Language and Legal Consciousness in a Hong Kong Court[1]

Andrew S. MacNaughton

Abstract: This paper examines the impact of courtroom language choice in a complex two-language legal system and the relationship of these languages and choices in the development and evolution of a post-colonial legal consciousness in the Hong Kong Special Administrative Region (HKSAR). The primary case, observations, and interview data come from the Coroner's Court in the HKSAR Judiciary, as it represents a uniquely non-criminal court with a wide capacity for social relevance. The data support a clearer view than previously obtained of the nature of Cantonese language in a common law court and the everyday efforts to spread a Cantonese version of the common law. Through this re-making of courtroom legal language, we can also see a possible reflection of a localizing legal consciousness in the wider society and judiciary of the HKSAR.

Key words: Hong Kong Coroner's Court, diglossia, legal consciousness

Introduction:

Language and law form a significant nexus in the study of Hong Kong's socio-political identity. Together they supply much of the fundamental iconography used in references to the territory and its strengths, as, for example, when past Secretary for Justice Wong Yan-lung reiterated the popular observation that "the cornerstone of Hong Kong's success as a leading international commercial and financial centre *(sic)*" is "The Rule of Law," in English (HKgov 2010). The significance of Hong Kong's independent judiciary rests in the international currency of the common law, written and spoken most unapologetically in English, even in the postcolonial context of Hong Kong's High Court and Court of Final Appeal. Debate among Hong Kong's legal professionals rages on the very desirability of translating the common law to the native and majority language of Hong Kong, Cantonese (Chan 2012; Wang and Sin 2012; Ng 2009). Yet, throughout this debate, Cantonese has come to dominate the Magistrate's and Specialised Courts, including the Coroner's Court, to better represent the broadest public interest in the everyday work of the judiciary. This makes Hong Kong's judiciary, and especially the socially engaged Coroner's Court (MacNaughton and Wong 2014), a particularly dynamic site for research into the language(s) of law and the question of legal consciousness.

At issue is the prevailing characterization of a Cantonese-version of common law discourse and a Hong Kong legal consciousness. This paper argues that observations made of Hong Kong's Cantonese-speaking courts, such as those by Ng Kwai Hang (2009; 2011), have presented a valid model for criminal law courts, but that this characterization fails to apply to the non-criminal Coroner's Court, which also happens to have more frequent use of Cantonese. Further to such descriptions of Cantonese courtroom discourse, observations of the Coroner's Court over several weeks of open hearings in 2017 and 2018 show that English continues to exert influence within the overall Cantonese proceedings, but that influence is socially and professionally manipulated by the ever-present medical witnesses more so than by any representatives of the court, as such. The meaning of language choice in court discourse then interacts with professional and social values to render a more locally nuanced interpretation of legal consciousness.

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Legal Consciousness and Language:

For the purposes of this paper, legal consciousness can be understood as a collective normative order (Merry 1990) shared by individuals (Mraz 1997) as it shapes expectations and facilitates or precludes access to a society's institutions of legal practice. This idea amounts to a form of "cultural domination" – not physical, but, as with a 'discourse,' one that influences "the way people think about themselves, their problems, and the world" (Merry 1990, 9). In Sally Engle Merry's analysis, the law as dominating discourse can be seen to appeal particularly to populations who have need for an outside moral authority, a need that might have been provided by the chiding or advice of a community member in the past, but which now comes from the interventions of a rational court system, creating a new form of dependence as it arrives (Merry 1990, 83).

