treaty is concluded and enacted. Treaties are concluded for various purposes in dealing with international relations. The treaties to be examined in the present study were concluded to dissolve international tensions, which are also known as *treaties of peace*. Emmerich de Vattel (2010), in discussing the *Law of Nations*, points out that such treaties are concluded when belligerent powers have reached a ceasefire agreement, and “they stipulate the conditions of peace, and regulate the manner in which it is to be restored and supported” (2010:655). It should be noticed that, unlike those concluded in peace, these treaties of peace are concluded between two contesting powers, which makes the nature of treaties as political struggle even more conspicuous. Treaties, in essence, feature a duality of being legal and political at the same time. As Kolb (2016) illustrates,

The crucial point, from the legal point of view, is that there is an intention to make a commitment, whatever the political motives for doing so. Only the consent is a legal matter; the reason for consent remains in the realm of policy. (2016:16)

It can be understood that the conclusion of treaties results from political encounters and results in legal commitments. These two aspects are innately interdependent: driven by certain political motives, treaties are concluded to stipulate rights and obligations for the contracting states; the implementation of treaties, in turn, guarantees the achievement of the said political purposes. Therefore, when examining treaties and treaty relations, scholars usually carry out discussions upon the treaties from legal and political perspectives.

1.1.2 The Treaty System: Unequal Treaties in a Chinese context

The present study examines the unequal treaties in a Chinese context, which refer to a series of treaties, conventions, and agreements concluded between the late Qing Empire and foreign powers as a result of military defeats during the 19th and early 20th centuries. These unequal treaties in the Chinese context are collectively known as the Treaty System, which has marked the “Century of Humiliation” of

China and uncovered a new historical era in China. The *Treaty of Nanking* signed in 1842 has been generally acknowledged as the first Sino-foreign unequal treaty in modern China.

When discussing unequal treaties in the Chinese context, the first step is classification, namely according to what criteria the Sino-foreign treaties are counted as unequal treaties. Mainstream scholars usually hold two criteria: non-reciprocal legal terms and unfair concluding processes. In law, as defined by Vattel (2010), *unequal treaties* refer to “those in which the allies do not reciprocally promise to each other the same things, or things equivalent” (2010: 349). For these Sino-foreign treaties, they have been accused of inequality largely due to the excessive demands imposed over China, yet without conferring China equivalent rights as its foreign counterparts. These unfair demands were exceptional privileges enjoyed by the foreign states within the territory of China, while on the contrary, China, as the other concluding party, was inaccessible to such rights on the lands of the contracting countries. The major unfair demands include territorial cessions, reparations, tariff autonomy, extraterritoriality, and opening ports, which have severely damaged China’s sovereignty in territory, legislation, and economy.

Still, no consensus has been reached upon the unified criteria in classifying unequal treaties within academia. Thus, the studies on the number of Sino-foreign unequal treaties do not share the same answer. For example, Gao Fang (1999) points out that the opinions upon unequal treaties diverge, making it difficult to provide an accurate number concerning how many unequal treaties have been concluded in the given historical period. Then he suggests the sole criterion in defining Sino-foreign unequal treaties should be, as long as any legal term of a treaty offences and harms the sovereignty and nationality of China, it should be counted as an unequal treaty. In this sense, the legal content is the primary concern in defining and researching unequal treaties.

While some other scholars focus on the invalidity of such treaties by examining the rules governing the conclusion of these treaties, and the historical context becomes the key factor to be considered in this case. The main argument is, China was forced to sign these treaties with the foreign states, which means the treaties were not concluded on mutual willingness and thus cannot be counted as equal

treaties. On the surface, these treaties were legal outcomes of bilateral negotiations between China and foreign states, but in essence, these treaties were “imposed” upon China after its military defeats by these foreign powers. In this sense, that the treaties are concluded under the threat of forces becomes another criterion in deciding what is an unequal treaty.

In fact, prior to the Treaty System, the Western powers had made several attempts to build international relations with China by means of treaties under the framework of international law. The original intentions were to carry out peaceful negotiations with China to solve problems concerning the national interests of both parties. For example, the *Treaty of Nerchinsk* of 1689 between the Qing government and Russia has been recognized as the first equal treaty concluded between China and Western states. Britain, as the leading power among the Western states, also approached China several times for establishing treaty relations in the 18th century. However, the failure of the Macartney Mission⁴ in 1793 made Britain aware of the historical fact that China’s outlook on world order was the largest obstacle in setting up equal diplomatic relations. Imperial China found it unacceptable to fit itself into the Western world order where states were equal members of the international family. Li Yumin (2011) points out that, within China’s existing tributary system, it was humiliating to establish treaty relations with those “barbarian” nations, which manifests that China held a strong sense of superiority in diplomatic relations. Afterwards, driven by the pressing need for more freedom in trade, Britain changed its diplomatic policy towards China and planned to expand its market in China by force, which was marked by the 1834 Napier Affair⁵. It is the First Opium War (1839-1842) that has replaced

⁴ The Macartney Mission, also known as the Macartney Embassy, was the first diplomatic mission sent by Great Britain to China, which aimed to attain agreement by the Qing government upon the requests by the British government. Such requests shared similarities to those raised in the *Treaty of Nanking* (1842), including opening ports, territorial cession, and relaxation of trade restraints. However, the mission failed with all these requests rejected by the Chinese Qianlong Emperor.

⁵ In 1833, along with the termination of the monopoly by the East India Company in China, William Napier was appointed as the first Chief Superintendent of Trade at Canton, with a mission to expand Britain’s rights by changing the restrictive Chinese trade system. However, his mission turned out to be failure, for Lord Napier had violated the diplomatic etiquette by seeking direct communication with the Chinese officials. Worse still, he entered Canton without gaining the permission from the Chinese officials. The Chinese Governor Lu Kun then declined his requests and

the original mode of peaceful negotiation by an imperialist mode resorting to military force. In consequence, the first Sino-foreign unequal treaty, the *Treaty of Nanking*, was concluded between the late Qing government and Britain in 1842, which marks the kick-off of the Century of Humiliation in Chinese history.

Along with the rapid eastward expansion of European colonization, the Western powers had also concluded numerous unequal treaties with various countries worldwide at the same historical period, thus making treaty relations a common practice of diplomacy. There is no denying that the establishment of the Treaty System in China had far-reaching influence not only upon its national history but also on the Sino-centric world order in the East. Hu Menxiang (2010) demonstrates that, the establishment of treaty relations under the framework of international law has heavily shocked the traditional mode of China's foreign relations, where China assumed the central role in the Eastern world order while other neighbouring countries served as subordinate powers (2010: 35). Reforming China's diplomatic philosophy by means of treaties, the Western powers finally managed to merge the Sino-centric East into the international family. However, Wang Dong (2005) points out the paradox regarding unequal treaties: "while international law employed a formal concept of national sovereignty that made all nations equal, it could not guarantee that such equality would be respected or enforced in practice" (2005: 116). Such treaty relations seemingly advocated equality among state members, but were essentially in the control of the leading Western colonizers. The following quote from Teemu Rusklo (2013) demonstrates this embarrassing dilemma China was trapped into at the given time:

At the end of the Opium War (1839– 1842), China became formally absorbed into the regime of Euro- American international law, finding itself bound by a series of so-called Unequal Treaties that effectively constituted it as a second-class sovereign in a world that was increasingly defined by a European race for colonies. (2013: 110)

ordered to expel Napier from Canton. Feeling humiliated by the Qing government, Lord Napier took an even tougher hand in managing the diplomatic relations with China and suggested the use of military force. Afterwards, the conflicts between the two parties further evolved into an exchange of fire, and the bilateral negotiation finally broke through on the battlefield.

The conclusion of unequal treaties is ironically based on the premise that states are equal members in diplomatic relations. Yet this pseudo-premise was finally proved to be a Western trick by the outcome that the Chinese Celestial Empire was reduced into a semi-feudal and semi-colonial society under unequal provisions.

In fact, the notion of *unequal treaties* had not yet come into the public discussions until the collapse of the Qing Empire. Wang (2005) mentions, it is the Nationalist Party (Kuomintang) that firstly used the term *unequal treaties* (*bupingdengtiaoyue* in Chinese) to address these treaties in the 1920s, who aimed to arouse patriotism among common people in China to fight against the Western imperialism. In the past, the treaties concluded between the Qing government and foreign states were inaccessible to the general Chinese citizens, which reflects the dictatorship of feudalism. As Rune Svarverud mentions, “[t]he Chinese government has failed both to involve the Chinese people in the political process and to make public the content and wording of the different treaties with foreign countries” (2007: 238). This also led to occasional conflicts between British subjects and Chinese locals during the implementation of such unequal treaties, especially those legal terms harming the actual interests of the public. Since the mid-19th century, the Qing government had been actively engaging in modifying the unequal terms so as to mitigate its legal burdens and strive for equivalent rights as its counterparts. Along with the collapse of China’s last imperial dynasty and the foundation of the Republic of China in 1911, the emotion of nationalism reached an all-time high and the voices of abolishing the Treaty System were heard nationwide. With an increasing awareness of the aggressive nature of these treaties, China has stepped on a long, long journey of ratifying and abolishing these unequal treaties.

The notion of *unequal treaties* has been crucial to the historical progress of the modification and abolishment of these Sino-foreign treaties. Compared with the neutral term *the Treaty System*, this notion itself carries negative rhetoric colours, which embodies China’s awakening and rebellious spirit in the power struggle with the Western powers. Wang (2003) has observed three modes of discourse on unequal treaties in modern China, namely moral, legalistic, and rhetorical, and found that each mode has its own emphasis and target audience. The moral

discourse aims for moral persuasion and condemnation, which exposes the unfairness of these treaties to those Western powers, while the legalistic discourse questions the legal validity of such imposed treaties and serves the goal of abolishing the Treaty System (2003:414). These two discourses are somehow unapproachable to the general public, for the target audience remains the governments and the upper class. The last mode, namely the rhetorical discourse, displays the opposite scenario, which serves as propaganda among the masses so as to engage nationalism in fighting against imperialism. These three modes constitute the unique Chinese discourse of unequal treaties in China's early modern history.

1.1.3 Discussions upon the Nature of “Inequality”

With regard to *unequal treaties*, this notion has been debated and explored among academia of different disciplines, such as law and politics. Alice de Jonge (2013) has explored the matter of “equality” concerning treaty relations by proposing a crucial question: a legal problem or a political one? The key to this question lies in the duality of treaties: being legal and political discourses at the meanwhile. Therefore, the issue concerning inequality can be deciphered from legal and political angles. As is mentioned in Section 1.1.1, political factors are the cause for a treaty. Considering the socio-historical background of such unequal treaties, they were historical constructs under the political struggles in the given period. Hence, the unfair process serves as an optional answer to this inequality problem. On the other hand, legal effects are the result of a treaty, which is on intimate terms with the stipulations of rights and obligations. From this point of view, the accused inequality should be accounted by the non-reciprocal terms within.

The mainstream voices criticizing the unequal treaties target at the unfair demands proposed within the treaties. As Vattel suggests, “[t]he voice of equity, and the general rule of contracts, require that the conditions between the parties should be equal” (2010:434). The Treaty System has undoubtedly violated this principle, for most legal terms merely benefited the Western powers. Such non-reciprocity is exactly where the accused inequality lies. Though the unequal legal terms are bombarded with most criticism, this inequality issue is somehow more complicated. Stuart Malawer (1977) has categorized “unequal treaties” in six

groups⁶, and some concepts concerning inequality are worth our attention. Formal inequality and substantial inequality are mainly concerned with the legal terms, while procedural inequality is associated with the socio-historical background that conditioned the conclusion of such treaties. As for the procedural inequality, he even proposes the notion of *imposed treaties*, which emphasizes the unequal context of such treaties. The treaties were concluded “as the result of threat or use of any military force against contracting states” (Malawer, 1977:8). When exploring the quandary of “equal” or “unequal” treaties, Li Jiangfeng (2016) also shares similar opinions with Malawer (1977) by discussing substantive inequality and procedural inequality. The former can be inferred from the provisions while the latter relates to the decision-making process of the given treaties (2016:470).

Regarding the inequality issue of “unequal treaties”, answers can be manifold. Here, I suggest a three-dimensional model to interpret such inequality, and the three dimensions can be summarized as three “Cs”, namely context, content, and communication. The first two dimensions share similarities with the previous discussions made upon inequality from political and legal perspectives, while the last dimension is likely to be neglected, which concerns how the unequal demands were communicated to the strong and weak powers when establishing such legal bonds, namely the Western states and the Qing government in this case.

In fact, these three dimensions are closely intertwined in evaluating the inequality issue. Behind these treaties were the clashes between two world orders, the Sino-centric world order in the East and the Euro-centric world order in the West. During the colonial expansion, the Western powers were ambitious to open China by force and establish a new world order in the East. Under this socio-historical context, the foreign powers proposed to end warfare by concluding a series of treaties with the Qing government, with a number of unfair demands imposed upon China. Suffering great losses on the battlefield and lagging behind

⁶ Malawer has categorized the “unequal treaties” into six groups: “1) treaties containing formally equal treaty provisions, but in practice, unequal obligations which may occur as a result of unforeseen developments; 2) treaties containing formally unequal obligations, regardless of the actual effect of the treaty; 3) and 4) are identical to 1) and 2), except with either economic or military force threatened or used in order to conclude such agreements; 5) treaties not otherwise unequal, concluded through the use of economic force alone; 6) treaties not otherwise unequal, concluded through military force alone” (1977:9).

due to the closed-door policy, the Qing government was then incompetent to argue for its national interests on just grounds and had to compromise on the Western aggression. Simply put, the socio-historical context provides the political causes for unequal treaties; the unfair legal demands are the legal outcomes in the form of treaties; and negotiations are the communicative bridge to transform inequality from political causes into actual legal effects.

The central argument in this study is that, bilateral communication concerning such treaties has also added to the condemned inequality, and translation, as an indispensable part of communication, cannot be exempt from the accusation. In legal translation, linguistic equity is closely connected with the realization of parallel legal effects for both contracting parties. Thus, the primary goal of treaty translation is to prevent information loss or distortion and guarantee accuracy during the process of language transfer. However, translation can do more than language transfer. It also serves to mediate two conflicting ideologies for consensus. Though translation indeed mediates between two discourses, it unnecessarily means translation itself is neutral, which depends on the values and stances of the translators. In some cases, translation is not a fair deal but a tricky word game. Even minute discursive discrepancy can make a difference in shaping inequality of such legal discourses. In this sense, translation could be a new answer to the inequality problem of unequal treaties.

It is worth noticing that the 3C model also works in the analysis of treaty translation. When examining the translational aspect of these treaties, we also apply the 3C model as follows: 1) for context, we consider the socio-historical activities, especially the negotiations between states, that have conditioned the drafting and translation of these treaties; 2) for content, we compare the original and translated versions of these treaties for textual analysis; 3) for communication, we approach the translators, the key communicators for the unequal demands of such imposed treaties.

1.2 Previous Studies on the Translation of Sino-foreign Unequal Treaties

Most previous studies on Sino-foreign unequal treaties are conducted from legal, political, or historical angles to explore the central question regarding equality and

inequality of these treaties. Within the international and domestic academia, researchers have done in-depth investigations into those representative treaties concluded between late imperial China and foreign states, and carried out heated discussions upon the controversial issues around these treaties, including the unfair demands and their influences upon China's modern history. The role of translation in shaping the inequality of these treaties has also received increasing attention across a number of disciplines in recent years, and a few famous works have touched upon the translational aspect of these treaties.

In the past decade, sinologists and translation scholars have also made great contributions to treaty studies by meticulously looking into the translation problems of the Sino-foreign unequal treaties. There are in-depth investigations into the translation of those representative unequal treaties, such as the *Treaty of Nanking* (1842) and the *Treaty of Tientsin* (1858). Also, there are a few research projects launched in China that systemically explore the translation history of unequal treaties. For example, Qu Wensheng (2013; 2014; 2017; 2019; 2021) launches a project of the translation history of early Sino-Britain and Sino-US treaties, based on which he published a collection of research papers entitled *Unequal Treaties and Non-equivalent Translations* in 2021; Lawrence Wang-chi Wong (2009; 2011; 2012; 2013; 2014a; 2014b; 2016), as the principal investigator for related research grants and projects (e.g. the project entitled Translation and the Two Sino-British Opium Wars during 1838-1860 sponsored by the Hong Kong Research Fund), also casts special attention on the translation activities and translators in the early modern China, with a number of articles published in different journals and a series of *Studies in Translation History* under his edition.

If adopting the 3C model proposed above to assess treaty translation, the previous studies can be roughly divided into three categories, namely product, activity, and translator, depending on which orientation the researcher takes in research. The follow subsections provide the overview of previous studies from these three dimensions.

1.2.1 Product-Oriented Translation Studies on Treaties

The first category is product-oriented translation studies, which specially focus on texts, namely the treaties and their translations. In translation history studies, scholars have always been trying to gain new findings by looking into the

translated texts, which are an important source of first-hand historical materials themselves. The language phenomena are taken as evidence when scholars attempt to seek possible answers to a historical problem. Such descriptive findings always serve as a crucial basis for the further interpretations and explanations of the given discourses established upon such texts.

Taking product as the research orientation, studies of this kind are closely associated with translation quality assessment. As legal discourses, treaties are supposed to maintain consistency in conveying the stipulated obligations and rights to both audiences, whatever languages used in drafting or translating. Linguistic correspondence is the basis for pragmatic equivalence between original and translated discourses of the same treaty. Hence, the primary goal of treaty translation is to convey rights and obligations in equal manners regardless of languages, and thus information accuracy and equivalence are of the utmost significance. However, equivalence is not the sole concern in treaty translation in the given Chinese context. Resulting from military defeats, the conclusion of such treaties could never be a fair deal between two parties that were unequally matched in power. Even translation has become an invisible battlefield where two ideologies conflicted and combated with each other. The translators, when mediating the two discourses, were somehow subject to their own stances. Moreover, as Svarverud mentions, “[t]here may be near equivalents between languages, especially languages and cultures in close genetic relationship. Between China and the West in the middle of the 19th century hardly any such relationships can be said to have existed”(2007: 5). Such linguistic vacuum somehow has been disguised as an excuse for the translators to use their discursive power to manipulate translation for the Western colonizers they served. Furthermore, as it was afterwards stipulated by Article L in the *Treaty of Tientsin* (1858) that should there be any dispute, the English version prevails, the translators held less misgivings about the potentially contentious non-equivalents in translation, for the Chinese translations of these treaties did not share as much as validity as their English originals⁷.

⁷ The original words of Article L in the *Treaty of Tientsin* are: “All official communications addressed by the Diplomatic and Consular Agents of Her Majesty the Queen to the Chinese Authorities shall, henceforth, be written in English. They will for the present be

Most studies have paid special attention to the translation of terminology in these treaties. Specific terms in legal translation are vulnerable to manipulation that even slightest discrepancies could make a difference to the power relations in-between. It is argued that since international law was not yet introduced to China then and two contracting parties implemented different legal systems, there existed an unavoidable cognitive gap with regard to some legal concepts. This socio-historical background accounted for the absence of Chinese counterparts with regard to some legal terms in the treaties. Such linguistic non-equivalence had created a grey area for those having language advantages to play word games and seek political gains. The interpretation and reproduction of new legal concepts could reshape Chinese audience's ideologies concerning the issues under dispute, and then influence their acceptance of the demands proposed by foreign powers. Notions such as "reparation" and "cession", which were common practices among Western states bound by treaties, were alien to imperial China that had enacted the tributary system for centuries. The principle of "states of equity" underneath such treaty relations and related diplomatic practices was essentially subversive and challenging to the traditional Chinese ideology where China was central to the world order and enjoyed supremacy as the Celestial Empire. In such situations, translators had to stand out as the mediator between two conflicting powers, who might adopt various translation strategies to convey such notions to the Chinese audience and acquire agreement upon those demands by the foreign powers.

In the previous studies, scholars have concentrated on the translation of terminology from two perspectives. The first is the introduction of new concepts. The second is the manipulation of specific terms. When introducing new concepts to another ideological system, the translators have to make a choice in adopting desirable translation strategies. Some translation scholars take an etymological

accompanied by a Chinese version, but, it is understood that, in the event of there being any difference of meaning between the English and Chinese text, the English Government will hold the sense as expressed in the English text to be the correct sense. This provision is to apply to the Treaty now negotiated, the Chinese text of which has been carefully corrected by the English original." Guo Weidong (2019) explores the authorized texts of Sino-foreign treaties in the late Qing dynasty. He mentions that Lord Palmerston had realized the significance of English texts as the authorized texts of the given treaties, which could help avoid possible disputes in explaining the legal terms, yet this issue failed to win Pottinger's attention and was not proposed in the negotiations as well as the *Treaty of Nanking*, thus leading to severe divergence and conflicts upon certain issues afterwards(2019: 65).

approach to trace the evolution of new concepts in the Chinese ideological system, while some have conducted comparative studies on the connotations between the new concepts and their Chinese expressions. As for the second situation, such manipulations usually take place when both parties have not yet reached consensus upon the given legal terms. In consideration of the ideological discrepancies between the source and target audiences, the translators still make semantic adjustments despite the existence of lexical equivalents, so as to achieve consensus on those unsettled issues.

Li Mingqian (2016) has sorted out the translations of specific terms in her study on the translation of terminology in treaties, and she found that there was no such thing as a well-established terminological system regarding these treaties. It is commonly seen that the same term had diverse renditions in different treaties. She also provides some explanations for the inconformity of certain terms, such as the official titles, which reflects the conflicting ideologies between English and Chinese discourses. Since the two governments practiced different systems of organization, there were no existing equivalents of official titles in either expressions or connotations. Li (2016) suggests, this is quite challenging for the translators to maintain one fixed pattern in rendering the official titles, and adjustment is always necessary in translation to improve approachability of the given terms. Some other scholars also show interest in how the titles of British officials were translated in Chinese, and they point out that beyond cultural disparities, the changing renditions of these titles also manifest the transforming power relations between two states. Qu (2013; 2014) has noticed the confusing translations of the titles “Superintendent” and “Consul”, which might have been caused by the translators’ lack of knowledge of official ranks in the Chinese government system. Afterwards, Wong (2015) traces the historical origins of the translation of the term “Superintendent” in the *Treaty of Nanking*, arguing the inconsistent translations of this term mirrors the Western countries were in pursuit of equal statuses in power during the bilateral negotiations. Qu and Wan (2020) explores rank equivalence and diplomatic equality by looking into the translations of “Plenipotentiary” and “President Minister” around the Sino-British *Treaty of Tientsin*, and they share similar ideas with Wong, suggesting the mixed translation of these official titles was a tactic employed by the Western powers to guarantee

equal statuses in the negotiations with China or even win more privileges than the Chinese counterparts.

Apart from focusing on the translation of a single term, scholars also make efforts to sort out the translation inconsistency in a comprehensive manner. Qu (2013; 2014a; 2014b), taking the *Treaty of Nanking* as the study case, has explored in-depth the controversial translations and the causes underneath. By translating the Chinese text back into English article by article, he manages to figure out the subtle semantic discrepancies between the original English version and the Chinese translation. Some legal terms were given new connotations in the Chinese context, while some were deliberately downplayed or left out for advantageous ambiguity. He concludes that the Qing government was responsible for the loss of the sovereignty over language and land, for its neglect of translation caused its loss of initiative in this “word game”. Also a lack of knowledge of international law inhibited the Chinese officials from noticing the manipulation by the foreign translators, which further consolidated the discursive power of the Western states on the negotiation table.

Talking about the manipulation by translators, some mistranslations are thought to be the translators’ manipulation for specific purposes. Among the studies on those “mistranslations”, the controversial translation of “cede” into “给予” in the *Treaty of Nanking* has caught notable attention among scholars and been interpreted with different theories or approaches. In Wong’s study (2014) on the translation problems in the negotiation between Qi Shan and Charles Elliot, he notices that the two parties had divergences upon the notion of “cession”, as seen from the Chinese and English dispatches sent by both sides. However, the translator John Robert Morrison, who obviously understood Britain’s political intention behind “cession”, did not use the Chinese equivalent in translating the dispatches, thus conveying misleading messages to Qi Shan over this territorial issue. Chen Shunyi and Ma Xiao (2016) uses the Face Theory to interpret the controversial renditions of some terms, maintaining that the translators disguised the nature of these unequal treaties by using positive words on purpose, so that the Britain’s unreasonable demands seemed agreeable to the Qing government. For instance, the seemingly mistranslated “给予” was used to preserve China’s

national dignity by reshaping “cession” as an offer by the Qing government, which successfully glossed over the unpleasant nature of this yielding action.

However, most researchers have showed little interest to the linguistic features or discursive patterns of these treaties and their translation, with most attention paid to the translation of specific terms, which accounts for their failure in commanding the overall discursive features of the treaties and their translations. Few scholars have realized that linguistic structures in discourses could be another form of power structures. Only Fan Shouyi (1992) adopts a linguistic approach to conduct comparative studies on the English and Chinese texts of the *Treaty of Nanking* and the *Treaty of Wang-Hiya*, whose findings give great inspiration to my research. He contrasts the discursive styles of English and Chinese legal writings, and discusses their prominent features respectively by looking into the lexicon and sentence structures. He also discovers the stylistic characteristics of the treaties as legal and diplomatic discourses, which account for the frequent appearance of some linguistic structures.

1.2.2 Activity-Oriented Translation Studies on Treaties

If we say the first category shows partiality for the descriptive or interpretative studies, then the second category can be regarded as explanative, which aims to probe into the historical causes underneath. The activity-oriented translation studies focuses on the contextual factors of translation, and historical archives are important para-texts to help reshape the socio-historical context where the treaties were negotiated, drafted and translated. Beyond linguistic transmission of messages, translation is necessarily mediation between two conflicting ideological systems during the decision-making process of unequal treaties. Activity-oriented studies on treaty translation usually probe into two periods of the translation practices. The first period under examination is the process of bilateral negotiations that conditioned the conclusion of these treaties, while the second is the translation activities themselves, namely how these treaties were drafted, translated and ratified. Most studies of this category concern more about the negotiations, relying heavily upon the historical records and official archives, which also help scholars re-contextualize the production of controversial translations in the treaties and better understand the political connotations underneath such discursive manipulation.

Both Qu (2017) and Wong (2013) cast attention upon the translation of the communications⁸ made during the bilateral negotiations. They both suggest that manipulation of information also existed in the diplomatic dialogues between foreign and Chinese officers prior to the drafting and translation of consequential treaties. The distorted delivery of information has mirrored the needs and stances on both sides and influenced the negotiating results, as is evidenced by the translation studies on the Macartney mission (Wong 2009, 2013; Liao 2015). As the preliminary attempt to open China's door for trade and Christianity, the Macartney mission suffered tremendous difficulties in communicating with the Qing government. Wong (2009) points out that the total failure of the Macartney mission was caused by various factors and language was the primary one. Short of well-trained language professionals, the mission was unable to convey Britain's intentions as expected. The staff doing translation and interpreting were temporarily hired, who had poor knowledge of Chinese languages and cultures. They were incompetent to fully express the mission's messages in either spoken or written discourses, thus leading to the unsatisfactory meetings between the Macartney mission and the Emperor Qianlong. In consequence, the first communication between China and Britain turned out to be fruitless, with nothing accomplished in the end. Qu (2017) investigates into the communications exchanged between Cheng Jucai and Caleb Cushing before the conclusion of the *Treaty of Wanghia* (1844). He finds that America wanted to model after the *Treaty of Nanking* and sign a similar treaty with China, and the Chinese officer Cheng Jucai trans-edited the *Treaty of Nanking* in his dispatch sent to Cushing. Cheng deleted six Articles on purpose and altered some wording, attempting to prevent America seek political advantages as Britain did. However, the missing information was noticed by Cushing very soon, which aroused America's discontent and distrust in the negotiation. This "war of words", as Elijah Coleman Bridgman called, urged the American side to show more caution in the translation of the *Treaty of Wanghia*, and even used back-translation to examine whether there might be semantic discrepancies between two texts.

⁸ Communication is a form of official documents exchanged between the high officers from both countries.

J. K. Fairbank (1940) has talked about the *Treaty of Nanking* from the diplomatic perspective, focusing on the process as well as the participants of the Sino-British negotiation. He has elaborated on how British and Chinese diplomats, including Pottinger, Keying and Elepoo, tried their utmost to achieve or defend their national interests. Fairbank's discussion touches on the translation issue as well. He points out that there was not enough time for the Chinese officials to undertake a meticulous review of the draft and its translation⁹, thus causing China's loss of initiative in winning discourse power during the negotiations. Derek Wood (1996) shares the same opinion when combing the process of how the *Treaty of Nanking* was drafted, translated, and sent to the respective heads of state for assent. According to his study, we can see the British side was taking more initiative in concluding the *Treaty of Nanking*: the British officials not only had made good preparations for its content beforehand, but also paid attention to the timely delivery and signature of the Treaty. By contrast, the Qing government signed this Treaty under the pressure of war, and they rushed to exchange the signed Treaty for ceasefire and peace, without caring much about the substance of the Treaty. This accounts for why Britain had an upper hand over China, and even expanded its advantage after the conclusion of the *Treaty of Nanking*.

The studies on the translation activities of unequal treaties have proved the inequality from the procedural aspect. Moreover, such procedural inequality also serves as an answer to the question of substantial inequality. For example, when studying the translation of "cede" into "给予", the scholars not only present the different ideologies presented by the original and translated discourses, but also endeavour to justify this "mistranslation" by considering the socio-historical context where the demand for cession was raised. Wong (2014) investigates into the translation issues in the negotiations between Qi Shan and Charles Elliot over

⁹ This is a quote from Fairbank, demonstrating the limited time for the translation and proofreading of the *Treaty of Nanking*: "After receiving Pottinger's demands on August 14, they submitted the next day "a new list of the articles of agreement for commerce, peace, and good will," to which Sir Henry replied on the seventeenth by sending them a draft of the treaty, delayed a day by the necessity of careful translation into Chinese. This the Chinese negotiators straightway accepted, on August 19, meanwhile sending it to Peking for approval" (1940: 27).

the territorial cession of the Island of Hong Kong during the First Opium War. Referring to the historical records and archives, he proposes that the misleading translation could be traced back to the bilateral negotiations between the two parties prior to the conclusion of the *Treaty of Nanking*. Due to the language obstacles in cross-cultural communications, the representatives failed to clearly demonstrate their stances and attitudes towards the territorial cession, and sometimes mistook the intentions of their negotiation partners.

Another new insight offered by these activities-oriented studies is that, China might have realized that the foreign powers had manipulated translation to maximize their interests, but the Qing government itself was incapable to change this unfavourable situation. In Yang Zhuo's (2014) study on the *Commercial Treaties*, she suggests that the foreign powers held arrogance towards China's request for ratification. Looking at the communications and the official records of the Sino-British negotiations, she finds that the Qing officials had noticed those controversial translations and proposed modifications. However, due to the lack of diplomatic confidence against the foreign representatives, they finally made compromises on the disputing issues and agreed with those "mistranslations" by the foreign translators.

