

ԵՐԵՎԱՆԻ ՊԵՏԱԿԱՆ ՀԱՄԱԼՍԱՐԱՆ  
YEREVAN STATE UNIVERSITY



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ՆՊԱՏԱԿՆԵՐԻ ՀԱՄԱՐ

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ՀՐԱՏԱՐԱԿՉՈՒԹՅՈՒՆ  
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**Հրատարակության և երաշխավորել  
ԵՊՀ ռոմանագերմանական բանասիրության ֆակուլտետի  
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## A STUDY ON THE ENGLISH TRANSLATION OF MARRIAGE LAW FROM THE PERSPECTIVE COMPARATIVE LAW

### ABSTRACT

This paper, by means of comparing with the English translation provided by the website “lawinfochina. com” and consulting the dictionary and parallel text, analyzes the English version of China’s marriage law published by Law Press China, on the lexical aspect, the syntactic aspect, clarity and concision, and modal verbs, according to the requests selected and concluded from plain English, suggestions of *The Translator’s Guide to Chinglish* by Joan Pinkham and the principles of legal translation. This paper aims at improving the level of the legal translation of China and contributing to the progress of China’s legal translation.

**Key words:** *Marriage Law; legal translation; revision; parallel text*

### I. INTRODUCTION

#### 1.1 Research background

In this thesis, two English versions of *Marriage Law of the People’s Republic of China* are discussed, one is published by Law Press China (hereinafter referred to as “LP version”), the other is by the website “lawinfochina. com” (hereinafter referred to as “LI version”). However, many problems about English translation of China’s marriage law have been found during the process of practice, but only few attentions have been attached to them. The modification of *Marriage Law* is very necessary. Firstly, in recent years, plain English was advocated in many counties, such as: American, Britain, Australia, New Zealand, and Canada. Plain English is a clear writing which uses straightforward, concrete, common used words to organize information, in this way, the intended readers can understand on the first time they read it. So it’s very necessary to apply the writing and translating skills of plain English to the

translation of the legal documents. Secondly, *The Translator's Guide to Chinglish* (hereinafter referred to as *Guide to Chinglish*) by Joan Pinkham and the principles of legal translation are also important in legal translation. Therefore, this thesis aims at the modification of English version of China's marriage law published by Law Press China.

### **1.2 Research methodology**

*Marriage Law* and its English official version are the data for analysis in this thesis. Firstly, this thesis analyzes the original version of marriage law of china in aspects of words, sentences and style. Then, the writing and translating methods of plain English, advice of *Guide to Chinglish* and the principles of legal translation are applied to analyze the English version of marriage law of china. The analysis of the English version is followed by modification of the English version in lexical, syntactic and stylistic aspect. In the process of modification, this thesis compares two different English versions of China's marriage law, and finds their respective merits and demerits. Besides, Parallel texts, such as American and Hong Kong's law concerning marriage and family relations are analyzed to find the best translation for China's marriage law, especially for professional terms. *The Collins Dictionary Online* is used to decide the correct words and their collocation. At last, this thesis concludes some advice for English legal translation from the analysis and modification.

### **1.3 Purpose and importance**

The purpose of this study is to modify the English translation of *Marriage Law*. A second goal is to make some advice from the analysis of the translation and modification for English Legal translation.

This study identifies as being of importance to English translation of China's marriage law. Firstly, the accuracy of English translation of *Marriage Law* is vitally important to the clear understanding and the application in the marriage, family relation, dissolution, disposition of property and child support, etc. Secondly, as China is open to the world, more and more foreigners will marry with Chinese, the correct translation of marriage law of China is urgent and necessary for the foreigners to observe it. What's more, this thesis aims at improving the level of the legal translation of China and contributing to the progress of China's legal translation.

#### 1.4 Organization of the thesis

Chapter one is the brief introduction of the background, methodology, purpose and literature review. In chapter two, the research theories are discussed respectively. The first one is plain English, then, *Guide to Chinglish* and the last, the principles of legal translation. Chapter three is about analysis and modification of English translation of *Marriage Law*, including the lexical and the syntactic aspects, clarity and concision, consistency and identity, modal verbs. In chapter four, the findings of this thesis are concluded. Then, based on these findings, some advice for legal translation is made. At the end, the last chapter is conclusion.

