

英漢 法律大詞典

English-Chinese Dictionary of Law

李宗鐸 何冠驥 呂哲盈 潘慧儀 主編

修訂版
REVISED EDITION

商務印書館

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英漢法律大詞典

黃玉山題



編者簡介

李宗鐸 (1952~2003)

廣東開平人，1952 年生於香港。

1981 年取得英國執業律師資格。1987 年加入香港司法機構任職，先後歷任裁判官、死因裁判官、小額錢債審裁官、勞資審裁處審裁官及署理首席審裁官。1995 年獲委任為當時的地方法院（現稱區域法院）法官。後更曾一度獲委為高等法院暫委法官。

著作包括：《香港日用法律大全（CD-ROM 版）》、《香港日用法律大全》、《香港合約法與公司法》、《香港房地產法》等。

何冠驥

廣東東莞人。1986 年獲授美國伊利諾大學比較文學博士。

1994 年獲得倫敦大學法學士學位，並於 1996 年取得大律師資格，1999 年正式成為執業大律師。專長於土地及物業轉讓的法律，對新界土地有關的法律，例如中國習慣法、丁屋和逆佔業權等尤有心得。

現同時出任香港大學專業進修學院人文及法律學院的副總監及首席課程主任，負責管理人文及法律學院開辦的法律課程。教學任務包括在人文及法律學院與倫敦大學合辦的“法律文憑”課程中任教合約法和刑法，以及任教人文及法律學院為香港特別行政區政府部門所開辦的培訓課程。著作包括文學、翻譯及法律的論文與課程教材。

呂哲盈

廣東惠州人。1992 年畢業於香港大學文學院，取得文學學士學位，主修翻譯。2006 年取得英國倫敦大學法律學士學位，2008 年取得香港大學法律專業證書，2011 年取得香港城市大學仲裁及爭議解決學法學碩士。

曾任職香港大學專業進修學院及香港公開大學，現任香港樹仁大學法律及商業學系法律講師，主要教授商業爭議解決、調解、房地產法、商業法等課。

曾參與香港樹仁大學《漢英談判期刊》學術期刊的翻譯及編輯工作。

潘慧儀

廣東南海人。1992 年畢業於香港城市大學，取得翻譯及傳譯碩士學位。2007 年獲授香港大學法律語言及翻譯博士學位。2010 年獲得諾桑比亞大學法律學士學位。

1985~1994 年間前後任職警察傳譯員和法庭傳譯主任。現任香港公開大學人文社會科學院副教授，主要任教法律翻譯。

2009 年與香港公開大學法律翻譯碩士課程的師生共同創立香港法律翻譯學會，現為該學會會長，致力推動雙語法制和法律翻譯。

著作包括 *The Effectiveness of Plain Language in Statutes and Judgments: Legal Language Style and Legal Translation* 及法律翻譯的論文。

Foreword by Anthony Neoh, QC, SC

In 1998, soon after the resumption of sovereignty over Hong Kong by our Mother Country, Dr. Emily Poon and the late Judge Li Zonger published the *English-Chinese Dictionary of Law*, to facilitate the use of the Chinese Language in the Law. The Dictionary soon became an invaluable tool to all who needed to consult or apply the common law in the Chinese language. In the last 17 years, this Dictionary has fulfilled this role with great success and helped countless judges, lawyers, law students and all those who have occasion to use the Chinese language in the law.

Although the language of the Common Law has its own history and idiom, its substance is not untransferable to other languages and cultures, as the widespread use of Common Law terms and concepts translated into Chinese, will bear witness. In the courts of Hong Kong, now over 90% of all the cases before the Magistrates Courts are heard and judgments rendered in the Chinese language. An increasing number of cases are now heard and judgments rendered in the Chinese language in the District Court and the High Court. Commercial transactions across the Hong Kong SAR and Mainland border are conducted through legal documentation drafted either in the Chinese language or bilingually, where the law of Hong Kong is chosen as the Governing Law. Through the Hong Kong International Arbitration Center, Hong Kong has become one of the most successful arbitration venues in the Asian Pacific Region. Arbitrations in Hong Kong are often conducted bilingually, in English and Chinese. In all of these spheres of activity, Chinese and English legal terms are used

interchangeably. As an active practitioner in the Hong Kong Courts, arbitrator and teacher of law and financial regulation, I frequently have had to use Chinese legal terms in my work. Having received my legal education in the English language only, I have had many occasions to consult the Dictionary, often with great admiration at the exactitude of the translations and always, with great gratitude for its existence, without which persons such as myself would have been much handicapped.

