

Research Article

Le Cheng* and Xiuli Liu

Politics behind the law: unveiling the discursive strategies in extradition hearings on Meng Wanzhou

<https://doi.org/10.1515/ijld-2022-2072>

Received October 8, 2021; accepted September 20, 2022

Abstract: Deciphering the hidden political implications in legal discourse has become hot foci in the study of international politics to unravel the political roles and positionings of various stakeholders in law as well as its enforcement and adjudication. Drawing on CDA approach, this study provides a text mining of 12 extradition hearings on Meng Wanzhou case. The findings of the present study indicate that the case is in the name of law but actually with the nature of politics in the context of the U.S.–China trade war. It also demonstrates evidence of manipulation of political power and reframing of the event occurrences throughout the texts of the 12 hearings, by exerting the repetitive use of a bundle of legal discursive strategies. The violation of justice and equality in the legal discourse around the present case is based on the superior status of the U.S. in contrast with Canada in the discursive practices as well as the political contemplation of Canada, resulting in challenges to the fundamental principles of rule of law around the world. This research furthers the understanding of the strategies and entanglement of justice and injustice, power and control in the process of discourse construction.

Keywords: CDA and law; China–U.S. trade war; discursive strategies; event reframing; international politics; Meng Wanzhou case; political contemplation; power manipulation

***Corresponding author: Le Cheng,** Guanghua Law School and School of Cyber Science and Technology, Zhejiang University, Hangzhou, China, E-mail: chengle163@hotmail.com. <https://orcid.org/0000-0002-4423-8585>

Xiuli Liu, School of International Studies, Zhejiang University, Hangzhou, China, E-mail: liuxiuli@zju.edu.cn. <https://orcid.org/0000-0001-8534-6753>

1 Introduction

Meng Wanzhou (herein afterwards Meng), the chief financial officer of China's Huawei, was arrested by the Canadian police in 2018, accused of fraud based on a warrant from the United States. While the extradition hearing for Meng had wrapped up, no final verdict had been issued at that time.¹ In other words, the case had lasted out of normal expectation without a fair judgment in the legal sense. As the United States and Canada coerced on Meng's case, mainly to put pressure on Huawei and suppress 5G development in China, it is widely accepted by scholars that the incident is a political incident (Hoffmann et al. 2019; Hsiung 2020; Windsor 2020), which has long been rooted in the geopolitical and geo-economic conflicts (Cheung 2018) with cyberspace competition between the two super powers. Deeper analyses revolving such U.S.–China relationships in Meng's case mainly focus on the Law, including the Court's decision (Yates 2020a), justice practices (Rauhala 2019) and lawfare strategies (Goldenziel 2020) in the context of U.S.–China trade war (Liu and Woo 2018). However, those works did not touch the solid theoretical connection of the relationship between the law and such political concerns in the case. In order to fill in this gap, the present study chooses critical discourse analysis (CDA) as an approach, which has an interdisciplinary nature (Locke 2004) of understanding deeper relationships between genres from different social fields (Bhatia 2016; Fairclough 2013b; Weiss and Wodak 2007), to seek for the ideological and political nature behind relevant legal process in Meng's case.

As is indicated by Fairclough (2013a), in the era of neo-liberal capitalism, CDA can serve as an important research tool to explain causes of systematic crisis by focusing on the discursive features of certain strategies “of how they construe and potentially contribute to constructing political-economic realities”. Legal discourse in general (Bhatia et al. 2008; Cheng 2016; Coulthard et al. 2016), as specific domain of social practices with technologization (Caldas-Coulthard and Coulthard 1996), has its own features to reflect those potential socio-political conflicts (Angouri and Wodak 2014) which can be further revealed and explained by CDA method. According to the CDA theory by Van Leeuwen (2008: 113–125), the construction of specific discourse has a close link to the “purpose legitimation” of social practices including laws and “three elements are necessary for the discursive construction of purposeful action”—the purpose action, the purpose and the purpose link. In the domain of legal discourse, certain purpose can only be realized in a dynamically changing context of semiotic systems (Cheng and Sin 2009) with an integration of text and context (Van Dijk 2009: 212).

¹ See <https://www.theguardian.com/world/2021/aug/18/meng-wanzhou-extradition-case-canada> (accessed 21 August 2021).

As for its interdisciplinary nature, CDA appears to be an appropriate approach to the study of the law, with a special focus on the relations of power and ideology (Machin 2013). Van Dijk (1995: 248) defines ideology as ‘the basic framework of social cognition’ shared by a social group, which consists of related sociocultural values organized in an ideological schema that characterizes the group’s self-definition. It can also be argued that ideologies are social constructions (Gergen 2009: 134) about domination and control that depend on specific discursive relations between a given practice and other practices. But once social practice is represented, that is, thought about, described, and discussed, then it is recontextualized (Van Leeuwen 1993). In the process of recontextualization, certain discourses are separated from their original power relations and then reconstructed as a new practice (Chouliaraki and Fairclough 1999), and it is in this process that ideology comes into play. For instance, in the Meng’s case under study, the interaction of political and legal practice forms a specific network of relationships that determine its internal power structure and ideological effects.