#### 1.5 Literature review

*Marriage Law of the People's Republic of China* was adopted on September 10, 1980, and amended on April 28, 2001. So far, this law has two important English translations. One is the version of Law Press China; the other is of the website "lawinfochina.com", and the version of Law Press China is the official version. Up to now, many researches have been made about the official version from different aspects. On the one hand, many scholars successfully explored the cultural differences of china and western countries through analyzing the Chinese-English Versions, such as, the paper *A Contrastive Analysis on the Chinese-English Versions of Marriage Law of the People's Republic of China and Their Marital Cultural Reflections* by Xiao Wei(2007), and *On Chinese and Western Marital Concepts from the Perspective of Interpersonal Function—Based on C-E Text Analysis of Chapter II, Marriage Law of the People's Republic of China* by Xiao Wei(2010) and Wu Jiaojun(2010). On the other hand, from the aspect of interpersonal meaning in systemic functional grammar, Cao Yuxia(2009) analyzed Marriage law of China and its English translation in *Marriage Law of China and its English Translation: An Interpersonal Analysis*. However, only few scholars researched the English translation of China's marriage law. The paper 《<婚姻法>两种英译之比较》 by Chen Zhongcheng(1992) and Wu Juan(1992) was the only paper focused on the English translation of China's marriage law. This paper pointed out some error of the English version and provided modification. Professor Li Changshuan in his book 《非文学翻译理论与实践》, chapter 19 made some suggestions for legal translation, and he took several articles of *Marriage Law of the People's Republic of China* for examples and revised them. Because only a few studies

have been done from the perspective of English translation, an analysis and modification on the English version of China's marriage law are very necessary.

## II. THEORETICAL FRAMEWORK

This thesis includes three theories to guide the legal translation: plain English, *Guide to Chinglish* and principles of legal translation. These three theories comprise many similar points and all these points are very helpful in legal translating. Therefore, in this thesis, some advice of these three theories are selected and concluded into one new theory of legal translation, and this theory is the guide to the revision of LP version.

First, translating is writing, so the principles of writing should also be applied to translating. *Presidential Memorandum on Plain Language: Memorandum for the Heads of Executive Departments and Agencies* advocated by American president William Clinton in 1998 claimed:

“We are determined to make the government more responsive, accessible, and understandable in its communications with the public. The Federal Government's writing must be in plain language. By using plain language, we send a clear message about what the Government is doing, what it requires, and what services it offers... Plain language documents have logical organization, easy-to-read design features, and use: common, everyday words, except for necessary technical terms; “you” and other pronouns; the active voice; and short sentences” (qtd. in Li Changshuan, 159-160).

This memorandum extended the requirements of plain English to the political field. In recent years, plain English has covered many aspects of people's life, including law, finance, commerce, technique and medical techniques, almost all practical documents. In a word, plain English has been a trend of writing, so its principles must be applied to legal translation.

*Plain English Campaign, U. K.* defines plain English as: “We define plain English as something that the intended audience can read, understand and act upon the first time they read it. Plain English takes into account design and layout as well as language” (qtd. in Li Changshuan, 162).

Second, *Guide to Chinglish* is addressed primarily to Chinese translators. The author defined Chinglish as below: “Chinglish, of course, is that misshapen,

hybrid language that is neither English nor Chinglish but that might be described as ‘English with Chinese characteristics’” (1). The purpose of the book is as follows:

“to show translators—and, by extension, others who are writing directly in English—how to recognize elements of Chinglish in a first draft and how to revise it so as to eliminate those elements. In other words, this book is intended to help them turn their work into real English such as might have been written by an educated native speaker of the language” (1).

The book is divided into two parts. Part one is “Unnecessary Words”, the other is “Sentence Structure”. These two parts cover almost all the common mistakes Chinese writers and translators may make.

Third, apart from the principles of plain English and advice of *Guide to Chinglish*, the principles of legal translation should also be applied to the modification of LP version. The principles of legal translation comprise accuracy, consistency and identity, clarity and professionalism.

All these theories are instructions of legal translation, so the thesis makes full use of them to analyze and revise LP version. The guiding principles concluded from these theories are as follows.

First, accuracy is vitally important to legal translation because any error or vagueness of translation in aspects of sentence structure or choice of words could lead to serious legal consequence. Henry Weihofen clarified the requirements of precision in legal translation and its importance:

“The lawyer must be more precise in his writing than almost anyone else. Most writers can expect their work to be read in good faith, that is, with an honest desire to understand what was meant. But the lawyer must write in constant fear of what we might call the reader in bad faith, the man looking for loopholes in the contract so as to avoid liability for his failure to perform...” (qtd. in Li Kexing & Zhang Xinhong, 201-202).