1.2.3 Translator-Oriented Translation Studies on Treaties

The third category mainly looks into the role of translators and interpreters that have participated in the bilateral negotiations. The role of translators is sometimes ignored or considered invisible within some domains in translation studies. However, translators, as an important messenger between two political powers, cannot be neglected in the translation history studies, for their practices and productions usually impacted how the given history was shaped and narrated. If we refer to the previous discussions on unequal treaties, translators can be taken as part of the procedural inequality, as the foreign translators are thought to have manipulated the translation of these treaties and failed to perform neutral translation due to their stances. The third category serves as an indispensable backup for the first two categories. On the one hand, the translations were produced under a specific translator's pen, and therefore, how the ideology was represented in the target system more or less hinges upon the given translator's performance. On the other hand, the socio-historical circumstances not only

conditioned how the translator performed in his actual practices, but his productions also in turn reflected and influenced the historical trends. In this sense, translators, as the agency of translation, deserve as much attention as products and activities in translation history studies.

From the literature review on the translated treaties and the negotiation processes, we can see the interpreters and translators are held responsible for causing inequality in translating these treaties. The Qing government had always got the short end of the stick during its negotiations with foreign powers largely on account of the lack of reliable translators and interpreters on its own side. It is found that the translators of these unequal treaties were mostly foreigners that served the Western powers. Losing its discursive power to bargain with the foreign states, the Qing government did not have the initiative to decide how and by whom these treaties were translated. There are usually three modes in examining the factor of translators in the translator-oriented studies on unequal treaties, namely the patron's attitudes towards translators and interpreters, biographical studies on specific translators and interpreters, and social movements regarding the translators and interpreters.

The first mode compares the attitudes held by China and foreign powers towards translators and interpreters. Usually the translators and interpreters are separated into two camps, one for China and the other for foreign powers (Wong, 2011, 2012). They are examined as a collective serving a specific party. Wong (2011, 2012) looks into the translators and interpreters both from Chinese and British camps during the First Opium War. Their social roles, political stances, and competence in translation have once again been brought under discussion. More importantly, the two governments held different attitudes towards these professionals, accounting for the frequent absence of Chinese translators and interpreters during bilateral encounters.

Chinese translators and interpreters were then generally known as "linguists". According to Ye Aiyun (2016), such "linguists" were in close connection with the system of Thirteen Hongs (also known as Canton system), which was set up to deal with trade and business with foreign merchants in the Emperor Qianlong period. Due to the unavailability of professional trainings in foreign languages,

these Canton linguists had coined a language called pidgin English¹⁰ to communicate with the foreign merchants. Usually most linguists served the local merchants as assistants in trade, and only a few of them were appointed by the government for diplomatic purposes in wartime. Yet they were not enjoying as much popularity as their foreign counterparts in the official sectors. The Qing government showed distrust to them and viewed them as potential traitors, who might leak information with the aid of their language advantages. For example, Bao Peng, who served as the interpreter for the Chinese official Qi Shan, was treated as a traitor with severe punishment after the First Opium War. Due to the lack of its own translators and interpreters, the Qing government was thrown into an unfavourable position in the process of negotiating, drafting, and translating the treaties. It was not until the Second Opium War that the Qing government had realized the significant role of language talents in diplomatic affairs, and started to cultivate professional translators and interpreters on its own.

In contrast, the foreign powers took translators and interpreters as reliable forces in diplomatic negotiations and showed sufficient trust. For example, the British government owned a good team of translators and interpreters (e.g. the three Joint Interpreters John Robert Morrison¹¹, Karl Gutzlaff¹², and Robert Thom¹³ during the First Opium War), who not only employed their language skills in drafting and translating the treaties, but also collected useful information

¹⁰ Wu Yixiong (2001) suggests that Pidgin English was orally used in most cases. Since this language was not systemically structured in phonology and lexico-grammar, it could only be used for daily communications between linguists and foreigners. This also indicates that the competent translators for formal dialogues and negotiations were not available to the Qing government at that time.

¹¹ John Robert Morrison (1814-1843), the eldest son of the first British missionary Robert Morrison, was the Joint Interpreter for the Superintendent of Trade George Robinson during 1835-1836, and then promoted as the Chinese Secretary and Interpreter for the British Superintendent of Trade Charles Eliot during the First Opium War. He was the chief translator responsible for drafting and translating the *Treaty of Nanking*.

¹² Karl Friedrich August Gutzlaff (1803— 1851) was a German missionary. He worked for the Superintendent of Trade George Robinson during 1835-1836 as the other Joint Interpreter. He also participated in the Sino-British negotiations and the translation of the *Treaty of Nanking* during the First Opium War.

¹³ Robert Thom (1807-1846) joined the interpreter team for the British government in June, 1840 (Chng, 2013:113). He was responsible for translating the *Treaty of the Bogue* in 1843.

for the British government and actively intervened in the war, being a decisive factor of Britain's victory over China during the First Opium War.

The second mode is the biographical studies on specific translators and interpreters. In the past few years, a number of foreign names have caught the attention in treaty studies, including John Robert Morrison, Karl Gützlaff, Robert Thom, Horatio Nelson Lay¹⁴, and Hart Brothers¹⁵, who were responsible for or engaged in translating different treaties. The researchers generally look into several aspects to testify whether the translators were qualified enough to produce a satisfactory translation of a given treaty, including their social roles, education background, language proficiency, political stances and personal interests. For example, Sze Pui Uganda Kwan (2012, 2014) tries to unfold Samuel T. Fearon's life by digging into the archival records, not only his working experience as an interpreter during the First Opium War, but also his growth and educational background, which were highly related to his professional performance on the negotiating table.

The studies on translators are multi-dimensional, for these translators also assumed other social roles besides performing the job of interpreting during negotiations and translating the resulting treaties, and thus they cannot be simply identified as translators. Some worked for the foreign merchants as interpreters before being appointed as the official interpreters for their governments, while some were missionaries that primarily came to China to promote Christianity. Some even served the Qing government and played a role of adviser in diplomatic affairs for China (e.g. Horatio Nelson Lay and Robert Hart as the Inspector General of Chinese Maritime Customs Service). Admittedly, these social roles

¹⁴ Horatio Nelson Lay (1833-1898) was the first Inspector General of Chinese Maritime Customs Service. He had worked as an interpreter for the British consulates in Canton, Hong Kong, and Shanghai. He played a leading role in mediating the negotiations between Elgin and Gui Liang during the Second Opium War, which led to the conclusion of the *Treaty of Tientsin*.

¹⁵ Hart Brothers refer to Robert Hart and James Hart. Robert Hart was the second Inspector General of Chinese Maritime Customs Service, serving the Qing government during 1863-1911. He had play a part in the conclusion of numerous Sino-foreign treaties. James Hart, the younger brother of Robert Hart, worked for Sheng Tai as his assistant and interpreter and was engaged in the conclusion of *Sikkim-Tibet Convention* (1890).

have more or less impacted the translators' ideologies and perceptions concerning related issues, and consequently influenced their discursive practices in the bilateral negotiations.

Apart from investigating the personal profile of the given translator, the researchers also examine his participation in related socio-historical events. Tong Xuan (2011) has explored how the foreign missionaries were involved in the conclusion of unequal treaties as the military consultants for foreign governments. For instance, the German missionary Karl Gützlaff had once worked for the opium merchants and directly participated in the trade and smuggling of opium, which enabled him to collect political and military information in China. Such working experience influenced his role as the Joint Interpreter for the British government, that he even gave advice and suggestions to Charles Elliot from behind the scenes and facilitated the First Opium War and the consequential *Treaty of Nanking*.

Hu Qizhu and Jia Yongmei (2010) have elaborated the notion of the politics of translation with an in-depth exploration into John Robert Morrison's role in the First Opium War. Translators could play a decisive role in bilateral negotiations, for they had strengths in language, which enabled them to sway the negotiation outcome by manipulating the delivery of information. In this study, John Robert Morrison was an invisible instructor for drafting the unequal treaties, who made avail of his role as the interpreter and translator in the negotiations. Instead of just rendering the treaties as required, Morrison also directly participated in drafting specific legal terms (e.g. the demand for the Hong Kong cession), which enabled Britain to further exploit more advantages from China.

Some translators and interpreters even had double identities when intervening in the diplomatic intercourse between China and foreign powers. Jiang Yun (2006) and Zhang Zhiyong (2015) have explored the dual role of Horatio Nelson Lay during the Second Opium War and found that he not only served as the diplomatic consultant for the Qing government but also worked as a non-staff interpreter for the Elgin mission. Acting beyond an interpreter, Lay also voiced his own ideas and made proposals on related issues during the bilateral negotiations. For example, he managed to help Britain acquire jurisdiction upon China's customs in

regulating the *Treaty of Tientsin* in 1858, which was regarded as a creative solution that catered to both sides in dealing with tariff issues.

Ji Yaxi and Chen Weimin (2007) attach much weight to the role of missionaries when studying the foreign comers and their contributions in the late Qing period. These foreigners shouldered the responsibility of preaching and promoting Christianity in China meanwhile serving their governments as interpreters and translators. In their eyes, only wars could open China to Christianity and only treaties could create freedom for their missionary work. Therefore, they took advantage of their language knowledge in drafting the treaties to win the “wars of words” for their governments, which would guarantee the growth of Christianity in China (2007: 244-245). Li Si and Hu Ruoyu (2015) approaches this issue by analysing the cultural anxiety the translators experienced in cross-cultural communication between China and the foreign countries. They maintain that such anxiety stemmed from “an anachronism in their missiology and evangelism as well as the cultural conflict existing between China and the West” (2015:116), which accounts for their failure in performing neutral translation.

The third mode is to look into the social movements regarding these translators or interpreters. Scholars also notice that there were related trainings to cultivate translators and interpreters for cross-cultural exchange at that historical period. For example, Kwan (2013) pays attention to the Student Interpreter Program carried out by Britain’s Foreign Office in 1843-1870. It is pointed out that during the Opium War, Britain showed heavy reliance on the interpreters trained by the private companies in Canton, due to the unavailability of professional interpreters within their governmental system. Being aware of the decisive role of interpreting and translation in bilateral negotiations, the British government launched the program to cultivate its own team of translators and interpreters. Kwan(2013) argues that, the program has made outstanding contributions to the introduction of Sinological knowledge to Britain, and thus enabled Britain to expand its discursive advantages in the cross-cultural encounters. As for China, the setbacks on the negotiation table also arouse the Qing government’s consciousness of the necessity of language talents in combating foreign aggressions. During the Second Opium War, the Qing government started to address this communicative issue by enhancing education in languages. According to Li Ye (2016), Guo Songtao was

the first Chinese official that proposed cultivating language professionals, who made the proposal to Emperor Xianfeng in 1859; Prince Gong Yi Xin also suggested setting up schools for foreign language learning in 1861; and the School of Combined Learning was finally set up in Beijing in 1862. Afterwards, the official Feng Guifen also proposed the foundation and promotion of similar schools as the School of Combined Learning (also known as Tongwenguan) in Shanghai and Canton in 1862. As Gu Weixing (2004) points out, the foundation of these educational institutions helped the Qing government to get out of the morass during the intercultural exchange with foreign powers.

1.2.4 Summary

On the whole, translation studies on unequal treaties have proved the undeniably vital role of translation in shaping China's modern history from various dimensions. By close reading and comparative studies, scholars have discovered a number of troublesome translations that account for the substantive inequality of these treaties. Combining the historical sources, such as official records and communications, scholars also proved that translation was also part of the procedural inequality, that the distorted conveyance in translation could be deemed as a kind of manipulation. Moreover, with careful biographical research on the translators and interpreters, they found that such messengers performed more than rendering information in the cross-cultural negotiations. They were also the agent of power in these discursive practices.

As is seen from the previous studies, there has been a fixed research route that links up the three dimensions. The discussions usually start from the analysis of controversial translations or "mistranslations", and then move to the possible causes for such non-equivalence, such as how the related demands were negotiated and who were responsible for the misleading renditions. The previous scholars focus on the semantic expressions as power symbols manipulated by the translators, yet being unable to recognize the significance of language structures as another type of power structures. Ideological reconstruction is not only fulfilled by semantic meanings but also by linguistic structures. Therefore, I call for a linguistic return in studying the translation of unequal treaties in this research, which aims to examine the substantial inequality from the basic unit of power in discourse, namely lexico-grammar. By doing so, we can have a closer look into

the historical narrative constructed by translation and have new interpretations on the translation issues concerning unequal treaties.

Chapter 2

Theories and Methodology

2.1 Translation History Studies

This section serves as an introduction to the theories and methodology applied in the study. The topic itself involves more than one discipline, and the research itself is interdisciplinary. The research subject, namely the translation of Sino-British unequal treaties, is multifarious that it allows a diversity of research perspectives and orientations. Firstly, this study belongs to translation history studies on grounds of the historicity embedded in these treaties, which were produced and translated in specific historical periods, being an important witness of China's modern history. In this regard, translation studies on the unequal treaties unavoidably touch upon historical issues, which is in essence an intertextual interpretation of texts and history. Secondly, if categorized according to the genre of these treaties, the study can also be counted as legal translation studies, for it draws attention to the translation of specific legal terms so as to compares the legal effects conveyed the treaties and their Chinese translations. Thirdly, since these treaties serve political purposes against a backdrop of the power struggle between imperial China and Western powers in history, they are political discourses in nature, and hence translation studies on this subject is political as well. This research is essentially a mixed study, which aims to review the historicity of the unequal treaties by examining the translation equivalence of the treaties as legal discourses and reinterpreting the nature of inequality as political discourses.

As for the approaches, this study takes a linguistic return that differentiates itself from the previous translation studies on unequal treaties. Critical discourse analysis (CDA) serves as the theoretical foundation for this study, which aims to explore how power is communicated across discourses via translation. Systemic functional linguistics (SFL) is applied as the analytical tool in the comparative studies on different types of translation shifts between the treaties and their translations.

2.1.1 Translation in History and History in Translation

First and foremost, we need to have a basic understanding of what translation history means within the domain of translation studies. If looking at Holmes' map, there is a branch that translation history might fit in, namely time-restricted, which is particularly about theories and translations "limited according to specific time frames and periods" (Toury, 1995:10). However, translation history is not restrained to this branch, and in fact, it overlaps with other branches within the realm of translation studies. The following is Anthony Pym's (1998) definition of translation history:

Translation history is a set of discourses predicating the changes that have occurred or have actively been prevented in the field of translation. Its field includes actions and agents leading to translations (or non-translations), the effects of translations (non-translations), theories about translation, and a long etcetera of causally related phenomena. (1998:5)

In essence, translation history tackles various issues, and it shares common ground with other branches, being theoretical as well as descriptive. Any element involved in translation could be the research subject. As is seen from the literature review, translation scholars could explore historical issues by taking different orientations in translation studies, such as products, activities, and translators. The only difference is that the research subject is placed within a time frame in history, which calls for more attention upon the notion of historicity in research.

Translation history, as implied by its name, is in nature interdisciplinary, which engages translation studies and historical studies at the meantime. Thus, when talking about translation history, we usually come up with a pair of concepts: *translation in history* and *history in translation*. In my opinion, these two concepts display researchers' different concerns and orientations in doing translation history studies. *Translation in history*, where "translation" occupies the central place in the given phrase, aims to present a general picture of how translation has been developed in history. It can be a history of translation theories or translation activities. *History in translation*, on the contrary, is to look into the historical issues from a translational perspective. Scholars take translated works in history as a first-hand source to examine historical problems. Here translation is more than a language phenomenon, but it serves other purposes as cultural or political

practices. *History in translation* usually addresses a specific historical problem, which requires critical assessment of the translational elements in analysis.

The following quote from Susan Bassnett's *Translation Studies* (2005) may illustrate how inclusive translation history studies could be:

The type of work involved in this area includes investigations of the theories of translation at different times, the critical response to translation, the practical processes of commissioning and publishing translations, the role and functions of translations in a given period, the methodological development of translation, and by far the most common type of study, analysis of the work of individual translators. (2005:18)

This quote indeed provides a diversity of starting points for scholars to conduct translation history studies, accordingly with different disciplines and approaches. Pym (1998) has mentioned three major areas in doing translation history in his work, namely translation archaeology, historical criticism, and explanation (1998: 5-6), which are more or less involved in any translation history study. These three areas ensure vast possibilities in dealing with a historical problem from the translational perspective. Translation history studies can be descriptive, interpretative, or explanative, with different approaches and theories applied.

2.1.2 Research Questions Regarding the Translation of Unequal Treaties

The main argument in this research is that, translation has played an important role in shaping China's modern history with its two important functions: conveying information and exchanging ideas. On one hand, translation, as a linguistic practice, enabled the foreign powers to communicate and achieve their demands in bilateral encounters. On the other hand, translation, as a cross-cultural exchange, also brought new concepts and philosophies to China that have challenged the conservative Chinese ideological system and infused it with Western ideas. Taking the translation of the Sino-British unequal treaties as a case study, the current study aims to reveal how translation works in reconstructing ideologies and reshaping power relations in the target system, and ultimately comes to the proposition that translation is essentially a means of linguistic dominance. There are three research questions to address:

1) *What are the discursive differences between the treaties and their translations?*

It is worthy of note that such discursive differences not only refer to the semantic discrepancy, but also include the structural asymmetry in linguistic features. This question leads to comparative studies on the given treaties and their translations, which analyses parallels and differences between discourses in a descriptive manner. Here the discursive differences are not only confined to linguistic discrepancies between the source and target discourses, but also contain the narrative changes between different translations about the same issues.

2) *How ideology and power are reflected by such discursive differences?*

This question is an interpretive one, which is to decode the discursive differences by analysing the ideological implications and imbalanced power relations underneath the discourses. This question is key to the argument that translation has played a role in conveying and enhancing the inequality of these Sino-foreign treaties. It is assumed that the foreign countries have managed to exert control upon China in bilateral negotiations by means of translation.

3) *What is the dynamic development of the translation of unequal treaties?*

Instead of looking at one single treaty and its translation, this study aims to make inter-textual interpretations based on the diachronic comparative studies between the Sino-British treaties concluded at different historical periods. Such historical inter-textuality is the answer to the question concerning the commonality and transformation during the establishment of the System of Treaty.

2.2 Critical Discourse Analysis (CDA)

In the studies on treaty translation, scholars are taking a sociological turn in examining the historical issues around unequal treaties, by reconstructing the socio-historical context with the support of para-texts. Yet, this study takes a linguistic turn by looking into the language phenomena between the treaties and their translations, which aims to explore the dynamic development of treaty translation from its linguistic foundation. This study adopts critical discourse analysis (CDA) as the main approach to investigate the inequality of Sino-foreign treaties in a critical manner.

2.2.1 Key Concepts: Discourse, Ideology, and Power

To begin with, we should have a basic understanding of the three concepts as well as their interrelations. Section 2.2.1 mainly provides an overview of “discourse”, “ideology”, and “power”. As Wodak (2011) says, the definitions of these concepts are in fact “manifold”, for “studies in CDA are multifarious, derived from quite different theoretical backgrounds, oriented towards different data and methodologies”, and “[r]esearchers in CDA also rely on a variety of grammatical approaches”(2011:50).

Talking about “discourse”, we need to distinguish between “Discourse” and “discourse” in the very first place. *Discourse*, the broad notion proposed by Michel Foucault, refers to “ways of constituting knowledge, together with the social practices, forms of subjectivity and power relations which inhere in such knowledges and relations between them” (Weedon, 1987:108), whereas “discourse”, the concept with narrower connotations, is usually used in CDA as “language use in speech and writing” (Fairclough & Wodak, 1997: 258). To put it in simple words, Foucault’s definition of *Discourse* is associated with the concept *knowledge* as “ways of thinking and producing meaning” (Weedon, 1987:108), or in my words, particular ways of interpreting and talking about the world. While *discourse* in CDA can be taken as a linguistic realization of the meanings produced in actual thinking. It is a stretch of language used and understood within a given context, usually governed by and reflecting a given mind-set.

Besides, when defining *discourse* in CDA, we need to distinguish *discourse* from *text*. Text is usually understood at the level of sentences and clauses as a piece of written or spoken message, while *discourse* is beyond this level and should be interpreted within a given context. The former merely delivers semantic meanings, while the latter conveys both semantic and contextual meanings that reflect the ideological potential of the text producer.

Ideology here refers to a set of interrelated ideas that are constituted by these ways of thinking and talking held by a social collectivity. Wodak (1996) takes *ideology* as “particular ways of representing and constructing society, which reproduce unequal relations of domination and exploitation” (1996:18). As she says, discourse does ideological work, for discourse provides the soil for ideology to grow within and yield the fruit of power. While van Dijk (2006) defines

ideologies as “foundational beliefs that underlie the shared social representations of specific kinds of social groups” (2006:120). He stresses that ideologies should be “belief systems”, which means they play a role in governing, controlling, and organizing other socially shared beliefs. Applied in CDA, *ideology* goes beyond the semantic meanings carried by a discourse, but it in essence is a set of values and belief systems underneath the discourse that govern the expression and reception of such semantic meanings. Also, the notion of ideology itself carries political implications, which reflects CDA’s nature of being “critical”.

Power, as Roger Fowler (1985) defines, is “the ability of people and institutions to control the behaviors and material lives of others ”, which usually implies “an asymmetrical relationship” (1985:61). As van Dijk(1993) maintains, “[s]uch control may pertain to action and cognition: that is, a powerful group may limit the freedom of action of others, but also influence their minds” (1993:254). Power can only be realized through the establishment of relations between members within a given context. The flow of power can be driven at different directions, depending on the relations between the parties involved. Usually the notion of *power* applied in CDA always indicates an imbalance or asymmetry, which is the prerequisite to exert and maintain control. Such control is achieved by various means, while language is one of the most common means to exert power. Van Dijk (2008) points out the relation between discourse and manipulation, maintaining that manipulation of discourse implies power and power abuse, for “those who control discourse may indirectly control the minds of people” (2008:9). Norman Fairclough (1989) also decode the relations between power and discourse in his influential work *Language and Power*: “in terms of 'power in discourse', discourse is the site of power struggles, and, in terms of 'power behind discourse', it is the stake in power struggles – for control over orders of discourse is a powerful mechanism for sustaining power” (1989: 49).

Here, I am going to introduce a notion for discussion: *discursive power*. This concept is defined and discussed across different disciplines of humanities and social sciences, while *discursive power* in this study is defined within the domain of CDA. It usually refers to the power achieved through language. It indicates the capacity to use discourse to attain and maintain control. If put in a political setting, for example, the Sino-British encounters in this case, discursive power can be

understood as the competence of the involving parties to bargain and influence decision-makings on the negotiation table.

To sum up, the triangle of discourse, ideology, and power can be simply understood in this way: discourse conveys ideology, through which power is realized; in turn, power affects discourse and ideology. This triangle is of overriding importance to critical discourse analysis and provides the theoretical ground for the current study.

2.2.2 An Overview of CDA

Critical discourse analysis (CDA), also known as critical discourse studies (CDS), is an interdisciplinary approach to examine language as a form of social practice. It stemmed from critical linguistics (CL), which was developed by Roger Fowler, and his fellow scholars at the University of East Anglia in 1970s, and was carried forward by the Lancaster school of linguistics and systemically developed into the discipline we know as CDA at present. The pioneering work *Language and Control* (Fowler et al., 1979) has marked the emergence of critical linguistics, which has aroused the linguists' awareness of the relationship between language and ideology. Language is taken as a social behaviour driven under ideology rather than a linguistic form of communication.

Central to CDA is the notion that social practices and linguistic practices are inextricably linked, which emphasizes the role language plays in establishing and reinforcing power relations in societies. As van Dijk (2008) proposes, CDA is “a type of discourse analytical research that primarily studies the way social power abuse, dominance and inequality are enacted, reproduced and resisted by text and talk in the social and political context” (2008: 85). Extended from discourse analysis (DA), CDA shows great interest in the power relations and ideologies underneath the discourse, which is to tackle the issues of inequality by looking into the phenomenon of language usage. There are different branches under the discipline of CDA, which have different emphases or angles in exploring language and power.

Norman Fairclough (1989) has proposed a three-dimensional model in conducting critical discourse studies. He maintains that discourse is a communicative event that consists of three dimensions. First of all, it is a text, and

the analysis focuses on the formal features as outlined in Halliday's systemic functional grammar (SFG). Secondly, it is a discursive practice that involves the production and consumption of texts. Here, the analysis mainly focuses on how the author draws on existing discourses to produce new ones, as well as how readers apply such discourses to consume and interpret the texts. Thirdly, it is a form of social practice within a broader social context and attention is paid to how texts shape and are shaped by social practice. "Linguistic phenomena are social in the sense that whenever people speak or listen or write or read, they do in ways which are determined socially and have social effects" (1989: 23). These three dimensions can be respectively summarized as descriptive, interpretive, and explanatory in the CDA research.

T.A. van Dijk, the leading scholar in socio-cognitive branch of CDA, focuses on the cognitive aspect of discourse. Van Dijk's model of CDA examines the interaction between cognition, discourse, and society. Discourse, as a form of social interactions, is also the expression and reproduction of social cognitions, which "are largely acquired, used and changed through texts" (1990:65) and play a vital role in mediating textual structures and social structures.

Ruth Wodak, the representative scholar of discourse historical analysis (DHA), casts attention upon the diachronic change of discourses. She has outlined ten principles of the utmost importance in doing DHA (2015). The DHA approach is interdisciplinary and problem-oriented, with a wide variety of theories and methods applied to approach the research object. More importantly, the historical context is highly concerned, which helps re-contextualize the discursive actions in specific socio-historical circumstances.

2.2.3 CDA and Translation Studies

Undeniably, translation has become an important arena of power struggle where two languages or more are involved. The intervention of translation into the proposed triangle complicates the situation. Discourse has been reconstructed via translation and reset in a new context, where power not only flows within one discourse, but is also transmitted between two discourses. The following explore how translation interacts with the three key concepts in CDA, and discuss how CDA is applied in translation studies.

2.2.3.1 Discourse and Translation

Adopting Fairclough's three-dimensional model, we can view translation at three levels in the same way as other discursive practices. Firstly, translation is a text itself, which is created based on the source text. This provides the grounds for textual analysis and comparative stylistic studies, which mainly concerns the linguistic structures and patterns of the translated texts. In this study, the treaties and their translations are the first-hand materials for discourse analysis, and the linguistic features are the major concern at the first level.

Secondly, translation is a discursive practice, which can be taken as an act of discourse reproduction across languages and cultures. The primary purpose of this discursive action remains message delivery, which echoes the nature of translation as a language transfer from one culture to the other. The emphasis is laid upon the communicative function of discourse. Hence, when examining the translation of unequal treaties at the second level, the main task is to investigate how legal stipulations were firstly drafted in English and then translated in Chinese and whether information asymmetry has been caused during translation that might have influenced the reception of the target audience.

Thirdly, translation is a social practice where people make use of translation to achieve social goals beyond communication. The messages conveyed by translation could be regarded beliefs and values of the source system, which facilitate the reconstruction of power relations in the given socio-historical context. Thus, the third level is to re-contextualize the translation of treaties, which concentrates on the social influences brought by such translation practices.

2.2.3.2 Ideology and Translation

In terms of ideology in translation, Andre Lefevere (2010) has developed the theory of manipulation which recognizes translation as a form of rewriting:

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 manipulate literature to function in a given society in a given way. Rewriting is manipulation, undertaken in the service of power, and in its positive aspect can help in the evolution of a literature and a society. (2010: xi)

Lefevere (2010) clearly defines the nature of translation with his theory, that instead of being a textual duplication, translation is a rewriting that carries ideological intentions. Mona Baker (2006), using the narrative theory to view translation and conflict, shares a viewpoint alike. She proposes that framing and reframing narratives can help promote competing discourse, which are “important implications for different parties to the conflict” (2006:107). The framing and reframing of narratives in essence equals to the construction and reconstruction of discourses which are ideologically effected and effective. In discussing translation and ideology, Jeremy Munday (2007) agrees with critical linguists and discourse analysts, seeing “the lexicogrammatical choices of the author reproducing an ideology and conveying a representation of reality that favours the powerful side” and “such shifts usually have an ideological motivation”(2007: 213).

One more thing worth exploration is the relation between translation and ideology. Translation is essentially the mediation between two sets of ideologies: the translating of ideology and the ideology of translation (Hatim and Mason, 1997). The former stresses the original ideology of the source text, whereas the latter refers to the reproduced ideology of the target text, which is generally associated with the translator’s ideology. In this study, the researcher suggests there should be two more ideologies to be considered, the translator’s and the target audience’s ideologies. The ideology of translation should be the compromising result of the three ideologies: the source text (the author), the translator, and the target audience. When doing translation, the translator needs to have a good understanding of the author’s ideology at the first place, knowing what the author wants to deliver to the target audience. Then the translator himself has his own interpretation of the given information delivered by the source text, which might agree or conflict with the author’s ideology. When rendering the source text into the target language, the translator has to consider the target audience’s ideology that is based on their existing knowledge of the given information as well, because this determines the target audience’s acceptance of the ideology conveyed to them. Therefore, the ideology of the target discourse should be analysed with great caution when doing critical discourse analysis in translation studies.

Apart from the complex constitution of ideology in translation, we should apprehend that ideology itself is multilayer in accordance with the stratification of discourse: 1) discourse as a text, ideology equates with the literal meanings conveyed by the linguistic structures; 2) discourse as a discursive practice, ideology refers to the ideas conveyed and interpreted in a given context, including explicit messages and tacit intensions of the discourse; 3) discourse as a social practice, ideology usually echoes the socio-historical narrative as “macro-ideology”, which governs the exchange of power in discourse. Hence, when addressing the ideological issues concerning translation, we need to examine the two sets of ideologies from these three perspective to determine whether the source and target discourses are ideologically equal or compatible.

The ideological exchange in translation in this study is beyond stipulating obligations and rights by means of treaties. It also concerns how a set of Western values and beliefs embedded in these unequal demands have been conveyed to China’s ideological system. Moreover, underneath the unequal treaties are two conflicting ideologies representing two distinct world orders, while translation is the key mediator that eradicates such incompatibility and helps establish a new world order by ideological reconstruction.

2.2.3.3 Power and Translation

The notion of *power* also enjoys huge popularity in translation studies in 1990s. Translation is an important form of discourse in cross-cultural communications under the international settings. It is also an invisible source of discursive power during bilateral negotiations, which is likely to be overlooked in the daily practices as well as academic studies.

In my opinion, there is a pair of concepts with regard to power and translation: *translation in power* and *power in translation*. *Translation in power* tends to examine the translation practices instructed by the power relations between the source and target discourses. “It is the power relations that determine what texts are to be translated, by what people and in what ways” (Guo, 2019). *Power in translation* is about the power relations reconstructed by the translation practices, which bring about substantial social effects. It concerns more about the outcomes of the translation production. Simply put, these two concepts have different orientations: the former represents the power relations embedded in the source

discourse, being an influential factor instructing the process of translation practices; while the latter is about the power relations reconstructed in the target discourse, being the consequential representation of the given translation practices. Similarly, the power relations in the two discourses are unnecessarily the same under the intervention of translation. Whether the power relations are enacted in a consistent manner between the two discourses is worth exploration in translation studies. In fact, there are different types of power relations embedded in the discourse. The most common type of power relations under scholarly discussion is the “top-down” relation as dominance and control. The opposition is the “bottom-up” relation as resistance, compliance and acceptance. Also there is a small proportion of “equal” relations lying between these two ends. In translation practices, these power relations are dynamic under ideological reconstruction, which means the existing power relations could be reshaped during the discursive exchange of ideologies within a given context.