Based on the three-element CDA framework of Van Leeuwen (2008), the present study commits to explore the “purpose link”, to be more precise, the hidden political realities, in the legal discourse around Meng’s case, by giving detailed analytical research in two steps. First is purpose action (namely the relevant legal processes), the second is examining the corresponding purpose in the political-economic context by deconstruction and reconstruction (Bhatia et al. 2008b; Cheng and Cheng 2014) of relevant discourse. There are altogether 12 hearings from the Supreme Court of British Columbia on Meng’s case, centering on several issues including whether it is politically motivated, whether the due process principle is violated, whether the double criminality principle is satisfied, whether condition of bail may be changed, and whether the introduction of evidence at the hearing can be supported. The study will first analyze the discourse around Meng’s case based on the texts of 12 judgments from legal perspectives, then discuss corresponding discursive purpose in light of CDA from political perspectives. Thus, the whole paper is divided into five parts: apart from the introduction part, the second part is case brief, the third part is the analysis of the case, and the fourth part is the discussion from CDA perspectives and finally the conclusion.

2 Case brief

Along with a warrant for the arrest of Meng issued by the New York court on 22 Aug 2018, Canadian authorities arrested Meng at Vancouver’s airport after an

extradition request from the Americans on 1 December 2018.² On 6 December 2018, China demanded that Canada release Meng and “immediately correct the mistake” that officials made in arresting her, while Canadian Prime Minister Justin Trudeau said Meng’s case is part of an independent legal process with no outside political influence.³ Then on 7 December 2018 came the first hearing, where Meng appeared in a Vancouver court, with allegations of fraud from the U.S.—misleading American banks in a bid to get around American sanctions on Iran.⁴ On 11 Dec 2018, Meng was released on \$10 million bail, and the former U.S. President Donald Trump told Reuters that he would “certainly intervene” in Meng’s case “if I thought it was necessary” to help forge a trade deal with China.⁵

On 7 January 2019, the Canadian Prime Minister’s Office said Trump had affirmed his respect for judicial independence. In a summary of a phone call between Trump and Trudeau, the PMO indicated the leaders discussed the high-profile U.S. extradition request—though Meng was not named—and agreed on the importance of respecting the independence of judges and the rule of law.⁶ On 22 January 2019, China demanded the U.S. drop a request that Canada extradite Meng, indicating Meng’s case was out of the ordinary and Canada’s extradition treaty with the U.S. infringed on the “safety and legitimate rights and interests of Chinese citizens.”⁷ On 23 January 2019, Canadian Ambassador to China McCallum indicated there are strong legal arguments Meng can make to help her avoid extradition to the United States, by listing several arguments Meng’s legal team can make in her defence. Three days later, McCallum resigns at Trudeau’s request.⁸

With the fermentation of the event, the role of political factors in it was gradually highlighted. On 25 June 2019, China pronounced to block all pork shipments from Canada. As a responsive action, Canada postponed decision on whether to allow Huawei to build a 5G network in Canada on 15 July 2019.⁹ As HSBC denied Meng’s request for disclosure relevant documents on the grounds that the Supreme

2 See <https://www.nytimes.com/2018/12/05/business/huawei-cfo-arrest-canada-extradition.html> (accessed 07 December 2018).

3 See <https://www.marketplace.org/2018/12/06/china-demands-canada-release-huawei-executive/> (accessed 07 December 2018).

4 See <https://www.nytimes.com/2018/12/07/technology/huawei-meng-wanzhou-fraud.html> (accessed 08 December 2018).

5 See <https://www.bbc.com/news/world-us-canada-46533406> (accessed 15 December 2021).

6 See <https://www.cbc.ca/news/politics/trump-trudeau-call-meng-wanzhou-extradition-1.4969570> (accessed 20 October 2021).

7 See <https://apnews.com/article/c772580f689346cf95d388d255933159> (accessed 17 March 2021).

8 See <https://www.cbc.ca/news/politics/mccallum-out-ambassador-1.4994492> (accessed 13 March 2021).

9 See <https://www.reuters.com/article/us-canada-huawei-tech/exclusive-canada-set-to-postpone-huawei-5g-decision-to-after-vote-given-sour-ties-with-china-sources-idUKKCN1UA20R> (accessed 01 April 2019).

Court of British Columbia did not have jurisdiction to make the order, Meng applied to the High Court of Hong Kong to obtain relevant documents from HSBC on her extradition case on 25 February 2021,¹⁰ and the Hong Kong High Court judge issued an order on the document-sharing agreement between HSBC and Huawei after the hearing.¹¹ However, Meng's application to adduce the HSBC documents as evidence in the extradition hearing was ultimately denied by the court (see Jud.12 [42]). Up to now, 12 textual judgments are accessible from the Supreme Court of British Columbia on Meng's hearing ups (see the appendix for details),¹² which can be objectified units of discourse (Gal 2006: 178) and provide basic evidence for the basis of analysis and discussion for the present study.