Therefore, to avoid different understandings of legal text, every word, as well as punctuation must be thoroughly considered.

Second, professionalism demands the use of professional term, the commonly used sentence structure and idiom of legal text. Therefore, legal

translators must have a good grasp of law and the basic terms, otherwise their translation could be unprofessional to the legal worker, or even worse, their translation may leave legal loopholes to the law.

Third, don't use gender-specific terminology when the antecedent could be male or female. Such as, "Firefighter" instead of "Fireman", "Supervisor" instead of "Forman".

Fourth, use the active voice. The active voice requests the writer to mention the actor in the sentence, which reduces confusion and roundabout structure of the passive voice.

Fifth, write positively. Try to avoid several negatives in a sentence, because negative is less understandable than positives. And even a negative should be expressed in positive form, such as, "dishonest" instead of "not honest", "ignore" instead of "do not pay attention to".

Sixth, write with parallel structure. This is the expression of matching ideas in matching form. It can achieve order and balance, and stress the connection between opinions. But the writer must be careful when use parallelism because the elements linked by the coordinating conjunctions belong to different grammatical categories. If a sentence contains wrong parallel structure, the disparate elements must be changed to conform to the other.

Seventh, use action verbs. Action verbs are short and direct. For example, "give consideration to" can be directly replaced by the verb "consider". Nouns with verbs inside make sentences longer and more roundabout.

Eighth, write in a clear and concise form. The writer should delete useless words, avoid redundancies and noun sandwiches, and use concrete words.

Ninth, do not use "shall". "'Shall' imposes an obligation to act, but may be confused with prediction of future action...To impose a legal obligation, use 'must'. To predict future action, use 'will'" (Drafting Legal Documents, 3). "Use 'must' for obligation, 'may' for permission, and 'should' for preference. Use 'must not' to convey prohibitions. Avoid the ambiguous 'shall'" (Writing Reader-Friendly Documents, 4).

In conclusion, legal translation must be conformed with the principles of plain English, advice of *Guide to Chinglish* and principles of legal translation. In another word, a perfect translation of legal text must be clear, easy to be understood, clean of Chinglish, and adhere to the style of legal document. So, this thesis applied these theories to analyze and revise the translation of *Marriage Law* to produce a better version.

### III. ANALYSIS AND MODIFICATION OF ENGLISH TRANSLATION OF *MARRIAGE LAW*

In the previous chapter, the theories of legal translation have been discussed. In this chapter, the English version of *Marriage Law* will be analyzed in detail.

#### 3.1 The lexical aspect

In English, a single word may have many different meanings. In order to avoid obscurity and error caused by polysemy, the precise language is a priority.

##### 3.1.1 The correct words and collocation

The correct words and collocation mean the chosen words must express the same idea as the words of source text; otherwise the translation could be misleading. This requirement is also emphasized by one of the legal principle—accuracy. The following list contains many examples from LP version.

Example 1:

“第三条

．．．．． 禁止借婚姻索取财物。．．．．． 禁止家庭成员间的虐待和遗弃”(中华人民共和国继承法、收养法、婚姻法，78)。

“Article 3: ...The exaction of money or gifts in connection with marriage... Maltreatment and desertion of one family member” (LP version, 79).

A gift usually means something you give someone as a present, but in the Chinese version, “物”does not refer to present, but something valuable, so the choice of word “gift” is wrong.

LI version provides the translation as follows:

“Any exaction of money or property by means of marriage shall be prohibited” (LI version, 2).

Property is all the things that belong to someone or something that belongs to him or her. So “property” is the right translation of “物”.

By referring to parallel texts, the right translation of “财物”is found.

“第七条

．．．．． 而该笔金钱或其他财产已不再由其丈夫管有或控制”(香港《已婚者地位条例》，2)。

“Section 7 ...and that either that money or other property has ceased to be in his possession or under his control” (*Married Persons Status Ordinance*, 2).

Because property includes money, so the correct translation of “财物” should be “money or other property”.

Then, “借” means “in a way” or “by means of”, but the phrase “in connection with” does not express the same meaning as “借”, and not all money in connection with marriage is illegal. So “借婚姻” should be translated to “by means of marriage”.

The translation of “遗弃” is also needed to be discussed. The verb “desert” and “abandon” both means someone leave a place, thing, or person permanently or for a very long time, especially when the one should not do so. But the word “abandon” is more frequently used than “desert”. Besides, in article 32, article 44, article 45, and article 46 of LP version, every “遗弃” is translated to “abandon”.