This study contrasts the power relations displayed in the treaties and their translations by comparing the ideologies presented within, so as to prove that translation plays a role in reshaping power relations between China and foreign countries in modern history.

2.3 Methodology

2.3.1 Data for Analysis

The present study mainly focuses on the Sino-British treaties concluded during 1842 to 1911. The treaties for analysis are collected from the second edition of *Treaties, Conventions, Etc., between China and Foreign States*, which was published by the Inspector General of Customs in 1917¹⁶.

- *Why Sino-British treaties?*

Throughout the history of colonialism and imperialism, Britain had been playing the leading role as the representative power of the Euro-centric world

¹⁶ This compilation contains treaties, conventions, and agreements signed between the Qing government and foreign countries, and classifies them into different groups according to nationalities. Since this compilation was published by the Statistical Department of the Inspector General of Customs, it features authority as the primary sources in treaty studies.

order. Moreover, Britain was the initiator of the Treaty System, who had demanded numerous privileges on behalf of the foreign powers. Therefore, the Sino-British treaties could be taken as the archetype and model for the other Sino-foreign unequal treaties and worth an in-depth exploration.

● *Why 1842-1911?*

The period 1840-1911 is generally regarded as the late Qing period of Chinese feudalism, also known as the semi-colonial period of China in history. The outbreak of the First Opium War marked the commencement of China's modern history. The first unequal treaty, the *Treaty of Nanking*, was concluded in 1842, which is deemed as the beginning of China's transformation from a feudal empire into a semi-colonial and semi-feudal society. In 1911, the Imperial China collapsed, followed by the foundation of the Republic of China. The System of Treaty is essentially developed hand in hand with this national transformation. During this period, there were a large number of treaties, conventions, and agreements concluded between the Qing government and those Western powers. There are various compilations of the Sino-foreign treaties, while in this study, the second edition of *Treaties, Conventions, Etc., between China and Foreign States* is chosen for sample selection. The following Table 2-1 is a list of Sino-British treaties compiled in this collection.

Year	Title
1842	Treaty of Nanking
1843	Declaration respecting Transit Duties
1843	Tariff of Duties on the Foreign Trade with China (arranged alphabetically)
1843	Chinese Re-arrangement of the preceding Tariff under Classes of Goods
1843	General Regulations under which the British Trade is to be conducted at the Five Ports of Canton, Amoy, Foochow, Ningpo, and Shanghai
1843	Supplementary Treaty of Hoomun Chai (The Bogue)
1846	Convention of Bocca Tigris
1847	Agreement relative to the Entrance of British Subjects into Canton, etc
1858	Treaty of Tientsin
1858	Agreement containing Rules of Trade made in pursuance of Article XXVI of the Treaty of Tientsin, 1858 (often called "Trade Regulations appended to the Tariff" or the "Tariff Rules")
1860	Ratification by H.M. the Emperor of China of the British and French Treaties of Tientsin (1858) and Conventions of Peking (1860)

1860	Convention of Peking
1858	Tariff annexed to Treaty of Tientsin (1858)
1866	Convention to regulate the Engagement of Chinese Emigrants by British and French Subjects, (Unratified)
1869	Supplementary Convention to the Treaty of Tientsin (1858). (Unratified)
1876	Agreement of Chefoo
1885	Additional Article to the Agreement of Chefoo (1876)
1886	Convention relating to Burma and Tibet
1890	Chungking Agreement : Additional Article to the Agreement of Chefoo (1876)
1890	Sikkim-Tibet Convention
1893	Regulations regarding Trade, Communication, and Pasturage, to be appended to the Sikkim-Tibet Convention (1890)
1894	Convention giving effect to Article III of the Convention relating to Burma and Tibet (1886)
1897	Agreement modifying the Burma Frontier and Trade Convention (1894)
1898	Convention for the Extension of Hongkong
1898	Convention for the Lease of Weihaiwei
1902	Commercial Treaty
1904	Emigration Convention
1906	Convention respecting Tibet
1904	Convention between the Governments of Great Britain and Tibet, annexed to the Convention respecting Tibet (1906)
1908	Tibet Trade Regulations
1911	Agreement relating to Opium

Table 2-1 List of Sino-British treaties, conventions and agreements

As is shown in the literature review, previous studies show interest in those representative treaties and controversial articles, yet there are insufficient discussions made upon the dynamic development of the translation of these treaties. Hence, this study not only carries out comparative studies between a single treaty and its translation, but also tries to trace how articles addressing the same issues were drafted and translated in different historical stages. To narrow down the scope for detailed qualitative studies, this study has categorized the articles into different themes, such as reparation, cessions, and extraterritoriality. Articles of the same theme are gathered for inter-textual analysis to make diachronic comparisons. Each theme addresses translation shifts of a specific type, with its own emphasis in decoding ideology and power.

2.3.2 Analytic Tools Based on Systemic Functional Linguistics

Taking a linguistic turn, this study resides upon systemic functional linguistics (SFL) to explore how power is communicated by language. SFG and translation shifts are two analytic tools applied in analysis.

2.3.2.1 Application of SFL in Translation Studies

As implied by its name, SFL holds that language is systemic and functional. Language is functional because it is used to make meaning. Language is systemic, for people usually make meanings with a series of choices in linguistic structures, or in other words, systems in language. As Halliday says, “Text is choice, choice is meaning” (1978:137). The notion of choice reflects the duality language features: on the one hand, the motive of choice is functional; on the other hand, the procedure of choice is systemic.

In SFL, language is in nature a system of social semiotics. As a social construct, language serves to transmit social order but also has the potential to modify it with its meaning potential. Based on this principle, Halliday has developed systemic functional grammar (SFG) to outline how language is used to make meaning with a set of options in different contexts. His proposal of the three “meta-functions” of language has exerted a profound influence on the development of SFL. Halliday points out that, meta-function is concerned with the manifestation of human experience in language, usually in a threefold pattern. Accordingly, he labels these three kinds of meaning as ideational, interpersonal, and textual, which are realized by different linguistic structures.

Moreover, these three kinds of meaning are not confined to the clausal level, but as Halliday maintains, “run throughout the whole of language, and in a fundamental respect they determine the way that language has evolved” (Halliday & Matthiessen, 2014: 84). This assumption has paved the way for discourse analysis (DA) by applying SFG. Usually each meta-function is realized by a specific group of linguistic structures, which are chosen for translation shift analysis in this study:

(1) Transitivity structures express representational meaning: what the clause is about, which is typically some process, with associated participants and circumstances; (2) Mood structures express interactional meaning: what the clause is doing, as a verbal exchange

between speaker-writer and audience; (3) thematic structures express the organization of the message: how the clause relates to the surrounding discourse, and to the context of situation in which it is being produced. These three sets of options together determine the structural shape of the clause. (Halliday & Matthiessen, 2014:361)

Later, J.R Martin, the leading figure of the “Sydney School” further develops SFL by proposing five discourse systems of making meaning beyond the clauses. His discourse semantic theory addresses how the three meta-functions of language are realized by the five discourse systems, namely appraisal, ideation, conjunction, identification, and periodicity. The development of SFL also facilitates the growth of CDA and creates more possible dimensions in analysis.

When it comes to the application of SFL in translation studies, we should first realize the nature of translation. As a linguistic transmission of messages, translation is in essence an exchange of social semiotics. Using SFL to approach translation is to decode how social semiotics is conveyed across different cultural contexts. Echoing Halliday’s idea – “meaning as choice”, translation also deals with a series of choices in lexicon or linguistic structures. In fact, prior to other “turns” in translation studies, the linguistic approach is applied in several domains of translation studies with great popularity. For example, SFG provides a solid theoretical foundation for translation quality assessment, stylistic comparisons, and register studies, where linguistic structures gain priority in analysis.

As for the present study, it is based on the notion that linguistic structures are in nature power structures. Information symmetry is no longer the sole criterion in assessing translation quality. Linguistic structures also matter, for the structural formation of a discourse influences the reception of messages by displaying the same semantic meanings in different manners, which may reshape ideologies and power relations underneath.

Last but not least, the feasibility of applying SFL in analysing Chinese discourses is crucial to the credibility of this study. Admittedly, English and Chinese languages, originated from two language families, are naturally distinct in various linguistic features. However, both languages work under the same mechanism of socio-semiotics, and their linguistic structures perform the three meta-functions to make meaning in discourses. In essence, they share the same

code in deciphering information. Therefore, SFL is practical for the comparative studies between these treaties and their translations. The work *Halliday's Introduction to Function Grammar* by Halliday and Matthiessen (2014) is taken as the theoretical foundation for discourse analysis, while the works by Thompson (2014) and Li (2007) as supplementary sources in analysis.

2.3.2 Using Shifts in Assessing Translation Equivalence

As Qu (2021) points out, the non-equivalence in translation is closely bound up with the inequality of these Sino-foreign treaties. Here, the notion of equivalence is crucial to the translational issues of these treaties. In translation studies, the notion of equivalence has been explored by many scholars with different theories, such as Vinay and Darbelnet (1958), Jakobson (1959), Nida (1964), Catford (1965). Translation equivalence is defined and categorized in different manners. Generally speaking, translation equivalence can be divided into two categories, formal equivalence and functional equivalence¹⁷, which accordingly represent the goals of “literal translation” and “free translation” (Catford, 1965). The former is always in pursuit of linguistic correspondence when one text is rendered from one language into another, while on the contrary, the latter aims to bring the same pragmatic effects as the original, regardless of formal correspondence. As far as I am concerned, form and content are unnecessarily binary opposite to each other, but instead, they are interrelated in discourse. Form is part of content, for linguistic structures as sets of options in meaning-making also carry meanings on their own.

When evaluating the translation of treaties, we need to think about this question first: which kind of equivalence is the primary criterion to assess the translation quality of treaties? In fact, both types of equivalence should be taken into account. Formal correspondence is a crucial index of translation equivalence, and the small alterations in linguistic structures could probably affect how ideology is conveyed and represented in the target system. Functional equivalence is the ultimate end in legal translation, and it is required that the translated treaties should bring about

¹⁷ Different scholars apply different terms to label these two types of equivalence. For example, Nida uses “formal equivalence” and “dynamic equivalence”, while Catford applies “formal correspondence” and “textual equivalence”. This study uses “formal equivalence” and “functional equivalence”.

equal legal effects as the original versions, so as to prevent disputes between the two parties during implementation.

Some scholars suggest that exact equivalence is a prerequisite to “linguistic right and equality”, which constitute “the equality of arms in legal proceedings” (Cheng and Sin, 2008). However, achieving such “linguistic right and equality” in legal settings unnecessarily means that legal translation is always in pursuit of exact equivalence. After all, there could be no absolute equivalence between the source and target discourses, as they are distinctive in languages and cultures, guided by different ideological systems and philosophies. Sarcevic (2007) shares her viewpoint by redefining the goal of legal translation in the work *New Approach to Legal Translation*, maintaining that “the translator’s main task is to produce a text that will lead to the same legal effects in practice”(2007:71). Yankova (2025) holds a similar idea that “functional equivalence is of utmost concern in legal translation”(2015: 11), which lays more emphasis on pragmatic equivalence rather than formal correspondence in rendering a legal discourse within a cross-cultural context.

This study takes the formal non-correspondence in translating unequal treaties as a starting point to approach the given historical problem. Special attention is paid to the translation shifts, which are taken as basic criteria in the assessment of translation equivalence. According to J.C. Catford (1965), *shifts* mean “departures from formal correspondence in the process of going from the SL to the TL” (1965: 73). There are several models of shift analysis in translation studies that have been discussed and developed (Cyrus, 2006; 2009), among which the most influential two models are the Vinay-Darbelnet model (1958) and the Catford model (1965). The Vinay-Darbelnet model originated from comparative stylistics, and this model relies on seven translation procedures in shift analysis: among which borrowing, calque, and literal translation are defined as “direct translations”, and transposition, modulation, equivalence, and adaptation are categorized as “oblique translations” (Cyrus, 2009:92). In terms of the Catford model, formal non-correspondence is key to shift analysis. Catford (1965) divides translation shifts into two major groups: level shifts and category shifts in a structuralist manner, and thus the analysis of shifts resides on the lexico-grammatical level, being purely linguistic and theoretical.

It should be pointed out that translation shifts are not always inevitable in cross-cultural communications. According to Machali (1997), only those caused by untranslatability can be taken as obligatory shifts, “which are dictated by the language system” (1997:83), while the others should be deemed as optional shifts, which are associated with the decision-making of the translator in rendering the given message. There are different causes accounting for the appearance of these shifts, such as language conventions, stylistic preferences, or human manipulations for certain purposes.

In this study, translation shifts include semantic alterations and structural transformations that lead to both substantial and formal non-correspondence. Different linguistic shifts are examined and interpreted in Chapters 3, 4, and 5 based on Halliday’s systemic functional grammar (SFG), with each type of shifts addressing one unequal demand in these treaties. The shift analysis is not only conducted synchronically, being confined to one single discourse. Instead, shift between the translations of different treaties are also taken into consideration for diachronic comparative studies, so as to contrast the ideological implications underneath discourses at different historical periods.

Chapter 3

From the Victim to the Guilty: Power Relations as seen from Manipulation of Thematic Shifts in Translating the Articles on Reparations

3.1 Introduction

Reparation, as defined in Britannica, refers to “a levy on a defeated country forcing it to pay some of the war costs of the winning countries”¹⁸. As an important part constituting the unequal treaties, reparations have directly caused severe economic losses to the Qing government and consequently weakened its national power to fight against Western imperialism. In history, China has undergone three reparations to Britain, respectively after the two Opium Wars and the Margary Affair, as compensation for Britain’s commercial losses and military expenses. This chapter is to examine how the demands for reparations have been proposed in the Sino-British treaties at three historical periods from a translational perspective. In fact, such demands for reparations not only damaged the economic sovereignty of China, but also distorted China’s national image, by portraying China, the true victim of Western aggressions, into the guilty one for mistreating the foreign comers.

Within the framework of international law, there are usually two parties involved in the legal terms demanding reparations. Therefore, beyond a legal act for economic compensation, reparation also symbolizes the political battle between two powers in the name of justice, which is associated with the national images on the international stage. Usually, the two parties involved can be classified as the Victim and the Guilty. However, the Victim may not equate with the one suffering the real losses in all cases, and the image as the Victim is sometimes fabricated by the stronger power to justify its aggression towards the weaker. The following is Vattel’s opinion upon reparation (2010), which may illustrate this point:

¹⁸ <https://www.britannica.com/topic/reparations>

A state taking up arms in a just cause has a double right against her enemy, –1. a right to obtain possession of her property with-held by the enemy; to which must be added the expenses incurred in the pursuit of that object, the charges of the war, and the reparation of damages: for, were she obliged to bear those expenses and losses, she would not fully recover her property, or obtain her due. 2. She has a right to weaken her enemy, in order to render him incapable of supporting his unjust violence (§138) – a right to deprive him of the means of resistance. (2010: 566-567)

To explore how the images as the Victim and the Guilty are shaped in the unequal treaties, this chapter focuses on the thematic structures of the source and target discourses, which are linguistically related to the information focuses as well as logical relations within the given discourses. As for treaty translation, notable thematic shifts have been found by comparison, which, however, are likely to be neglected by scholars. In the literature review, we can see many researchers concentrate on the translation of terminology when investigating into these texts, as semantic asymmetry directly influences people's information reception and further their judgments as well as attitudes towards the issues addressed in the texts. Semantic asymmetry indeed accounts for the inequality of these treaties, while linguistic discrepancy also contributes to the inequality underneath. Unlike those rhetorical devices at semantic levels, such linguistic structures affect the audience in a subtler manner, which the translators could tactically use to change the mind-sets of the audience and infuse the "truths and realities" they advocate into the target system. This chapter is to examine how translators reshape the images of China and Britain as well as clarify their responsibilities for the proposed solutions by repositioning thematic structures in the target discourses.

3.2 The Analytical Tool of Thematic Shifts

First, it is useful to discuss the conceptual tools to be applied in this section:

Theme and Rheme. The following are the definitions by Halliday (2014):

The Theme is the element which serves as the point of departure of the message; it is that which locates and orients the clause within its context. The speaker chooses the Theme as his or her point of departure to guide the addressee in developing an interpretation of the message; by making part of the message prominent as Theme, the

speaker enables the addressee to process the message. The remainder of the message, the part in which the Theme is developed, is called in Prague school terminology the Rheme. (Halliday & Matthiessen, 2014: 89)

In a sense, Theme and Rheme are structurally defined that they are constrained to the positions they take in the clausal system. Usually Theme takes the first place in a clause, while the remaining part is Rheme. In terms of Theme, there are various categorizations according to different criteria. Functionally, there are interpersonal, topical, and textual Themes, which are correspondent with the three meta-functions proposed by Halliday. Such multiple Themes could co-exist in a single clause, performing different roles in daily discourses. Also Themes could be divided into unmarked Themes and marked Themes, which depends on whether the thematic structure itself conflates with the subject in the given clause¹⁹.

Another pair of concepts closely related to Theme and Rheme is the Given and the New. The Given refers to the information preconceived in people's minds, whilst the New is the information to be conveyed. Though the information structures usually coincide with the thematic structures, "Given + New and Theme + Rheme are not the same thing", as Halliday suggests, for "Theme + Rheme is speaker-oriented, whereas Given + New is listener-oriented" (2014: 120). Martin and Rose (2003) tend to combine the system of Theme and the system of Information together by replacing Rheme with New. Since the thematic analysis in this section aims to examine the conveyance of information as well as the formation of ideologies in the target discourse, the combined system "Theme + New" by Martin and Rose is thus adopted.

Linguistically speaking, thematic structures are associated with the information flow within texts, which perform the textual function in Halliday's three meta-functions. Thematic structures, as the organization of information, convey information themselves. Their positions usually have ideological implications and

¹⁹ Unmarked theme is "an element that occupies the point of departure position of the clause and conflates with the grammatical subject" (Halliday, 1994:44). Marked theme is "an element other than occupies the point of departure position of the clause but does not conflates with the grammatical subject" (Halliday, 1994: 44)

the different placement of information chunks could shape discourses with different stresses, thereby influencing the receiver's conceptions as well as reactions towards the given information.

Moreover, thematic analysis is not just confined to the intra-clausal level. Linguists also include clausal complexes into the discussions about Themes. Themes and News at the intra-clausal are called **hyperThemes** and **hyperNews**, which are about the development of ideational elements between clauses and present the whole picture of the information addressed in a discourse. The following is a quote from Martin and Rose (2003):

"The packaging of discourse as Choice of Theme and New, that we have seen in each clause, is reflected by larger scale patterning of phases of discourse. These patterns predict what will happen in each phase of discourse, and distill the new information that each phase presents."
(2003: 181)

Halliday explores the notion of "clause complex" and proposes different sub-systems of inter-clausal relations, such as **Taxis** and **Logico-Semantic Relation**. According to Halliday, "[d]egree of interdependency is known technically as taxis; and the two different degrees of interdependency as parataxis (equal status) and hypotaxis (unequal status)" (2014: 440). The former usually exists in compound sentences, while the latter in complex sentences. The following table proposed by Halliday (2014) shows the working mechanism of taxis:

	Primary	Secondary
Parataxis	1 (initiating)	2 (continuing)
Hypotaxis	α (dominant)	β (dependent)

Table 3-1 Primary and secondary clauses in a clause nexus²⁰

²⁰ This table is cited from the work *An Introduction to Functional Grammar*, which demonstrates the mechanism as follows: "The clauses making up such a nexus are primary and secondary. The primary is the initiating clause in a paratactic nexus, and the dominant clause in a hypotactic; the secondary is the continuing clause in a paratactic nexus and the dependent clause in a hypotactic"(2014:376).

The table above by Halliday shows the nexuses between clauses, which forms the ground of **hyperThemes** and **hyperNews**, which fulfil the textual function of discourse at the inter-clausal level. Logico-semantic relations are those “any of which may hold between a primary and a secondary member of a clause nexus” (2014:443). There are two major groups of logico-semantic relations: **expansion** and **projection**: the former is that “the secondary clause expands the primary clause, by (a) elaborating it, (b) extending it or (c) enhancing it”, while the latter is that “the secondary clause is projected through the primary clause, which instates it as (a) a locution or (b) an idea” (2014: 443). These relations establish a network between different pieces of information and help promote the flow of information from one clause to another, which influences the performance of interpersonal and ideational functions of a discourse.

Simply put, Themes and News convey information in little waves within clauses; hyperThemes and hyperNews deliver bigger waves of information between clauses. We can understand Themes and News as the intra-clausal logic, while hyperThemes and hyperNews the inter-clausal logic within a discourse. Therefore, the discourse analysis below is to be carried out at two levels, namely intra-clausal and inter-clausal, to examine the logic within and between clauses.

The analysis is to be carried out based on two systems proposed by Martin and Rose (2003), **Periodicity** and **Conjunction**. Periodicity is “concerned with information flow: with the way in which meanings are packaged to make it easier for us to take them in” (2003: 175). In this part, it is used to examine how information is delivered to the audience by comparing the information flows of the source and target discourses. This is highly connected with people’s reception of the given information and consequently their attitudes as well as judgments with regard to the messages.

Conjunction is about the “interconnections between processes”, which are “logical meanings that link figures in sequences”. This system is highly related to what Halliday proposes as “logico-semantic relations”. It is applied to look at how the demands were raised in the treaties, which involves causes and effects relating to specific historical events. Whilst Martin and Rose relate the system of Conjunction to the ideational function of discourse, namely how people construe realities, I would like to use this system as supplementary tools to prove that

thematic structures can also influence the interconnections of events and then the construction of ideologies in a discourse.

Concerning the inter-clausal relations, Martin and Rose (2003) propose that there are four kinds of logical relations realized by conjunctions: addition, comparison, time, and consequence. This categorization somehow overlaps with one major logico-semantic relation proposed by Halliday, namely expansion. These four logical relations interweave within discourses, creating the semantic picture in a mutually influential manner. The most important logic to be examined in this part is consequence, which can be further divided into four subcategories: cause, means, purpose, and condition. It is found that both discourses are consistent in delivering the same message to the audience that China's misconducts account for Britain's demands for reparations, but they present such logic of consequence in quite different ways.

3.3 Comparative Studies on the Articles on Reparation

Among the Sino-British treaties signed during 1842-1911, there are four addressing the issue of reparations, namely the *Treaty of Nanking* (1842), the *Treaty of Tientsin* (1858), the *Peking Convention* (1860), and the *Chefoo Agreement* (1878), which were concluded after three historical events – the First and Second Opium Wars, and the Margary Affair. The following discussions are carried out around these events in synchronic and diachronic manners, so as to examine whether there was any transformation in the image building concerning China and Britain among these treaties.

3.3.1 Reparation in the Treaty after the First Opium War

The First Opium War, also known as the First Anglo-Chinese War, broke out in 1840, which was triggered by the opium confiscation and destruction led by Commissioner Lin Zexu at Humen, Canton in 1839. In February 1840, a military expedition was launched by the British government, and in June the same year, 19 British warships led by James Bremer set forth from Macau and sailed along the coast till Chusan, where wars were fought and ended up with Britain's occupation of Chusan (Mao, 2005). Meanwhile, Britain also aimed its gunfire at Xiamen (Amoy) and exerted blockade along the coastal areas. Along with the failing negotiations between Qi Shan and Charles Elliot, warfare continued in Humen

and later in Canton. Afterwards, Britain launched military actions northward and seized Xiamen, Chusan, and Ningbo. Successive defeats made the Qing government aware of its incompetence to contend with Britain on the battlefield, that it finally yielded to the stronger power. In 1842, bilateral negotiations resumed and military conflicts between China and Britain finally terminated under the conclusion of the first Sino-foreign unequal treaty – *Treaty of Nanking*.

The First Opium War was the direct cause for the demand for reparation, which was said to account for the mercantile losses and military expenses of Britain. China was demanded to pay a total amount of twenty-one millions of dollars to Britain. In fact, the two countries had failed to reach consensus upon the opium trade since the 18th century²¹. Even during the negotiations between Eliot and Qi-Shan in 1840, the Chinese representative passed on the message from the Emperor Daoguang, who insisted that opium was illegal goods and Britain had no grounds for demanding reparation (Guo, 2003: 302). However in 1842, failing to withstand Britain's fierce gunfire, China finally gave up its intransigence over this issue and agreed to pay the value of the confiscated opium as well as military expenses in the *Treaty of Nanking*.

On the surface, the opium confiscation by Lin Zexu had severely damaged British merchants' interests, which Britain claimed to be an intolerable violation of British citizens' personal property. In essence, the confiscation alarmed the British government of the opium trade in China, as this political move signalled China's tough policy towards opium prohibition. Britain took the opium trade as the bargaining chips during the commercial encounters with China, which it used to expand the trade market in China and accumulate fortune for colonization. In this case, the confiscation had provided a perfect excuse for Britain to launch wars on China, who successfully used military intimidations to win back the initiative

²¹ In fact, the legitimacy of opium trade had been long debated between the Qing government and the British government. According to Wakeman, "Opium had been used medicinally in China since the T'ang period", and "opium imports were prohibited by the Ch'ing government in 1729" (1978:171). Therefore, opium was not legalized in trade since the Qing period. However, suffering financial deficits during the trade with China, the Western countries had to seek a way out, and "It was opium that turned the balance": "During the first decade of the nineteenth century, China has gained about \$26,000,000 in her world balance of payments. From 1828 to 1836, \$38,000,000 flowed *out* of the Middle Kingdom"(1978:173).

upon the opium trade and even other diplomatic issues. China, suffering severe defeats on the battlefield, was then forced to sign a “peace treaty” with Britain, who managed to gain such privileges in trade with China afterwards.

In the *Treaty of Nanking*, there are two articles concerning reparation, stating that the moneys are mainly paid for opium confiscation and military expedition. Article IV is about opium confiscation, and China was demanded six million dollars to compensate the British subjects for the opium destructed in Canton in 1839. The following tables are the source and target texts of the given Article, which are segmented according to the Hallidayan taxis mentioned above:

Example 3.1

		ST (English)
α		The Emperor of China agrees to pay the sum of Six Millions of Dollars as the value of Opium
		which was delivered up at Canton in the month of March 1839, as a Ransom for the lives of Her Britannic Majesty's Superintendent and Subjects,
γ	1	who had been imprisoned
	2	and threatened with death by the Chinese High Officers.

Table 3-2 Article IV – Treaty of Nanking (ST)

		TT (Chinese)	BT
$\beta 1$		因大清欽差大憲等於道光十九年二月間經將大英國領事官及民人等強留粵省，	Since the Chinese High Officers imprisoned British Superintendent and Subjects in February of the 19th Taokwang Year,
	$\beta 2$	嚇以死罪，	threatened with death,
$\beta 3$	α	索出鴉片	and confiscated Opium
	β	以為贖命	to ransom their lives
α		今大皇帝准以洋銀六百萬員補償原價。	now the Emperor of China agrees to pay the sum of Six Millions of Dollars as the value of Opium

Table 3-3 Article IV – Treaty of Nanking (TT + BT)

At the inter-clausal level, there are three clauses in the source text, representing three different information chunks. In Table 3-2, the main clause α assumes the first place in the clausal sequence, being the hyperTheme governing the whole

sentence. It tells that the Chinese Emperor agrees to pay the said amount, and the preposition “as” following the sum is to clarify what this sum of money should be paid for. The following two postpositive attributive clauses $\beta+\gamma$ are to offer supplementary information by detailed descriptions of China’s misconducts – confiscating opium and mistreating British subjects. Thus, the logic is that “China agrees to pay, because China has done something wrong”. However, in the translation (see Table 3-3), the parallel causal clauses $\beta1+\beta2+\beta3$ take the position of hyperTheme, thus making China’s misconducts as the Given information, while the effect clause as the hyperNew is the New information, describing what China should do to compensate Britain for its losses. The logic is presented as “because China has done something wrong, China agrees to pay”. This indicates that China had subconsciously admitted the confiscation of opium as well as the imprisonment of British superintendent and subjects as its faults, which serves as the premise of Britain’s demand for reparation. More importantly, Britain also gained initial success in the debate upon the legitimacy of opium trade, though not clearly brought out in this Treaty, for China had acknowledged “delivering up opium” as misdoings and agreed to compensate for the loss.

In addition, the narrative order of China’s misconducts, namely delivering up opium, imprisoning and threatening British superintendent and subjects is reversed in the target discourse. In the original text, the main reason for the compensation is to cover the value of opium confiscated and destroyed by the Chinese authorities, while the mistreatments upon the British superintendent and subjects are presented as supplementary information. Therefore, the clausal relations are hypocritic that opium confiscation is the dominant while the imprisonment and threatening are the dependent parts. In the source discourse, the Themes jumps from “Opium” to “British Superintendent and Subjects”, and this thematic sequence implies what information is prioritized in narration within the English discourse. However, in the translation, the misconducts are listed side by side, being parallel News and all serving the Theme of the causal clause, namely “大清欽差大憲” (meaning “the Chinese High Officers”) in this case, which suggests these actions or events share equal significance in shaping the guilty image of China.

At the intra-clausal level, it is noteworthy that the thematic shifts are realized by the activation of processes in the translation. These processes share one common Theme – “大清欽差大憲” (the Chinese High Officers), and the target audience’s attention is concentrated on WHO is responsible for these actions. Indeed, the passive and active voices realized by different thematic positions have different focuses in discourse semantics. The active voice lays more emphasis on the Agent rather than the Recipient, that the guilty image of China is portrayed more outstanding in the target discourse. The passive voice, on the other hand, focuses more on the one being acted upon, British Superintendents and subjects in this case, which demonstrates the victim image of Britain.

Article VI is about military expenses. This Article has depicted the war launched on China as a just expedition, and the violent and unjust proceedings mentioned refer back to the misconducts listed in Article IV has been discussed above. Though in both discourses (see Table 3-4 and 3-5 below), China has been accused of violent and unjust proceedings, the tones are subtly different in narrating this matter. The thematic shifts take place along with the denominalization of the causal adverbial “for the violent and unjust Proceedings”. The source text obviously adopts a British perspective, by making “the Government of Her Britannic Majesty” as the Theme to justify Britain’s military actions. However, the target text uses “the Chinese High Authorities” as the starting point in explaining why China should be responsible for the military expenses incurred. The wave-lined “for” and “致” (meaning “result in, cause”) display two distinct discursive patterns in displaying the logic of consequence of the given action. In the English version, Britain’s military actions are placed in the first place, being the central message; while in the Chinese translation, China’s mismanagements, which used to be placed in the peripheral position as supplementary information, are now the point of departure of the message.

Example 3.2

		ST (English)
	α	The Government of Her Britannic Majesty having been obliged to send out an Expedition
	β	to demand and obtain redress for the violent and unjust Proceedings of the Chinese High Authorities towards Her Britannic Majesty's Officer and Subjects,
	α	the Emperor of China agrees to pay the sum of Twelve Millions of Dollars on account of the Expenses incurred ...