3 Analysis on judgments: from legal perspectives

3.1 Jurisdiction over the case

In the legal analysis, the very first thing to be fixed in this case is jurisdiction. In other words, whether Canada has the jurisdiction to file the case as a criminal one. In terms of connecting point of a certain case, it may be the residency of the defendant, the place of the criminal act and the place of the criminal consequence (Eck and Weisburd 2015). Two judgments directly relevant to jurisdiction (namely Jud.1 *Oral Reasons for Judgment* [Jud.1] on 11 December 2018 and *Oral Reasons for Judgment* [Jud.7] on 29 January 2021) gave a verdict that Ms Meng has the responsibility for “reverse onus”, which is a representative legal term with ideology and history in specific jurisdiction (Cheng and Sin 2009), for the fact that she is “not ordinarily a resident in Canada” according to s. 515(6) of the Criminal Code (see Jud.1 [24] and Jud.7 [4]). However, the judgments have not put much emphasis on the discretion between the place of criminal act and that of criminal consequence, which reflects the lack of intercultural sensitivity of the legislative discourse between different jurisdictions (Bhatia et al. 2008a: 11–12).

As a decisive factor for the choice of forum in the international criminal court, the nationality (Deen-Racsmay 2001) of Meng in this case was also essential for jurisdiction. In the first judgment, Meng was stated as a “citizen of China” and had “a Hong Kong passport and a Chinese passport” without “any other citizenship”,

¹⁰ See <https://www.bloomberg.com/news/articles/2021-02-26/huawei-s-cfo-takes-hsbc-to-court-in-hong-kong-to-gain-documents> (accessed 27 February 2021).

¹¹ See <https://bc.ctvnews.ca/huawei-hsbc-agree-on-document-deal-for-meng-wanzhou-extradition-case-1.5384408> (accessed 04 April 2021).

¹² See https://www.bccourts.ca/search_judgments.aspx#SearchTitle (accessed 19 May 2022).

and based on the extradition treaty between Canada and the U.S., the court in Vancouver can also have jurisdiction over the case (see Jud.1 [1] [3] [14]). It is important to note that, when it comes to the issue of the bail conditions, her nationality was reemphasized as “neither a resident nor a citizen of Canada” which was put in the legal interpretive context (Cheng and Cheng 2012) of her having “significant financial and other resources” (see Jud.7 [28]), with a purpose to manifest the potential danger of her bail.

3.2 The principle of due process

For the fact that Meng was unduly retained in the Vancouver airport without prior notice (Yates 2020b), she claimed that there was an intentional abuse of the Canadian judicial process with allegations of three branches, including economic and political gain of the U.S. and the conspiracy between Canadian and American authorities during the undue search and interrogation according to the judgment of *Ruling on Defense Application for Disclosure* [Jud.2] by the court on 9 December 2019, and evidence which was intentionally omitted by the U.S. according to *Ruling on (a) Application by Person Sought to Adduce Evidence* [Jud.6] on 8 October 2020. However, the second hearing [Jud.2] only dealt with the second branch of her allegation of an abuse of process neglecting the first branch for the reason that her application “does not relate to the first branch” (see Jud.2 [2] [3]), and the Attorney General opposed to Meng’s abuse of process claim for the reason that it was not “founded on evidence” (see Jud.2 [41]). Later on, Meng’s third branch allegations were recognized as “an air of reality” but “without full argument” (see Jud.6 [123] [124]). Although it seems to be a central issue of the case whether the investigation and arrest of Meng in the airport violates the very basic principle of the rule of law—the due process, the judgments actually reflected the voices of judges with hegemony (Cheng and Cheng 2014) and an evacuation of the defendant’s voice.

According to the rule of the exclusion of illegal evidence, if the evidence in this case is obtained illegally, it should be excluded from the court (Dawson 1982; Shaw 2017). Furthermore, the crucial witness who is a policeman, assisting and providing the tax code of the computer to the FBI also refused to testify before the court. In other words, the lack of presentation of the crucial witness will necessarily make so-called evidence ungrounded and supported.¹³ Pitifully, the legal processes appear to reflect power and control by judges (Wagner and Cheng 2011) in the

¹³ See <https://www.scmp.com/news/china/diplomacy/article/3110438/canada-feared-safety-macau-based-witness-who-refuses-testify> (accessed 15 January 2022).

courtroom, without any attempt to further investigate and discuss the issue itself, or put the principle of due process in a central place. And in the judgments for the third hearing—*Ruling on Media Application to Video Record or Broadcast Court Proceedings* [Jud.3] on 13 January 2020, the abuse of process she alleges is recognized as “potential tainting of witnesses and members of a jury pool” by the judges (See Jud.3 [40]), which is somehow a discursive strategy of argumentation (Wodak and Meyer 2015) to manifest the legitimation of the judgment. In brief, the key point of Meng’s application focus on the political nature linked to the violence of due process, but this point was simply disregarded in the court’s disposal.