The common law is increasingly being consulted as a source for legislation and conceptual discussion by legislators and jurists in both Taiwan and Mainland China. The original authors of the Dictionary have therefore performed an invaluable and historic service to the communities of Hong Kong, Taiwan and Mainland China. Despite the untimely and regrettable passing of HH Judge Li Zonger, Dr. Emily Poon has continued with her efforts and now, with the collaboration of Dr. Tommy Ho Koon Ki and Ms. Wendy Lui Chit Ying, a Revised Edition of the Dictionary is published. The Revised Edition has very substantially increased the number of terms translated, drawing from the experience of the use of common law terms in the past 15 years. The authors have obviously consulted many sources, including published judgments of our courts and the usages in the legal dealings within and between Hong Kong, Taiwan and the Mainland. The Revised Edition has the same admirable exactitude as the original version and is now much expanded in scope. I will look forward to using this Revised Edition. We all owe these authors a great debt for this prodigious and fine effort.

Anthony Neoh
March 2015, Hong Kong

譚尚渭序

自從中英兩國政府正式簽署關於香港問題的《中英聯合聲明》和頒布《香港特別行政區基本法》後，香港政府即銳意推行雙語立法和中文審訊。這幾年間，除了律政司署積極展開法律翻譯工作外，不少法律界專業人士及翻譯工作者亦為政府所立下的旗幟而克盡綿力，著書立說。李宗鏗先生和潘慧儀女士有感於促進法律雙語化的迫切需要，乃憑一顆服務社會的赤心，以其淵博之專業知識，窮竭心力，攜手編撰這部《英漢法律大詞典》，歷時三年多，終告完成。喜見新著問世，本人除分享兩位編撰者的喜悅之外，亦對其竭誠躬行，為建立一套完善統一的中文法律的艱巨任務所作的貢獻，深表欽佩。

法律既是維繫社會安定繁榮的重要工具，也是保障市民在一個法治社會中所應享的權利或義務的依據。因此，推行雙語立法，爭取中文法律享有英文法律的同等地位，打破語言障礙，令普羅大眾更易於了解一般的法律程序，實是切合時宜之舉。然而，市面上可供參考的法律詞典實是鳳毛麟角，《英漢法律大詞典》的出版正能裨補闕漏，饒富意義。本詞典除廣收日常法律詞語和法例名稱外，亦將蒐集所得的法律諺語另編一目，不但條目清晰，亦容易翻查，實在是法律、教育、翻譯、商業各界等人士不可或缺的工具書。

我在此誠意推薦《英漢法律大詞典》一書。

譚尚渭

香港公開大學榮休校長

1998年7月1日

修訂版編者序

這本法律詞典的初版是由李宗鏢法官和我於 1998 年出版的。我與李法官的關係就好像一幅絢麗圖畫上的幾點顏彩。雖然我們談不上是感情濃烈的莫逆之交，但對於我們過往的接觸和經歷，我依然印象深刻、回味無窮，在我的記憶裏，歷久而常新。我們於 1994 年便展開詞典的編撰工作。李法官推動雙語法制，不遺餘力，並希望在九七回歸後出版這本詞典，能對一般大眾和法律界有所裨益。我們採用淺白語言，嘗試用最簡單易明、短短幾句的中文將每個詞彙的精確法律文意表達出來。雖然一般大眾仍會覺得法律深奧難懂，不能完全掌握，但我們期望他們能學懂一點法律知識。

李法官是首屈一指的法律人才、我敬重的良師。他讓我先草擬第一稿，然後替我批改。我驟然覺得我們的圖畫依然色彩斑斕。他大可以獨力編寫這本詞典，從而節省時間，但他卻願意花時間無私的指導我、啟發我。我因為可以參與這本詞典的整個製作過程，而樂在其中，也得益匪淺。經過三年刻苦耕耘，詞典終於面世了。我們雀躍萬分，並約定十年後，即 2008 年，出版新編。

2003 年 1 月，李法官不幸辭世，令我心情沉重。一位志向遠大的法律翹楚、我摯愛的良師猝然離我們而去。他曾經告訴我想讀建築，那便可以從法律以外的角度看這個世界；他也想寫一本法庭小說。李法官追求人生目標的毅力和熱情，大大感染他身邊的人，令我培養出要肩負社會責任堅定不移的信念。2009 年底，我成立香港法律翻譯學會，致力推動雙語法制和法律翻譯——我心中這團熱烘烘的火是延續這位良師所發的光和熱。