In the context of Hong Kong, the colonial enforcement of common law, its courtroom orchestration and discourse, as well as the high place of the bureaucracy may all have shaped legal consciousness over time. Wan (2016) argues that films from the pre-handover period (1984-1997) are particularly illustrative of a shift in legal consciousness: where at first there was receptivity to the external legal system, this is followed by a newfound awareness of local dependence. However, the period is also marked by intense public anxiety over the lead-up to the handover as well as a historically disaffected Hong Kong Chinese population base. Lau Siu-kai's (1982) introduction of the concept "minimally-integrated social-political system" to describe the notably weak link between Hong Kong's strong bureaucracy and its disaffected populace allowed in turn for the clarification of a Hong Kong Chinese idea of political freedom meaning not a "freedom to participate in political decision-making, but [a] freedom *from* political oppression" (160, original italics). This was the received "social irrelevance of politics" (Lau 1992) as a product of Hong Kong's then colonial present and the character of an "atomistic Chinese society" (Lau 1982, 157) that set the tone of Hong Kong's pre-handover relationship with the state. Then, after 1997, as a postcolonial setting with an emphasis on "Rule of Law" (Comaroff and Comaroff 2006; HKgov 2010), Hong Kong could be seen to have created its own form of active (though frustrated) democratic narrative through the observed disparity of lawfulness between itself and the Chinese mainland (Newendorp 2011), commensurate with a strengthened dependence on the courts of the judiciary to uphold the distinction of the "Two Systems" in the "One Country; Two Systems" arrangement with the mainland Chinese state.

Throughout this discussion of a shift in the legal consciousness of Hongkongers there has been a conspicuous absence of consideration for any distinction that might accompany language choice. English in the legal system of Hong Kong follows the pattern of socio-linguistic division identified by Ferguson (1959) as "diglossia," where two language communities fill different functions in one society. Both English and Chinese (spoken Cantonese) have official language status in the HKSAR, but the colonial legacy of English, the history of economic and real power associated with it, and the historical and contemporary role English serves as the link to international common law jurisprudence all illustrate the relative local advantage vested in English as a language of law. This advantage is reflected in the fact that since the first official courtroom use of Cantonese as a language of Hong Kong justice (that is, the primary language of the judge – as opposed to using translation) in 1995, Cantonese and English have not become equally represented in the judiciary. In fact, as Ng (2009) shows in the stark contrast of Figure 1, below, English remains the dominant language of the higher courts of law, whereas Cantonese/Chinese dominates the courts at the levels of the Magistrates' and below, where we would also find the Coroner's Court (not shown, but it would be at 100 percent in terms of Cantonese case frequency if shown).[2]

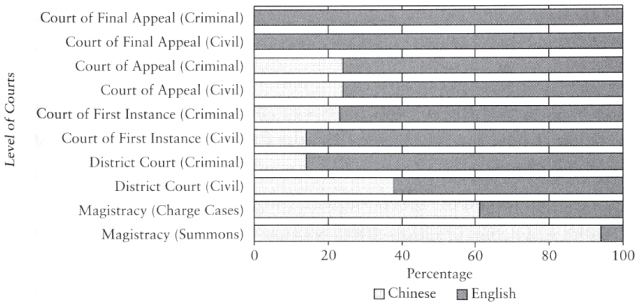

Figure 1　Language of Cases Heard in HK Courts in 2005 (source: Ng 2009, 237)

The inverted triangle that is Hong Kong's enduring judicial relationship with the English language also contains a character of legal consciousness in its everyday practice. Ng describes this character as a collection of established phrases, dialogues and behaviors that demand attention and respect in Hong Kong's higher courts. This "juridical formalism" is defined as "the set of institutionalized techniques and practices of order and certainty" which "allows its practitioners to focus more on following the rules than on inquiring about

[2] It may also be significant to note the distinction between "charge cases" (cases involving arrest by police officers) and "summons" (cases in which a summons was issued) since Figure 1 shows summons cases as being far more likely to be ruled on in a Cantonese language environment at the Magistrates' (and we know that summons are the standard mechanism by which jurors and witnesses appear in the Coroner's Court).