Legal translation must keep the principle of consistency and identity, so “desertion” of article 3 should be replaced by “abandonment”.

Either maltreatment or desertion is prohibited, so “maltreatment and desertion” should be revised to “maltreatment or desertion”. And a family member may abandon one or more family members, so the phrase of “desertion of one family member by another” should be revised to “desertion of any family member”. This is because “by another” is redundant and self-evident.

Accordingly, the revised translation is:

*Article 3: ...The exaction of money or **other property by means of marriage** is prohibited.*

*Maltreatment **or abandonment of any** family member is prohibited.*

Example 2:

“第十四条 夫妻双方都有各用自己姓名的权利”（82）。

*“Article 14 ... have the right to **use** his or her own **surname and given name**” (LP version, 83).*

Firstly, “用” does not mean “use”, but “have”, so “have” is the correct word for “用”. Secondly, the name of a person or a thing is the word or words used to identify them. Therefore, “name” is enough to “姓名”, hence the phrase “surname and given name” is unnecessary.

The revised translation is:

*Article 14 Both husband and wife have the right to **have** his or her own **name**.*

Example 3:

“第十七条 . . . . . （三）**知识产权**的收益”（82）。

“Article 17 (3) incomes of **intellectual property rights**”(LP version, 83).

“Intellectual property (IP) is a legal term that refers to creations of the mind” (Cited from Wikipedia). However, intellectual property rights are the exclusive rights given to its owners. The owner can make profits by making use of his or her own intellectual property, while intellectual property right can be used to protect the intellectual property.

So, the right expression is “incomes of intellectual property”.

Example 4:

“第三十条 子女应当尊重父母的婚姻权利”（90）。

“Article 30 Children shall respect their parents’ **right of marriage**” (LP version, 91).

“父母的婚姻权利” here refer to the parents’ right to remarry. However, “right of marriage” is obtained from a marriage, so it does not mean that the parents have right to remarry.

In LI version, the translation is as follows:

“Article 30 Children shall respect **the matrimonial rights** of their parents”(LI version, 9).

“Matrimonial right” means right obtained through marriage, so it is also inappropriate.

Referring to the electronic corpus “WebCorp”, the author found the right collocation is “right to marriage”.

Accordingly, the right translation is:

Children must respect **the right to marriage** of their parents.

Example 5:

“第五十一条

. . . . . 1 9 5 0 年 5 月 1 日**颁行**的《中华人民共和国婚姻法》”（102）。

“Article 51 The Marriage Law of the People's Republic of China **promulgated** on May 1, 1950”(LP version, 103).

“颁行”means “颁布”and “施行”, but “promulgate” only means that a law is publicly approved or made official, and it may not come into effect.

So, the revision is:

Article 5 The Marriage Law ... **promulgated and come into force** on May 1, 1950...

### 3.1.2 Professional terms

Professional terms of legal text have definite and specific legal meaning. They can express the complex legal idea clearly and exactly and cannot be replaced by other words. They are familiar to legal workers, but difficult to layman, because they are limited in the field of law. Therefore, translators who do not have a good grasp of the science of law cannot produce a professional translation of legal text. To illustrate the professional terms, the following part will discuss the examples selected from LP version in detail.

Example 1:

“第二条 实行婚姻自由、一夫一妻、男女平等的婚姻制度”（76）。

“Article 2 A marriage system based on the free choice of partners”(LP version, 77, 79).

“第三条 禁止包办、买卖婚姻和其他干涉婚姻自由的行为”（78）。

“Article 3 ...and any other acts of interference in the freedom of marriage shall be prohibited”(LP version, 79).

“婚姻自由”is not limited to the freedom to choose a spouse, but includes many other aspects. So “the free choice of partners” is incomplete. Furthermore, in article 3, the translation of “婚姻自由”is “the freedom of marriage”, so it is not identical with article 2. Obviously, the different translation of the same terms is not allowed by a principle of legal translation — consistency and identity. Then, through analysis of example sentences from “WebCorp”, the correct translation of “婚姻自由”is “the freedom of marriage”.

Example 2:

“第三条 禁止包办、买卖婚姻和其他干涉婚姻自由的行为”（78）。

“Article 3 Marriage upon arbitrary decision by any third party” (LP version, 79).

“Marriage upon arbitrary decision by any third party” is not the professional expression of legal text, and the correct one is “arranged marriage”. “Arranged marriage is a type of marital union where the bride and groom are selected by a third party rather than by each other” (Cited from Wikipedia). Therefore, the translation of

“包办婚姻”in LP version should be revised.