Table 3-4 Article VI – Treaty of Nanking (ST)

		TT (Chinese)	BT
	α	大清欽明大臣等向大英官民人等不公強辦	The Chinese High Authorities had unjustly and violently proceeded against the British Officer and Subjects,
β	α	致須撥發軍士	that (the British government) was obliged to send out an Expedition
	β	討求申理，	to demand and obtain redress,
	γ	今酌定水陸軍費洋銀壹千貳百萬員，大皇帝准為補償。	so now a sum of Twelve Millions of Dollars as the military Expenses for the maritime and ground troops, the Emperor of China agrees to pay.

Table 3-5 Article VI – Treaty of Nanking (TT + BT)

In fact, we can see there are two implications here: first to justify Britain's declaring war on China, and second to rationalize Britain's demanding money from China. Originally, the source discourse is to argue that China should pay to the British government, and this accounts for why the actions serve as supplementary information. This essentially echoes Britain's motivation in the negotiation, which was to seek economic profits from China. The ideology reconstructed in the target discourse is subtly different from the original. Since the Themes and hyperThemes are supposed to be information preconceived by the audience, the translation implies that the Qing government had acknowledged the fact that China was the one provoking the conflicts between two countries and thus it should be responsible for its wrongdoings. Undoubtedly, China was then placed at a disadvantage on the negotiation table, and the issues upon which the

two countries had not yet reached consensus before the conflict were redefined in the treaties, for instance, the trade of opium. The opium trade banned by the Qing government was not legalized until the conclusion of the *Treaty of Tientsin*. However, Article IV implies that Britain took the confiscation and burning of opium as the source of military conflicts between China and Britain, and such accusation of China's destroying opium as misconduct has conveyed a message that: opium is legitimate commodity in trade and China has no right or reason to confiscate Britain's legal properties.

It can be concluded that there is a stylistic pattern commonly used for logic connections in the translating the reparation articles in the *Treaty of Nanking*. The translator prefer to present the logic of consequence by making causal clauses hyperThemes at the inter-clausal level and making the Actor Themes at the intra-clausal level. Moreover, it can be seen that the China enjoys higher frequency at the thematic position within clausal and effect clauses, for instance, Chinese High Authorities and the Emperor of China. To some extent, this makes the narratives more "Chinese", more approachable to the target audience.

3.3.2 Reparation in the Treaties after the Second Opium War

The Arrow Incident was the trigger of the Second Opium War. It is said that the Chinese authorities seized the Arrow, a Chinese vessel flying a British flag in Canton on 8 October 1856. Her crew was detained and the British flag was torn down. However, there had been debates upon the actions of the Chinese authorities, because "(h)er crew consisted entirely of Chinese sailors, with the exception of the caption, who, as mentioned was an Irishman of age twenty-one by the name of Thomas Kennedy" (Wong, 1998: 43). Whatever the truth of the Arrow Incident, it was just an excuse for Britain to launch the Second Opium War, where Britain seized the opportunity to further expand its privileges in the trade within China. As a result, two representative treaties were signed as the price for peace, namely *Treaty of Tientsin* (1858) and the *Peking Convention* (1860), which demanded for reparations with reasons similar to those in the *Treaty of Nanking* (1840).

It is noteworthy that reparation was mentioned in the Separate Article in the *Treaty of Tientsin*, which attached greater significance to the given demand. The Separate Article can be divided into three parts: reasoning reparation, arranging

payments, and withdrawing British Forces. Notable thematic shifts are found in this Article.

Example 3.3

		ST (English)
		It is hereby agreed that
1		<u>a sum of Two Millions of Taels</u> , on account of the losses sustained by British Subjects, through the misconduct of the Chinese authorities at Canton,
2	α	and <u>a further sum of Two Millions of Taels</u> on account of the military expenses of the expedition
	β	which Her Majesty the Queen has been compelled to send out for the purpose of obtaining redress, and of enforcing the due observance of Treaty provisions,.
		shall be paid to Her Majesty's Representative in China by the authorities of the Kwang Tung Province.

Table 3-6 Separate Article – Treaty of Tientsin (ST)

The idea of the first sentence is a total sum of four million of taels shall be paid to Britain by China, with two parallel “on account of” structures explaining what these sums are paid for. The first part is to explain that two million of taels out of the total among is paid for the mercantile loss of the British subjects. The second part is to tell that the other two million is for military expenses. With regard to the clausal nexuses, there are two relations, the major relation is paratactic 1+2 and the minor one is hypotactic $\alpha+\beta$ (see Table 3-6). The part concerning mercantile compensation serves as the hyperTheme in the paratactic relation, and the part concerning military expenses the hyperTheme in the hypotactic one. The relation between these two parts is implied by the underlying word “further” in the original text, which usually conveys progressive relationship in English discourses. However, the translator has rearranged these loads of information by reconstructing the original paratactic 1+2 relation into a new hypotactic $\beta+\alpha$ in the target discourse, thus reinforcing the interrelation and manifesting the logic of consequence in a clearer manner at the inter-clausal level.

Example 3.3

		TT (Chinese)	BT
β	α	前因 <u>粵城大憲</u> 辦理不善	Since the Chinese authorities at Canton mismanaged affairs
	β	致 <u>英民</u> 受損，	that British Subject suffered losses,
α	α	<u>大英君主</u> 只得動兵取償，	the British Monarch has been compelled to send out an expedition for redress
	β	保其將來守約勿失。	to ensure the due observance of Treaty provision in the future.
		商虧銀兩百萬兩軍需經費銀兩百萬兩二項，大清皇帝皆允由粵省督撫設措。	A sum of Two Millions of Taels for mercantile losses, and a sum of Two Millions of Taels for military expenses, the Emperor of China agrees to by the authorities of the Kwang Tung Province.

Table 3-7 Separate Article – Treaty of Tientsin (TT + BT)

When it comes to the thematic structures at the intra-clausal level, we could see human Themes have replaced the non-human Themes. In the original discourse, “moneys” serve as the Themes, with the information focus falling upon the action of reparation itself, which is the effect in the logic of consequence. On the contrary, in the translated discourse, the Themes have been humanized that the information focus shifts from reparation to actions accounting for reparation, which is the cause in the logic of consequence. Moreover, if tracking the participants involved in this sentence (see Table 3-8), we can see the Themes change in each clauses: from “the Chinese authorities at Canton”, to “British Subjects”, and finally to “Her Majesty of the Queen”. Linguistically speaking, each clause has its own peak of prominence in information delivery. The first information chunk is China’s mismanagement, which is the cause for the second information chunk, namely British subjects’ losses. The third information chunk – Britain’s military expedition, is based on the first two chunks, which altogether become the cause for the third. As shown in Table 3-8:

hyperTheme 1 (Cause)				HyperNew 1(Effect)	
HyperTheme1 (Cause)		HyperNew2 (Effect)			
Theme1	New1	Theme2	New2	Theme1	New2
前因粵城大憲	辦理不善	致英民	受損	大英君主	只得動兵取償...
the Chinese Authorities at Canton	misconduct	British Subjects	losses	Her Majesty the Queen	expedition... send out for the purpose of...

Table 3-8 Separate Article – Treaty of Tientsin (Thematic layout)

Again, we could see that the translator has constructed a closer interrelation between the two “on account of” structures in the target discourse, explaining the relationship between mercantile loss and military expedition. Similar to the Treaty of Nanking, Britain claimed that the military expeditions were to obtain redress for the mercantile losses, which has justified Britain’s military incursion.

Article III in the *Peking Convention* (See Table 3-9), instead of arguing why China had to pay the reparations, is about the arrangement of payments. Its casual-effect discursive pattern is not as notable as those in the previous treaties, for the proposal of this Article is based on the Separate Article in the Treaty of Tientsin, which had already offered reasons for the reparations.

Example 3.4

		ST (English)
		It is further agreed that
1	α	these moneys shall be paid into the hands of an officer
	β	whom Her Britannic Majesty’s Representative shall specially appoint to receive them
2		and that the accuracy of the amounts shall, before payment, be duly ascertained by British and Chinese officers appointed to discharge this duty.

Table 3-9 Article III – Peking Convention (ST)

		TT (Chinese)	BT
1		大英欽差大臣專派委員監收外，	The British Representative shall appoint an officer to receive these moneys,
2	α	兩國彼此各應先期添派數員稽查數目清單等件，	and both countries should, before payment, appoint officers to examine documents about the accuracy of the amounts,
	β	以昭慎重。	so as to maintain discretion.

Table 3-10 Article III – Peking Convention (TT+BT)

Different from the thematic shifts discussed above, these shifts are not to directly emphasize the guilty and the victim in the power struggle between China and Britain. Instead, they are to stress the responsibilities of the two parties for the upcoming solutions. In this excerpt (see Table 3-10), 大英欽差大臣 (meaning “British Representative) and 兩國 (meaning “Chinese and British governments”) have respectively replaced “these moneys and the accuracy of the amounts” as the Themes in the given clauses. The translation has explicated the Agent of the given actions, attaching greater mobility to the central processes of the clauses, namely receiving indemnity and ascertaining amounts. Ideologically speaking, the discrepancy between the source and the target discourses lies in what element has the prominence in the conveyance of information. The non-human Themes “*moneys + amounts*” reflects that Britain was concerned more about WHAT it could gain from China. In contrast, the human Themes “大英欽差大臣+兩國” are to tell the audience WHO should be responsible for such actions, which caters for China’s anticipation in the receiving the message, namely what it should do for Britain. However, it is interesting that unlike the Articles above, where China usually assumes the role of Theme in the clauses concerning payments, the Theme shifts from China to Britain in this case. It lays more emphasis on the payee (Britain) instead of the payer (China), which seems to be a British rather than Chinese perspective in the narrative. This is worth further discussion.

3.3.3 Reparation in the Agreement after the Margary Affair

The Margary Affair, also known as the Yün Nan case, unveiled the third stage of Britain’s aggression towards China. Though having achieved control of the

market in China's coastal areas after the two Opium Wars, Britain was still ambitious to expand its exploitation of the market within inland China, and Yün Nan, the southwest frontier neighbouring Burma, became the next target for this market expansion. The controversy of the Margary Affair lies in the death of Augustus Raymond Margary, who served the British Consul as an interpreter. In 1874, Britain sent a survey team led by Colonel Horace Browne from Burma to Yün Nan to explore the trade routes in southwest China. Meanwhile, Margary was sent by the British Consul Sir Thomas Wade from Shanghai to Yün Nan to meet Colonel Horace Browne and join this mission. However, on his journey back to Shanghai, Margary changed his route to Tengyue, where he and his personal staff were murdered on 21 February 1875. Margary's death triggered a diplomatic crisis between China and Britain, leading to the protracted negotiations between by Thomas Wade and Li Hongzhang.

Opinions vary upon the ins and outs of the Margary Affair, and the historical sources show different presentations of this affair. In the Western historical records, the British interpreter was "murdered" by the Chinese locals during his exploration in the southwest China, which might have been instigated by the Chinese officials. However, according to the Chinese historical records, it is Margary and his survey team that intruded into the area without gaining official permission from the Qing government and shot the Chinese locals first, which compelled the locals to resist by force and finally killed the British interpreter and his personal staff. Both parties attempted to guarantee their own interests by claiming that the other party was exactly the one to be blamed for the Affair. However, due to China's loss of discursive power after the two Opium Wars, the negotiations on the Margary Affair ended up with the conclusion of the Chefoo Agreement in 1876, which had forced the Qing government to make further compromises in trade and extraterritoriality. In Section I "Settlement of the Yün Nan Case", demands for compensations are raised in the fifth article, with the following reasons: 1) indemnity for casualties, 2) military expenses, and 3) debts due to British Merchants.

Example 3.5

		ST (English)
β1		The amount of indemnity to be paid on account of the families of the officers and others killed in Yün Nan;
β2		on account of the expenses which the Yün Nan case has occasioned;
β3		and on account of claims of British Merchants arising out of the action of officers of the Chinese Government, up to the commencement of the present year,
α	(α)	Sir Thomas Wade takes upon himself
	(β)	to fix at Two hundred thousand Taels payable on demand.

Table 3-11 Section I – Chefoo Agreement (ST)

		TT (Chinese)	BT
1		所有在滇被害人員家屬應給卹款	All the families of the officers and others killed in Yün Nan should be given indemnity;
2		以及緣滇案用過經費	(there should be) Yun Nan Case-incurring expenses
3	β	並因各處官員於光緒二年以前辦理未協，	and because officers of the Chinese government, up to the commencement of the present year, mismanaged the affairs
	α	有應償還英商之款	there should be moneys paid to the British merchants;
4		威大臣現定為擔代，	Sir Thomas Wade now takes upon himself (the indemnity)
5		共關平銀貳拾萬兩由威大臣隨時兌取。	and a total of Two hundred thousand Taels are payable on demand.

Table 3-12 Section I – Chefoo Agreement (TT + BT)

Similar to the Separate Article in the *Treaty of Tientsin* (1858), “The amount of indemnity” remains the Theme of the clause, and the parallel “on account of”

structures are kept in use in the English text for supplementary information, and the New is what Sir Thomas Wade shall do. Linguistically speaking, the part “the amount of indemnity to be paid...” cannot be defined as an independent clause. However, if we make this non-definitive Theme into an independent clause, the intra-clausal logic is presented as in an effect-cause order, namely “the indemnity is paid for following reasons”, which could be regarded as the hyperTheme, while the following clause “Sir Thomas Wade... on demand” serves as the hyperNew. In a sense, this still follows the same logical pattern in the previous treaties.

China was accused of three misconducts in the Article, and the three “on account of” structures have been translated into three independent information chunks (see Table 3-11), and correspondently, there are three slight thematic shifts in the translation of this non-definitive.

	Theme	New 1
ST	The amount of indemnity	(is) to be paid ... on account of the families of the officers and others killed in Yün Nan
TT	所有在滇被害人員家屬	應給卹款
BT	All the families of the officers and others killed in Yün Nan	should be paid indemnity

Table 3-13 Section I – Chefoo Agreement (Thematic layout : Part I)

Concerning the first thematic shift, the families of the victims in the Yün Nan case have been put forward as the Theme, being the one claiming indemnity (see Table 3-13). This linguistic shift implies the cause and effect: British officers and subjects being killed in Yün Nan, their families then demanded money from the Qing government. Though in the translation, the nationalities of the people killed in Yün Nan were not clearly mentioned, the hyperNew – Sir Thomas Wade takes upon himself on these moneys, implies that Britain was the only victim suffering casualties, while the Chinese locals being killed in the Margary Affair were not included²². The “truth and realities” presented are somehow one-sided. In essence,

²² In fact, China also suffered casualties and Britain was not the only victim in this conflict. According to the historical records compiled by Qu Chunhai (2006), the communications between the officers on both sides show that there were Chinese people killed during the conflict as well. Thus, this Article is one-sided that Britain

the demand for reparations not only makes China suffer severe economic losses but also reduces it into an even more unfavourable public opinion on the international stage. The Margary Affair has been depicted as China’s barbarous acts where innocent British subjects were murdered, and Britain managed to shirk responsibility in encroaching China’s sovereignty and shape its victim image in the bilateral negotiation.

As for the second shift, the postpositive attributive clause “which the Yün Nan case has occasioned” has been placed ahead in the translation “緣滇案用過經費” (meaning “the Yün Nan Case-incurring expenses”). This minor linguistic difference could be explained by language conventions, but it still mirrors the cognitive habits of the target audience, which emphasize more on the cause rather than the effect.

	Theme	New 2
ST	The amount of indemnity	(is) be paid on account of claims of British Merchants arising out of the action of officers of the Chinese Government, up to the commencement of the present year,
TT	並因各處官員於光緒二年以前辦理未協，	有應償還英商之款，
BT	and because officers of the Chinese government, up to the commencement of the present year, mismanaged the affairs	there should be indemnity paid to the British merchants

Table 3-14 Section I – Chefoo Agreement (Thematic layout : Part II)

The third thematic shift is the rendition of “claims of British Merchants” (see Table 3-14). The simple clause has been broken into a clause complex $\beta+\alpha$. The postpositive attribute “arising out of...” has been translated into a causal clause and moved forward as the hyperTheme at the inter-clausal level, explaining that due to the mismanagements of the Chinese officers, China owed debts to

has been the victim while China the guilty from the beginning to the end. This ideological representation further disadvantaged China in the negotiation about reparation and the conclusion of the Chefoo Agreement.

British merchants and should pay as Britain claimed. Also the Theme has shifted from “money” to the Agent responsible for the mismanagement – the Chinese officers. Same with the examples in section (a) and (b), this rendition still serves the purpose of amplifying China’s role as the guilty side so as to make Britain’s demand more persuasive.

This example shows that the small waves of information share logic sameness with the bigger waves, making the cause as the starting point of the given message. This cause-effect logic has enhanced the persuasive effect of the given discourse, and ideologically speaking, the Chinese audiences are more likely to harbour a preconceived idea that “China is the wrong side” in 1) Margary’s death; 2) the conflict incurred; and 3) the debts owed, and thus to make compromises during the bilateral negotiations.

3.4 Summary

To sum up, shifts in discursive patterns have been detected through the above analysis in the translated texts of the treaties with regard to thematic structures, which display the logic of consequence in subtly different manners. Such patterns play an important role in shaping the image of the parties involved as well as demonstrating respective responsibilities for the problems addressed.

At the intra-clausal level, there are notable active and passive voice shifts that are realized by thematic rearrangements. The activation of given actions has successfully shifted people’s attention from the Recipient to the Agent, thus making China play a more prominent role in the accused misconducts. This shows that the source and the target discourses serve different audiences, with the former for Britain and the latter for China. Though language conventions also account for thematic discrepancy to some extent, the discursive patterns are also ideologically motivated that the usage of a pattern aims for information conception in specific ways. It should be mentioned that, adopting a narrative stance of the target audience unnecessarily means, the narration itself speaks for the sake of this group of people. On some occasions, the translators change the narrative perspectives in order to further exert ideological control upon the target audience. From the examples above, we can see the translators stood with Britain during their translation practices, and endeavoured to deepen the guilt of China by

putting the target audience into the scenario where they were the doers for all these misconducts. The party being bullied has been reshaped as the one bullying others, and the reparation articles are exactly their confessions.

At the inter-clausal level, the translators have adjusted the positions of clauses and such sequential shifts influence the audience's reception of given information, which might contradict with their stereotypes or anticipations about certain issues. It is found that the source texts favour the "effect-cause" pattern in raising the demands, while the target texts prefer the "cause-effect" pattern for the purpose of stronger persuasion. China's actions, which were considered as misconducts by Britain, usually play the role of hyperTheme in the sentences, supposedly forming certain prejudices or preconceptions in the target audience's minds. China's wrongdoings being the Given information implies that the Qing government has admitted their faults during the negotiation and thus had to make compromises upon some issues. Therefore, translation did make a difference in reconstructing ideologies in the target discourse. Such ideological reconstruction, as an invisible mind control realized by translation, successfully created a power imbalance between the two parties. As the guilty side, the Qing government consequently had less discourse power than the British government during negotiation; as the victim, Britain managed to win sympathy from the international community and arouse a sense of guilt in China, thus further consolidating its advantage in the power struggle with China.

Thematic shifts, apart from reinforcing logical effectiveness, can even establish new logic relations within the discourses. China's misconducts accused by Britain have been rearranged in an order where the events were highly interrelated and one might account for the other. The hidden logic of consequence has been revealed in the translation that Britain's military actions and its claims for military expenses have proper reasons. The shared patterns is: 1) Since the Chinese authorities have committed misconducts, the British government was obliged to launch military actions; 2) Since such military actions have caused Britain economic losses, Britain thus felt reasonable to ask for reparations for the military expenses. In the Treaty of Nanking, the First Opium War was launched due to the confiscation of opium; in the Treaty of Tientsin, the Second Opium War broke out because of the Arrow Incident; in the Chefoo Agreement, military conflicts

resulted from the Margary Affair. In these the translated treaties, China has been unexceptionally reshaped as the guilty party for a series of conflicts incurred, whereas Britain was the victim suffering from these conflicts and warfare became their necessary measures to recover justice.

Undoubtedly, Britain has triumphed over China not only on the face-to-face battlefield but also in the invisible arena where discourse power struggle took place without gunpowder fumes. Language has become a tool for the Western power to overcome China on the negotiation table. It can be seen that, logic patterns in a discourse could be useful means of image building, for such patterns usually help form certain psychological presupposition in the audience and lead them to approach the “realities and truths” in the discourse as anticipated. The translators, as the one recreating these patterns, also play an important role in the power struggle between China and Britain. Their ideologies usually serve as the basis of the image building in their translation practices, which is to be discussed later.

Chapter 4

From Resistance to Surrender: Power Relations as seen from Manipulation of Transitivity Shifts in Translating the Articles on Territorial Issues

4.1 Introduction

Territory has always been a vital issue in international relations and international law, because, as Shaw suggests, “such fundamental legal concepts as sovereignty and jurisdiction can only be comprehended in relation to territory” (2021: 409). It is over such a defined piece of territory that a state exercises its exclusive power, and therefore, states usually meticulously deal with territorial issues during negotiations for the sake of their national interests. In most cases, a state endeavours to retain its territorial integrity as it is a prerequisite for homeland security and stability, and some even hold ambition to expand its territory for its own sake.

Naturally, territory has become an inevitable issue between states in the international encounters. There are several forms of territorial relations between states, including lease, cession, occupation, etc., which reflect the power struggle between two political entities in different degrees. Cession, according to its definition in the international law, is “an understanding under international law by which territory is transferred from one State to another with the consent of both States”²³. The transfer of territory, including its precondition and process, is always debatable, thus making it challenging to translate in treaties and related documents. In history, China has undergone two official cessions to Great Britain: the Island of Hongkong was ceded to Britain after the First Opium War in 1842, and then, Cowloon was ceded after the Second Opium War in 1860. Afterwards, China and Britain also had several dialogues concerning boundary settlement around the Burman and Tibetan areas. In 1898, China further leased Britain the

23 <https://opil.ouplaw.com/view/10.1093/law:epil/9780199231690/law-9780199231690-e1377>

New Territory as part of British Colony in Hong Kong for ninety-nine years, and Weihaiwei in Shandong Province as well as the adjacent waters.

This chapter dwells upon how the demands for territorial cessions and boundary settlements have been raised in the English and Chinese treaties, so as to explore the power relations between China and Britain. The transitivity shifts are analysed in both synchronic and diachronic manners.

4.2 The Analytic Tool of Transitivity Shifts

The transitivity system, according to Halliday, is key to the ideational function of discourse, representing people's experience in the world. Thus, transitivity shifts in translation could lead to a different representation of "facts and realities", and consequently, a different ideology in the target discourse. Our experience of the world, whether external or internal, "consists of a flow of events, or 'goings-on'", which is "is chunked into quanta of change by the grammar of the clause: each quantum of change is modelled as a figure — a figure of happening, doing, sensing, saying, being or having" (Halliday & Matthiessen, 2014: 213). "Figures and their elements (process, participants, circumstances) are the basic units of ideational meaning in discourse, in all the languages we know of, spoken and written" (Martin & Rose, 2003:71). Halliday has accordingly categorized the processes into six types, namely behavioural, material, mental, verbal, relational and existential. This section mainly concentrate on the transitivity shifts between the source and target discourses in different dimensions. At the lexico-grammatical level, the focus resides upon the shifts in process types (e.g. from a material process to a mental one) which might subtly alter the narrative stances or logic underneath the message; at the semantic level, the analysis is about how the three basic elements (participants, processes, circumstances) were translated and reshaped in the target discourse, which might in turn echo or justify the process shifts above.

Before having a close look into those shifts in transitivity, we can compare the overall distributions of processes in the sample articles and their translations²⁴. As

²⁴ The sample articles are chosen from the following treaties and agreements: *Treaty of Nanking* (1842), *Convention of Bocca Tigris* (1846), *Peking Convention* (1860),

there are different approaches in quantifying the processes in transitivity analysis, the study adopts Thompson's (2014) method in examining processes in clauses, by looking at processes at different syntactic levels. For example, the processes embedded in the infinite structures are also considered. Transitivity analysis of Chinese discourses is always challenging that it requires a set of criteria clearly defined for quantitating the transitivity processes in Chinese texts. In this study, all processes are counted, including those embedded in the verb-complement structures²⁵. For instance, the Chinese verb “議定” (meaning “discuss and decide”) is counted as a verbal process plus a mental one.

On the whole, material processes outnumber other types of processes in both English and Chinese discourses, indicating that “doing” processes are the information of the utmost significance in these treaties. As treaties are normative legal discourses that regulate rights and obligations in texts, it is understandable that processes relating to “do's and don'ts” prevail in quantity. Then mental processes rank second among the proportions, which is somehow distinctive among legal discourses, given that treaties are supposed to be concluded based on mutual consent of contracting states. Then relational processes come as the third place in distribution in the articles on territorial issues, which are usually used to signify the ownership of a given territory. Other processes occupy low proportions in the discourses.

4.3 Synchronic Analysis of Shifts in the Conveyance of Unequal Treaties

In this section, representative articles are chosen for case studies, which outline the key points of the territorial issues between China and Great Britain in history, namely the cession of the Island of Hong Kong, the evacuation of Chusan, the

Burma Frontier and Trade Convention (1894), Burma Convention, Modifying Agreement (1897), Convention for the Extension of Hongkong (1898), Convention for the Lease of Weihaiwei (1898), Tibet Convention (1906).

²⁵ Verb-complement structures are common in Chinese, and usually the former verb is to modify the latter, specifying in what manner the latter activity is carried out. Usually the semantic focus of the Chinese verb-complement structures falls on the central action.

lease of Cowloon, China's rights to territory in the Burma and Tibetan areas, and the further leases of New Territory and Weihaiwei.

4.3.1 The Cession of the Island of Hong Kong

The first case to be examined is Article III in the *Treaty of Nanking* (1842), in which Britain demanded the Island of Hong Kong from China. This article can be split into two clauses with hypotactic dependency of cause-result logic. The first half is about Britain's demand for port, and the second China's response to Britain. The two parts are to be examined as Example 4.1 and 4.2.

Example 4.1

[C-] It **[Pr: relational, attributive]** being **[Attribute]** obviously necessary and desirable **[-rrier]**,

that **[Carrier]** British Subjects **[Pr: relational, attributive]** should have **[Attribute]** some Port

[C-]whereat **[Actor]** they **[Pr: material]** may careen and refit **[Goal]** their Ships, **[Circumstance, location]** when required, and **[Pr: material]** keep **[Goal]** Stores **[Circumstance, purpose]** for that purpose **[-ircumstance, purpose]**,

因**[Actor]** 大英商船**[Circumstance, manner]** 遠路 **[Pr: material]** 涉洋,

往往 **[Pr: existential]** 有 **[E-][Goal]** 損壞 **[Pr: material]** 須修補者 **[-xistent]**,

[Recipient] (英方)²⁶ **[Pr: material]** 自應給予 **[Goal]** 沿海一處,

以便 **[Actor]** (英方) **[Pr: material]** 修**[Goal]** 船以及 **[Pr: material]** 守 **[Goal]** 所用物料。

BT: Since British Merchant Vessels come from afar that there are always damages that need to be repaired, (they) certainly should be given some place on the coast, so as to refit their Ships and keep Stores.

In this reasoning part, there are three transitivity shifts worth our attention. First, the relational process “It being obviously necessary and desirable” has been

²⁶ The Chinese words “英方” in the brackets are omitted from the texts in the original translation, but the researcher adds here for transitivity analysis.

transformed into an adverb “自” (meaning “certainly”, “naturally”) modifying the degree of necessity for the demanded cession. The relational process is an attributive one, defining the static quality of the given demand. However, the expressive Attribute here could be accused of being over-subjective and personal in legal texts, so the translators had to diminish this relation process to retain certain objectiveness in the treaties, presenting the cession as a need instead of a desire of Britain.

The second shift is the expansion of the location circumstance “when required” into one clause, which helps contextualize the demand for some port. This clause contains two processes, with the material process embedded with the existential process. The Chinese structure “有.....者” is usually equivalent to the English structure “there be”, which signifies the reoccurrence of events and occasions. In Halliday’s transitivity system, “... on the borderline between the ‘relational’ and the ‘material’ are the processes concerned with existence, the existential, by which phenomena of all kinds are simply recognized to ‘be’ — to exist, or to happen” (2014:215). The existential process here suggests that the said material process “修補” is not a one-time occasion that it might recur from time to time. This occasion, though being dynamic as a material process, has become a static phenomenon due to its repeated occurrences. The frequency indicated by the existential process also enhances the necessity of Britain’s demand for some port.

It is of note that the drafters used “have” to claim the ownership of the Island of Hong Kong. “Have”, as a relational process where Carrier and Attribute are involved, stresses a state of static possession. In this sense, “some Port” is internalized as an Attribute of Britain, and the relation between “some Port” and Britain could be taken as “parts” and “whole”, conveying a strong sense of ownership. Yet the translator has rendered this relational process into a material one: “Process “給予” (be given)+ Goal “沿海一處” (the Island)”. According to Halliday, material processes construe “a quantum of change in the flow of events as taking place through some input of energy (2014: 179), and such a transitivity shift has undoubtedly attached mobility to the central activity, laying more emphasis on “doing” rather than “being”. Viewed from an ideological perspective, these two representations of territorial possession have different rhetoric effects: the original text focuses more on the outcome of the cession, thus preferring a

static state of possession on behalf of the Beneficiary (Britain), whereas the translation stresses more on the process of ceding the territory itself, thus highlighting the dynamic transfer of possession by the Actor (China). Here, the transition from the static “have” to the dynamic “給予” (“be given”) also involves one more invisible participant – the Actor, namely the Qing government to cede the demanded territory. Just as Martin and Rose say, “[t]he agent of effective actions need not be mentioned in the clause, but the meaning of agency is still there” (2005:73). In this sense, this transitivity shift has brought out China’s role in fulfilling the given demand, and China’s power of agency

Example 4.2

[Actor] His Majesty the Emperor of China **[Pr: material]** cedes to **[Recipient]** Her Majesty the Queen of Great Britain, etc., **[Goal]** the Island of Hongkong, to **[Pr: material]** be possessed **[Circumstance, extent, time]** in perpetuity by **[Actor]** Her Britannic Majesty, Her Heirs and Successors, and to **[Pr: material]** be governed by **[Goal]** such Laws and Regulations as **[Senser]** Her Majesty the Queen of Great Britain, etc., shall **[Pr: mental]** see fit to **[Pr: material]** direct.

今 **[Senser]** 大皇帝 **[Pr: mental]** 准將 **[Goal]** 香港一島 **[Pr: material]** 給予 **[Recipient]** 大英君主暨嗣後世襲主位者 **[Circumstance, extent, time]** 常遠 **[Pr: material]** 據守 **[Pr: material]** 主掌, **[Pr: mental]** 任便 **[Pr: material]** 立法 **[Pr: material]** 治理。

BT: Now His Majesty the Emperor agrees to give the Island of Hongkong to Her Majesty the Queen of Britain and Her Heirs and Successors, to occupy and take charge in the long term, and govern by such Laws and Regulations as Her Majesty see fit to direct.

It should be noticed that in the translation, the material process “cedes” gives way to the mental process “准” (meaning “agree; allow”) in the structurally central position, which brings about a subtly different ideology in the target discourse. In Hallidayan linguistics, material processes usually construe outer

experience, focusing on “doing”, while mental processes represent inner experience, focusing on “sensing”. The role of the Emperor shifts from the Actor to the Sensor, and the proposed action “cedes” is also represented as a meta-phenomenon in a non-finite form. In this sense, the material process in ST concentrates on what China was to do, highlighting the action “cedes” itself, which is exactly the key information anticipated by the British audience in the source discourse. On the contrast, the mental process in TT draws attention on China’s agreement in ceding the territory. With the intervention of the mental process, the central process – the material process “cedes” – has been postponed in the time line of actions and events, indicating that this action has not yet carried out at present.