the reasons behind the rules" (Ng 2009, 254). The horse hair wigs and silk gowns still worn by Senior Counsel (known as Queen's Counsel before the handover) in the highest courts of the HKSAR Judiciary are an aspect of that juridical formalism, carrying with them a visible nostalgia for the colonial roots of Hong Kong's judicial independence (see Gordon 2008). But that carefully constructed order of the English-language court is at risk, according to Ng, as the characteristics of Cantonese courtroom interaction are shown to be unbridled and revolutionary in contrast, "punch[ing] holes in the dominance of juridical formalism" (Ng 2009, 255). However, those lively interactions of Cantonese-speaking witnesses and counsel that Ng presents in order to contrast with excessive rule by the English-speaking courts can only describe the contested circumstances within those courts at or above the level of the Magistrates' that are capable of considering civil or criminal liabilities. For although many of the aggrieved family members appearing in open hearings at the Coroner's Court misconceive the court as a combative setting for retribution (the Coroner's Court makes clear it is not permitted to discuss questions of a criminal nature), it is actively discouraged and censored by agents of the court (judge, clerks, inquest chair, possible legal team) and witnesses. This cautioning can be seen as a characteristic of the Cantonese language interaction in the Coroner's Court that distinguishes it from higher courts in the Hong Kong Judiciary and compels us to examine things more closely. The following example of Coroner's Court inquest interaction (translated to English) is illustrative of this distinction and will be discussed with excerpts below.

Coroner's Court Discourse [February 13, 2017, 9:30am~12:00noon: CCDI-209/2015 (JC)]:

This was an inquest called after the death of a 92-year-old man, Mr. Lou, who died in 2015 while under the custodial order, or guardianship, of his eldest son. The autopsy had been waived by the pathologist, most likely in light of the advanced age of the deceased, but because the man had been placed in a nursing home for the year prior to death and because he died as a ward of his son, the coroner provided this opportunity to clarify the facts and ensure no error in the public record. The man's two sons (both in their 50s), three additional witnesses, and five jurors were summoned, with a senior police inspector in civilian suit and tie acting as inquest chair. The first witness called was the eldest son who then left his seat next to his younger brother at the family representative desk and moved to the witness desk to be sworn in, sitting comfortably with legs spread out, appearing relaxed and informal. The initial phase of the inquest began as Justice Yim and the inquest chair worked with the first witness to establish the basic facts of the deceased and the death, comparing verbal responses at each point with printed medical and police records on file.

Chair: According to your knowledge, do you know whether your father had any serious illness before he lost consciousness on the street in 2012 and the incident of serious stroke in April 2014?

Eldest son: No serious illness except high blood pressure.

[Snoring in the public gallery briefly interrupts the flow of questions]

Justice Yim: Please continue.

Chair: On the basis of what you just said, had your father seen a doctor?

Eldest son: He had medical treatment for it at the Prince of Wales Hospital.

[Details are confirmed in the printed materials and a clerk writes them on the easel; a police woman bows to enter the courtroom to deliver documents to the clerk, and then sits at the back of public gallery]

Chair: Mr. Lou, would you please mention the amount of monthly social welfare assistance you received?

Eldest son: 13,000 Hong Kong dollars per month.

Chair: As a legal representative of the deceased under guardianship order, how did you use and confirm the proper usage of this assistance?

Eldest son: Everything was spent on my father's living expenses at the nursing home. They issued receipts for my submission to the Social Welfare Department for record keeping.

Chair: What did you see when you visited your father in hospital on 3 February 2015?

Eldest son: Dad was still alive, but he had lost consciousness and needed equipment to breathe.

[The witness became quieter and more solemn at this point]

Chair: May I know the reason why you applied for a guardianship order for your father?

Eldest son: My dad could not take care of himself and couldn't walk or communicate.