While the court in this case held that Meng was entitled to apply to adduce evidence under s. 32(1)(c) to challenge the reliability of the evidence submitted by the U.S. (see Jud. 12 [12]). Additionally, the court also acknowledged the new evidence submitted by Meng – the HSBC documents “would no doubt be valuable to Ms Meng in a trial” (see Jud.12 [22]). If the new evidence can prove that HSBC and its executives knew about the relationship between Huawei and Skycom from the beginning, Meng could not have “fraud” HSBC regarding the relationship between Huawei and Skycom, and the objective conditions for the so-called “fraud” would not have been met. However, the judge avoided examining the authenticity and the validity of the evidence because “these sorts of processes involve a weighing of evidence, a function outside the extradition judge’s role” (see Jud.12 [13]) and denied the application on the grounds that the new evidence was not relevant to the issue at the hearing. The operation by the court, which appeared to comply with the procedures of the hearing and the duties of the extradition judge, actually covered up the court’s avoidance of the legal issues of the validity of the evidence and the authenticity of the case.

3.3 No crime without law

In criminal cases on the international level, without explicit statutory provision, no crime should be established and found, which is an established international practice and well recognized in the international convention of human rights, as well as international convention of civil and political commitment (Rauhala 2019; Shaw 2017; Shelton 2013). This principle could be traced back to the ancient time when the Roman Empire was established, which is represented not only in the European Continent, but also in Common Law jurisdictions such as the UK, the U.S. and Canada (Van Schaack 2008). As another central issue in Meng’s case, the double criminality standard (Gardocki 1993; Williams 1991) can be well met only when effective laws in both countries are applied to the case. However, from the judgment of *Ruling on Double Criminality* [Jud.4] awarded by the court of

Vancouver on 27 May 2020, we can notice that analog is used as a rhetorical tool to draw the conclusion that the “domestic aspect of a double criminality” can be applied to the extradition case (see Jud.4 [62]), with reference to the double criminality in the case of United States of America v. Wilson in 2013 (see Jud.4 [63]). By such analog approach, fraud is considered as crime in Canada based on the prime facie evidence that Meng has the possibility of committing such a crime, which is a statutory criminal act in the U.S. But in the international court, the crime should be established according to the solid law instead of any analogy (Rauhala 2019), thus coming to the issue whether fraud as a criminal act actually exists in the effective legislation of Canada.

Relevant judgment refers to a referent case in Canada of McLachlin J. in *R. v. Zlatich* in 1993, with a description of “two-part offence”—the *actus reus* and *mens rea* (see Jud.4 [25]), which means the accused is guilty only when two conditions, the conduct of the accused and the knowledge of the victim, are both well met. Nevertheless, here lies the issue whether the “victim” has knowingly engaged in such kind of contractual relationship—if the victim agrees with some tactics to help the other party to act, it is not fraud at all. As for the present case, the “two-part offence” is obviously not a good argument to claim that Huawei commits fraud by deceiving HSBC, as the HSBC knows that the transfer is to the Iranian companies, and also knows the Huawei has some connection with its subsidies in Iran (see Jud.4 [15]). Most importantly, it is a cardinal principle of Canadian criminal law that “there can be no crime or punishment except in accordance with fixed, predetermined law”.¹⁴ Thus, based on the fact that there is no provision of Canadian law to refer fraud as a criminal act, the double criminality standard in Meng’s case cannot be met from the very beginning, not to mention that the judicial proceedings (Cheng 2010) of the analogical case as legal practice cannot be applied to the present case.

3.4 What is the “fact” in law?

In reference to the issue whether Meng’s detention is required to ensure her attendance in court, the so-called “fact” in law is totally based on “a Summary of Facts produced by the Requesting State in support of their request for the Provisional Arrest Warrant” (See Jud.1 [7]), and the fact is based on two exhibits: a letter dated December 3, 2018, from United States Attorney, Eastern District of New York (Exhibit 1) and the Affidavit of Cst. Yep on this bail hearing (Exhibit 2). The following wordings of the court repeated the story of the requesting state (see Jud.1 [24] [25]) and simply summarized its analysis in favor of the requesting state and of course essentially against the defendant (see Jud.1 [30]). In other words, the two exhibits

¹⁴ See <https://www.thecanadianencyclopedia.ca/en/article/criminal-law> (accessed 19 January 2019).

represent the textual voices (Cheng and Sin 2008: 271) from the prosecution, but not the defendants. Although we do see some voices from the defendant, they were simply denied for the excuse that the defendant has no significant connection with the jurisdiction. For example, in the judgment of *Ruling re Privilege* [Jud.5] on 7 October 2020, Meng's claim for different privileges is judged as "irrelevance or non-responsiveness" regarding, for the simple excuse that privilege is claimed within "a single document" with "overlapping" contents (see Jud.5 [41]). In a nutshell, the fact in law of the present case is constructed by the narrator's repetition and endorsement of other's voices shaped in documentary evidence (Cheng and Cheng 2014), while the voices of the defense were minimized, buried or even evacuated.