Example 3:

“第五条 结婚必须男女双方完全自愿”（78）. . . . .

“Article 5 Marriage must be based upon **the complete willingness** of both man and women” (LP version, 79).

At first, “the complete willingness” is redundant, because no willingness is incomplete, and incomplete willingness is clearly unwillingness. Besides, by referring to “*Uniform Marriage and Divorce Act*” of America, the author found the correct expression of “完全自愿”. Here are articles selected from the act:

“§ 201. Marriage is a personal relationship between a man and a woman arising out of a civil contract to which **the consent of the parties** is essential.

§ 202. ... (b) The [Secretary of State, Commissioner of Public Health] shall prescribe the forms for the marriage license, the marriage certificate, and **the consent to marriage**” (*Uniform Marriage and Divorce Act*, 5-7).

Accordingly, the translation of “完全自愿” is “the consent of the parties”.

Example 4:

“第十二条

. . . . . 由人民法院根据照顾**无过错方**的原则判决” (80)。

“Article 12 ...giving consideration to **the unerring party**” (LP version, 83).

At first, “unerring” does not mean “having no fault”. Because if someone's judgment or ability is unerring, which means they are always correct and never mistaken.

A citation from “*Uniform Marriage and Divorce Act*” has the correct expression:

“...divorce is a remedy granted to **an innocent spouse**, based on the marital fault of the other spouse which has not been connived at, colluded in, or condoned by **the innocent spouse**” (*Uniform Marriage and Divorce Act*, 2).

Accordingly, “the unerring party” should be revised to the innocent party.

Example 5:

“第十九条

. . . . . **没有约定**或约定不明确的” (84) . . . . .

“Article 19 Where **such an agreement is lacking**” (LP version, 85).

“Such an agreement is lacking” is not wrong in meaning, but it should be replaced by professional term of English legal text. Here is a citation from “*Uniform Marriage and Divorce Act*”: “**In the absence of such an agreement** or provision in the decree, this section terminates the obligation of a parent to support a child” (*Uniform Marriage and Divorce Act*, 45).

Therefore, the correct translation of “没有约定” is “in the absence of such an agreement”.

Example 6:

“第二十五条

非婚生子女享有与婚生子女同等的权利” (88) . . . . .

“Article 25 Children born out of wedlock shall enjoy the same rights as children born in wedlock” (LP version, 89).

Although the underlined part of translation above is correct in meaning, the same idea is expressed in legal English more concisely. In “*Uniform Marriage and Divorce Act*”, the author found professional term of “非婚生子女”is “illegitimate children”, and the term“婚生子女”is “legitimate children”.

Example 7:

“第三十二条

男女一方要求离婚的，可由有关部门进行调解. . . . .

人民法院审理离婚案件，应当进行调解；如感情确已破裂，调解无效，应准予离婚” (90) 。

“Article 32 If one party alone desires a divorce, the organization concerned may carry out mediation ...

...the People’s Court shall carry out mediation; divorce shall be granted if mediation fails because mutual affection no longer exists”(LP version, 91).

“Collins English Dictionary online” defines “mediate” as: “If someone mediates between two groups of people, or mediates an agreement between them, they try to settle an argument between them by talking to both groups and trying to find things that they can both agree to”. But husband and wife are only two people, cannot be called two groups, so “mediation” is not correct.

*Uniform Marriage and Divorce Act* provides the correct expression:

“(ii) there is serious marital discord adversely affecting the attitude of one or both of the parties toward the marriage, and there is no reasonable prospect of reconciliation” (*Uniform Marriage and Divorce Act*, 25 ).

“(c) A finding of irretrievable breakdown is a determination that there is no reasonable prospect of reconciliation” (*Uniform Marriage and Divorce Act*, 29).

“Collins English Dictionary online” defines “reconciliation” as: “Reconciliation between two people or countries who have quarreled is the process of their becoming friends again”. So, according to the explanation of the

dictionary and the expressions of “*Uniform Marriage and Divorce Act*”, “reconciliation” is appropriate.

“感情确已破裂” does not mean “affection no longer exists”, but mean “the relationship breaks down”. By referring to “*Uniform Marriage and Divorce Act*”, the author found the expression of “感情确已破裂”:

“At the adjourned hearing the court shall make a finding whether **the marriage is irretrievably broken**” (*Uniform Marriage and Divorce Act*, 29).

“(c) A finding of **irretrievable breakdown** is a determination that there is no reasonable prospect of reconciliation” (*Uniform Marriage and Divorce Act*, 29).