The second shift is “to-do” actions following the “cede” process. In the source text, the possession as well as governance of the Island of Hongkong is displayed in a passive voice. If we expand the non-finite structure into an independent clause, it should be “the Island of Hongkong is to be possessed in perpetuity by Her Britannic Majesty, Her Heirs and Successors, and governed ...”. The participants- the British Queen and her heirs-have been repeated twice, with the role shifting from Recipient to Actor. Regarding the process “be possessed”, it is counted as a material process as passivation itself indicates input of energy, hence the role of the participants in this case is labelled as a dynamic Actor instead of a static Carrier. Nevertheless, the focus of the non-finite structures still falls upon the Goal – the Island of Hongkong, which assumes the thematic position in the given clauses, and the ideology presented is about how the ceded territory is dealt with. In the Chinese translation, the territorial possession is presented in an active voice, which the duplicate participants have merged into one, being Recipient and Actor at the same time. The original process “be possessed”²⁷ is expanded into two material processes “據守” (“occupy”) and “主掌” (“take charge”), which has further enhanced the mobility as well as initiative of Britain in owning the given

²⁷ Generally speaking, “possess” can be counted as a relational process, which shows the possessive state of being. However, it is used in a passive voice in the source text, which stresses an input of outer energy, and thus the author counts this process “be possessed” as a material one.

territory. Compared with the original text, the translation tends to present what Britain is to do with the ceded territory.

4.3.2 The Evacuation of Chusan

Example 4.3 is about the arrangement with regard to Britain's evacuation of the Island of Chusan, which had been occupied by the British forces and demanded for withdrawal by China during the First Opium War. This article states that China shall never cede Chusan to any other foreign power after Britain's evacuation.

Example 4.3

[G-] It **[Pr: material]** is stipulated **[Circumstance, behalf]** on the part of His Majesty the Emperor of China that **[-oal]**,

[Circumstance, location, time] on the evacuation of Chusan by Her Britannic Majesty's forces,

[Goal] the said island **[Pr: material]** shall never be ceded to **[Recipient]** any other foreign Power.

[Actor] 英軍 **[Pr: material]** 退還 **[Goal]** 舟山後，

[Actor] 大清大皇帝永不 **[Goal]** 以舟山等島 **[Pr: material]** 給與 **[Recipient]** 他國。

BT: After Her Britannic Majesty's forces evacuate and return Chusan, His Majesty the Emperor of China shall never cede the said island to any other foreign Power.

The two notable transitivity shifts are respectively realized by de-nominalization and activation. In the source text, the material process “evacuate” is nominalized into an abstract entity “evacuation”. Nominalization, commonly seen in English languages, usually stresses “thinghood” in semantic representations. Halliday suggests, “[n]ominalizing is the single most powerful resource for creating grammatical metaphor” (2014:729), which helps establish hierarchical relations within a clause. The processes of less significance are usually nominalized as circumstantial information to highlight those of greater significance. Such condensed structures, in a sense, enable one sentence to contain as much information as possible in English discourses. However, due to different

language conventions, Chinese discourses feature a tremendous number of run-on sentences, where processes are unfolded and expressed in the order of occurrence. De-nominalization is usually applied in English-Chinese translation where the central processes originally condensed into abstract entities regain mobility in the target texts, which, to some extent, increases the clarity of “agency” concerning related actions as well.

The second circumstantial Adjunct, formulated by nominalization and led by the preposition “on”, has restored its form as a material process in the Chinese discourse. It can be taken as a type of “minor process”, or in Thompson’s words, “clauses that did not quite make it to full clause-hood, and have been sucked into a minor supporting role in another clause” (2014:116). Reshaped as a full clause, it should be “once Chusan is evacuated by Her Britannic Majesty’s forces”. The transitivity structure is “Goal (Chusan) + Material Process (be evacuated) + Actor (Her Britannic Majesty’s forces)”. While in the translation, it has been reconstructed in an active form, “Actor (英國) + Material Process (退還) + Goal (舟山)”. The information focus has shifted from “Chusan” to “Britain”, which causes subtle ideological discrepancy. The original takes the cease of British possession of Chusan as the prerequisite for the upcoming demand, and the focus remains the possessive state of Chusan; while the translation lays more emphasis on what Britain is to do, namely the specific efforts contributed by Britain to attain the expected goal.

Similar discursive patterns are found in the main clauses, which stipulate China shall never cede Chusan to any other nation. In the source text, the Actor, namely the Emperor of China, has been reduced as a circumstantial, thus losing its mobility in performing the given actions. The transitivity structure remains “Goal (Chusan) + Material Process (be ceded) + Recipient (any other nation)”, and the information focus still falls upon Chusan, indicating Britain’s concerns for the ownership of Chusan. Different from the English discourse, “大清大皇帝” (meaning “the Emperor of China”) regains the role of Actor as the starting point of the message in the Chinese discourse. Such shift also leads to a focus transferring from the Goal (Chusan) to the Actor (the Emperor of China). Ideologically speaking, the presence of human Actors directs to WHO is responsible for carrying out the central process, namely ceding Chusan in this

case, and this transitivity shift stresses the Chinese Emperor's power to determine the ownership of Chusan.

4.3.3 The Cession of Cowloon

This example is part of Article VI in the *Convention of Peking* (1860), illustrating China's second cession to Britain. After the Second Opium War, Britain was burning with ambition in expanding its Hong Kong Colony, and Cowloon was the target of the second cession. However, unlike the direct cession of the Island of Hongkong, Cowloon was transferred by the means of "lease²⁸ in perpetuity", which is somehow ambiguous in the ownership of this territory. The following analysis concentrates on the transitivity structures around the transfer of Cowloon, so as to compare how this tricky demand was raised in English and Chinese discourses.

Example 4.4

[Circumstance, purpose] With a view to the maintenance of law and order in and about the harbour of Hongkong, **[Senser]** His Imperial Majesty the Emperor of China **[Pr: mental]** agrees

[Pr: material] to cede to **[Recipient]** Her Majesty the Queen of Great Britain and Ireland, and to Her Heirs and Successors, to **[Pr: relational, attributive]** have and to **[Pr: relational attributive]** hold **[Circumstance, guise]** as a dependency of Her Britannic Majesty's Colony of Hongkong, **[Goal]** that portion of the township of Cowloon, **[Circumstance, location]** in the province of Kwangtung, of which **[Goal]** a lease **[Pr: material]** was granted **[Circumstance, duration]** in perpetuity to **[Recipient]** Harry Smith Parkes, Esquire, Companion of the Bath, a Member of the Allied Commission at Canton, **[Circumstance, behalf]** on behalf of Her Britannic Majesty's Government, by **[Actor]** Lau Tsung Kwang, Governor General of the Two Kwang.

[Circumstance, time] 前據本年二月二十八日 **[Actor]** 大清兩廣總督勞崇光將 **[Goal]** 粵東九龍司地方一區 **[Pr: material]** 交與 **[Recipient]** 大英駐紮

²⁸ A lease is defined "as a way of obtaining control of usually strategic points without the necessity of actually annexing the territory" (Shaw, 2021: 459).

粵省暫充法英總局正使功賜三等寶星巴夏禮, *[Circumstance, behalf]* 代國 *[Pr: material]* 立 *[Goal]* 批永租 *[Circumstance, manner]* 在案。

茲 *[Senser]* 大清大皇帝 *[Pr: mental]* 定即將 *[Goal]* 該地界 *[Pr: material]* 付與 *[Recipient]* 大英大君主並歷後嗣, 並 *[Pr: relational, attributive]* 歸 *[Attribute]* 英屬香港界內,

以期 *[Circumstance, location]* 該港埠面管轄所及, 庶 *[Pr: material]* 保 *[Goal]* 無事。

BT: On February 28th 1860, the Governor General of the Two Kwang, Lau Tsung Kwang handed over the township of Cowloon in east Kwangtung to Harry Smith Parkes Esquire, Companion of the Bath, a Member of the Allied Commission at Canton, who concluded a treaty for permanent lease on behalf of Her Britannic Majesty's Government. The Emperor of China agrees to cede this territory to Her Majesty the Queen of Great Britain and Ireland, and to Her Heirs and Successors, which belongs to the British Colony of Hongkong, so as to guarantee the law and order in and about the harbour of Hongkong.

In Example 4.4, there are three shifts to be examined in total. The first shift is about the central process “cede”. Both discourses share sameness in representing the core processes – “cede” and its Chinese translation “付與”, by making them part of verbal group complexes. These processes, though being structurally subordinate as the follow-ups of the first processes “agree” and “定”, assume dominance semantically. The subtle difference in transitivity in fact lies in the relational processes that come after these material ones. In the source text, “have” and “hold” are relational processes, and grammatically speaking, the Carrier should be the British Queen and her heirs and successors. While in the target text, the original human Carrier has been substituted by a non-human Carrier, namely “該地界” (meaning “this territory”), which refers to Cowloon in this case. If we compare the ideologies conveyed by these two relational processes, the former emphasizes that “Britain has the territory” whereas the latter tells that “the territory belongs to Britain”. The English text conveys a stronger sense of ownership, as it is the British Queen and her heirs that perform the role of Carrier, while the Chinese translation just represents the relations of “parts” and “whole” between Cowloon and the British colony of Hong Kong, without the involvement of any human participant.

The second shift worth exploration is about the lease to be granted. In the source text, the process is structured as “Goal (a lease) + Material Process (was granted) + Recipient (Harry Smith Parkes) + Actor (Lau Tsung Kwang)” in a passive voice, as the clause about lease is presented as an attributive clause, which serves as a modifier of the territory to be ceded. In the Chinese translation, the translator has rearranged the clauses according to the timeline of events. The territorial transfer has been repeated twice in the translation as “交與” and “付與”, telling that Cowloon was first handed over by the General Governor as a lease and then handed over by the Emperor as a cession. Different from “a lease” in the source text, the Goal has been specified into the territory “粵東九龍司地方一區”, with “a lease” reshaped as a purpose circumstantial to modify the territorial transfer. Comparing these two expressions, “lease” itself is an abstract entity implying that the ownership of the given territory has been settled in a static state, and the its follow-up process “grant” is essentially a formal act in legal sense; on the contrast, the territory “九龍司” is a concrete object in reality and the process “交與” indicates the actual input of energy, thus stressing more on the real practice of territorial handing-over by the General Governor.

Another interesting finding is that if we compare the non-finite structures following “cede” in Example 4.2 from the *Treaty of Nanking* (1840) and Example 4.4 from the *Convention of Peking* (1860), it can be seen that the former are material processes (“to be possessed” and “to be governed”) while the latter relational processes (“to have and hold”). This cross-textual transitivity shift also reflects that Britain’s evolving perception of territorial ownership at different historical stages. As the material processes usually require the input of outer forces and emphasize “doing”, it reflects Britain’s eagerness to have the actual power to exert upon the demanded territory. The relational processes, however, are usually taken as states or relations, emphasizing “being”, and therefore it highlights the “parts-whole” relationship between the territory and Britain and thus conveys Britain’s strong sense of ownership concerning its Colony of Hong Kong. This shift from dynamic possession to static ownership manifest how Britain gained command of China’s territory step by step and eventually reduced China into parts of its colony.

4.3.4 China's Rights to Territory around the Burman and Tibetan Areas

In the late 19th century, the Western powers accelerated the progress of colonization in Asia, reducing China into an even more helpless situation where its neighbouring states had already fallen into the hands of Western invaders. As one of the colonizers, Britain had several negotiations with China relative to the territorial issues in Burma and Tibet, including boundary settlements and China's rights to territory in these areas. The following example is Article V in the *Burma Convention: Modifying Agreement* concluded in 1897.

Example 4.5

[P-] It **[Pr: mental]** is agreed that **[-phenomenon]**

[Actor] China **[Pr: material]** will not cede **[Recipient]** to any other nation, **[Goal]** either Mung Lem or any part of Kiang Hung on the right bank of the Mekong, or any part of Kiang Hung **[Circumstance, manner]** now in her possession on the left bank of that river,

[Circumstance, contingency] without previously **[Pr: material]** coming to **[Goal]** an arrangement **[Circumstance, accompaniment]** with Great Britain.

今 **[Sayer]** 彼此 **[Pr: verbal]** 言明,

日後 **[Actor]** 中國 **[C-]** 未經先 **[Circumstance, accompaniment]** 與英國 **[Pr: verbal]** 議 **[Pr: mental]** 定 **[-ircumstance, contingency]**

不能將 **[Goal]** 現在中國在湄江左岸之江洪土地以及孟連與所有在湄江右岸之江洪土地或全地或片土 **[Pr: material]** 讓與 **[Recipient]** 他國。

BT: Now both parties specify that, China, without previously negotiating and making decisions with Great Britain, will not cede to any other nation, either any part of Kiang Hung now in her possession on the left bank of the Mekong, or Mung Lem or any part of Kiang Hung on the right bank of that river.

The pattern “it is agreed that...” is frequently applied in treaties. In the transitivity system, “agree” is categorized as a mental process, which “construes a quantum of change in the flow of events taking place in our own consciousness” (2014:245). It usually indicates inner forces of the participants in construing experience, and in legal discourses such as treaties and agreements, it is used to

demonstrate the “consensus” reached by the participants. Unlike its active form “agrees” (see Example 4.2), the passive process “is agreed” is ambiguous in its participants, and the flow of power beneath is more complicated. The active form usually directs to the source of power, namely who has the power to give permission or make decisions, while the passive form diminishes the role of human participants as Sensor, and sometimes have no clear sign of the source of power. In most cases, this pattern was translated as “議定” while the participants are sometime absent in the Chinese discourse as well. However, in this example, the participants have restored their role as Sensor in the Chinese translation. The word “彼此” manifest that both governments have a say in the follow-up demand. Also the passive process “is agreed” is rendered into an active verbal process “言明” (meaning “state clearly”). The Chinese word “言明” comprises two parts: “言” expresses the literal meaning of “say” while “明” modifies the verbal process, conveying the meaning of “making clear”. Therefore, the verbal process can be regarded as an externalization of the conscious efforts made by both governments.

The second shift to be examined is the circumstantial Adjunct led by the pronoun “without”, which conditions the process “cede”. In the source text, the mental process “arrange”²⁹ (meaning “come to an agreement or decision concerning the details of something”) has been materialized into “coming to an arrangement”. Such materialization condenses the conscious efforts into an abstract entity – “arrangement”, emphasizing more on the result rather than the process of the negotiation. While in the translated text, this material process has been split into two process: one verbal “議” (meaning “discuss, negotiate”), and one mental “定” (meaning “decide, determine”), which indicates that, any territorial cessions regarding Kiang Hung should be discussed by both parties and decisions shall be made upon mutual consensus. Moreover, the position of the Circumstance is placed between the Actor “中國” and the central process “退讓” in the translation, instead of the very end of the sentence. This interruption has not only promoted Britain’s status at the linguistic level, but also ideologically

²⁹ <https://www.merriam-webster.com/thesaurus/arrange>

attached greater significance to Britain in determining the ownership of China's territory.

4.3.5 Extension of the Hong Kong Territory

In the late 19th century, more Western powers joined craving up the territory of China, and the Qing government was forced to make compromises in territorial issues, including cessions and leases. To maintain the checks and balances with other Western powers within China, Britain finally proposed the extension of the Hong Kong territory, in the name of defence and protection of the British Colony in Hong Kong. A 99-year lease for New Territory was then demanded. The following examples are excerpts from the *Convention for the Extension of Hongkong*, signed at Peking between China and Great Britain on June 9th, 1898.

Example 4.6

Whereas **[P-][Senser]** it has **[Circumstance, time]** for many years past **[Pr: mental]** been recognised that **[-henomenon]**

[Carrier] an extension of Hongkong territory **[Pr: relational, attributive]** is **[Attribute]** necessary **[Circumstance, purpose]** for the proper defence and protection of the Colony:

[P-][Senser] It has now **[Pr: mental]** been agreed **[Circumstance]** between the Governments of Great Britain and China that **[-henomenon]**

[Goal] the limits of British territory shall **[Pr: material]** be enlarged **[Circumstance, means]** under lease **[Circumstance, extent]** to the extent **[pr: material]** indicated generally **[Circumstance, location, place]** on the annexed map.

[Circumstance, time] 溯查多年以來，**[Pr: mental]** 素悉

[P-][Goal] 香港一處，非 **[Circumstance, means]** 展拓界址不足以資 **[Pr: material]** 保衛 **[-henomenon]**。

今 **[Sayer+Senser]** 中英兩國政府 **[Pr: verbal]** 議 **[Pr: mental]** 定 **[Phenomenon]** 大畧，

[P-][Circumstance, means] 按照粘附地圖，**[Pr: material]** 展擴 **[Goal]** 英界，**[Circumstance, guise]** 作為新租之地 **[-henomenon]**。

BT: It has for many years been recognised that, only by territorial extension can the Hongkong territory be protected. Now the Chinese and British governments have discussed and decided to extend the limited of British territory as the new territory in accordance with the annexed map.

The first notable shift is the central relational process “is” has been represented as a material “保衛” with double negation in the target text. The Chinese pattern “非...不足以”³⁰ usually conveys similar rhetoric effects as inverted sentences in English, which are used to emphasize and stress the conditional actions or situations that facilitate the central process in the given clause. If back translated, it reads, “only by extension can the Hongkong territory be protected”. Compared with the source text, the translation conveys a stronger sense of necessity of territorial extension. The Carrier – “an extension of Hongkong territory” – has been reshaped as a Circumstance of means “展拓界址”, and the central process “is” has shifted to “保衛”, a material process realized by the de-nominalization of the Circumstance of purpose – “for proper defence and protection”. Here the ideological discrepancy between these two discourses lies in that the original only stresses necessity as a static quality of extension, while the translation foregrounds the competence to protect as a dynamic action, which involves input of energy and efforts. The information focus has shifted from the extension itself to the potential benefits brought by this extension.

In terms of the stipulating part, the source text is laid out in a compound sentence. The pronoun “it” plays the role of Sayer in the main clause and the real participants have been transformed into a prepositional phase “between the Governments of Great Britain and China” as circumstantial information. However, the participants “中英兩國政府” have restored their status in the translation, playing the role of Sayer and Senser in the thematic position. Similar to other examples, the verb-complement structure “議定” is adopted again in translating the mental process “agree” here, by modifying the mental process “定” (corresponding to “agree”) with one verbal process “議” (meaning “discuss”), which implies that the decision is made upon bilateral negotiations.

Apart from the symbolic role of Sayer and Senser, the two governments regain the power to enlarge the limits of Hongkong territory as the Actor in the target

³⁰ In fact, this Chinese word 足以 has two identities in Chinese languages. If taken as an auxiliary verb, it equals to the modal “can” in English, which indicates ability and competence. If taken as an adverb, it means “sufficiently”, which modifies the follow-up processes as an extent.

text. In the source text, the material process “enlarge” is carried out in a passive voice, and this “Goal + Process + Circumstance” structure has naturally omitted the Actor that performs the action of enlargement. However, in the translation, this process has been activated as a follow-up action of “議定”, which equals to the non-finite structures in English texts, and hence the Actor responsible for the process “enlarge” is self-evident. Compared with the English discourse, where participants are made invisible and underestimated, the Chinese discourse confers the participants with more symbolic power in performing the actions as talking, thinking, and doing, which shows a clearer flow of power underneath words.

4.4 Diachronic Analysis of Shifts in the Representation of Power Relations

Apart from the transitivity shifts between discourses at one historical point, it is found that the three elements, namely participants, processes, and circumstances, also undergone semantic shifts during different historical phases. Semantic shifts, as the term suggests, are about how the same concept or idea is interpreted and expressed in different ways, which are highly related to the lexical choices of the translators. These shifts are sometimes perceived as “mistranslations” or “false translations” in some studies, for they fail to accurately convey the original ideology as expected by the writer and cause misunderstandings among the target audience. However, it might be oversimplified to label them as “false translations”, which are usually associated with the incompetence of the translators. Instead, some semantic shifts are manipulations by the translators to achieve some ideological effects. In this part, the cases are analysed in a diachronic manner by comparing how the same concepts were translated in different treaties, which might reflect an ideological evolution along with the change of power relations.

4.4.1 Analysis of Participants: Translation of “the British Queen”

In terms of participants, we can roughly divide them into two groups: human or non-human entities. In such legal discourses as treaties and agreements, human participants are usually the contracting parties involved on the negotiation table, while non-human participants the rights or obligations to be fulfilled in specific legal terms (e.g. territory). This section concentrates on the translation of human

participants, and notable semantic shifts have been found in translating the official ranks, among which the different expressions concerning the titles of the two heads of state have been paid special attention in this study.

The titles of the heads of state play an important role in such discourses, for they symbolize the highest power of the two contracting states. How they were presented in the English and Chinese treaties is closely associated with national images and demonstrates the invisible power struggle between the contracting states. It is noticed that semantic shifts not only exist between one single treaty and its translation, but also take place between different treaties and their corresponding translations, which signifies a vital conceptual evolution in the discursive exchange and displays China's ideological conversion from resistance to surrender towards the new Western world order in the historical progression. The following Table 4-1 presents the titles of the British Queen and the Chinese Emperor in both source and target discourses.

The complete titles of the heads of state consist of two elements: one is the name of the state, and the other the title of the sovereign, both of which are equally indispensable in representing national power in political discourses. The semantic shifts in translating these titles usually take place in these two parts. For the first half, the names of states in this case, the controversy usually lies in the Chinese names of Great Britain and China. For the second half, namely the titles of the sovereigns, diverse expressions have been found with regard to the British Queen in different Sino-British treaties. Before the comparative studies on the translations of the titles, we should first have an etymological understanding of these titles and their connotations in a political context.

As for the names of states, "Britain" and "China" have been adopted as the uniform expressions in English languages, but their Chinese versions differed in translation that the mixed usage of "大清" "大英" and "中國" "英國" is worth exploration. The two different formations in state titles, "大+X" and "X+國", have exhibited contrasting outlooks on the world order respectively upheld by imperial China and the Western powers. The following analysis shows the ideological obstacles that challenged the translators in their translation practices.

Treaty	English (ST)	Chinese (TT)	Back translation
Stage I: 1840-43 Still being Sino-centric and resistant			
Treaty of Nanking (1842)	His Majesty the Emperor of China	大皇帝	the Great Emperor
	Her Majesty the Queen of Great Britain	大英君主	the monarch of Great Britain
Convention of Bocca Tigris (1843)	His Majesty the Emperor of China	大清大皇帝	the Great Emperor of Great Qing
Stage II: 1858-60 Accepting the Euro-centric world order			
Convention of Peking (1860)	His Imperial Majesty the Emperor of China	大清大皇帝	the Great Emperor of Great Qing
	Her Majesty the Queen of Great Britain and Ireland	大英大君主	the Great monarch of Great Britain
Stage III: 1875-1906 Surrendering to the Euro-centric world order			
Burma Frontier and Trade Convention (1894)	Her Britannic Majesty	英國大君主	the Great monarch of Britain
	His Majesty the Emperor of China	中國大皇帝	the Great Emperor of China
	Her Majesty the Queen-Empress	英國大君后	the Great Queen-Empress of Britain
	His Majesty the Emperor of China	大皇帝	the Great Emperor
	Her Britannic Majesty	大君后	the Great Queen-Empress
Convention for the Lease of Weihaiwei (1898)	the Government of His Majesty the Emperor of China	中國政府	the Chinese government
	the Government of Her Majesty the Queen of Great Britain and Ireland	英國政府	the British government

Table 4-1 The titles and their translations in different treaties

Talking about the titles of the sovereigns, Britain and China were then practicing different political systems and consequently had distinct hierarchies of official ranks. Taking the highest rank as an example, China's heads of state had been called "emperor" since the Qin dynasty, while Britain's heads of states had

been addressed as “king” or “queen”. In English languages, the word “emperor” and its feminine form “empress” can be traced back to a Latin origin *imperatorem*, which refer to the man or woman that rules an empire. As for the word “king”, it is usually associated with the ruler of a kingdom, while its female counterpart “queen” has two interpretations: one as the wife of a king and the other the female sovereign of a kingdom. While in Chinese languages, “皇帝”³¹ is the counterpart of “emperor” and has been used to address the highest power of the Celestial Empire, but “王” (or “國王”), the equivalent of “king”, has a slightly different implication in the Chinese context. “王” is usually associated with the governor of a given feudal estate or the king of the vassal states serving the Celestial Empire. Within the Chinese hierarchy, “王” is subordinate to “皇” in power, whose ruling territory is geopolitically broader than that of the former. In the traditional Chinese ideology, there could be many kings worldwide, but there could be only one emperor in the world that enjoyed the unparalleled status as the highest power. Obviously, such ideological mismatches concerning political systems and hierarchies were an obstacle that the translators had to overcome in translating these treaties.

Phase I: the First Opium War period (1840-1843)

During the first phase, China still held strong dignity as the world centre in the East. Despite of a series of unfair demands raised in the treaties, the most unacceptable point for the Qing ruling class was that, the Chinese Emperor was addressed side by side with the British Queen, who was a barbarian woman in their eyes. For example, Li Xingyuan, a high officer serving the Tao Kwang Government, has mentioned in his diary that “至夷妇与大皇帝并书” (meaning “the barbarian woman is listed by the side of the Great Emperor”) has disgraced

³¹ As *the Book of History* recorded, the term “皇帝” was applied by the first emperor of China, Emperor Qin Shihuang, as the exclusive appellation for feudal monarchs. This lexicon “皇帝” comprises two morphemes “皇” and “帝”, which were used to address sovereigns in ancient China. “王” was then used as the highest title of a kingdom in the Spring and Autumn Period and the Warring States Period. It was after Qin Shihuang conquered the six kingdoms and united them into one empire that “皇帝” had been officially applied as the unique title. The title itself suggests the Emperor’s contributions have exceeded the previous sovereigns – “三皇五帝”, thus deserving the highest honor and power, which reflects the long-established philosophy of China’s feudalism – centralism. (Chng & Zhou, 2010:87-88)

the nation (Mao, 2005:484-485). Considering such antagonism and disrespect held by the Chinese side, the translators for the related treaties, John Robert Morrison and Karl Gützlaff, had to give further thought to how the British Queen should be addressed in the Chinese discourses.

First, they translated the name of Great Britain into “大英” to maintain stylistic equivalence with that of China – “大清”. Talking about “大清”, it comprises two parts: the headword “清” (usually referred as “Qing” or “Tsing” in English languages) demonstrates the reigning dynasty of imperial China, while the former attribute “大” (meaning “great; grand”) glorifies the nation with greatness and honour. This attribute is the exact reflection of imperial China’s outlook on the world order, which took the suzerain China as the sole giant empire, whereas the other vassal states as “small countries” or “barbarian states”. In this sense, other countries were not eligible to be placed on an equal footing with the Celestial Empire, which might disgrace the supreme power, and China had the exclusive usage of the naming pattern “大+ X” in official documents.

With regard to the Chinese names of foreign countries, transliteration was the preferable strategy in translation at the early stage. According to Xie (2008:225-226), there were two sources of foreign countries’ Chinese titles: the first was the European missionaries imitated Chinese pronunciations of their countries; the second was that, the officials or locals in China’s coastal areas made up the Chinese names for these foreign states based on their own Hokkien or Cantonese pronunciations. For example, England (or Great Britain) was then called “英圭黎” or “英吉利”.

However, not all other states complied with China’s tributary system as vassal states and evinced absolute submission to imperial China’s authority. Instead, the foreign countries from the West tended to establish equal relations with China in trade and diplomacy as siblings. Such brotherhood complex undeniably challenged the father-and-son mode practiced between China and its neighboring countries in the East. As the conflicts aroused and intensified between China and the Western powers in the early 19th century, the Qing government began to harbour hostility towards the Western powers and displayed its increasing discontent by addressing these foreigners as “夷” (meaning “barbarian”) or “逆”

(meaning “disobedient”). The concept of “华夷” (meaning “China and barbarians”) had been the core of the Sino-centric world order as the instructing principle of the Chinese tributary system. Being aware of such ideological implications, the British officials made attempts to break China’s stereotypical outlook on world order by using “大英” to evenly match “大清” in the written Chinese discourses. Henceforward, the naming pattern “大+X” was then applied in translating other Sino-foreign treaties to address Great Britain in Chinese discourses.

According to David Chng (2013:73), prior to the First Opium, the missionary Karl Gützlaff had published an article *On the King of England’s Chinese Title on the Canton Register*, which he discussed three lexical choices in addressing the British King in Chinese discourses: “國王” “帝君” and “國主”. However, none of these were desirable for they failed to display comparable respect for the British King, who he thought held as great power as the Chinese Emperor. Hence, Gützlaff even proposed “皇帝” as an alternative in addressing the British King in official communications when necessary. Similarly, the successor Her Majesty the British Queen could not be rendered as “女王” and “王后” for the same causes, and “君主” (meaning “monarch, sovereign”) became the translators’ priority choice in translating the treaties.

This translation “君主” served two ideological purposes. Firstly, it managed to avoid the unsettled debate upon the usage of “皇” or “王”. Linguistically speaking, “君主” is the hyperonym, thus being more inclusive in political contexts and applicable to the sovereigns of any political system. Secondly, it aimed to prevent the sexual discrimination for female sovereigns embedded in China’s ideological system. Living in a patriarchal society where men assumed dominance over women in power hierarchy, the Chinese population held an unsupportive attitude towards women in power, with a deep-rooted stereotype that femininity undermined national image or even hazarded national power. There are some Chinese proverbs showing Chinese people’s poor recognition for female

monarchs, such as “牝鸡司晨” or “牝鸡司旦”³². If the translator had just faithfully presented the gender of the British monarch, it would be rather perilous that the target audience, namely the Chinese officials and the Emperor of China, showed disrespect and even disdain to the British Queen because of their ill-timed impression about female monarchs. This somehow diverged from Britain’s original intention to establish equal power relations with China. As the messenger and mediator between the two parties, the translators had to make adjustments in translating the titles, so as the Chinese Emperor and the British Queen could be treated as equals during negotiations. In this case, the neutral lexicon “君主” became a safe choice, which has concealed unwelcome femininity in addressing the Queen and struck a power balance between two states.

Phase II: the Second Opium War period (1858-1860)

After the Second Opium War, Great Britain had attained greater discursive power in the negotiations with China, which enabled its further infusion of Western philosophies and ideologies. For example, Britain continued to use the imitative “大英” in addressing the state and its sovereign in treaties, and even proposed abandoning the usage of the Chinese character “夷” in the *Tientsin of 1858*, which had undermined Britain’s national prestige³³. Lydia Liu (2004) has discussed the linguistic issue concerning “夷” in exploring the clashes between the British Empire and the Qing Empire. As Liu suggests, “[to] the British, the super-sign Ying yi/English barbarian flaunted the evidence of Chinese contempt for foreigners and contradicted the experience of the British elsewhere in their global warfare of sovereign rule” (2004: 60), for the reason that “[t]he British colonial officials had come to China with the foreknowledge of a colonial discourse of the ‘barbarian’ and could not but see the absurdity of being put in the position of ‘barbarians’ themselves” (ibid, 61). In other words, both China and

³² The expression “牝鸡司晨” comes from *the Book of History*, and it means the hen replaces the rooster and crows in the morning to herald the dawn, which violates the law of Nature and forebodes misfortune. This term is used as a metaphor to imply a country’s doom with women coming to power.