Throughout this exchange, the eldest son appeared relaxed, in comfortably worn-out jeans and outdoor jacket, with his hands clasped on the table in front of him when not otherwise smoothly gesticulating to indicate amounts and estimations. He was not in any visible way disturbed by the snoring incident or the entry of the police woman midway through his testimony. The language used by the inquest chair was respectful at all times, for example, careful in questioning about the amount of assistance received so as not to enable any speculation of wrongdoing. This was done by framing the request in "would you please mention" or *cing2 nei5 gong2 gong2*[3] (literally "please you speak speak," where "speak speak" is understood with courtesy as "speak briefly"), cuing the witness and Justice Yim that this was not worth any more

attention than the courteous minimum possible. Elsewhere, the inquest chair was consistent in his choice of "your father" (*nei5 baa4 baa1*) while the eldest son alternates "my father" (*ngo5 baa4 baa1*) and "my dad" (*ngo5 lou5 dau6*) as he grows more or less conscious of the need to depersonalize his speech, or match the level of documentable fact expected by the Court.

The next witness called was a local woman in her 50s who worked as a caretaker at the nursing home where Mr. Lou had been living in his last year. After detailing her work and knowledge of the deceased, accessing her observations of the deceased's incremental improvements despite being bed-ridden, she is careful to be respectful to the sons, but also slightly defensive in demonstrating her innocence.

Chair: Had you seen whether somebody had visited Mr. Lou?

Witness 2: The young son came *every day* [stressed]. The older one visited him weekly.

Chair: Please explain the reason why you arranged for Mr. Lou to be sent to Prince of Wales Hospital on 2 February 2015.

Witness 2: I have to work from 0700 hours in the morning to 1900 hours at night daily. It happened while I was on duty on that day.

There is possibly some expectation of potential legal sanction here, when the nursing home worker first stresses the socially laudable behavior of the young son, publically showing her sense of what is agreeably appropriate, and then following this with an invocation of her commitment to work under external stress. This may also be understood as a preclusion of wrongdoing, even where the inquest chair has already said as much and the Coroner's Court makes it clear that no question of criminal liability exists.

Chair: Would you please mention what had happened on 2 February 2015?

Witness 2: In the morning, there was nothing unusual. After normal lunch hour at 12 in the afternoon and drinking milk, about 20 residents were moved to the balcony for sunshine. I moved him to the balcony by wheelchair. At approximately 2:00pm in the afternoon, he suddenly began vomiting seriously. Our facility therefore called an ambulance to rush him to Prince of Wales Hospital. I waited for the arrival of his youngest son at the hospital. I left hospital after his arrival.

[… At the end of this witness' testimony, Justice Yim interrupted and asked the deceased's youngest son a question.]

Justice Yim: Are you satisfied with the service of the nursing home?

Youngest son: Satisfied.

Justice Yim's interruption here is very significant. The intonation was calm and polite but carried no obvious sign of curiosity. This might be because Justice Yim has had experience asking similar questions in other nursing home cases in order to confirm whether the nursing home had been involved in the cause(s) of death. Asking the youngest son, who was at no time sworn in as witness, followed the pattern of praise established by the second witness, who drew attention to his filial piety, and appeared to surprise the youngest son. His response, *gei2 hou2* (satisfied), is difficult to translate with precision because of the intonation and situational context. The first character, *gei2*, has different meanings when combined with other secondary characters. In this application it may mean "a few," "approximate," "roughly," or "to a certain extent" in English, meaning that it can't simply be read as "good" or "not bad." His surprised reaction, combined with the indeterminate meaning indicate that this is a casual comment made spontaneously, rather than a carefully prepared or pre-mediated answer. It suggests that the youngest son had not anticipated being asked such a question, and spoke to Justice Yim in a way that expressed a respectable and personable authenticity.

The third witness in the inquest was a somewhat younger woman who was the government social worker in charge of Mr. Lou's case file. The swearing in was unproblematic but a procedural note by the inquest chair had to be made when the witness reached for her notes for reference, raising questions over the expected source of facts.

Chair: Would you please state your post and duties?