Therefore, “mutual affection no longer exists” should be revised to “the marriage is irretrievably broken”.

Example 8:

“第三十三条

现役军人的配偶要求离婚，须得军人同意，但军人一方有**重大过错**的除外”（92）。

“*Article 33 ... unless the soldier has made **grave errors***” (LP version, 93).

“Collins English Dictionary online” defines “error” as: “An error is something you have done which is considered to be incorrect or wrong, or which should not have been done”. However, “过错” means a bad situation is caused by someone or the one are responsible for it. By checking “WebCorp”, the author found the correct collocation is “**grave fault**”.

Example 9:

“第三十八条

离婚后，**不直接抚养子女的父或母**，有**探望子女的权利**”（94）。

“*Article 38 After divorce, **the father or mother who does not directly bring up the child** shall have **the right to visit his or her child***” (LP version, 95).

“The father or mother who does not directly bring up the child” is a literal translation and it is awkward. The correct expression is “A parent not granted custody of the child”. Here is a citation from “*Uniform Marriage and Divorce Act*”:

“(a) **A parent not granted custody of the child** is entitled to **reasonable visitation rights** unless the court finds, after a hearing, that visitation would endanger seriously the child's physical, mental, moral, or emotional

health”(Uniform Marriage and Divorce Act, 53). So, “the right to visit his or her child” should be shorted to “reasonable visitation rights”.

### 3.1.3 Gender-specific terminology

Gender-specific terminology is bad for the accuracy of legal text, and leaves loopholes to a law, because law is related to all males and females. So, translators must be very careful in legal translation. Here is an example:

“第二十六条

养子女和生父母间的权利和义务，因收养关系的成立而消除”（88）。

“Article 26 The rights and duties in the relationship between a foster-child and his natural parents shall terminate with the establishment of his adoption”(LP version, 89).

The two “his” both are possessive pronouns of “a foster-child”, but this child may be a girl, and “his” exclude all females, leading to a bad situation that the accuracy of law is not kept. So “his” should be revised to “his or her”.

## 3.2 The syntactic aspect

### 3.2.1 Active voice

The active voice reduces confusion by the mention of the actor to the reader. Whereas the passive voice is confusing especially in legal writing, because the responsible person is less obvious than in the active voice. Additionally, the passive voice makes sentences not only long and also obscure.

Example 1:

“第十一条

因胁迫结婚的，受胁迫的一方可以向婚姻登记机关或人民法院请求撤销该婚姻。受胁迫的一方撤销婚姻的请求，应当自结婚登记之日起一年内提出。被非法限制人身自由的当事人请求撤销婚姻的，应当自恢复人身自由之日起一年内提出”（80）。

“Article 11 Where marriage is contracted by coercion, the coerced party may appeal to the marriage registration office or the People’s Court for annulment of such marriage. Such an appeal for annulment of marriage made by the coerced party shall be submitted within one year from the date of marriage registration. Where the party concerned whose personal freedom is illegally restrained, such an appeal for annulment of marriage shall be submitted within

one year from the date of the restoration of the personal freedom”(LP version, 81).

Revision:

*Article 11 If an individual is coerced into marriage, he or she may request the marriage registration office or the People’s Court to annul the marriage. The request must be made within one year of the date of marriage registration. If his or her personal freedom is illegally restricted, he or she must make such a request within one year of the date on which he or she regains freedom.*

The revision is clearer and shorter than the last translation. At first, the active voice mentions the actor, eliminating the long and roundabout passive structure. In addition, the elimination of the unnecessary repeat saves words. In the last translation, the idea of “appeal to the marriage registration office or the People’s Court for annulment of such marriage” is repeated twice: “Such an appeal for annulment of marriage made by the coerced party” and “such an appeal for annulment of marriage”. Repeated references to the same thing are unnecessary and make the sentence longer. The two repeated references can be shortened to “Such an appeal”.

### **3.2.2 A positive statement**

The plain English requests the writer to write positively, if you can express an idea accurately in either the positive or the negative way, you should express it positively. But if the regulation is used to caution the reader, a negative statement can be used.

Example 1:

“第六条

结婚年龄，男不得早于二十二周岁，女不得早于二十周岁”（78）。

*“Article 6 No marriage may be contracted before the man has reached 22 years of age and the woman 20 years of age”* (LP version, 79).