³³ Article LI, *Treaty of Tientsin* (1958): “It is agreed that, henceforward, the character “I” 夷 [barbarian], shall not be applied to the Government or subjects of Her Britannic Majesty in any Chinese official document issued by the Chinese Authorities either in the Capital or in the Provinces.”

Britain preconceived the other to be “barbarians” in their own discourses, reflecting the incommensurate outlooks on world order and thus causing ideological conflicts during their encounters. When negotiating the treaties, both parties confronted such philosophical divergence and endeavoured to dissolve it with their own conceptual habitus. Therefore, the usage of “大英” in the Chinese treaties seemed to contest and rectify the conventional China-and-barbarians philosophy in the Chinese ideology, and the inimical foreignness conveyed by the super-sign 夷/yi was then dismissed by using the parallel “大英” to address Britain as the Qing Empire’s counterpart.

During this phase, the major semantic shift in translating the Queen’s appellation lies in whether the Queen was presented “Great”. Looking at the English and Chinese titles of the Emperor of China, we notice that “Emperor” and “大皇帝” cannot be counted as exact equivalents, for the original “emperor” shows no evidence of greatness as presented in its translation. However, considering “大皇帝” was the conventional usage in addressing the Emperor in Chinese official documents, the translators also reserved this expression in translating the treaties. The adjective “大” (meaning “great, grand”) in front of “皇帝” serves the rhetorical purpose as that in “大清”, amplifying the image of the Emperor as the paramount chief of the Qing Empire. In history, China had been considering itself as “天朝” (meaning “Celestial Empire”) and its governor should be “天子” (meaning “the Son of Heaven”) who had the highest power in hand. Therefore, the Emperor has always been glorified as “大皇帝” (the Great Emperor) in the Chinese official documents and communications. Nevertheless, no such greatness was manifested in the Chinese title of the British Queen. Though the two contracting countries were reshaped as well-matched powers “大清” and “大英”, their sovereigns still seemed incommensurate in the Chinese discourses. In the previous treaties, the Queen was merely rendered as “君主”, which failed to attain formal parallelism with “大皇帝” and even indicated power imbalance between the two heads of state. Hence, the translators afterwards also adopt domestication in translating the titles of foreign sovereigns. The same adjective “大” was added in front of “君主” in the *Peking Convention* (1860), suggesting that the British monarch had as much power as the Chinese Emperor

and thus deserved equal respect in the bilateral negotiations. This adjustment was also reserved in the treaties afterwards.

Phase III: the Post-Opium Wars period (1875-1906)

In the third phase, the Western powers have broken the existing world order in the East with warfare and established a new one where even China was eventually reduced into an “equal” member of the international family as other sovereign states. Based on this worldview, some conventional Chinese expressions seemed incompatible within an international context and hence needed adjustments in cross-cultural encounters.

Looking at the Chinese versions of the titles, we can observe that there are two major semantic shifts. The traditional form “大+X” had gradually been replaced by the form of “X+國” in the treaties. The concept of “國” (or “国” in simplified Chinese) sovereign states showed increasing presence in such legal and political discourses. For example, in the *Burma Frontier and Trade Convention* (1894), the titles of both monarchs changed along with those of states translated as “中國” and “英國”. In fact, the concept “中國” had also been used in the previous treaties, but the conventional usage of “大清” was retained when addressing the Emperor. This somehow reflected China’s traditional outlook on Sino-centric world order where the Celestial Empire was the unchallengeable supremacy and deserved greatest respect. As Li Yangfan (2014:49) suggests, the Qing government had deliberately confused the concept of “中國” in the Chinese context during the Emperor Qianlong period, which could be either comprehended as the Empire or as a sovereign state. However, upon Britain’s pressing need to merge China into the Western world order, translation has become a means to reinforce the idea of sovereign states into the Chinese ideology. The translators began to use the notion of “中國” in addressing the Emperor and reshaped him as the head of a sovereign state, so as to facilitate China’s ideological transformation from being the Celestial Empire to becoming a sovereign state of the international family.

More importantly, the translators have made a brave move in restoring femininity in translating the Queen’s title as “君后”. The expression of “Empress” had been used for the first time in the *Convention Relating to Burma and Tibet* (1886), which is the female equivalent of “Emperor” in English discourses. The

official usage of “Empress” to address the British Queen started from the British Queen being conferred the Empress of India in 1876. Queen Victoria was the first as well as the only one Empress of British India. Correspondingly, the “Empress” was rendered into “君后” (“monarch-queen”), which emphasized women in power in Britain. In contrast to the previous neutral “君主”, the gender of the British sovereign was faithfully expressed by the Chinese character “后”, which implies an ideological subversion towards the patriarchy long practiced in China. While in the *Convention for the Lease of Weihaiwei* (1898), the translators even used “政府” to replace the specific titles of both sovereigns, which allows no room for debating which type of sovereign should be more honorable than the others.

4.4.2 Analysis of Process: the Translation of “Cede”

There is no denying that the concept “cede” is the process of utmost significance in both source and target discourses. This central action has been comprehended and displayed with diverse reflective forms in different articles and treaties. The verb “cede” has various translations, which convey subtle attitudinal differences towards the transfer of territorial ownership. The following table demonstrates different reflective forms of “cede” as well as their translations in the articles on territorial cessions. Such semantic shifts imply an attitudinal displacement, which can be viewed as a kind of manipulation and mediation by the translators. By tracing the conceptual evolution of “cede” in treaty translation, we are likely to have another insight into the transforming outlook on world order in the Chinese ideology. Table 4-2 below compares the related expressions and translations with regard to “cede” in the Sino-British treaties.

Treaty	English	Chinese	Back translation
Stage 1: 1840-43	Sino-centric & Resistance		
Treaty of Nanking (1842)	cedes	給予	give, offer
Convention of Bocca Tigris (1843)	be ceded	給與	give
Stage 2: 1858-60	Accepting the Euro-centric world order		
Convention of Peking (1860)	cede	付與	hand over
Stage 3: 1875-1906	Surrender to the Euro-centric world order		
Burma Frontier and Trade Convention (1894)	cession	讓與	cede, concede
	cede	讓與	cede, concede
	be ceded	歸還	return
Burma Convention: Modifying Agreement (1897)	cede	讓與	cede, concede
Tibet Convention (1906)	be ceded	讓	cede, concede

Table 4-2 The processes of “cede” and their translations in different treaties

The following are definitions of “cede” in mainstream dictionaries:

- a) *to transfer, make over, or surrender (something, esp territory or legal rights) (Collins)*
- b) *to allow someone else to have or own something, especially unwillingly or because you are forced to do so (Cambridge)*
- c) *to yield or grant typically by treaty (Merriam-Webster)*
- d) *to give somebody control of something or give them power, a right, etc., especially unwillingly (Oxford Learner’s Dictionaries)*

Etymologically speaking, the word “cede” can be traced back to a Latin origin *cēdere*, which means “to yield, give away”. Thus, the word “cede” as well as its reflective forms carries certain negativity, implying a disadvantage in power

relations. With regard to the definition in the legal sphere, cession is “the act of surrendering or relinquishing one’s right or title to real property”, specially referring to “the surrendering or transferring of land from one sovereign to another after a war as the price of peace” in international law³⁴. The different translations of “cede” in these articles have shown a decline of positivity in lexical polarity, mirroring the changing power relations between the two countries, which could be summarized into the following three phases.

Phase I: the First Opium War period (1840-1843)

In the first phase, China was still depicted in a relatively positive manner that territorial cessions were presented as China’s generous offer to Britain in the translation. The word “cedes” was then rendered into “給予”, which was to cater to the Chinese authorities of the Qing Imperial Empire. Looking at the excerpt quoted from Imperial edict of the Chün Chi Ch’u by George. H. C. Wong in his study on the Chi-Shan Elliot negotiation (1949-1955: 542),

If the said barbarians should still demand the cession of islands to be their bases of trade, they should be informed that in trading with other nations, the Chinese Empire has been doing them a favor. If they remain obedient, none will be barred from the intercourse.

Apparently, China still held strong national dignity during its negotiation with Britain, though having suffered severe defeats in the battlefield. The Western countries were considered as “barbarians” and the cession of the Island of Hong Kong was a favour by the Celestial Empire for the purpose of taming these “barbarians” from the West. The adjective “obedient” in the last sentence clearly shows the superior-inferior relations between China and other states deeply rooted in China’s ideological system.

The translation of “cedes” – “給予” essentially manifests China’s outlook on the Sino-centric world order, where China still assumed the dominance over other nations. In the Imperial Chinese tributary system long practiced in Chinese history, China had precedence over other nations in trade and diplomacy all the time. As Hsü proposes, this system, instead of being based on “the recognition of equality

³⁴ <https://definitions.uslegal.com/c/cession/>

among sovereign states”, is “a father-son or senior-junior relationship” (1960:5). Within the Chinese ideological system, the transfer of thing-hood between China and other states were generally viewed in two ways. If China were the one to give, then the action should be taken as a generous offer by the grace of His Majesty then; if otherwise, then the action was considered as the vassal or tributary states paying tributes to the Celestial Empire. In both cases, China has always been the superior power. Turning back to China’s cessions to Britain, China was the Giver while Britain was the Receiver, and thus from the Qing government’s point of view, the action should be portrayed as positive and the lexicon “給予” exactly meets such expectations, for the flow of power underneath the action “給予” (meaning “give”) is top-down, from the superior to the inferior. Moreover, “給予” was collocated with another verb “准” (meaning “agree, allow, permit”) in the translation (see Example 2), showing that the Qing government still endeavoured to maintain its prominent position in the power relation with Britain.

In fact, Wong (2014) also indicates that the translator John Robert Morrison might have deliberately avoided the usage of “割让” when translating the communications as well as the Treaty, even though he had a good knowledge of Britain’s intention embedded in the term “cession”. Another explanation for this translation is that, “給予” itself is positive in polarity that it could help conceal the historical fact that China was defeated and unwilling to cede the Island to Britain. Since the treaty was supposedly signed for “peace and friendship”, it is possible that the translators were being considerate to preserve China’s face in the treaty³⁵.

Phase II: the Second Opium War period (1858-1860)

The conclusion of the Treaty of Nanking preluded China’s falling into a semi-colonial and semi-feudal society. Afterwards, China underwent heavy gunfire from the Western countries, with a series of unequal treaties signed. After the Second Opium War, Britain has gradually established an advantageous position in its encounters with China, not just on the battlefield but also on the negotiating

³⁵ Some scholars suggest this “mistranslation” could be done deliberately so that the Qing government was more likely to agree with this unfair demand (Qu 2013).

table. A new world order began to take shape, where the East Asian and Western families of nations started to merge.

The territorial cessions were no longer China's magnanimous act towards the foreign nations that were subordinate to or less powerful than China. “給與” was replaced by “付與” (meaning “hand over”) in the Chinese translations, describing the transference of territorial ownership in a more neutral manner. This indicates both parties are on an equal footing in diplomatic relations. The flow of power underneath the action 付與 is level, without biases or privileges on either side. This also echoes the translation shift concerning the title of the British Queen. Just as analysed above(see 4.3.1), the British Queen was translated as 英國大君主, who was as great as 大清大皇帝 (the Chinese emperor). Now that both parties shared the same greatness, it is unreasonable to depict the territorial cession as an offer from the superior to the inferior. In this sense, 付與 is a good choice in translation, which helps to maintain high ideological consistency between the participants and processes in the transitivity system.

In fact, the two Opium Wars have cracked the Sino-centric world order in the Orient, and China was forced to open itself to a larger world. It came to realize that it was no longer the world centre, thus failing to keep a high stance during the encounters with other nations. China had to adapt itself to the new world where nations were equal members in the international family.

Phase III: the Post Opium Wars period (1875-1906)

Britain has become more ambitious after its successes in the previous negotiations. Those regions or states sharing borders with China had been reduced into Britain's colonies, thus enabling Britain to further realize its territorial aggression towards China. Apart from the coastal areas, Britain was also eager to expand its control in the inland areas of China. In this period, China had already lost its initiative on the negotiating table, and therefore, it was unnecessary for the translators to struggle between two conflicting ideologies in their translating sensitive words, such as “cede”.

The word “cede” was faithfully rendered into “讓/讓與”, which is the exact word commensurate with “cede” in its legal connotations. The word “讓” means

“to transfer the ownership to”, and sometime it even bear negative meanings, suggesting that the Actor is at a disadvantage and gives away the thing involuntarily. In this sense, the flow of power beneath the action “讓與” is bottom-up, from the defeated to the victory.

To sum up, the changing translations of “cede” demonstrate how Britain gradually reshaped the power relations with China and how a new world order was established. In a sense, the final alignment in the concept “cede” shows the declining East Asian world has accepted the “law of the jungle” imposed by the raising Western world, and the two world of distinct philosophies eventually merged into an international society.

4.4.3 Analysis of Circumstance: the Translation of “in Perpetuity”

As Halliday suggests, “[c]ircumstantial elements are almost always optional augmentations of the clause rather than obligatory components” (2014: 221). Circumstantial information is usually regarded peripheral around the central actions. However, it is still worth close investigation, as such circumstantial elements “essentially encode the background against which the process takes place” (Thompson, 2014: 114) and usually detail in what manners the actions are carried out in the given context. Circumstantial information matters in legal translation, for it is of great necessity to prescribe specific conditions and maintain identical criteria in regulating or restraining the proposed actions; otherwise, disputes are inevitable in the implementation of the legal terms.

As for circumstances, there are different categories, such as place, time, and manner, in accordance with what questions such circumstances are to answer in the given discourse. The following analysis is about the translations of temporal circumstances concerning the duration of cessions and related actions. The tricky translation of the phrase “in perpetuity” in the *Treaty of Nanking* has triggered heated discussions among Chinese scholars (Qu 2014; Huang 2019).

Example 4.7

ST: ... to be possessed **in perpetuity** by Her Britannic Majesty, Her Heirs and Successors,

TT: 大英君主暨嗣後世襲主位者常遠據守主掌

According to the Merriam-Webster online, the word “perpetuity” etymologically derives from Latin *perpetuus* that conveys the meaning “continual or uninterrupted”³⁶. The phrase “in perpetuity” in English dictionaries always equals to “forever” or “eternally”, implying the actions or states can last “for an indefinitely long period of time”. In the source text, the Island of Hong Kong is to be possessed “in perpetuity” by the British Queen and her heirs and successors, suggesting that the Island will be eternally held by Britain. However, the translator used “常遠” (meaning “for a long term”) in the Chinese text to weaken the lexical polarity of the original phrase “in perpetuity”, and it is literally understood that Britain will take possession of the Island for a long term, but not forever. This seems to have retained some room for China to argue for recovering the land in the future. Strictly speaking, “常遠” is not the best choice in translation, for it bears less absoluteness in expressing temporal duration, thus failing to reflect the ideology of the source discourse: Britain’s ambition to hold the Island of Hong Kong as a its permanent colony. Nevertheless, “常遠” manifests the Qing governors’ reluctant attitude towards the cession, who took it as a compromise for the temporary ceasefire³⁷.

The alteration in temporal degree also reflects the power struggle between two discourses. The translation “常遠” bears less determination than the original “in perpetuity”, showing that the Chinese ideology was somehow resistant to the British one, and thus Britain’s demand was not accurately conveyed as expected. The translators tried to create a safe zone between two discourses that were not fully compatible with each other. By doing so, they could temporarily avoid divergence in the term of cession and help facilitate the negotiation as well as the final conclusion of the treaty.

³⁶ <https://www.merriam-webster.com/dictionary/perpetuity#note-1>

³⁷ In fact, before the conclusion of the *Treaty of Nanking* (1842), the representatives from both countries, Eliot and Qi Shan had a peace talk in 1840 and drafted the *Convention of Chuenpi* in 1841. However, both parties failed to reach consensus upon the demand for ceding the Island of Hong Kong. Qi Shan only offered to grant a place to Britain as temporary lodgement, while Eliot insisted upon the possession of the given territory.

It is interesting to find that “in perpetuity” was translated into “永” (meaning “eternally, forever”) in the *Convention of Peking* (1860). The given article stipulates that China cedes Cowloon to Britain with a lease “granted in perpetuity”. The translation “永租” (meaning “permanent lease”) has prevented the semantic ambiguity in the temporal duration of the given demand. The word “永” conveys two ideological implications: on one hand, it enhances Britain’s sense of territorial ownership by attaching infiniteness to the given territorial lease of Cowloon; on the other hand, it strengthens China’s sense of territorial separation, which indicates that China finally yielded to Britain’s aggression, with no power to show objections towards Britain’s demand.

Words and phrases expressing eternity are also seen in some other articles concerning territorial issues. For example, “never” and “for ever” were also used in the *Convention of Bocca Tigris*(1843) and *Burma Frontier and Trade Convention* (1894), which were both translated into “永” in the Chinese versions. Britain’s demands were fully conveyed to the Chinese audience, leaving no room for compromises or concessions. This accurate translation signifies an overturn of power relations between China and Britain. The translators need not mediate between two conflicting ideologies in translating the treaties, for the Chinese ideology has ultimately reconciled with the British one.

4.5 Summary

This chapter has explored the power relations between China and Great Britain by examining the transitivity shifts in translating the articles on territorial issues. The three elements in the transitivity system, namely participants, processes, and circumstances, have undergone shifts of various types at lexico-grammatical and semantic levels, while the power relations underneath such discourses evolved with these translation shifts.

At the lexico-grammatical level, it is found that two discourses have distinct preferences in the transitivity patterns. Concerning the territorial ownership, the English discourses lay more emphasis on the static possession, along with a notable number of relational processes and nominalized structures; while the Chinese discourses are more concerned with the dynamic transfer of territory, thus

presenting the cessions with more material processes. These transitivity shifts have different ideological implications: Britain concerned more about the outcome, namely what it could gain from the bilateral encounters, whereas China cared more about the process, namely what it could do to attain peace.

At the semantic level, the concepts such as “the Queen” and “cede” has different expressions. The lexical evolution has essentially echoed the historical progress of Britain’s aggression towards China, which can be divided into three periods. At the start of the clashes between two world orders, marked by the First Opium War, China persisted in maintaining its national image as the Celestial Empire. The translators had to mediate between two conflicting ideologies. To achieve China’s agreement upon Britain’s demands, they were likely to cater to the Chinese audience by using positive wording or avoid unfavourable expressions in translating the treaties. However, as the foreign invaders further expanded their colonization by warfare, the gate of China was open to the international world. After the second Opium War, China’s attitude towards foreign states was not as tough as before. As China joined the international community as an equal member as other states, it had to gradually accept a new world order established by the Western powers. Thus, the translations were produced in a more neutral manner. At last, the conflict between the Sino-centric and Euro-centric world orders ended up with an overwhelming victory by the Western powers. China had totally lost its initiative and power on the negotiation table, and the sensitive concepts were faithfully translated and conveyed to the Chinese audience as an infiltration of Western ideologies into the target system.

Chapter 5

From Being Self-governed to Being Intervened: Power Relations as seen from Manipulation of Modal Shifts in Translating Articles on Extraterritoriality

5.1 Introduction

Extraterritoriality, as a clause of tremendous controversy in the treaties, has played a vital role in shaping the power relations between China and the foreign states in modern history. Extraterritoriality, according to Evans, “is concerned with the exceptional circumstance in which a State is entitled to exercise its enforcement jurisdiction (and with it, by necessary implication, its legislative jurisdiction) in the territory of another state” (2018:293). Another definition given by Kayaoğlu is “a legal regime whereby a state claims exclusive jurisdiction over its citizens in another state” (2010: 2). The Chinese scholar Li Yumin proposes that, “extraterritoriality is the centre among all the unequal treaty relations between China and foreign powers, which is the fundamental of other privileges in the treaties” (2011: 290). This section focuses on how the system of extraterritoriality has been introduced to China, and concerns how China’s discursive power in jurisdiction has been further exploited by Britain via translation.

There is no denying that the introduction and practice of extraterritoriality had severely damaged China’s sovereignty, reducing China into an even more powerless position during its encounters with the Western countries. Kayaoğlu (2010) uses the term “legal imperialism” to label this system, for extraterritoriality itself is non-reciprocal and unequal. It is “the extension of a state’s legal authority into another state and limitation of legal authority of the target state over issues that may affect people, commercial interest, and security of the imperial state” (2010:6). Compared with the economic and territorial losses discussed in the previous chapters, the exploitation of jurisdiction brought far-reaching influences upon China as it shook China’s governance to its very foundation.

In fact, extraterritoriality had been long premeditated by foreign powers. They made several attempts to achieve extraterritoriality within China during the early

18th century. Taking Britain as an example, along with increasingly frequent communications with China in trade and business in the 18th and 19th centuries, a growing number of disputes arose between British merchants and the Chinese locals within the territory of China. However, most of these disputes were settled according to the Chinese laws as they took place under the jurisdiction of China. Britain was then unsatisfied with the punishments imposed by the Chinese authorities according to the Penal Code of Qing, arguing that such punishments were over-severe and already harmed the human rights of her subjects³⁸. Moreover, with Great Britain as the leading power, Western countries advanced triumphantly on their journey of colonization, and they succeeded in attaining extraterritorial rights in those non-Western countries, such as India and Japan. China, as the leading state in the East, undoubtedly became the main target to realize their ambitions, which they called “legal positivism” in domesticating China into the international family of nations.

Yet the extraterritorial issue is somehow complicated that we cannot simply say that is foreign powers’ own wishful thinking. Before the conclusion of treaties, there were many cases (usually civil disputes or non-homicide cases) where foreign criminals were tried and punished by the officers of their own nationalities even within China, which the Chinese officers thought to help avoid divergence or conflicts in jurisdiction (Wu, 2006). Thus, the practice of extraterritoriality seemed to have been acquiesced in by China in an unwritten manner, which showed that China had compromised upon this jurisdictional issue before the demand was officially proposed in these treaties. Its approval of the demand on extraterritoriality in treaties was nothing but an authoritative finalization of Western powers’ superiority in the power struggle.

³⁸ Imperial China practiced a different penal system from that of European countries, thus always being accused of cruelty. Some common practices, such as “life for life” and “collective punishment”, were said to be anti-humanitarian. For example, Wu Yixiong (2006) suggests, the “life for life” penalty was unnecessarily fair and just in Britain’s eyes, for manslaughter and murder were not clearly distinguished in imposing punishment.

5.2 The Analytic Tool of Modal Shifts

Different from Chapter 3 and 4, this chapter focuses on the modal shifts among translation shifts, aimed to explore how obligations and rights are stipulated in the treaties and conveyed to both parties. Modality, defined by Halliday, is the collection of the “intermediate degrees between the positive and negative poles”, and the modality system is to “construe the region of uncertainty that lies between ‘yes’ and ‘no’”(2014:176). This is closely related to the flow of power underneath such legal discourses, as the regulations that impose limitations upon the parties are exactly about what should (can) and should not (cannot) be done, serving as a dividing line between “yes” and “no” in the practice of power. Meanwhile, such dos and don’ts also reflect the stances and attitudes of the two parties in negotiating this jurisdictional issue.

According to Halliday, modality can be divided into four categories: probability, usuality, obligation, and willingness, with each category having three modal values: low, medium, and high (see Table 5-1). The first two categories belong to the subsystem—modalization, performing the interpersonal function, whereas the latter two to the subsystem—modulation, performing the ideational function (Halliday, 1970: 347). Palmer’s (2001) classification of modality in modal systems, though using different terms, also echoes Halliday’s categorization. He suggests there are two types of modality: Propositional modality and Event modality. Propositional modality includes two main types: epistemic and evidential, respectively corresponding to usuality and probability in the Hallidayan classification; likewise, Event modality also has two main types: deontic and dynamic, equivalent to obligation and inclination in the Hallidayan classification. In Thompson’s words (2014), language is considered as a kind of commodity exchange. If the commodity being exchanged is information, the modality is to display the validity of the information, namely probability and usuality of being true; if the commodity being exchanged is goods-&-services, the modality is to reflect the confidence of the speaker to achieve success in exchange, namely obligation and willingness of carrying out the acts (Thompson, 2014: 58).

The function of this system highly depends on modals, which provides the statistical basis for the discourse analysis below. The following two tables are used to evaluate the modality and mood of the source and target discourses.

Gradation	Modalization (indicative)		Modulation (imperative)	
	Probability	Usuality	Obligation	Inclination
High	certain	always	required	determined
Medium	probable	usually	supposed	keen
Low	possible	sometimes	allowed	willing

Table 5-1 Classification and gradation of the modality system ³⁹

		PROBABLE	POSSIBLE-CERTAIN		
			POSSIBLE	VIRTUALLY CERTAIN	CERTAIN
NEUTRAL		probably	possibly		certainly
	POS	will	may, can* (could)		must (will)
	NEG (i)	won't	may not		can't (couldn't)
	NEG (ii)	won't	[can't (couldn't)]		[may not]
UNDERTONE		presumably	perhaps	assuredly	obviously
	POS	would (will)	might, could	should, ought to	must
	NEG (i)	wouldn't (won't)	might not	shouldn't oughtn't to	couldn't (can't)
	NEG (ii)	wouldn't (won't)	[couldn't (can't)]	[might not]	[might not]
OVERTONE		predictably (tone 1)	conceivably (tone 4)	surely (tone 4)	surely (tone 1)
	POS	would	may, might, could	should, ought to	must
	NEG(i)	wouldn't	might not	shouldn't oughtn't to	can't, couldn't
	NEG (ii)	wouldn't	[can't, couldn't]	[might not]	[may not, might not]

Table 5-2 Hallidayan modality ⁴⁰

³⁹ This table is drawn according to Halliday's diagram showing relation of modality to polarity and mood (Halliday & Matthiessen, 2014: 694).

		ACTIVE	PASSIVE		
		Inclination and Ability	Permission	Necessity	
				Obligation	Compulsion
		willing; insistent*	allowed	obliged, supposed	required
NEUTRAL	POS	will	can, may		must
	NEG(i)		needn't		can't, mustn't
	NEG(ii)	won't	mustn't, can't		needn't
OBLIQUE: hypothetical, tentative	POS		could, might	should, ought to shouldn't, oughtn't to needn't	
	NEG(i)		needn't		
	NEG(ii)		mustn't, couldn't		
		able	entitled	desired, expected**	designated, intended
NEUTRAL	POS	can	can	shall	is to
	NEG(i)		needn't	shan't, mayn't	isn't to
	NEG(ii)	can't	mustn't, can't	needn't	needn't
OBLIQUE: hypothetical, tentative	POS	could	could	should	was to
	NEG(i)		needn't	shouldn't, mightn't	wasn't to
	NEG(ii)	couldn't	mustn't, couldn't	needn't	needn't

Table 5-3 Hallidayan modulation⁴¹

⁴⁰ This table is adapted based on Table II in Halliday's work *Functional diversity in language as seen from a consideration of modality and mood in English*(1970:329). The Hallidayan modality is associated with the interpersonal function of discourse.

⁴¹ This table is adapted based on Table III in Halliday's work *Functional diversity in language as seen from a consideration of modality and mood in English*(1970:340). The Hallidayan modulation is associated with the ideational function of discourse.

5.3 Synchronic and Diachronic Analysis into the Translation of Articles on Extraterritoriality

In fact, the systems of modality and mood in English and Chinese languages are not perfectly correspondent to each other (e.g. modal hierarchies are different in some points), and therefore, it is inevitable that translation shifts take place in conveying modality and mood from one language into another. Generally speaking, there are two types of modal shifts: 1) shifts in degree, and 2) shifts in number. The former mainly refer to those shifts realized by using different modals⁴², while the latter are those realized by omitting or adding modals. In addition to the different usage of modals from the English discourse, the Chinese discourse also features an abundance of adverbs facilitating the mood in the given context.

This section has selected 15 articles regarding extraterritoriality from six different Sino-British treaties. By means of textual comparison and calculation, Table 5-4 below shows the modal distributions in English and Chinese treaties, including both modalities and modulations. The modals (verbs or auxiliaries) are compared in a parallel manner, while the slashes are counted as the absence of modals in the given structural positions.

⁴² It should be pointed out that due to the different modal hierarchies in English and Chinese languages, one English modal can have several interpretations in Chinese. The modal shifts can be shifts in degree within one category that relate to a different performance of the interpersonal function, or shifts across different categories that impact the ideational function of the given discourse.

Modal distributions in English and Chinese treaties									
General Regulations of Trade (1843)									
Article III									
ST	must	will	shall	shall	will	will	cannot	/	shall
TT	必	/	應	應	/	/	不能	不能	/
ST	may	will	will	will					
TT	/	/	/	應					
Treaty of the Bogue (1843)									
Article VI									
ST	shall not	/	shall	will	shall	/			
TT	不可	不可	/	/	/	不得			
Article IX									
ST	shall	shall	should	shall	may	shall	shall	Neither...	
TT	/	應	/	當	必	/	必	shall	不可
Treaty of Tientsin									
Article IX									
ST	will	must	will	no... shall	shall	/	must not	no... need	will
TT	/	應	/	不得	/	止可	不可	毋庸	/
ST	shall	shall							
TT	/	/							
Article XV									
ST	shall								
TT	/								
Article XVI									
ST	may	shall	may	shall	shall				
TT	/	/	/	/	須				
Article XVII									
ST	must	will	shall	cannot	shall	may			
TT	應	當	應	不能	/	/			
Article XXI									
ST	shall	shall	shall not	shall					
TT	/	/	不得	/					
Article XXII									
ST	will	will							

TT	務須	亦應							
Article XXIII									
ST	may	must	but should	shall	/				
TT	/	/	/	務須	務須				
Agreement of Chefoo (1876)									
Section II (i)									
ST	might	shall	may	would	/				
TT	/	/	/	/	亟須				
Section II (ii)									
ST	may	shall	may	shall	shall	/	will	/	/
TT	/	/	/	/	應	未能	/	應	應
Section II (iii)									
ST	shall	will	will	can be but	/	will	will	/	
TT	/	/	/	只能	只可	可以	/	當	
Commercial Treaty (1902)									
Article XII									
ST	will								
TT	/								
Convention between the Governments of Great Britain and Tibet, annexed to the Convention respecting Tibet (1906)									
Article IV									
ST	shall	shall	shall	/	shall	may	shall	shall not	may
TT	應	應	/	只可	/	/	應	不得	/
ST	shall	shall	should	shall	shall				
TT	應	應	/	得	得				

Table 5-4 Distributions of English and Chinese modals in treaties

There are interesting findings by comparing the modal usages in the English and Chinese discourses. Generally speaking, English modals outnumber Chinese modals, and the phenomenon called “zero modal” commonly seen in the Chinese discourses accounts for this quantitative gap to a large degree. There are some causes for the “zero modal” phenomenon in Chinese languages. For example, English discourses usually rely on modal verbs to convey usuality and probability while Chinese discourses prefer adverbs in most cases. Or such absence of modals allows more room for mood conveyance, which might enhance or alter the mood in the Chinese discourses without any restraint in modal degree.