何冠驥博士和呂哲盈女士這兩位法律專才與我攜手完成了新版，我心感榮幸。新版增加了 400 多個詞彙，整本詞典收錄的詞彙約有 3,800 個，而所有原有的詞彙都經過謹慎審訂及修正。這本新編詞典令我和李法官的圖畫增添了奪目的色彩，儘管出版的時間比約定遲了七年，然而這是一個遲來但豐盛的春天，期望它可以感染大眾，對社會有所貢獻。

潘慧儀

2015 年 2 月 8 日

Preface to the Revised Edition

His Honour Judge Li Zonger and I published the first edition of this law dictionary in 1998. My relationship with Judge Li was like tiny dabs of paint in a beautiful picture; though it was not deep in colour, it was impressive, enchanting and everlasting in my memory. We started work on this dictionary in 1994. Judge Li contributed in large measure to our commitment to the principle of legal bilingualism, and he expected that this dictionary would come in handy for the general public and the legal field after Hong Kong rejoined China in 1997. We used the plain language approach in trying to explain, in a few lines, the precise legal meaning for each term using the simplest and most comprehensible Chinese. Although the law might still be difficult for lay people, we hoped that they could learn and understand some of the laws, if not all.

Judge Li struck me as a leading figure in the legal world and a much-respected teacher by giving me the opportunity to do the first draft and then correcting my version. It emerged as his picture on which many of my dabs actually survived. It would have taken him a much shorter time to complete this dictionary if he had done it single-handedly, but he was willing to spend time to inspire and teach me along the way and I was happy to participate in this challenging project on the ground floor. We were able to complete this dictionary after three years of hard work in the eye of some storms. We were very excited, and promised each other that we would publish the second edition after ten years, i.e. 2008.

It was with a very heavy heart in January 2003 that I learnt of the untimely departure of Judge Li, an enterprising and prominent legal practitioner/scholar and a very dear teacher. He once told me that he wanted to learn architecture so that he could view lives from different angles, and he wanted to write an interesting court novel. His vitality and passion for life strongly influenced the people around him, and has since rooted a strong sense of social responsibility in my faith. In late 2009, I established the Hong Kong Institute of Legal Translation to further promote legal bilingualism and translation - an outburst of enthusiasm inherited from my beloved teacher.

I have invited Dr. Tommy Ho Koon Ki and Ms. Wendy Lui Chit Ying, both of whom are veteran legal experts, to publish this new edition with me. More than 400 new terms have been added to make up a total of around 3,800 terms, and all of the original terms have been carefully reviewed and revised where necessary. This new edition has added some colourful dabs of paint on my beautiful picture with Judge Li, and although it is seven years late in reaching fruition, we hope it will continue to contribute to the Hong Kong legal and lay societies.

Emily Poon Wai Yee

8 February, 2015

初版編者序

這是一部香港用的簡明法律詞典。所列者都是有法律含義的詞語。條件所限，每一詞語只有撮要解釋。讀者應留意，法律文書所用詞語，其中包括在本詞典內可見的詞語，每多採其普通含義。本詞典則只提供專注法律層面的對照及解釋。故在解讀法律文書時，好的日用語文詞典仍是不可或缺的工具。

本詞典內所列各詞語依英文字母順序排列。為方便檢索，對應的中文詞語另有按筆劃順序的索引。

所列詞語的詞類及其適用變化均已說明。應該強調，法律界遣詞用字，有時只取某些詞語的某種形態。典型例子如毀壞 (damage)，其英文單字無眾數，眾數的變法是意義截然不同的另一詞語。較少為人察覺到的例子是罪行 (offence) 的英文字詞，其英文動詞式犯罪 (offend) 乃日用詞語，並非法律術語。在一些情況裏，將某些法律詞語拆開或變化使用，雖然在文法上未必有錯，但可能導致原意盡失或含義被誤解。例如逆權管有 (adverse possession) 一詞乃由兩個英文單字組成，若在造句時間分開放置，兩字可能被誤作獨立單字解。

鑒於英文詞語在不同法律範疇可有不同的法律含義，而一些普通詞語則在特定的法律範疇才有法律含義，所列詞語均註明適用範疇。詞語有多個法律含義，每個含義分別條列。

所列英文詞語，不乏超過一個中文對照。然而，多款對照對專業讀者和一般讀者都會造成無所適從的感覺。還有，遇上一個中文

對照同時匹配多個不同英文詞語，混亂更加倍增。實有必要調協統一。故本詞典以排行最前的譯法為首選，其次及以後的作為副選。副選均取自中、港、台參考書、詞彙集或專業詞典。臚列副選，純為顧及現有不同譯法的譯本法律文書和法律參考書。不過，其他出處的法律譯詞，倘屬明顯不對者，已撇除於副選之外。