From the texts of the 12 judgments, it is true that there is not of much political issues in the case, but more of a legal issue, that is, whether the principle of due process is violated. However, in order to further explore the potential political struggle and ideological positions (Van Dijk 2009) of different groups behind such so-called fact in law, the legal discourse in the present case shall be understood and interpreted in social practices (Machin and Van Leeuwen 2007). For example, to take a closer look, we can clearly see the political involvement if we surf the timelines as indicated by the Canadian Press, including the expression of Meng's case as "a bargaining chip in a trade war between the U.S. and China", in which "the U.S. misled Canada".¹⁵ The news on two Canadians "detained in China" has been linked with Meng's case as the "consequences" of which China "threatened" Canada as Meng wasn't released, with an intentional emphasis on "U.S. decision-makers knew how provocative Meng's arrest"¹⁶ and those two Canadians are "pawns" of the U.S. which "stands with Canada" only to "get a better trade deal with China".¹⁷ From such mixed narrative of media practices (Machin and Van Leeuwen 2007) in the Canadian Press, it can be inferred that the Canadian authorities are struggling between Chinese and American authorities, with an inclination in favor of the U.S., considering its regional and political solidarity with and dependence on the U.S. (Bow 2010).

Such potential political implication behind the legal issues of the case can be further proven by the follow-up measures taken by the U.S. against China in the field of IT. For example, the final report of the U.S. Cyberspace Solarium aimed at beating adversaries in the domain of 5G mobile networking by claiming that those Chinese companies in U.S. had gravely endangered the national security of the

¹⁵ See <https://www.cbc.ca/news/canada/british-columbia/meng-wanzhou-deferred-prosecution-cbsa-rcmp-1.5829411> (accessed 09 May 2021).

¹⁶ See <https://www.cbc.ca/news/canada/british-columbia/meng-not-political-1.4946096> (accessed 15 June 2021).

¹⁷ See <https://www.cbc.ca/news/politics/blinden-china-cong-china-kovrig-spavor-1.5930143> (accessed 07 July 2020).

U.S.¹⁸ What's more, Voice of America (VOA) also had shaped the action of the U.S. Department of Commerce of cut off supplies to Huawei Technologies as "important national security issues"¹⁹ and the ban on Tiktok and WeChat as security concerns in "political contexts".²⁰ However, what indeed is the "purpose link" (Van Leeuwen 2008) between the "fact" in legal processes and the hidden political concerns in the context of international politics? With a close link to complex political-economic factors (Briggs and Bauman 1992), the discourse around Meng's case should be deconstructed and reconstructed in the material context with intertextuality which transcends the conceptual realm in discourse itself (Fairclough et al. 2004; Norris 2003) involving different political actors—namely China, the U.S. and Canada.

4 Analysis on intertextuality: from political perspective

4.1 Canadian crux

For unraveling the analysis from a micro level to a macro level with larger narratives (Hodges 2015: 54) and getting better understandings of the present case with intertextuality, we can situate the case within the wider context of the U.S.–China trade war, where the political factors play a very important role in the process of the case, including the detaining of Meng, the suspension of the case, and the prolonged track of the case until and even after the end of Trump's administration (Hsiung 2020). For Canada, it is in a really difficult dilemma to choose between two superpowers: one side is the U.S., its traditional allies and the next door long traditional friends and partners; the other side is China, one of its biggest trade partners. Although Canadian Prime Minister repeatedly argued that Canada shall uphold judicial independence,²¹ from the very first beginning of the case it can be obviously noticed the U.S.'s intervention in the case, even though during the trial of the case. From Chinese side, then, Meng's case is obviously "not out of any legal

¹⁸ See https://drive.google.com/file/d/1ryMCIL_dZ30QyJFqFkkf10MxIXGT4yv/view (accessed 02 January 2021).

¹⁹ See <https://www.voanews.com/usa/us-commerce-official-key-china-policy-resign> (accessed 23 May 2021).

²⁰ See <https://www.voanews.com/silicon-valley-technology/trump-administration-announces-bans-tiktok-wechat> (accessed 09 June 2021).

²¹ See <https://www.reuters.com/article/canada-china-diplomacy/china-doesnt-seem-to-understand-independence-of-canadas-judiciary-trudeau-idU.S.L1N2D31DQ> (accessed 19 May 2021).

cause” but actions by the U.S. government to “suppress Chinese hi-tech companies”, as commented by Ms Hua Chunying, the spokesman of Ministry of Foreign Affairs of the PRC, with an emphasis on the negative effect of the case on China–Canada relations.²² Although confronting with serious trade depression with the China, Canada appears to choose to stand with the U.S. more according to the legal processes of Meng’s case by the court in Vancouver, including the illegal detention of Meng, the illegal obtaining of the evidence, the omission of presentation of crucial witness, and even the doubtful and arguable application of double criminality.