Witness 3: I am an assistant social welfare officer of North Shatin Office. My main duties are handling hospitalization case(s) and social welfare arrangements relevant to guardianship orders. [*Used English "case"*]

Chair: When did you start handling Mr. Lou's case? *[Used English "case"]*

[Witness tries to refer to her own notes to answer the question, but the inquest chair asks her to stop doing so, telling her that it was improper for her to use her own notes this way. She looked a little confused, pausing to put her notes back in her case while stealing glances at Justice Yim and the inquest chair, then continued on

[3] Cantonese is transliterated here using the Jyut6ping3 system, showing 6 numbered tones as follows: 1 high level; 2 mid rising; 3 mid level; 4 low falling; 5 low rising; 6 low level.

memory.]

Witness 3: I have handled this case since I took it over from my predecessor on 29 December 2014.

Chair: Had you visited Mr. Lou?

Witness 3: I had visited him once at the elderly home before he was admitted into Prince of Wales Hospital.

Chair: What were his health conditions on that occasion?

Witness 3: He was lying in bed but knew how to nod his head for response.

Chair: May I know your comments on the service of that nursing home?

Witness 3: No perception of anything unsatisfactory.

Again, the language and line of questioning used by the inquest chair is clearly respectful to the witness and the family, and motivated by an intention to show those assembled that there is no cause for misunderstanding. The reminder by the inquest chair to the witness of proper court behavior was voiced at the witness but also toward the public gallery, making it appear educational. This may be consistent with the current debate in Hong Kong legal practice as to the translatability of common law concepts from English courts to Chinese/Cantonese courts, whether seen as challenging but necessary (Wu and Leung 2009), or needed for future relations with the mainland (Ho 2012), or already accomplished in full (Ip 2014). For the coroner's purposes, the lesson turned out to be less about court protocol and more about the desired generation of facts – those from a sworn witness' memory being superior to those from her un-vetted notebook – with care taken for the exactness of language. We see this also in the witness' use of the English word "cases" mixed with her Cantonese testimony in her second line above, while the inquest chair repeated the English word "case" when phrasing his next question. The word "case" is frequently used in Hong Kong's fusion of English with Cantonese, but its repetition here is likely both an indication of familiarity by the inquest chair with medical/social-work jargon and an intention to preserve the authenticity of her testimony, with no room for error.

The final witness called was a young doctor familiar with Mr. Lou's treatment at the Prince of Wales Hospital. As with the other witnesses, the first few minutes after swearing in were meant for corroborating factual details of person and employment to situate the witness in relation to the family and the deceased. For the final witness, who is usually a medical expert, this is followed by the crucial definitions of the natural or unnatural conditions affecting the deceased so that the jury can complete their task. All of this had to wait, however, when the doctor's introductory details mismatched the expectations of others in the courtroom in a moment that was exemplary of a very localized sense of authenticity underlying a particular Hong Kong legal consciousness in this case.

Chair: May I know your professional qualification?

Doctor: In 2010, I graduated from the medical school of Jinan University. *[A sharp collective gasp and three or four second pause followed as the doctor realized the effect of his words was disbelief and disappointment for many in the courtroom as soon as they heard that he graduated from a mainland university.]* In 2011, I passed *[used the English term]* the open professional medical examination conducted by the Hong Kong Government *[The doctor did not refer to the Hong Kong Special Administrative Region Government]*. In 2012, I started my practice in Hong Kong. In 2013, I got a professional certificate of internal medicine from the University of Edinburgh. I have been a doctor at various government hospitals in Hong Kong.

Chair: Were you the medical officer in charge of the deceased's case at the Prince of Wales Hospital?

Doctor: Yes.

Chair: Would you please tell the court about the illness of the deceased?

Doctor: The medical report, dated 4 February 2015, which summarized the causes of the death of 92-year-old Mr. Lou, indicated that he had the illnesses of cardiac dysfunction, thyroid dysfunction, appendicitis, degenerative brain disease and the new discovery of peritoneal tumors.

Chair: Would you tell the court about the health conditions for the deceased on 2 February 2015?