Revision:

*Article 6 Marriage is prohibited if the man is less than 22 years of age and the woman 20 years of age.*

Example 2:

“第二十七条 继父母与继子女间，不得虐待或歧视”（89）。

*“Article 27 Maltreatment and discrimination shall not be allowed between step-parents and step-children”* (LP version, 89).

Revision:

*Article 27 Either maltreatment or discrimination is prohibited between step-parents and step-children.*

The lawmaker formulates this rule to caution the reader, so its translation can also be revised this way:

*Article 27 Step-parents and step-children may not maltreat or discriminate each other.*

### **3.2.3 Parallel structure**

To arrange sentences to make the parallel ideas look parallel. This is important in the use of a list. A list in legal document makes it clear to the reader what is allowed and what is prohibited.

Example 1:

“第三条

禁止包办、买卖婚姻和其他干涉婚姻自由的行为。禁止借婚姻索取财物。

禁止重婚。禁止有配偶者与他人同居。禁止家庭暴力。禁止家庭成员间的虐待和遗弃”（78）。

*“Article 3 Marriage upon arbitrary decision by any third party, mercenary marriage and any other acts of interference in the freedom of marriage shall be prohibited. The exaction of money or gifts in connection with marriage shall be prohibited.*

*Bigamy shall be prohibited. Anyone who has a spouse shall be prohibited to cohabit with another person of the opposite sex. Family violence shall be prohibited. Maltreatment and desertion of one family member by another shall be prohibited” (LP version, 79).*

Revision:

*Article 3 Any of the following acts is prohibited:*

- (1) arranged marriage;*
- (2) mercenary marriage;*
- (3) any other interference in the freedom of marriage;*
- (4) the exaction of money or other property by means of marriage;*
- (5) bigamy;*
- (6) cohabitation between anyone who has a spouse and another person of the opposite sex;*
- (7) family violence; or*
- (8) maltreatment or abandonment of any family member.*

Example 2:

“第七条 有下列情形之一的，禁止结婚：

（一）直系血亲和三代以内的旁系血亲；

（二）患有医学上认为不应当结婚的疾病(78,80)。

“*Article 7 No marriage may be contracted under any of the following circumstances:*

*(1) if the man and the woman are lineal relatives by blood, or collateral relatives by blood up to the third degree of kinship; or*

*(2) if the man or the woman is suffering from any disease which is regarded by medical science as rendering a person unfit for marriage”(LP version, 79, 81).*

Revision:

*Article 7 Marriage is prohibited if:*

*(1) the man and the woman are lineal relatives by blood, or collateral relatives by blood up to the third degree of kinship; or*

*(2) the man or the woman suffers from a disease considered by medical science as making a person unfit for marriage.*

### 3.3 Clarity and concision

#### 3.3.1 Nominal

“Nominals” are nouns with verbs inside, such as “give consideration to”. “Nominal” makes sentences longer. However, action verbs are good at making sentences shorter and more direct.

Example 1:

“第五条 . . . . . 不许任何一方对他方加以强迫”（78）。

“*Article 5 ...Neither party may use compulsion on the other party” (LP version, 79).*

The phrase “use compulsion on” can be shortened to a verb “compel”.

Example 2:

“第十一条

. . . . . 受胁迫的一方可以向婚姻登记机关或人民法院请求撤销该婚姻”（80）. . . . .

“*Article 11 ...the coerced party may appeal to the marriage registration office or the People’s Court for annulment of such marriage”(LP version, 81).*

The nominal “for annulment of” can be shorted to “to annul”.

Example 3:

“第十二条

．．．．．由人民法院根据照顾无过错方的原则判决”（80）。

“*Article 12 ...the People’s Court shall make a judgment on the principle of giving consideration to the unerring party*”(LP version, 83).

The phrase “giving consideration to” can be shortened to “considering”.

(a) 3.3.2 Unnecessary words

Example 1:

“第十二条

．．．．．同居期间所得的财产，由当事人协议处理”（82）。

“*Article 12 ...The property acquired by them during the period of their cohabitation*”(LP version, 83).

The phrase “the period of” can be omitted, and then the original idea of the sentence will not be changed.

Example 2:

“第十七条

夫妻在婚姻关系存续期间所得的下列财产，归夫妻共同所有”（82）。

“*Article 17 The following property acquired by the husband and the wife during the period in which they are under contract of marriage shall be in their joint possession*”(LP version, 83).

The underlined part contains too much unnecessary words and it can be revised to “during their marriage”.

Example 3:

“第二十三条 父母有保护和教育未成年子女的权利和义务”（86）。

“*Article 23 Parents shall have the right and duty to protect and educate their children who are minors*”(LP version: 87).