From the perspective of CDA, the way of constructing discourse is constrained by the underlying power relations (Machin 2013), in the present case, between U.S., China and Canada in which Canada is in an inferior status. Going beyond and beneath the obviousness of the case in an inter-disciplinary way (Fairclough 2009), such “Canadian crux” has significant features which can be reconstructed in the domain of international political theories. No matter in sight of neoliberalism or neorealism (Foucault 1971), Canada in such security dilemma actually has the sensitivity to relative gains (Wendt 1995) in the confrontation between the two-superpower political structure. Canada has closer interest and connection with the U.S. compared with China taking all the factors, including political, economic and military, into account. With the expected-value maximization of political behavior (Levy 1997: 106) and the minimization of potential punishment of rule enforcers (Hurd 1999: 379), Canada decided to side with Trump Administration, which could be also supported by Canadian Prime Minister’s statements saying that he was given prior notice, about the intended detaining of Ms Meng at the airport of Vancouver in Canada,²³ implying that from the very outset it had already made a default support for the U.S.

4.2 Huawei as a leading company of 5G

By defining the constituent elements in the condemnation proceeding of “fraud”, usually the loss should be a decisive element, in addition to other subjective and objective elements (Ashworth and Horder 2013). In the present case, however, there is no pecuniary loss directly caused by Meng or Huawei subsidiary in Hong Kong to HSBC. The bank in fact knows that the account of Huawei is connected to providing some funds to the subsidiaries Iran republican, so the allegations of fraud cannot be established with such prior notice. From CDA perspectives, such

²² See <https://news.cgtn.com/news/2020-12-04/China-says-Huawei-s-Meng-Wanzhou-is-innocent-demands-release-VWKJFY1vi/index.html> (accessed 14 September 2021).

²³ See <https://apnews.com/article/214994bccf3f442db8169cba138d970d> (accessed 12 September 2021).

orders of the legal discourse (Foucault 1971) around Meng's case can be recognized as intentional recontextualization of political purpose of the U.S., which can be reconstructed (Van Leeuwen 2008) in light of a broader sense of intertextuality within the international context—the U.S.–China trade conflict. In the last decades, Chinese economy has been increasing at a fascinating growth rate, and Chinese GDP has almost reached 2/3 of that of the U.S., which obviously seems to upset the U.S., especially at the stage of digital economy and it is said to fall into the trap between two superpowers (Mearsheimer 2013), so the U.S. is trying its every means by unifying its allies, including the Intelligence Oversight and Review Council (FIORC) of the Five-Eye allies,²⁴ to strangle China politically, militarily and economically. Particularly, such counter-power element in sociopolitical relations behind the discourse structure (Van Dijk 1993) of Meng's case is prominent in the 5G area, which plays a very important role in the transformation stage of economy (Hoffmann et al. 2019). Huawei, as a Chinese Telecommunications giant, stands at forefront of upcoming 5G era, swept eight Global Mobile Awards 2018 that recognize the best in mobile and highlight the technologies, products, companies and individuals that are pushing the boundaries of ingenuity and innovation.²⁵

With the fast growth of 5G companies like Huawei in China, China was reported to be “leading the world in 5G development through the formation of a 5G development ecosystem to which no other country will be able to compare” and even “the U.S. cannot develop its 5G technology if it does not cooperate with China as well, since they are counting on China to provide 5G equipment for them that they almost don't produce domestically”²⁶ in a press release on “China Telecom Fifth-generation (5G) Technology White Paper” (June 2018). In response to questions about rising “security concerns” over Huawei's technology among some Western countries and escalating China–U.S. trade conflict, Hu Ken, deputy chairman and rotating chairman of Huawei said “There is also a lack of professional understanding of 5G technology itself in the global context, which is that 5G is essentially a more secure version of 4G.”²⁷ However, the U.S., Australia,²⁸ India,²⁹ German,³⁰ New Zealand,³¹ still set ban on Chinese telecommunication companies in their investing 5G in those countries in the name of national security. And aligned with Meng's case on fraud,

24 See <https://www.dni.gov/index.php/ncsc-how-we-work/217-about/organization/icig-pages/2660-icig-fiiorc> (accessed 07 May 2021).

25 See <https://www.globaltimes.cn/page/201803/1091478.shtml> (accessed 11 August 2021).

26 See <https://www.globaltimes.cn/page/201806/1108619.shtml> (accessed 22 June 2018).

27 See <https://www.globaltimes.cn/page/201809/1120216.shtml> (accessed 07 July 2018).

28 See <https://www.globaltimes.cn/page/201808/1116856.shtml> (accessed 11 August 2018).

29 See <https://www.globaltimes.cn/page/201810/1122329.shtml> (accessed 29 October 2018).

30 See <https://www.globaltimes.cn/page/201811/1127445.shtml> (accessed 10 December 2018).

31 See <https://www.globaltimes.cn/page/201811/1129357.shtml> (accessed 11 December 2018).

there are several other cases filed against Huawei including the accuse of “stealing trade secrets” out of “national security concerns”.³² However, “national security” itself as a sign is an umbrella term (Cheng et al. 2019: 287), which in turn can be defined with a sharp divergence within various contexts. For example, according to the final report of the U.S. Cyberspace Solarium,³³ the “priority” of Trump’s administration was to ensure the success of the election while others in the name of “national security” were just an excuse. And here in the order of discourse around Meng and Huawei, it is obviously a political maneuver or manipulation with national interests (Barrinha and Renard 2017) for the special position of Huawei, which plays a leading role in the global competition of economy and 5G technology. The U.S., as the main practitioner in the discourse of the present case, has its own political stance with antagonism and the struggle of resistance (Foucault 1971; Newman 2004) in the U.S.–China power relations, based on the context of contrasting upgrading China and downgrading U.S.