Doctor: Upon admission to hospital at 3pm, 2 February 2015, the deceased was vomiting seriously. X ray check and a blood test were conducted. His white blood cell count was on the low side. He was in a coma due to serious urinary-tract infections. His health conditions deteriorated rapidly. At 4:50am, 4 February 2015, he was certified dead.

Chair: Had you consulted the next of kin of the deceased with your decision-making on medical treatment?

Doctor: The deceased's son was informed of two possible medical treatments in this case. One was antibiotics for the control of bacteria and disease. Another was "recovery of heart and lung" which had many side-effects. It might have harmed his lungs and throat and is painful and dangerous. The medical team and the deceased's son agreed to use the first one.

Chair: What were the causes of Mr. Lou's death?

Doctor: Serious urinary-tract infections which led to leukemia.

The anonymous shock that went through the courtroom when the doctor described his mainland credentials was instant. A quick back and forth exchange of looks and mutterings

between the inquest chair and the doctor during the pause and again after his first statement was colored by bias and a nervous energy in its search for something the doctor might say to win back local approval. This is the unspoken assumption held by many in court that day, and many Hongkongers, that mainland medical schools were vastly inferior to those found in the HKSAR. As one gallery observer told me that day, "only the cream of the crop can become doctors in Hong Kong hospitals, but this was a second-rate mainland school!" The doctor had to be aware of this bias in Hong Kong society, and may have been trying to validate his presentation based on that awareness by referencing "Hong Kong" as opposed to HKSAR in his credentials, using the English word "pass(ed)," or introducing the UK sources of his background to build more credibility. These statements manifest Hong Kong's character of socio-linguistic diglossia; the doctor could be grounding his defense in the local vocabulary of an elite status set by the colonial-era power structure. Ultimately, however, the courtroom falls respectfully silent again only after he begins detailing the medical terminology of Mr. Lou's conditions in a display that follows a similar pattern in all of the open hearings observed. It is this switch from dismay to authenticated approval that we need to understand as the powerful potential of the language used by the medical community in the courtroom discourse of the Coroner's Court.

Authenticity can evidently be questioned when its source is undermined in the us-versus-them logic of Hong Kong identity. This is something we can see as linked closely with the "Rule of Law" narratives sourced by the contrast of a lawful Hong Kong with a less-lawful mainland China (Newendorp 2011). In the doctor's case above, this is overlaid with the medical language and the conclusive placement of the final medical witness. In many cases that medical language carries with it a compounding diglossic distinction of English as a medico-legal language. Frequent uses of "preliminary report," "gram stain," "broad spectrum," "not responding," "cross-match," "antibodies," or "enzyme motor" by medical witnesses are then taken up by the lead barrister of the Hospital Authority law team, or the inquest chair, eager to demonstrate awareness and the authenticity of spoken evidence, frequently made so by the diglossic value of a medical education in an English-speaking country. But even in written Chinese or spoken Cantonese, medical terms have a spellbinding immutability in bringing reason to the death – something that the Coroner's Court actively seeks – even as it puts a professional class of witnesses in the service of a legal consciousness that often expects a more retaliatory rule of law.

In Justice Yim's final instructions to the five jury members at the Lou inquest, above, we see part of the reason spoken language can be such a rich source of local empowerment for everyone involved in the telling of facts at the Coroner's Court.

Justice Yim: You need not agree with the viewpoint of the court. You should exercise your independent assessment - not judgment - on the evidence, and may accept or reject any part of a statement. Direct evidence may not be available in this case but you should exercise legal reasoning on the basis of available evidence for a reasonable decision - not verdict - which is acceptable. In case of a conflict of evidence, you should adopt the approach of a balance of probabilities instead of trying to determine beyond reasonable doubt. Please remember, as long as a person cannot exercise his free will, the court has a moral obligation to prevent maltreatment which might lead to the death of the person. Prima facie, all evidence is consistent.