English modals	Number	Chinese modals	Number
Must	5 (1) ⁴³	必	3
May	11	務須	3
Should	7	須	2
Shall	42 (3)	應	18
Will	20	當	2
Can	3 (2)	得	6(4)
Might	1	能	5 (4)
Need	1	可	9 (4)

Table 5-5 Numbers of English and Chinese modals in treaties

However, the number and the percentage of negative modals in the Chinese discourse exceed those in the English discourse, which may imply that there are more restraints and limitations proposed in the Chinese version. It is also found that in the Chinese texts, a few Adjuncts are frequently used, such as “即” and “均”, which may help enhance the mood in the target discourse by magnifying the absoluteness and certainty of the given situations or actions.

Section 5.3 is to compare the articles on extraterritoriality and their translations in synchronic and diachronic manners. The following discussions concentrate on the three developing periods concerning extraterritoriality in China, namely 1) the introduction and establishment of the extraterritorial system, 2) the extension of extraterritorial rights; and 3) the relinquishment of extraterritoriality.

5.3.1 Establishment of Extraterritoriality

The first part is about how the system of extraterritoriality was established and implemented in China at different historical periods. The general idea of extraterritoriality is that, in the cases involving citizens from two countries, the plaintiff shall first make complaints and take legal proceedings against the defendant from another country via the official of his own nationality, regardless of territory. Likewise, the defendant could only be tried and punished by the laws

⁴³ The number in brackets refers to the number of the modals in negative structures.

of his own nationality. The following analyses concern different legal procedures of a case involving British and Chinese subjects, namely making complaints, trial, arrest, and punishment.

5.3.1.1 Making Complaints and Proceedings in Mixed Cases

The following examples compare how British and Chinese subjects make complaints under the system of extraterritoriality at two main historical stages. The demand for extraterritorial rights was first proposed in the Article III of the *General Regulations of Trade* (1843) after the First Opium War, which has established the overall framework of extraterritoriality and been referred to as the template in later treaties. On the basis of the *General Regulations of Trade* (1843), the lawmakers made a few minor ratifications concerning extraterritoriality in the *Treaty of Tientsin* (1858) after the Second Opium War.

Example 5.1

General Regulations of Trade (1843)		Treaty of Tientsin (1858)	
Article XIII		Article XVII	
ST1 a	Whenever a British subject has reason to complain of a Chinese, he must first proceed to the Consulate and state his grievance.	ST1b	A British subject having reason to complain of a Chinese must proceed to the' Consulate and state his grievance.
TT1a	凡英商稟告華民者， <u>必</u> 先赴管事官處投稟，	TT1b	凡英國民人控告中國民人事件 <u>應</u> 先赴領事官衙門投稟，
ST2a	The Consul will thereupon inquire into the merits of the case, and do his utmost to arrange it amicably.	ST2b	The Consul will inquire into the merits of the case, and do his utmost to arrange it amicably.
TT2a	候管事官先行查察誰是誰非，勉力勸息，使不成訟。	TT2b	領事官 <u>即</u> 當查明根由，先行勸息，使不成訟。

Table 5-6 Excerpts for analysis – Example 5.1

Example 5.1 demonstrates how British subjects make complaints. This stipulates that British subjects **MUST** proceed to the Consulate when making complaints of Chinese subjects in the first place, which prioritizes the jurisdictional status of the British Consul in mixed cases where subjects from different countries

are involved. There are two English modals used in both source texts – “must” and “will”. The first modal “must” is a modulation expressing necessity at the highest level, signifying that the action is performed in a compulsive manner. The only difference between ST1a and ST1b lies in the adverb “first” after the modal. In the *General Regulations of Trade* (1843), the British subjects’ right to make complaints to the Chinese authorities has been retained, and the Consulate is prioritized before the Chinese authorities, while in the *Treaty of Tientsin* (1858), along with the deletion of “first”, the Consulate enjoys the sole power to deal with British people’s complaints and the role of Chinese authorities has been excluded from the given situation. This will be further discussed in Example 5.3 below.

Now looking back at the translations of “must”, inconsistency exists between these sample articles from two different treaties. We can see that in TT1a, “must” is rendered as “必”, which is the exact Chinese equivalent conveying the highest necessity, so ST1a and TT1a maintain consistency in tone and ideology. However, in TT1b, there is a modal shift in conveying this compulsive action. The translator has adjusted its modal degree by using “應”, which equals to “should” in English. If referring to the graduation system of modality, we can see that the necessity of “proceeding to the Consulate” is obviously decreased in TT1b, and this action has been downgraded from a “compulsion” to an “obligation”, which fails to demonstrate the supreme significance of the British Consul in this case. Also the Chinese adverb “先” following “應” used to be the Chinese equivalent of “first” in ST1a. The confusing point lies in this sequential signal has been omitted from ST1b, which seems to give unparalleled prominence to the role of the British Consul, whereas the appearance of “先” in TT1b somehow conflicts with the ideology of ST1b, which implies optional authorities to deal with such complaints other than the British Consul. If we rank the significance of the Consul according to modality and mood, it is ST1b > ST1a = TT1a > TT1b. Thus, the translation of this excerpt in the *Treaty of Tientsin* is somehow unfaithful.

The second modal “will” can be interpreted in two manners. If taken as a modalization, it conveys usuality or probability, suggesting that the given actions are usually carried out in the given circumstances as an accepted or existing practice; or if taken as a modulation, it indicates ability or inclination, suggesting that the action is usually done in active manners or with innate power (see Table

5-3). As in ST2a, there is an adverb “thereupon” (meaning “immediately, shortly after”) following the modal “will”, the actions can be considered as what the Consulate is normally prescribed to do, while in ST2b, the actions could be interpreted as both the Consulate’s customary practices and legal rights to deal with such mixed cases. As for the translation of “will”, it is more complicated than the previous “must”, since there is no perfect equivalent found in the Chinese modality system. In some cases, the Chinese character “將” is used as a counterpart to express the future tense or probability, while sometimes, “will” is omitted from the Chinese texts as is seen in TT2a. Such an omission makes the overall tone more declarative. In TT2b, it is rendered into “當” along with an Adjunct “即”. “當” as a modulation of obligation, highlights the Consul’s duties rather than his rights, and “即”, meaning “immediately”, emphasizes that the following actions should be carried out in a prompt manner. Thus, TT2b conveys stronger ideological effects than ST2b.

Example 5.2

General Regulations of Trade (1843)		Treaty of Tientsin (1858)	
Article XIII		Article XVII	
ST3a	In like manner, if a Chinese have reason to complain of a British subject, he shall no less listen to his complaint and endeavour to settle it in a friendly manner.	ST3b	In like manner, if a Chinese have reason to complain of a British subject, the Consul shall no less listen to his complaint, and endeavour to settle it in a friendly manner.
TT3a	聞有華民赴英官處控告英人者，管事官 <u>均應</u> 聽訴，一例勸息， <u>免致小事釀成大案</u> 。	TT3b	中國民人有赴領事官告英國人者，領事官 <u>亦應</u> 一體勸息。

Table 5-7 Excerpts for analysis – Example 5.2

Example 5.2 shows that, on the occasions where a Chinese complains of a British, the Consulate is required to treat both subjects alike. In both source texts (ST3a and ST3b), the phrase “no less” is used after the modal “shall” to emphasize that the upcoming actions are performed in the same manners as previously stated. “Shall” is the modal of highest frequency in use in legal

discourses, which “is invariably used to express what is to be the obligatory consequence of a legal decision, and not simply as a marker of future tense, which is its main function in other varieties”(Crystal and Davy, 1973: 206-207). In the translations, the modal Adjuncts “均” and “亦” play the same role as the given phrase to highlight the equal treatments towards British and Chinese subjects. The central modal “shall” is translated into “應”, demonstrating the Consulate is obliged to deal with Chinese subjects’ complaints in equal manners.

Apart from the usage of modals and adjuncts that affects mood, explication and addition at the semantic level also play a significant role. In the source texts, the Consul is supposed or expected to “arrange it amicably” or “settle it in a friendly manner” when receiving complaints from British or Chinese people, yet failing to explicate the actions to be taken. The translators have rendered these vague expressions in an explicit manner. The primary goal is to make persuasion and urge reconciliation, so that the complaints will not turn into lawsuits, which may involve more complicated legal procedures, such as trial and punishment. Therefore, they are uniformly translated as “勸息” in the target texts. In TT3a, there is even an addition in the very end – “免致小事釀成大案”, which is back translated as “so as to avoid small problems turning into big cases”. It implies, if the Consulate fails to fulfil his responsibility as instructed, such mixed cases could probably lead to severer problems. This addition has attached a sense of urgency to the target discourse, and reinforced the core idea of this sentence that the Consulate should seriously handle such cases regardless of the plaintiff’s nationality. It has also projected the essential role the British Consul plays in settling these complicate disputes.

In the first historical stage of extraterritoriality, there were still occasions where British subjects addressed to Chinese officers for justice. The Consul was not the only option for the British subjects to make complaints. To avoid offences that might affect the proceedings, the Consul was empowered to examine the address before conveying to the Chinese authorities. This is undeniably a kind of power control of the British government over its citizens.

Example 5.3

General Regulations of Trade (1843)		Treaty of Tientsin (1858)	
Article XIII		Article XVII	
ST4a	If an English merchant have occasion to address the Chinese authorities, he shall send such address through the Consul, who will see that the language is becoming; and if otherwise, will direct it to be changed, or will refuse to convey, the address.	ST4b	——
TT4a	其英商欲行投稟大憲，均 應 由管事官投遞，稟內倘有不合之語，管事官即駁斥另換，不為代遞。	TT4b	——

Table 5-8 Excerpts for analysis – Example 5.3

In ST4a, there are four modals used in total that the first “shall” belongs to the modulation group of obligation, while the latter three “will” are modulations of ability and inclination. Such modal usage outlines the duties and rights of related parties. It tells that a British subject is “obliged” to send the address through the British Consul and he cannot directly address to the Chinese authorities. The modal “shall” represents the legal restraints upon the British subjects. Though the Chinese authorities have been retained as an alternative for British subjects in making complaints, the modal “shall” suggests that they were not free to do so. In the translation, “shall” is translated into “應”, which faithfully conveys the necessity for the Actor to perform the given action.

On the contrary, “will” is usually associated with the initiative or willingness of the Actor, and here it is used to introduce the rights of the Consul in administrating the related issues. Even though the three “will” are not translated, which seems to cause a loss of modal meanings, the addition of adverbs helps to maintain and even enhance the mood in the target discourse. The Chinese adjuncts “均” and “即” produce these rhetoric effects. For instance, when British subjects

address the Chinese authorities, their addresses should “all” be sent through the British Consul. The word “均” has intensified the degree of obligation, implying absoluteness and allowing no exceptions, which helps to amplify the authority and prestige of the British Consul in the target ideology. The word “即” also strengthens the Consul’s power in determining and directing the given address, allowing no room for bargain or compromise.

In the system of extraterritoriality, there are mainly four situations concerning civil complaints (see Table 5-9). Yet one situation, namely British subjects addressing to the Chinese authorities, has been dealt with in different manners in the two treaties respectively concluded after the two Opium Wars. Only the *General Regulations of Trade* (1843) prescribes such rights for the British subjects, resting upon the prerequisite that British Consul plays a mediate role in between. While in the *Treaty of Tientsin* (1858), this situation has been excluded from the texts and is totally exempt from consideration. It implies that British subjects shall only turn to their own Consul for complaints. After the Second Opium War, the British Consul had full power in handling the complaints and proceedings by his subjects, without the intervention of Chinese authorities. If we look back at ST1a and ST1b, the usage of the word “first” exactly echoes this change. Its appearance in ST1a demonstrates the British Consulate was prioritized when the British subjects made complaints, but there were still other options for the British subjects to complain to, such as the Chinese authorities; while it disappears in ST1b, suggesting that there was no other alternative but the British Consul that British subjects could turn to for help. Ironically, the Chinese authorities did not have the sole jurisdictional power in arranging the complaints by Chinese subjects, for in both treaties the occasions where Chinese subjects address to the British Consul have been retained. This reflects that the power imbalance between China and Britain sharpened after the Second Opium War. Britain managed to gradually achieve its goal of self-governance in jurisdiction within China, whereas on the other hand, China underwent a transformation from being self-governed to being intervened in jurisdiction within its own territory, which announces the rout of the Celestial Empire in the power struggle against the Western powers.

Situations of making complaints	The first period (The First Opium War)	The second period (The Second Opium War)
British subjects > British Consul	√	√
Chinese subjects > British Consul	√	√
British subjects > Chinese authorities	√	×
Chinese subjects > Chinese authorities	√	√

Table 5-9 Comparisons between China and Britain in making complaints

5.3.1.2 Co-examination in Trial with Chinese Authorities

Given that those mixed cases involving two jurisdictional systems had caused controversy and conflicts between countries, the Western powers had shown deep concern for the participation of Chinese authorities in settling such mixed disputes, and were cautious during legislation about making conditions to involve China in practicing extraterritoriality. It has been stipulated in the Sino-British treaties that, in case of disputes that the English Consul fails to arrange, the assistance of Chinese authorities is then called upon, who will join the Consul in examining the cases. In the event of divergence, Britain still assumes jurisdictional dominance in administering the given case, while China just plays an assisting role, that they do not share the same power in solving these civil disputes.

The following excerpts are selected from the *General Regulations of Trade* and the *Treaty of Tientsin*. Basically they convey similar ideas to the audience, yet the subtle linguistic discrepancy is still worth our investigation when approaching the ideologies underneath.

Example 5.4

General Regulations of Trade (1843)		Treaty of Tientsin (1858)	
Article XIII		Article XVII	
ST5a	If <u>unfortunately</u> any disputes take place of such a nature that the Consul cannot arrange them amicably, then he shall request the assistance of a Chinese officer that they may together examine into the merits of the case, and decide it equitably.	ST5b	If disputes take place of such a nature that the Consul cannot arrange them amicably, then he shall request the assistance of the Chinese authorities, that they may together examine into the merits of the case and decide it equitably.
TT5a	倘遇有交涉詞訟管事官 <u>不能</u> 勸息， <u>又不能</u> 將就，即移請華官公同查明既得實情，即為秉公定斷，免茲訟端。	TT5b	間有 <u>不能</u> 勸息者，即由中國地方官與領事官會同審辦，公平訊斷。
BT5a	If any disputes take place of such a nature that the Consul cannot urge reconciliation or casually deal with, (he) then request the assistance of a Chinese officer and examine into the merits of the case together, and decide it equitably, so as to prevent suits.	BT5b	If there be any dispute that cannot be settled amicably, (it) shall be examined jointly by the Chinese authorities and the Consul, and decided equitably.

Table 5-10 Excerpts for analysis – Example 5.4

Comparing the ST5a and ST5b, we can see both source texts maintains high consistency in wording and clausal structures, except that the adjunct “unfortunately” is omitted from ST5b. According to Halliday, “[t]he adverbial group serves as Adjunct in the modal structure of the clause — either circumstantial Adjunct or modal Adjunct (mood or comment)” (2014: 419). The adverb “unfortunately” belongs to the modal Adjuncts of comment, which usually

contains the speaker's assessment or attitude, and its appearance in ST5a demonstrates Britain's reluctance towards co-examining cases with Chinese authorities. As this adjunct itself is negative in lexical polarity, it somehow implies that the occurrence of the mentioned situation, namely the Consul failing to settle the disputes, is unanticipated and unwelcome by the British side. Yet the usage of comment adjuncts might be accused of excessive personal subjectivity in legal discourse, the word was then abandoned in the later treaties.

Though “unfortunately” is not translated in TT5a, the translator still managed to find another way to offset the loss of rhetoric effects caused by its omission, namely modal addition. Both translations have faithfully rendered the modulation “cannot”, a modulation expressing inability, into its Chinese counterpart “不能”, but the numbers of modal structures are different. In TT5a, one “cannot” is split into two “不能”, while the additional segment “又不能將就” emphasizes the necessity of properly solving such disputes, meaning that if the Consul is indeed incompetent to urge reconciliation, he should seek proper solutions instead of casually dealing with the cases. With two negative modal structures to enhance extremity of the given condition, TT5a displays greater urgency of engaging Chinese officers in examining the cases, which reflects Britain's prudence towards co-examination at that time. By comparison, the regulations in the *General Regulations of Trade*, whether its source or target texts, are laid down with considerable delicacy, while those in the *Treaty of Tientsin* feature concise wording, thus conveying weaker ideological effects than the former ones. Contrary to TT5a, TT5b suffered a loss of information by translation, as the action “request the assistance of Chinese authorities” is dismissed, which is exactly the central process in the source discourses. In TT5b, the central process falls upon the co-examination itself, which ideologically debilitates Britain's initiative in dealing with the given situations.

With regard to the other two modals used in the main clauses, namely “shall” and “may”, they are not translated. “Shall”, similar to its usage in other examples, is associated with obligations, which means the Consul is supposed to seek the assistance of Chinese authorities under the given conditions. Yet in the translated discourses, there are no modals applied. Instead, the adjunct “即” is used to reinforce the given mood, which not only serves as an indicator of immediacy, but

also points to the resulting actions under given conditions in legal discourses. It has excluded other possibilities, and in a sense, the joint-examination has been depicted as the first solution to come up for this thorny situation.

Apart from the modal shifts, there are minor adjustments in the thematic structures. The conditional clauses serve as the HyperThemes in both source discourses, presenting a scenario where the Consul fails to settle the disputes. The key message is what is going to happen under such circumstances, namely the British Consul seeking assistance from the Chinese authorities. Both source discourses take a British perspective in narrating the given stipulation, but the translated discourses are obviously different in narrative manners. If comparing the back translations of two target texts, we can see the British Consul still maintains the central role in TT5a for all the transitivity processes still centre on the Consul; while in TT5b, the Theme shifts to “不能勸息者” (corresponding to “*disputes that cannot be settled amicably*” in ST5b), and the information focus becomes how these disputed are solved rather than what the Consul should do under the given condition.

5.3.1.3 Arrest of Law-breakers and Criminals in Mixed Cases

In the mixed cases involving subjects from different countries, the Chinese officers are obliged to play a mediate role in some legal procedures, for example, arrest in this case. The primary goal of extraterritoriality is to protect the person and property of the foreign subjects within China, and thus, when it comes to issues affecting personal safety and property, it is clearly stipulated that those foreign subjects infringing laws and regulations should be administered by the officers of their nationalities. If arrest is called upon, then the law-breakers or criminals should be seized by the Chinese authorities in the first place and handed over to the officers from their countries. The foreign subjects are legally exempt from the punishment by China.

The following is Article VI in the *Treaty of the Bogue* (1843), and it discusses the situation where foreign persons wandering into the Country against the stipulations. There is a trace of manipulation found in its Chinese translation, and the following analysis mainly concerns three translation shifts.

Example 5.5

Treaty of the Bogue (1843)

Article VI

	...and should any persons whatever infringe the stipulations of this
ST6	Article and wander away into the Country, they shall be seized and handed over to the British Consul for suitable punishment.
	<hr/>
TT6	倘有英人違背此條禁約擅到內地遠游者，不論係何品級，即聽該地方民人捉拿交英國管事官依情處罪， <u>但該民人等不得擅自毆打傷害，致傷和好。</u>
	<hr/>
BT6	Should there be any British Subjects infringing this Article and wandering away into the Country, whatever their ranks, they (shall) immediately be seized by the locals and handed over to the British Consul for suitable punishment, <u>but these locals cannot beat and harm them without permission, which harms the friendship.</u>

Table 5-11 Excerpts for analysis – Example 5.5

The first shift lies in the translation of modality. In the source discourse, the modal “shall” is used to express obligation, which means these law-breakers should be arrested and handed over to the British Consul under the given circumstance. However, this modal is omitted from the Chinese version. Instead, the translator used the Chinese adjunct “即” to replace the English modal. This word performs different semantic functions in Chinese discourses: on one hand, it could work as a conjunct to indicate concession or presumption; on the other hand, it is used as an adverb suggesting immediacy. Here the translator used “即” to make up the absence of “shall” in the target discourse, which expresses the meaning of “thereupon”, implying the prompt and quick reaction of the Chinese locals. In this sense, the mood is not weakened but even reinforced by this adjunct.

The second shift is a small piece of addition – “地方民人”(meaning “local people”), which is supplemented in front of the central processes “捉拿” (seize) and “交” (hand over) in the target discourse. The Actor performing these actions is implicit in the English version, and the source text only states how the British law-breakers are to be dealt with. As for human participants, only the British Consul shows up as the Recipient for the action “hand over”, highlighting the

jurisdictional role of the Consul with regard to the law-breakers of his nationality. As for who to seize these British law-breakers, this Article has not mentioned in detail. Therefore, the translator has added “地方民人” in translation to point out the one to carry out such seizure. By doing so, it has drawn a clear picture on the roles of Chinese locals, British subjects, and the British Consul in those cases involving British law-breakers.

Apart from the small addition mentioned above, a clause led by “但” (but) is added after the main clause (see the wave-lined part), which causes notable information asymmetry between the source and target discourses. The supplementary message aims to set restrictions upon the subject of rights, namely the Chinese locals in this case. The Chinese modal “不得” here can be understood as “mustn’t” or “cannot” that express permission in negative forms in Halliday’s modulation system. It states that, Chinese locals “are not allowed to” exert punishments on those British criminals on their own. This addition serves two ideological purposes. Firstly, it provides a historical context for this stipulation, where Chinese locals had been accused of using violence in dealing with foreign law-breakers and criminals before. The person and property of foreign subjects were once potentially threatened by such mistreatments. Secondly, it further clarifies the duties and rights of the Chinese locals. Chinese locals had power to seize the British law-breakers within China’s territory, but they were not empowered to impose punishments upon citizens from other countries. This essentially reflects the acknowledged principle of extraterritoriality that, people shall only be administered by the laws of their nationalities.

Among the civil disputes between the Chinese and English subjects, disputes over obligations or debts were commonly seen along with trade. The following examples are Article XXII and XXIII in the *Treaty of Tientsin*, which set forth instructions for arrest and debt recovery by the Chinese and British authorities.

Example 5.6

Treaty of Tientsin (1858)

Article XXII

ST7a	Should any Chinese subject fail to discharge Debts incurred to a British subject, or should he fraudulently abscond, the Chinese authorities will do their utmost to effect his arrest, and enforce recovery of the Debts.	ST7b	The British authorities will likewise do their utmost to bring to justice any British subject fraudulently absconding, or failing to discharge Debts incurred by him to a Chinese subject.
TT7a	中國人有欠英國人債務不償或潛行逃避者，中國官 務 須認真嚴拿追繳。	TT7b	英國人有欠中國人債不償或潛行逃避者，英國官 亦應 一體辦理。

Table 5-12 Excerpts for analysis – Example 5.6

The source texts above discuss the two situations where debts are incurred between Chinese and British subjects within China. One interesting finding is that, though both source texts use “will” to express the authorities’ ability and inclination in handling disputes over obligation, it has been respectively translated into “務須” and “應” that express obligation in different degrees. In the gradation of modality, “務須” expresses the highest necessity and equates to “must” in English, indicating the actions are enforced as a compulsion; whereas “應” conveys necessity in a medium degree and corresponds to “should” in English, suggesting that the said actions are required to fulfil as an obligation. Therefore, the Chinese and British authorities are essentially prescribed unequally in their legal duties. When a Chinese subject incurs debts to a British subject, the Chinese authorities **MUST** do their best to arrest the Chinese debtor and recover the debts for the British subject. Conversely, when a British subject incurs debts to a Chinese subject, the British authorities **SHOULD** do the same as the Chinese authorities are required to do in the former situation. In this sense, the interests of British subjects are attached with greater significance and urgency than those of Chinese subjects as seen from this subtle modal discrepancy, which also mirrors

that such regulations were supposed to protect the person and property of British subjects more than Chinese subjects.

Moreover, such modal shifts also reflect the power relations between China and Britain in the given historical stage. Generally speaking, modals of higher values carry greater absoluteness and intensity, thus indicating larger interpersonal distance between the related parties and less room for negotiation. The acts to be performed are usually taken as demands or requirements instead of offers or suggestions. On the contrary, modal verbs of medium and low values signify less absoluteness and intensity, thus representing a relatively balanced power relation between the parties involved. The related actions are not coercive measures, which are carried out with more gentleness. Looking back at this example, we can see both parties are originally equal in the source texts, while the interpersonal distance between them has been altered in the translations with the manipulation of modal usage. The power relation has shifted from a level state to an imbalance where Britain wins more priority than China in bilateral issues.

Example 5.7 provides a scenario where Chinese subjects incur debts in Hong Kong, and how to recover such debts depends on whether the Chinese subjects are within the Chinese territory. One point worth our attention is the special territorial status of Hong Kong, which was ceded to Britain as a colony. Thus the debts incurred by Chinese subjects in Hong Kong were supposed to be administered by the British officers, while Chinese authorities had no rights to handle the financial disputes within Hong Kong. To a degree, this article demonstrates the inequality of extraterritoriality, for China was not endowed with extraterritorial rights on other countries' territory or colony.

Example 5.7

Treaty of Tientsin (1858)

Article XXIII

ST8a	Should natives of China who <u>may</u> repair to Hongkong to trade incur Debts there, the recovery of such Debts <u>must</u> be arranged for by the English Courts of Justice on the spot;	ST8b	but should the Chinese Debtor abscond, and be known to have property, real or personal, within the Chinese Territory, it <u>shall</u> be the duty of the Chinese authorities, on application by, and in concert with the British Consul, to do their utmost to see Justice done between the parties.
TT8a	中國商民或到香港生理拖欠債務者，由香港英官辦理；	TT8b	惟債主逃往中國地方，由領事官通知中國官， <u>務須</u> 設法嚴拿，果係有力能償還者， <u>務須</u> 盡數追繳，秉公辦理。

Table 5-13 Excerpts for analysis – Example 5.7

In the *Treaty of Nanking*, the Island of Hong Kong is ceded as part of British colony, and thereupon if a Chinese subject incurs debt in Hong Kong, it is the British authorities in Hong Kong that MUST arrange the recovery of debts. The modal “must” is used to highlight British officers’ sole power to deal with given cases, which excludes the jurisdictional role of Chinese authorities within Hong Kong. However, if adhering to the principle of extraterritoriality, then the lawless natives of China are still be subject to the jurisdiction of Chinese authorities within Hong Kong. Compared with Article XXII above, we can notice Chinese authorities had lost the jurisdiction upon their own subjects in Britain’s colony. In the translation, the modal “must” is not rendered into a Chinese counterpart, and the absence of modals has made it a plain declarative statement. In comparative terms, the mood conveyed by this translation is weaker than the original.

However, the jurisdictional role of China has not completely been eliminated, and it states that, only when the debtors flee to inland China shall the Chinese officers do their utmost to do justice and recover the debts. It is worth mentioning that in the translation, the original “shall” is rendered into “務須”, which equals “must”

in modal degree and expresses necessity at the highest level. Furthermore, it appears twice in the translation, leading to a quantitative increase in modality, which has undeniably enhanced the mood of compulsion to a large degree. Article XXIII share sameness with Article XXII in highlighting Chinese authorities' legal responsibilities by using “務須”, which reflects Britain showed great concern towards its subjects' property by urging China to rigorously deal with such debts involving British subjects.

5.3.1.4 Punishment in Mixed Cases

The following excerpts demonstrate the ultimate end of extraterritoriality, that criminals shall only be tried and punished by the law of their own countries. According to Svarverud, “[t]he core question was the general distrust of the Chinese native juridical system and an unwillingness to let cases involving criminal acts or interests of expatriates be tried according to Chinese law in a Chinese court” (2006:55). This regulation has helped the foreign powers to protect their subjects' person and property within the territory of China to a large degree. Even if those foreign subjects committed crimes in China, they could still easily dodge the severe punishments by Chinese authorities under the shelter of extraterritoriality.

Example 5.8

General Regulations of Trade (1843)		Treaty of Tientsin (1858)	
Article XIII		Article XVI	
ST9a	Regarding the punishment of English criminals, the English Government will enact the laws necessary to attain that end, and the Consul will be empowered to put them in force;	ST9b	British subjects who may commit any crime in China shall be tried and punished by the Consul or other Public Functionary authorized thereto according to the Laws of Great Britain.
TT9a	其英人如何科罪，由英國議定章程法律發給，管事官照辦；	TT9b	英國民人有犯事者皆由英國懲辦。
ST10a	and regarding the punishment of Chinese criminals, these will be tried and punished by their own laws, in the way provided for by the correspondence which took place at Nanking after the concluding of the peace.	ST10b	Chinese subjects who may be guilty of any criminal act towards British subjects shall be arrested and punished by the Chinese authorities according to the Laws of China.
TT10a	華民如何科罪，應治以中國之法，均仍照潛在江南原定善後條款辦理。	TT10b	中國人欺凌擾害英民者，由中國地方官自行懲辦。

Table 5-14 Excerpts for analysis – Example 5.8

By comparisons, the two Articles are dissimilar in modal usage as well as thematic structures, and accordingly, their translations present the messages in subtly different manners. Article XIII of the *General Regulations of Trade* represents extraterritoriality at the first historical stage (the First Opium War), and it was basically outlined from a British narrative. It is seen that in ST9a, the English Government and the Consul assume the thematic positions in respective clauses, and the process of punishment is narrated in an active voice. Thus, the two “will” here are associated with Britain’s initiative to exert jurisdictional power, which could be understood in two ways: on the one hand, it conveys usuality,

suggesting that these actions are habitual practices in extraterritoriality; on the other hand, it expresses ability and willingness, implying that it is Britain's power and right to punish its own people, regardless of territory. In ST10a, the tone shifts to a passive voice with the Chinese criminals as the Theme, and the "will" here is slightly different from the previous ones. The Actor, namely the Chinese authorities, is invisible in the given clause. Due to the absence of the agent of power, this "will" is not to imply ability and initiative as the previous two "will" do. Instead, it serves as a signal of habitual practices, describing what normally takes place in the given situation. Also the circumstantial information "by their own laws" in ST10a shows that China is depicted as "Other" in this regulation and further proves that the source discourse was narrated from a British stance. On the contrary, TT10a seems to take a neutral stance, for there is no possessive pronoun as "their" used in translation, thus avoiding distinguishing China from Britain as "Other" and "Us" in the Chinese discourse.

However, these modals are absent or altered in the translations. The two "will" are not translated in TT9a. There are two interpretations concerning this "zero modal" phenomenon. Firstly, this is an indicative statement that it sounds like Britain trying and punishing British criminals has been a well-established rule in practice, which allows very little wiggle room for punishment in other manners. Secondly, it reads as an imperative statement and shows Britain's strong determination to command the consular jurisdiction in China. Slightly different from those in ST9a, the "will" in ST10a has been retained and rendered into "應" in TT10a, which equals "should" in modal meanings. In this sense, the actions coming next "are supposed to" take place as suggested. Again, the role of Chinese authorities as Actor is eliminated in TT10a, causing a lack of power agency in the given process. Thus, the emphasis falls upon by WHICH laws the Chinese criminals are to be tried and punished rather than WHO to try and punish.