4.3 Political intervention

In a preliminary hearing in the British Columbia Supreme Court in Vancouver in March, one of Meng’s lawyers raised concerns about the political nature of the extradition case. “There are issues about the political character, political motivation, comments by the U.S. President,” Richard Peck said, “She [Meng] can argue there appears to be a pre-disposition, an anti-Chinese pre-disposition and therefore this will be a witch trial because she is Chinese, because of the claim that Huawei is really part of the Chinese government and Chinese Communist Party and so she would never get a fair trial”.³⁴ The political nature of Meng’s case can be revealed by the construction of Meng’s identity in the legal discourse from relevant judgments, including repeatedly describing her as a “Chinese citizen” (see Jud.1 [1]), as “the daughter of Huawei’s founder” (see Jud.4 [9]), and as the CFO of “Chinese technology company” Huawei (see Jud.7 [2]), etc. The discursive strategy of identity construction and interpretation (Wagner et al. 2012) shaped in the practice of legal discourse actually serves to well meet the political purposes of the U.S. back grounded actions against China. In fact, Canadian authorities also clearly expressed their concerns about the U.S. political intervention in Meng’s case, as indicated by Canada’s foreign affairs minister Chrystia Freeland in his communication to the news media by

³² See <https://www.reuters.com/article/us-usa-huawei-tech-indictment-idUS.KBN2072KG> (accessed 12 December 2019).

³³ See https://drive.google.com/file/d/1ryMCIL_dZ30QyJFqFkkl10MxIXGT4yv/view (accessed 07 December 2020).

³⁴ See <https://apnews.com/article/c02b262e34de4466a159e8fdebd5cfbc> (accessed 15 May 2021).

warning top Trump administration officials not to politicize the extradition case on Meng.³⁵ “Canada understands the rule of law and extradition ought not ever to be politicized or used as tools to resolve other issues”. Even the Canadian Prime Minister tried to demonstrate the Canadian distance from the case in term of the American position. At a news conference, Freeland was asked if America’s request for Meng’s arrest and extradition had put Canada in the middle of the U.S.–China trade war and if Canada was being “used” by the U.S. in that spat,³⁶ Freeland said she disagreed with the premise of the question, and she emphasized that Canada was following the “rule of law” and its international treaties in the extradition process.

Even if it is true that there was no explicate political involvement on Canada’s part on the detention of Meng, Canada still had to take a stand considering its close alliance with the U.S. and especially faced with the political pressure from the former U.S. President, Donald Trump, who has stated publicly his intention to intervene Meng’s case and in fact he has done with all his efforts.³⁷

“Whatever’s good for this country, I would do,” Trump said in Tuesday’s interview. “If I think it’s good for what will be certainly the largest trade deal ever made – which is a very important thing – what’s good for national security – I would certainly intervene if I thought it was necessary.”

Thus, the U.S. political intervention in the legal discourse construction around Meng’s case is actually out of the concern of “U.S. priority” motivation, which can be further mined by its application to real-life practices (Machin and Thornborrow 2003) including deliberately concealing the presentation and intervention of the FBI, by using the Canadian government to carry out investigation at the Vancouver airport (see *jud.1* [2]). If it is just a normal criminal case, the FBI should not intervene, but all the evidence related was transferred to FBI for further investigation and examination, which reflects U.S. prefixed political scheme to suppress and strangle Huawei.

Actually, years before Meng’s case, Huawei, along with Zhongxing Telecommunications Equipment (ZTE) has already been the target of U.S. out of political factors. In a report by the Permanent Select Committee on Intelligence of the U.S. House of Representatives dated 8 October 2012,³⁸ the Committee seemed to shift the burden of proof to the Chinese telecommunications companies Huawei and ZTE,

35 See <https://www.usatoday.com/story/news/world/2018/12/14/canada-trump-administration-huawei-executive-meng-wanzhou-extradition-case/2307807002/> (accessed 22 September 2020).

36 See <https://www.nytimes.com/2018/12/13/world/canada/china-huawei.html> (accessed 14 December 2018).

37 See <https://www.reuters.com/article/us-usa-trump-idUSKBN10B01P> (accessed 10 April 2019).

38 See [https://republicans-intelligence.house.gov/sites/intelligence.house.gov/files/documents/huawei-zte%20investigative%20report%20\(final\).pdf](https://republicans-intelligence.house.gov/sites/intelligence.house.gov/files/documents/huawei-zte%20investigative%20report%20(final).pdf) (accessed 10 December 2021).

requiring them to prove their innocence, although they have already sought to explain why neither company is a threat to U.S. national-security interests. The committee's rejection to accepting the explanation from Huawei and ZTE is obviously against the fundamental principle of legal procedure, burden of proof lying on the party who make claims (Ashworth and Horder 2013; Bailenson and Rips 1996), as shown in the following passage:

Huawei did not provide clear and complete information on its corporate structure and decision-making processes, and it likely remains dependent on the Chinese government for support.