After ensuring that all jurors understood their responsibilities, Justice Yim moves to adjourn. Then comes the order to stand as she leaves for her chamber, while the jury moves to the neighboring deliberation room. Fifteen minutes later we are called back into the courtroom to hear the jury's finding. The head juror has some trouble reading out the medical terms on the final report, but he manages to put a brave face on it, and no doubt feels redeemed as the clerk reads it back with a slight pause on the same segment. The jury finds the death to have been "natural," with no objections, suggestions, or dissenting opinions. Justice Yim then thanks the jurors and officers of the court, and the inquest comes to a smooth end just a few minutes before noon.

The intimidating power of English medical terms, marking authenticity and matching an expected factuality, is something visible in all the open hearings observed through February and March of 2017 and March of 2018. However, some differences in the reception of these code-shifts were seen when comparing the approaches of Justice Yim, above, and Justice Ho on other occasions. Where Justice Yim appeared more permissive of the English content, Justice Ho appeared to have instructed his inquest chair to translate such medical English to agreed Chinese terms, as I observed the chair frequently reading out a Cantonese equivalent from a list, to which the medical witnesses usually agreed happily "*hai1-lah3, hai1-lah3*" (yes, good, good). But this was most likely done in order to further the understanding of jurors and family members, rather than to play to any larger policy of ensuring an acceptable form of Cantonese common law. This can be seen in the reaction of an elderly family member in the case of a deceased two-year-old boy which attracted much local media attention and featured a great deal of medical English. During a break I was surprised to be approached by the child's grandfather who saw me taking notes. The old man was smiling intently and shaking his head as he told me "*nei5 dou1 syun3 hou2 je5! gam3 do1 gam3 naan4 ge3 jing1 man4 nei5 dou1 sik1*" (I am amazed that you

could understand all that! So much difficult English!).

Discussion:

Sally Engle Merry found that the interventions of the court system in her New England study (1990) were a life line for some populations, while a shameful exhibition for others, but in all cases she was seeing those interventions ultimately as a loss of control. It alienated and wrecked the lives of some people whose partners or neighbors offered them no other choice, but it also gave them a way to escape their problems. In the resulting dependence on this specific form of state intervention, the court system appeared to offer a rights-based solution for rights-based complaints, when in the understanding of court officials it was really providing a palliative for flawed parenting and poisoned neighbor relations. In this way, the language of law is a dominating discourse (Merry's argument) in that it has an agreed currency of power, but it is also clear in Merry's description that the language of law has no commonly agreed application for that power. Deciding whose language is the language of law depends in part on knowing who has need for its services.

In the HKSAR Coroner's Court, death and the family/public record thereof is the acknowledged service provided, but here too we find people with alternate services in mind. Determining whether a death was natural or otherwise cannot always appease the bereaved family members. The Rule of Law narrative may lead some bereaved to believe that the coroner provides a venue for retribution. Perhaps, like Merry's power-versus-application in the language of law, the Coroner's Court also has an agreed power to wield, but an interpretable application of how to wield it. Certainly, we can see in Hong Kong's media depictions of the coroner's work a bias in reporting that focuses attention on scandalous deaths, celebrities, heroes, the very young, and youth suicide (Au, et al. 2004). In research observations of inquests, the only time I could confirm that local news reporters were seated in the "priority press seating" area of the public gallery was in the case of the two-year-old boy, whose father maintained an eight day appearance on the stand, frequently receiving cautions from Justice Yim to rephrase questions so as not to appear to cast suspicions of medical malpractice. This suggests that for the press and for some families, some deaths are more likely than others to color the discourse of Coroner's Court in a more combative or dramatic way.