至於首選，本詞典盡可能按下述各原則甄別。不過，應該指出，所採用的原則或有商榷之處。

鑒於這是一部法律詞典，所列詞語若有明文立法或案例賦予特殊意義，例如兇殺 (murder)、盜竊 (theft) 和創傷 (wound) 等，首選對照應反映有法律根據的特殊意義，而不隨俗。

就中國語文而言，本應以大陸及台灣用法為主導。近年大陸更出版無數專著書籍，向國內領導和人民介紹香港法制與法律，成就非香港一般所能及。或謂此等書刊正合本詞典借鑒。然而，中、港、台三地法制各異。台海兩岸法律內似有相近者，未必恰如香港法律所指。例如，雖然中、港、台法律均有合約的概念，但三地法律對訂立合約、解釋合約條件和執行合約的原則並不完全一樣。難怪中國法律稱合同者，台灣法律名為契約，而香港則各取一半得合約此字詞。基於上述理由，除非有例外論證支持，大陸和台灣詞彙都不作為香港首選，但常列為副選供參考。

一般而言，每門法科和每種法律程序均有其一套詞彙。在民事訴訟，法律界說是原告告被告，在離婚案則是訴願人對與訟人，而在嚴重刑事案件，則是被告人被控方公訴。法律界更不會混淆刑事的罪行和民事的冤屈。詞彙亦隨時間轉變。在僱傭法，老闆過去是主人，其下食祿者是僕人。今日則以僱主與僱員分別稱之。雖然這些歧異大多是緣於歷史，但這些歧異不期反映功能上的分辨作用。所以，原則上，應在譯詞方面保存這些歧異。

由於同一意義可透過各式詞語表達，各自工作的譯者就同一原文絕少做出同樣成果。而且，將譯作倒譯，往往難以返璞歸真。香港實施雙語法制所需，詞語可能幾回反覆翻譯，而詞語的意義經常至關重要，至佳莫如屢試不爽和照本還原的翻譯效果。例如普通侵犯 (common assault)、侵犯 (assault)、毆打 (battery) 和傷人 (wounding) 等字詞，有必要精確分別對照。為此，本詞典所列每一詞語，盡可能各有獨特的首選譯詞。對照選配得通行接受，則任何譯者憑譯文譯詞，可檢出原文原本詞語無誤，反之亦然。為方便讀者對比異同，所列每條之相近及類同詞語，在條內一併列出。

許多時，某一詞類的英文詞語，不論是否經過變化，可作另一詞類同義運用。例如衡平法不得自駁 (estoppel) 這字詞，常作不得的動詞式用。更多時，詞語配合其他字詞組成新的詞語。倘在替基本詞語選配譯詞時不顧慮周詳，將該譯詞隨原文演變運用便有困難。另一複雜之處，是法律詞語與普通詞語重疊混淆，例如殺人 (homicide) 與兇殺 (murder)。這些難題不能全部靠語文輔助配件如加搭通用動詞或修飾詞解決。即使可以，譯作應兼具的典雅及劃一品質可能受損。本詞典力求首選譯詞均可拓展或套裝應付語文靈活運用所需。

即使已盡力而為，本詞典當必有遺漏或謬誤。謹此懇請讀者不吝指正。如有需要，請電郵至 cs@commercialpress.com.hk 聯絡。

李宗鐸 潘慧儀
1998 年 7 月 1 日

Preface to the First Edition

This is a concise English Chinese law dictionary for use in Hong Kong. The selected terms and expressions are listed for their usage in legal context. Due to a number of constraints, the explanation given for the meaning of each listed term or expression is necessarily brief. Readers are reminded that there are terms and expressions, including ones listed in this work, used in legal texts for their ordinary meaning. This work gives the meaning and rendering in the legal sense only. A good ordinary dictionary is still an indispensable tool for proper understanding of legal texts.

The listed terms and expressions are arranged in English alphabetical order. For cross reference, an index of equivalent terms and expressions in Chinese is provided.

The part of speech and in appropriate cases the inflections pertaining to each listed term or expression is given. It is important to note that some terms and expressions are customarily used in a legal context by lawyers in a particular manner or form only. A classic example is the word “damage”, the plural “damages” means something like compensation, not multiple damage. Another, less obvious, example is the word “offence” which lawyers use as a noun to mean crime; whilst the derivative verb form “offend” is often used in ordinary parlance like offend the law, lawyers hardly ever employ that verb in legalese. In some cases, it may not be wrong, but there is a serious risk that the legal meaning assigned to a term or expression in a legal context may be lost or misunderstood when it is employed in an