The phrase “children who are minors” can be simplified to “minor children”, because “minor” can be used as an adjective.

### 3.4 Modal verbs

#### 3.4.1 Must

In the translation of Chinese legal documents, “必须” is translated to “must” or “shall”, but due to the ambiguity caused by “shall”, “必须” can only be translated to “must”. Here are some examples selected from LP version.

“第五条

结婚必须男女双方完全自愿，不许任何一方对他方加以强迫或任何第三者加以干涉”（78）。

“*Article 5 Marriage must be based upon the complete willingness of both man and woman*” (LP version, 79).

“第八条

要求结婚的男女双方必须亲自到婚姻登记机关进行结婚登记”（80）。

“*Article 8 Both the man and the woman desiring to contract a marriage shall register in person with the marriage registration office*” (LP version, 81).

In the above examples, “必须” is translated into two different words: “must” and “shall”. However, the different expressions of the same idea of the legal document are against the principle of consistency and identity. Therefore, the underlined “shall” of article 8 must be revised to “must” in order to reduce ambiguity and be consistent with article 5.

### 3.4.2 May

In LP version, “不得” is translated into “no...may” “may not” “neither...shall” “shall not” or “not allowed to”. Here are the examples.

Table 1: translation of “不得” in LP version

Article	Article6, Article7	Article12, Article 34	Article 15	Article 27	Article 30
不得					
English translation	no...may	may not	neither ...shall	shall not be allowed	are not allowed to

Some of the above translation of “不得” must be revised due to three factors. Firstly, according to the principle of consistency and identity, the translation of “不得” must be consistent. Secondly, plain English excludes the use of “shall”. Lastly, “not allowed to” and “shall not be allowed” are not professional expression of legal documents. So, the correct translations of “不得” are “no...may” “may not” “neither...may” .

### 3.4.3 Shall

“应当” refers to an advice or a preference, so it should be translated “should”. If it is translated to “shall”, the reader will be confused whether the regulation is an obligation or an advice.

Table 2: examples that “应当” is translated to “shall” in LP version

Article	Article4, Article6	Article 13	Article 14	Article 15	Article 16
Shall					
Original text	应当	地位平等	有..... 的权利	有.....的 自由	有.....的 义务
English translation	Shall	shall have equal status	shall have the right	shall have the freedom	shall have the duty

On the one hand, equal status, right, freedom and duty are all entitled to everyone. Everyone is born to be equal and free. These things are not given by law, but by God. If a right is given by a law, then it cannot be called a right. On the other hand, a law of continuing effect speaks as of the time it is applied, not as of the time it is drafted or goes into effect. So, laws must be drafted in the present tense. Due to the above two reasons, the underlined “shall” can be omitted.

## IV. CONCLUSION

Based on the analysis and revision of the English translation of *Marriage Law*, in legal translation, the translator should pay more attention to the following aspects.

The first is accuracy. Accuracy of legal translation comprises two aspects. The one is accuracy of the original idea. For translator, the thoroughly understanding of the original text is the prerequisite of the legal translation. The misrepresentation of the original idea of a legal document will lead to wrong application of law. The other one is accuracy of wording. English words and phrases always have more than one meaning, and they cannot always be the correct expression of Chinese words or phrases. In a word, wrong word or phrase in legal translation will lead to misrepresentation of the original idea.

The second is professionalism. A legal document comprises a large number of professional terms, so if a translator wants to produce a professional legal

translation, he or she must have a good grasp of legal language of source language as well as target language.

The third is clarity and concision. Clear and concise legal documents can be easily understood by their readers and practiced; hence it can improve efficiency of work for legal workers. To achieve clarity and concision, the translator must be guided by the writing methods of plain English and *Guide to Chinglish*.

To achieve the above mentioned three requests, a translator must have the complete legal knowledge, and this is the premise of the thorough understanding to the original text. In addition, parallel text makes important contribution to the translation of legal document. So, intensive reading of extensive legal documents and books, such as regulations and laws of different fields, is very help in the translation of professional terms. Most importantly, a translator must have a high sense of responsibility and devoted professional spirit. Only discipline oneself by a high professional and moral standard in translation, can a translator do perfect work in legal translation.

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2009年6月

# FOREIGN LANGUAGES FOR SPECIAL PURPOSES

№ 5 (14)

Չափս՝ 60x84 1/16: Տպ. 8.375 մամուլ:  
Տպաքանակ՝ 100:

ԵՊՀ հրատարակչություն

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