The Coroner's Court can also see its independence in the judiciary as an advertisement of rational impartiality in making recommendations for public safety (MacNaughton and Wong 2014) but it is not always the case that observers of the Coroner's Court will interpret that independence in the same way. For example, in the aftermath of the Ngau Tau Kok fire in 2016, which killed two firefighters, two members of the HKSAR Legislative Council lobbied to establish a commission rather than allow the case to be investigated in the Coroner's Court (Leung 2016). In their argument, they highlighted the fact that inquest chairs are appointed from the public services (fire and police) and would therefore lack independent credibility in conducting a fair inquest. But the acting government security chief disagreed, saying, "there are also judges in the Coroner's Court [so] everyone involved in the probe is legally protected [⋯] this is more fair and authoritative" (ibid.). Certainly, for the family members and witnesses observed and interviewed here, the independence of the Coroner's Court was not seen through political lenses, but surprisingly rational ones, such that the reason for appearing at the Coroner's Court needed no explanation - even if a foreign anthropologist asked for one (the most concise response was "it's just the process," by one social worker witness).

Medical professionals and social workers are integral to the language and operation of the Coroner's Court as we see from their determining closing summary position and their extensive use of "rational" terminology and symbolically-laden English. The inquest chair might also include this terminology, since it is always a part of the official record of death, and adopt some of the code-shifting fusion of English words. Judges also occasionally code-shift in English, but it is the non-accusatory Cantonese used by judge and inquest chair that most closely matches the proactive social role of the Coroner's Court. Comparisons with Ng Kwai Hang's (2009) work on Cantonese vs. English legal discourse in the Magistrates' and above indicate some similarities, for example the moralistic quality of Cantonese narratives that Ng saw in those "carnivalesque" courtrooms can also be seen in Justice Yim's cautions to the jury members and in the nursing home witness' praise for the loyal young son. But moral displays in the Coroner's Court link in turn with its service of consolation for the families and atonement for the dead (MacNaughton and Wong 2014) and do not run up against an entrenched "juridical formalism" (Ng 2009) because of the coroner's largely independent and non-criminal place in the judiciary. This suggests that "the language of law" may not always be "the dominating discourse" (as Sally Engle Merry 1990 describes it) in a courtroom. Instead the Coroner's Court example reminds us to look for evidence of domination in the legal consciousness, or the interpretations of participants and their submission to expected roles in the proceedings.

Conclusion:

The Cantonese that appeared in Coroner's Court discourse is not comparable to Ng's (2009; 2011) characterization of Cantonese common law as a dynamic threat to juridical formalism. Instead, we see an environment shaped by the judiciary's effort to promote a family-oriented service in

a language that allows Hong Kong families to be most comfortable. While family members and witnesses can be seen exploring lines for *potential* combative justice, actual combative reasoning is not permitted by the court, and all participants exercise caution by either choosing language to deflect possible interpretations of fault (such as Witness 2, in the case cited above), or by accepting or repeating the court's suggestion to use less loaded language. The result is a very calm and composed environment of Cantonese.

More significant was the appearance of English in the midst of that Cantonese discourse. Unlike the positioning of English as a component of juridical formalism by Ng, the coroner's discourse showed the presence of English grounded firmly within the authenticity of medical evidence. Professional medical and social services witnesses were the exclusive source of all English terms observed for this paper. The medical witness is the most valued source of facts (through their final testimony) in the coroner's mission to show the family members that all aspects of the death have been duly investigated for a conclusive statement on the nature of that death. That medical testimony was often the most animated portion of courtroom language, as medical experts were often seen gesticulating actively and sweeping the court with their eyes as they clearly made great effort to explain complex medical conditions and terms to all participants. English terms became indicators of an authentic knowledge, inseparable from professions, and illustrative of the social/professional aspect of diglossia (Fergusson 1959) still relevant in present day Hong Kong.

The legal consciousness visible in Coroner's Court discourse includes moralistic aspects, pushing witnesses to occasionally suggest or suspect wrongdoing, and also invoking statements by the judge to request caution in wording and appreciation for authentic facts. Authenticity was also demanded by the Hong Kong bias in terms of professional medical credentials, and while this can be seen as an aspect of legal consciousness, it is given force by the diglossia in Hong Kong's relationship with English. Discrepancies in courtroom language use help to give observable shape to legal consciousness and show us that there is analytical space for more nuanced expressions of legal consciousness within a given society.

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