At the second historical period (the Second Opium War), the regulations upon punishing British and Chinese criminals features formal parallelism and concise wording. The narrative tone demonstrates neutrality for the cultural identities of "Us" and "Others" have been dismissed from the given discourses. Both English and Chinese texts apply identical linguistic patterns in regulating how to punish British and Chinese subjects on both sides. For example, the transitivity patterns

are uniformly structured as “Recipient + Material Process + Actor + Circumstance”, with the one to be punished assuming the thematic positions.

As for the modal usage, there are noteworthy shifts in comparison with that in the *General Regulations of Trade*: “may” and “shall” have replaced “will” to set up possible situations and lay down obligations in the *Treaty of Tientsin*. Whatever modals used in the original texts, we have no sign of them in the translated versions. The modal “may” is used twice in the attributive clauses modifying the British and Chinese subjects to be punished, while it becomes invisible in the translation and the possibility is conveyed by the Chinese pattern “... 者” (a structure to address specific situations or people). As for the modal “shall”, it is also omitted from the translated discourse, which leads to a stronger indicative mood. It seems the regulations are stated as normal practices rather than proposals raised by the lawmakers. Apart from the omission of modals, the addition of adjuncts also alters the ideological potentials of the target discourse. The additional adjunct “皆” in TT9b that indicates ALL cases involving British subjects shall be administered by Britain, and this British-inclusive stipulation has totally eliminated the possibility that Chinese authorities could play a part in trying or punishing British criminals even within the territory of China. Different from TT9b, there is no such adjunct as “皆” in regulating the Chinese subjects in TT10b. Without this adjunct conveying absoluteness and totality, the ideological effect of TT10b is not as strong as that of TT9b, which also saves a grey zone for Britain’s participation in the trial on Chinese criminals.

Furthermore, there is a notable semantic transformation in projecting the Recipients, namely “English criminals” and “Chinese criminals”. In Table 5-14, we can see both Recipients have been legally defined as “criminals” in the *General Regulations of Trade*, while these Recipients are addressed as “subjects” modified by the attributive clauses in the *Treaty of Tientsin*. The applicable spheres of the given clause are somehow different in these two treaties and even their translations. In the *General Regulations of Trade*, whoever commits any crime is subject to the trial and punishment by the laws of his/her own nationalities. However, the translations of these terms “英人” and “華民” are even broader in addressing the target population than the original “English criminals” and “Chinese criminals”. While in the *Treaty of Tientsin*, the

Recipients have been specified with conditional modifiers. For example, “English criminals” in ST9a have been rephrased as “British subjects who may commit any crime in China” in ST9b. The modal “may” indicates possibility as a modality, and in this case, they are not yet labelled as “criminals”, which somehow leaves certain room for the British Consul in examination and conviction. Whilst the Circumstance “in China” also underlines that the given clause is specially applicable to those cases taking place within the territory of China, which echoes the nature of extraterritoriality. Correspondingly, the translator uses the Chinese structure “...者” to deal with the attributive clause modifying these British subjects, which is usually applied to describe given occasions or address specific people. Likewise, “Chinese criminals” in ST10a has also changed into “Chinese subjects who may be guilty of any criminal act towards British subjects” in ST10b. However, the focuses of two provided occasions are slightly different: on British side, the crimes are those committed within the territory of China; on Chinese side, the crimes are those committed towards British subjects. The spheres of application are different, yet both echo the ultimate goal of Britain’s demand for extraterritoriality, namely protecting the person and property of its own people.

Last but not least, though structurally parallel, ST9b and ST10b are slightly different in the wording concerning trial and punishment. In ST9b, the central processes are “be tried and punished”, whereas in ST10b, the process “be tried” has been replaced by “be arrested”, which are different in their legal connotations. It seems to leave room for Britain’s intervention in the trials of Chinese criminals, which has also paved the way for the proposal for the right of watching-trials in the following treaties. However, this subtle discrepancy has been concealed by the uniform translation “懲辦” (meaning “administer and punish”) in the Chinese version, that the Chinese audience had no knowledge of this “word game”, and unconsciously suffered a greater loss of discursive power in jurisdiction.

5.3.2 Extension of Extraterritoriality

In fact, the overall framework of extraterritoriality had been established in the first stage (the First Opium War period), and the basic legal procedures were practiced based on mutual consensus between China and foreign states. However, the Western powers were not satisfied with the jurisdictional rights they obtained in the previous treaties. In the *Chefoo Agreement*, the British government attempted

to further expand its Consular jurisdiction within China, and accordingly made some amendments, including 1) the word “英國” in the Article XVI of the *Treaty of Tientsin* is redefined; 2) Britain established a Supreme Court in Shanghai, while China correspondingly set up a mixed Court ; 3) the official of the plaintiff’s nationality has the right to watch the proceedings. The following analysis focuses on the third amendment, namely how the right to watch proceedings was introduced to the system of extraterritoriality, for it caused the most controversy in history.

The nature of the right to watch proceedings is intervention, which seems to conflict with core principle of extraterritoriality, namely non-interference. When proposing the demand for extraterritoriality, the foreign states took “self-governance” as a firmly held belief in conducting bilateral relations. However, the avaricious Western powers were not content with such “self-governance” on the territory of China, for they argued that the trials on Chinese criminals could be partial and unjust in some cases. Therefore, in the second stage of extraterritoriality (the Second Opium War period), their pursuit of “self-governance” has turned into an intervention in the name of justice. Along with the establishment of the Supreme Court and the Mixed Court, the foreign powers plotted to consolidate their jurisdictional power within China by raising the issue of watching proceedings on the negotiation table. According to Cassel (2011),

A major point of contention between Qing and foreign authorities in the Mixed Court was whether a foreign assessor should be allowed to observe the proceedings in purely “Chinese cases” in order to defend the interests of the foreign community, and there were constant and mainly unsuccessful efforts from the Shanghai Municipal Council to renegotiate the agreement to that effect (2011: 172).

In the previous treaties, both parties have come to an agreement that the subjects committing crimes should only be tried and punished by the authorities of their own nationalities. This has prevented China to interfere in the mixed cases where British subjects are defendants. Even if a British subject commits any crime towards a Chinese subject within the territory of China, the Chinese authorities have no right to pass sentence and exert punishment. Likewise, Britain cannot interfere in the cases where Chinese subjects are guilty of criminal acts towards British subjects. However, the proposal and practice of trial-watching broke such

tactic non-interference, which has created a safe zone for the foreign powers to interfere with China’s jurisdiction upon her own citizens.

5.3.2.1 The Historical Source of “Joint-Examination”

As is mentioned in the *Chefoo Agreement*, the Article XVI in the *Treaty of Tientsin* provides grounds for Thomas Wade’s proposal for this privilege, for the word “會同” indicates “combined action in judicial proceedings”. If we look at the translation of the specific words in the *Treaty of Tientsin*, it can be concluded that this mistranslation itself is a manipulation of foreign countries to achieve potential rights in China. Example 5.9 compares the articles respectively chosen from the *Treaty of Tientsin* (1858) and the *Tibet Trade Regulations* (1906), which present two different translations for the same words.

Example 5.9

Treaty of Tientsin (1858)		Tibet Trade Regulations (1906)	
Article XVI		Article VI	
ST11a	Justice shall be equitably and impartially administered on both sides.	ST11b	Justice shall be equitably and impartially administered on both sides.
TT11a	兩國交涉事件彼此均須會同公平審判，以昭允當。	TT11b	兩面懲辦之法俱應至公且平。
BT11a	Disputes involving two countries must be examined together impartially by both sides, to demonstrate fairness.	BT11b	The laws administered on both sides should be equal and impartial.

Table 5-15 Excerpts for analysis – Example 5.9

Looking at ST11a and ST11b, we notice that they are identical in wording, whereas their translations TT11a and TT11b are discrepant in expressions, thus conveying different ideologies to the Chinese audience. The core idea of both original texts is to emphasize that the mixed cases should be administered equally in accordance to respective laws of two countries. The Theme “Justice” is an abstract entity defined as “the process or result of using laws to fairly judge and

punish crimes and criminals”⁴⁴. To put it in other words, the criminals should be tried and punished in an equal and impartial manner by the laws of their nationalities. There could be two interpretations: on the one hand, both countries should take a fair stance in trying and punishing such mixed cases, without sheltering their own subjects; on the other hand, the laws on both sides should be just, without tolerance towards the criminal acts. There is no trace of “combined action” found in the source texts, and the semantic focus lies on equitability. When translating the *Treaty of Tientsin*, however, the translator Sir Thomas F. Wade shifted this focus from equitability to togetherness by fabricating the expression “會同” in the Chinese version, and he even further redefined this expression in the *Chefoo Agreement* to justify Britain’s extension of extraterritorial rights in China. Rather than a mistranslation, this should be counted as a deliberate rewriting by the translator, for there was similar wording in the previous treaties (e.g. the *Treaty of Wang-hiya*) and standard translations were provided for reference (Qu & Wan, 2019).

Beyond misinterpretations at the semantic level, the translator has also manipulated the mood at the lexico-grammatical level. We can see both source discourses apply the modal “shall” to convey obligation. Yet it has been rendered into “均須” in TT11a, which stresses that highest necessity of joint-examination. The adjunct “均” is used to engage both parties in the joint-examination. The Chinese modal “須” falls into the highest group expressing obligation, and usually resides between “must” and “should” in modal degree. Moreover, there is a small addition in the very end of the sentence – “以昭允當” (meaning “to demonstrate fairness”), which reinforces the significance of the central process in the main clause. These mood facilitators combine to intensify the mood in the target discourse, persuading China that joint-examination was strongly required in such mixed cases. The implanting of “會同” in the translation foreshadowed the proposal for the right to watch proceedings in the upcoming *Chefoo Agreement*. Sir Thomas Wade, when amending the *Chefoo Agreement*, also referred to this mistranslation as the historical source of the mechanism of watching proceedings

⁴⁴ <https://www.merriam-webster.com/dictionary/justice>

to justify the right for the officer of the plaintiff's nationality to be present at the proceedings (Qu & Wan, 2019).

5.3.2.2 The Practice of Watching Proceedings

However the extraterritorial rights were extended, Britain still insisted upon the core principle of extraterritoriality that the defendant shall only be tried by the officers of his own nationality. The officers of the plaintiff's nationality are only to watch the proceedings. Example 5.10 compares how the rights of watching trials are proposed and regulated in different treaties.

Example 5.10

Chefoo Agreement (1876)		Tibet Trade Regulations (1908)	
Section II – OFFICIAL INTERCOURSE		Article VI	
(iii)			
ST12a	It is farther understood that so long as the laws of the two countries differ from each other there can be but one principle to guide judicial proceedings in mixed cases in China, namely, that the case is tried by the official of the defendant's nationality;	ST12b	In any of such mixed cases, the Officer or Officers of the defendant's nationality shall preside at the trial;
TT12a	兩國法律既有不同， <u>只能</u> 視被告者為何國之人 <u>即</u> 赴何國官員處控告	TT12b	凡屬此種交涉案件 <u>均</u> 由被告之國之官主審，
ST13a	the official of the plaintiff's nationality merely attending to watch the proceedings in the interests of justice.	ST13b	the Officer or Officers of the plaintiff's country merely attending to watch the course of the trial.
TT13a	原告為何國之人，其本國官員 <u>只可</u> 赴承官員處觀審	TT13b	其原告之國之官 <u>只可</u> 會審。

Table 5-16 Excerpts for analysis – Example 5.10

Comparing the excerpts from these two treaties, we can see that there are modal shifts across different texts and languages. In the *Chefoo Agreement*, the stipulation is laid down with strong mood, which is largely facilitated by the structures “so long as” and “there can be but one”. In the translation TT12a, the modal phrase “只能”, meaning “can only”, is used to stress that the criminal could only be tried by the official of his own nationality. By comparison, both the original and target texts in the *Tibet Trade Regulations* feature neat and concise wording, and hence there are fewer mood facilitators used. It is shown in ST12b, the mood is conveyed by the modal “shall”, suggesting that the officers of the defendant’s nationality is supposed to assume authority in these legal proceedings. Despite the absence of corresponding modals in TT12b, the mood adjunct “均” appears again to enhance the mood, maintaining that the said officers have the exclusive power to try such mixed cases.

As for the second part specifying the right of watching proceedings, both ST13a and ST13b use the adverb “merely” to restrain the applicable spheres of the given rights. The adverb “merely” belongs to the mood Adjuncts of intensity and is associated with counterexpectancy (Halliday & Matthiessen, 2014:189). Strictly speaking, it is not included in the categorization of modality, but it is a mood structure that carries modal meanings. As the word itself is about limitations, it is usually used for right division in legal discourses. What lies beneath such restraints is the power of the superior granting permission to the inferior. Accordingly, this adjunct has been translated into “只可”, stating that the official of the plaintiff’s nationality can only watch the trials. Basically, the adverb “只”, meaning “merely” in Chinese, is semantically sufficient in expressing this restricted right. Combined with the supplementary modal “可”, the ideology presented in the translation is slight different from the original. The source texts with “merely” describe what the said officials only do in the judicial proceedings, while the target texts with “只可” stipulate what they are only allowed to do.

It is stipulated that the officers of the plaintiff’s country could only watch the proceedings instead of direct participation in the trial. However, there is still room for interventions by these officers. Example 5.11 demonstrates the nucleus

of the extension of extraterritoriality that the officer is entitled to protest against the proceedings.

Example 5.11

Chefoo Agreement (1876)

Section II – OFFICIAL INTERCOURSE (iii)

ST14 If the officer so attending be dissatisfied with the proceedings, it will be in his power to protest against them in detail.

TT14 倘觀審之員以為辦理未妥，可以逐細辯論，庶保各無向隅。

BT14 If the officer so attending regard the proceedings improper, (he) can protest against them in detail, so as to ensure there is no injustice,

Table 5-17 Excerpts for analysis – Example 5.11

Since different countries practiced different penal systems, divergence was somehow inevitable upon decisions. Britain, for the sake of juridical fairness, established a Supreme Court in Shanghai and introduced another system, where officers from China and Britain were both entitled to watch the trial of the cases that involved people of their nationalities. If they thought the given proceedings improper, they could interfere in the trial by protesting them in detail. This is “his power” to do so as described in the Article. In the source text, the modal “will” is used, followed by a relational process “be in his power”. This relation process internalizes the action of “protesting against the proceedings in detail” as an endowed power, being an Attributive of the said officer. Instead of emphasizing the innate power, its translation “可以” can be interpreted in two ways. On the one hand, it means the Actor has the ability to do something, suggesting that the officers watching the trials have right to protest; on the other hand, it indicates permission that the Actor is allowed to do something, implying that such interference is allowed upon the approval of both countries.

Moreover, the same strategy – addition is adopted again in translation, to reinforce the rationality of the proposed extension of extraterritorial rights. The underlined part is to stress the goal of this trial-watching system, which can be back translated as “so as to ensure impartiality”. Again, the issue concerning impartiality has been brought up as the grounds of this mechanism. As is mentioned above, addition functions as a mood booster, and in the meanwhile, it

is also an indicator for contextualization. Here, it implies that the practice of extraterritoriality was unsatisfactory at the previous stage that one government questioned the justice upon the trial by the other. This watching-trial mechanism exactly aimed to guarantee impartiality in implementing extraterritoriality.

5.3.3 Relinquishment of Extraterritoriality

The very last stage concerning extraterritoriality is the negotiations upon the relinquishment of extraterritorial rights within the territory of China. In 1902 and 1903, Britain and America successively declared to put the abolishment of extraterritoriality in China on the agenda, as long as their missions of civilizing China came to a satisfactory completion. Britain’s relinquishment of extraterritoriality in China was first proposed in the *Commercial Treaty* (1902), on the condition that the outcome of China’s legal reform managed to meet Britain’s anticipation. In the following *Tibet Trade Regulations* (1908), Britain proposed to give up these privileges in Tibet under similar conditions.

Example 5.12

Commercial Treaty (1902)		Tibet Trade Regulations (1908)	
Article VII		Article V	
ST15a	Great Britain agrees to give every assistance to such reform, and she will also be prepared to relinquish her extra territorial rights when she is satisfied that the state of the Chinese laws, the arrangement for their administration, and other considerations warrant her in so doing.	ST15b	Great Britain agrees to relinquish her rights of extraterritoriality in Tibet, whenever such rights are relinquished in China, and when she is satisfied that the state of the Tibetan laws and the arrangements for their administration and other considerations warrant her in so doing.
TT15a	英國允願，盡力協助以成此舉。一俟查悉中國律例情形及其審斷辦法及一切相關事宜皆臻妥善，英國 <u>即</u> 允棄其治外法權。	TT15b	英國允願，無論何時英國在中國棄其治外法權，並俟查悉西藏律例情形及其審斷辦法及一切相關事宜皆臻妥善，英國 <u>亦即</u> 棄其治外法權。

Table 5-18 Excerpts for analysis – Example 5.12

It is clearly demonstrated in both ST15a and ST15b, the assertion or renouncement of the claim to extraterritorial rights in China is still up to Britain, depending on whether the progress of China's legal institutionalization "warrant her is so doing". Yet the mood is conveyed in a subtly different manner in these two discourses, with different usage of modality and thematic structures.

In the *Commercial Treaty*, the discourse contains two parts: Britain's assistance to such reform and her relinquishment of extraterritorial rights. Britain has been shaped as a positive supporter who gives every assistance to China's legal reform. In terms of abandoning extraterritorial rights, Britain expresses willingness in saying that she "will also be prepared to" do so. The modal "will" plus the relational process "be prepared to" has doubled such willingness displayed by the source discourse. However in *Tibet Trade Regulations*, no such modal signal as "will be prepared to" is used to indicate Britain's attitude towards the relinquishment of extraterritorial rights. It reads as an instruction on the agreed agenda. By comparison, the former emphasizes Britain's cooperative attitude towards this issue, while the latter concerns more the specific actions taken by Britain. This is also reflected in their respective translations. Though the modal "will" is not translated into a commensurate modal in Chinese, the second "允" (the wave-lined one) also indicates Britain's willingness in abandoning such rights. Moreover, both translations convey a stronger sense of determination than their originals, along with the usage of the circumstantial Adjunct "即", which is to express immediacy in performing the given actions. In TT15a, the Chinese structure of "一..., 即..." equates to the conventional usage of "once" or "as long as" in English to signal the prompt actions under the given circumstances. The ideology conveyed in the Chinese translation is that, as long as Great Britain is convinced that China's legal reform meets the criteria, she will immediately relinquish her rights of extraterritoriality in China. Here are two ideological implications: on the one hand, it highlights Britain's decisive role in the abolishment of extraterritoriality; on the other hand, it shows China's eagerness to recover the privileges conferred to the foreign states, which had already threatened its own jurisdiction and damaged its national dignity.

5.4 Summary

In the previous translation studies on extraterritoriality, scholars concentrate on the semantic gaps between the source and target discourses to testify how translation was adopted as a means of power manipulation during bilateral encounters between China and the Western colonizers. However, when assessing these treaties and their translations, terminological or semantic equivalence should not be the sole criteria in measuring whether they are parallel legal texts of same legal effects. In this chapter, the linguistic discrepancy is a breakthrough to examine how power is communicated between two parties at micro levels. The translation shifts in mood and modality are carefully investigated and interpreted based on Halliday's modality system.

It is found that there are notable shifts in modality and mood between the treaties and their translations. These modal shifts take place partly on account of different language conventions. Yet a number of such shifts are deliberate manipulations by the translators for ideological reconstruction. Those shifts in modal degrees directly impact the mood of the given discourse, and imperceptibly strengthen or weaken the ideological implications underneath. The ideology of the translated discourse displays different emphases concerning the extraterritorial issues as expected by the stronger power. It is found that priorities are always laid upon Britain in stipulating rights, while responsibilities are cast upon China who is always obliged to fulfill duties as demanded. This imbalanced power relation is reflected by the modal usage between two discourses: the British narrative shows a preference of modals showing inclination or willingness, whereas the Chinese narrative usually features modality expressing obligation or compulsion.

Apart from adjustments in modal degrees, there is also a quantitative change in modal application caused by translation. The "zero modal" phenomenon is commonly seen in Chinese discourses that modals are sometimes absent from the translations. However, the translators manage to seek substitutes to make up the possible loss of modal meanings caused by the "zero modal" phenomenon. For example, the Chinese discourses are abundant in mood Adjuncts, such as "即" and "均", and they are usually used for mood enhancement in translation. Moreover, beyond manipulating the modal usage in translation, the translators also adopt

different strategies, such addition and omission, to refine the ideology in the target system. Such information, though seemingly peripheral to the core message, still has ideological implications. Some information is added to stress the importance of the central processes, while some serves as supplementary remarks to contextualize the central message.

To sum up, translation proves to be a crucial factor in shaping the history of extraterritoriality in China. During the historical progress from being self-governed to being intervened, China had been vulnerable to “word games” on the negotiation table all the time. In a sense, we can say translation is a kind of linguistic imperialism in the power struggle, of which the foreign powers took advantage to manipulate China’s ideological systems. The realization of legal imperialism should owe to such linguistic imperialism to a large degree.

Chapter 6 Conclusion

6.1 New Findings in the Translation Studies of Unequal Treaties

By applying CDA as the main approach, this study reinterprets the Sino-foreign unequal treaties from a translational perspective, arguing that the Western powers have taken advantage of translation to impose and aggravate inequality upon China during their bilateral negotiations with the Qing government. Having an upper hand in language, foreign translators inconspicuously manipulate words in rendering the treaties from other languages into Chinese, which has impacted the outcomes of the power struggle between China and foreign countries.

Overall speaking, the study is descriptive and interpretative based on the analysis of various translation shifts between the treaties and their translations. These translation shifts contain semantic alterations and structural transformations, which contribute to a new discourse that differs from the original in ideological representation. Underneath the translated discourse is a complex of ideologies that influence the perceptions and the consequential actions of the target audience, namely the Qing government. To a certain degree, translation has become a political instrument used by the West to exert mind control on China, through which China gradually lost its discursive power to bargain with its rivals on the international battlefield. In a broader sense, this study demonstrates that translation has played an important role in shaping and narrating history, and so deserves our attention when addressing historical issues.

6.1.1 Different Discursive Patterns Regarding the Translation of Treaties

Regarding the first research question about the discursive differences between the treaties and their translations, there indeed exists notable linguistic variances between two discourses by comparison, at both lexico-grammatical and semantic levels. In the previous studies, scholarly attention has mostly been shed upon the semantic representations of specific terms that have sparked huge controversy in history. However, the conveyance of a given message is not only realized by semantic expressions, but also through the linguistic structures, both of which

constitute a complete discourse where ideology comes into shape and power takes effect. In a sense, the organization of information is information itself and has ideological implications. This accounts for why the present study endeavours to examine the possible discursive patterns in the translation of unequal treaties. This study looks into three linguistic features that perform the three meta-functions of a discourse according to different themes.

Chapter 3 discusses thematic shifts at intra-clausal and inter-clausal levels, which contribute to the transformations of narratives and logic relations in raising the demands for reparations. Based on Halliday's systemic functional grammar, thematic structures are closely related to the information focus of a given message. It is found that the thematic arrangements are obviously different in the English and Chinese discourses, which signify different narrative perspectives of Great Britain and China. The source discourse, as drafted in English by the foreign representatives at the first place, is voiced on behalf of Britain. On the contrary, the target discourse, which was translated into Chinese for the Qing government, is basically narrated from a Chinese perspective. However, such thematic shifts are not merely to fit the audience into the context of the given message, but they also carry ideological implications on their own. The rearrangements in word order and clausal order manage to alter the information focus from Britain to China, from proposing remedies to justifying remedies.

Chapter 4 draws attention upon the transitivity shifts in the articles concerning cessions and presents the dynamic evolution in perceiving "territorial ownership" at different historical periods. Comparing the transitivity structures between the English and Chinese discourses, we see that the discursive patterns are not compatible between the original and translated discourses. At the lexico-grammatical level, the two discourses display the demand for cessions with the usage of different processes. For example, the source discourse features an abundance of nominalization and favours relational processes, while the translated discourse presents the messages in an energetic way by de-nominalization and materialization of certain processes. This linguistic discrepancy signifies an ideological emphasis shifting from "being" to "doing" concerning territorial ownership. The "mistranslation" of the central process "cede" and the changing

translation of the participants and circumstantial elements also indicates Britain had an axe to grind in negotiating the territorial issues.

Chapter 5 looks into the subtle modal shifts in stipulating obligations and rights within the system of extraterritoriality. The different usage of modality and mood in the English and Chinese discourses indicates the two contracting countries held different attitudes towards extraterritoriality. Partly due to the unmatched modality systems of English and Chinese languages, modal shifts are inevitable in communicating the messages from English to Chinese. Also the “zero modal” phenomenon is commonly seen in Chinese discourses, and the absence of Chinese modals is usually compensated by the addition of mood adjuncts to readjust the mood of the given message. Apart from being attitudinal representations of the two parties, such modal constructs also perform the ideational meta-function that regulates the implementation of these legal terms. The criterion and requirements set for China and Britain in implementing extraterritoriality are not identical, as is evidenced by the modal shifts in degree and category in related articles

6.1.2 Dynamic Power Relations Reflected by the Discursive Patterns

Given that discourses usually reflect ideologies, it is argued that such linguistic discrepancies mirror the on-going power struggle between two ideological systems as represented by the source and target discourses, and the changing discursive patterns in translation also demonstrate the dynamic development of the power relations between two contesting parties in history.

From the analysis above, it can be concluded that China and Britain were never placed on an equal footing on the negotiation table. China, the true victim suffering heavy losses from foreign aggressions, has been depicted as the guilty in the treaties, and even its guilty image was amplified by translation. By doing so, the British government managed to exploit the discursive power of China and justify its unfair demands upon China in these imposed treaties.

Chapter 3 shows that the translators have adopted different narratives in raising the demands for reparation, as represented by the distinct thematic structures used in the translated discourses. It should be noticed that there is a logic pattern hidden under such thematic arrangements. In the English discourses, the result

usually comes prior to the cause and is displayed as the information focus of the given messages. The result-cause logic demonstrates that the British readership tends to highlight the upcoming measures to take. However, the reasoning part is usually placed in front of the result in the Chinese translations, suggesting that the reasons for the demanded actions come as the priority concerns of the Chinese readership in information processing. The different constructions of inter-clausal logic relations reflect that the audiences of the source and target discourses have different ways of thinking and perceptual habitus. Moreover, such logic relations are on intimate terms with the national images constructed in respective discourses. By changing narratives in translation, the foreign powers have successfully reshaped China's image as the guilty that held responsible for the conflicts, which adapted to the Western ideological system, thus depriving China of its discursive power to oppose their unfair treatments and unequal requirements during their negotiations.

Chapter 4 shows that China's attitudes towards the Western ideologies were changing all the time. The attitudinal transformation from resistance to acceptance and ultimately to surrender is manifested by the transitivity shifts in translating the articles on territorial cessions. Underneath such transformations lied the historical fact that the power relations between China and Britain were becoming increasingly unequal. For example, the changing Chinese expressions of territorial cessions reflect the historical evolution of the imbalanced power relations between the two contracting nations. In the beginning, the positive wording in translating cessions was to cater for the Qing government, who held strong dignity as the dominant power in the Eastern world. However, as the clashes between two world orders eventually turned out to be a total Western victory, the Western powers had no more scruples about the resisting emotions of the Qing government in translating such unequal demands. Furthermore, such increasing power imbalance between imperial China and Great Britain also projects the conflict between two world orders, which ended with the mergence of the Sino-centric East and the Euro-centric West as an international family.

Chapter 5 shows how Britain further suppressed China by means of translation. When stipulating the extraterritorial rights within China, Britain made every endeavour to maximize its own interests. From the modal shifts in translating

extraterritoriality, we can see Britain not only exerted inequality upon China by imposing unfair demands, but even attempted to internalize such inequality into China's ideological system. On the one hand, Britain manipulated wording in translation, which directly benefited Britain in implementing extraterritoriality. On the other hand, it tried to establish a set of invisible behavioural norms by altering linguistic structures. The subtle modal shifts in degree and category manifest that this special jurisdictional practice lays more emphasis upon China's responsibilities as well as Britain's rights, indicating that China and Britain were never in equal positions in the system of extraterritoriality.

6.2 Significance of the Present Study

The present study, though using an old-fashioned approach to research an old topic, still make a contribution to the studies in this field.

First of all, the "linguistic return" has managed to provide sufficient statistical evidence to support the argument that translation has also caused inequality of the Treaty System. As is mentioned in the literature review, scholars are primarily interested in WHAT information has been delivered to the target audience via translation. Their research focus remains on discourse semantics of these unequal treaties, especially the expressions and interpretations of controversial legal terms within. As a result, the previous discussions are confined to a restricted number of "mistranslations". Nevertheless, the semantic delivery only performs part of the ideational function of a given discourse. HOW information is constructed and construed deserves equal attention in examining the linguistic equity in legal translation studies, for the construction and organization of information also make a difference in presenting an ideology that could have compounded China's disadvantage in the power struggle. In this sense, linguistic non-correspondence can be a new answer to the given historical problem, with sufficient shifts used as supportive evidence.

Secondly, the study is innovative for the inter-textual interpretations of translation shifts, which are investigated synchronically and diachronically in the comparative studies. Instead of merely concentrating on one single treaty, this study has categorized the legal terms into different themes and compared articles of the same theme stipulated in different treaties. It is discovered that the

translation strategies adopted by the translators were not always the same in these treaties, and the discursive patterns echoed the political needs and anticipations of the foreign powers within different socio-historical contexts.

Last but not least, the study has come to a conclusion of great value: the inequality caused by translation is not static but dynamic, which mirrors the evolving power imbalance between China and foreign aggressors in history. This conclusion distinguishes this research from the previous studies. Within international and domestic academia, the mainstream discussions on unequal treaties are based on the assumption that the power relations between China and foreign powers were imbalanced. Related studies are carried out to examine how inequality had been shaped within these treaties under such power imbalance. Yet this study, instead of focusing on the existent state of “being imbalanced”, has explored the dynamic progress of “becoming more imbalanced” by taking translation as a breakthrough. In a sense, this discovery has enriched the connotation of the accused inequality of the Treaty System.

6.3 Limitations and Further Studies

Yet it should be acknowledged that the present study is subject to certain limitations, which also allows more possibilities in the further studies on the translation of unequal treaties.

Firstly, regarding the data for analysis, some might cast doubt on the selected texts as “cherry-picking” by the researcher. Indeed, due to the large number of articles in the Sino-British treaties, the study is unable to comprehensively delve into the linguistic features of all the articles within. Despite the modest number of samples in analysis, the study still detects certain discursive patterns among articles addressing the same issues by close reading and qualitative analysis. To enhance the validity of the findings, quantitative analysis should be incorporated in the future studies, and the corpus approach may be a good choice to predict the historical trends of certain linguistic features in a more objective manner.

Moreover, focusing on Sino-British treaties, this study examines inter-textuality only within a Sino-British context, and thus the Western historical narrative analysed is far from complete and needs enriching by involving more Western

discourses in analysis. There are still a series of treaties signed between China and other Western powers at the same historical period, which await exploration in the further studies.

Last but not least, the contextual factors are also worth more explorations in the further discussions, which could back up the interpretations of these translation shifts. For example, a considerable proportion of the translation shifts examined in this study are optional shifts, which means their appearances are closely related to the translators' choice making in rendering the texts. More research is required to account for whether such translation shifts in discursive patterns are caused by different language conventions or political motivations.

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