The Committee launched this investigation to seek answers to some persistent questions about the Chinese telecommunications companies Huawei and ZTE and their ties to the Chinese government. Just similar to the abuse of due process and the unreasonable legal analogy by the court in Meng's case, it violates justice and equality, which are two major political values (Fairclough and Fairclough 2018) from the perspective of CDA. Behind the two cases stand the political interference and efforts of the U.S. on the reproduction of dominance (Van Dijk 1993) by its superior status in the construction of legal process.

5 Conclusion

This article uses CDA approach to make a detailed study on the hidden political implications behind the legal discourse around Meng's case, with an interdisciplinary view of international politics. Following the three-element CDA framework of Van Leeuwen (2008), the present study launches two steps: examining several key issues in the construction of legal discourse of Meng's case and deconstructing the legal discourse of the case with intertextuality from political perspective, in order to find the "purpose link" between its legal spectrum and political nature. The findings of the present study implies that the political interference of the case by the U.S. is based on its political purpose of national interest and in the name of national security in the context of U.S.–China trade war, violating justice and equality by its superior status in the discursive practices. On the other hand, between the dilemma of two super powers, Canada with an inferior status in international political structures, inclines to the U.S. out of expected-value maximization as well as the potential-loss minimization. The political nature of Meng's case results not only in the discursive strategies to put Meng on an unfavorable situation, but also in the violation of legal procedure, leading to challenges on the fundamental principle of the rule of law around the world.

In terms of the law, fact is reconstructed based on evidence, but there is nothing to say about the legality of the fact if the evidence itself is illegally obtained. In the present case, as we have mentioned, the evidence is unduly obtained, which is obviously against the international standard of protecting human rights. Then it comes to the question whether evidence, even documentary evidence, can speak for itself. This point has been well explicated in some previous studies (e.g. Cheng and Cheng 2014; Goodrich 1990; Kozin 2008) where we can see that the evidence does not have the inherent interpretative force, but is constructed and reconstructed by the evidence providers and fact finders. In that sense, a piece of evidence could be subject to interpretation and reinterpretation (Cheng and Cheng 2014); therefore, the fact in law is a continuum entailing the process of construction, reconstruction and deconstruction in which different stakeholders might struggle with one another. From the perspective of CDA, the unequal status between different shareholders may lead to the evidence only speaking or speaking more for one side with political interference and discursive strategies to maintain the inequality (Van Dijk 1993) in the construction of legal discourse.

Although the spokesman of the Ministry of Foreign Affairs of the PRC indicated on various occasions that this is a political incident, and Canada is an accomplice to the U.S., especially the Trump's Administration, it is also interesting to note that the highest administration of the PRC seems reluctant to publicly explicate its intention towards the case, which obviously is indication of respecting the judicial independence of Canada, and forms a sharp contrast of overt intervention of the U.S. Respect for judicial independence does not mean indifference to the legitimate rights and interests of every Chinese citizen. As confirmed by the Chinese Foreign Ministry, the Heads of State of China and the U.S. mentioned the incident of Meng Wanzhou during a phone call in early September 2021, and Chinese President Xi Jinping expounded on China's position and urged the U.S. to resolve the incident properly as soon as possible.³⁹ Now that Meng has successfully returned to China, the proper resolution of the Meng case released a signal that U.S.–China relations seem to move towards the same direction. However, a change in U.S. tactics towards China does not mean a change in strategy. The Meng case has laid bare U.S. intentions to constrain China's technology and trade, and due to the immutable nature of international politics in the context of the U.S.–China trade war, the U.S.–China trade and technology relationship will have a continuous and far-reaching impact on the international political structure. Therefore, the present study helps to understand the intersemiotic operation between politics and law: what matters in such analysis is not just to dig up what politics appears

³⁹ See <https://www.globaltimes.cn/page/202109/1235373.shtml> (accessed 4 October 2021).

in the law, but how politics exists between the lines of the law and why politics hides behind the law.

Research funding: This work was supported by the oriented project of Zhejiang University on the “Research on Cybersecurity Strategy” and a major project of National Social Science Foundation (Grant No. 20ZDA062).

Appendix

In the supreme court of British Columbia

Jud.1 *Oral Reasons for Judgment* (20181211) <https://www.bccourts.ca/jdb-txt/sc/18/22/2018BCSC2255.htm>.

Jud.2 *Ruling on Defence Application for Disclosure* (20191209) <https://www.bccourts.ca/jdb-txt/sc/19/21/2019BCSC2137.htm>.

Jud.3 *Ruling on Media Application to Video Record or Broadcast Court Proceedings* (20200113) <https://www.bccourts.ca/jdb-txt/sc/20/00/2020BCSC0043.htm>.

Jud.4 *Ruling on Double Criminality* (20200527) <https://www.bccourts.ca/jdb-txt/sc/20/07/2020BCSC0785.htm>.

Jud.5 *Ruling re Privilege* (20201001) <https://www.bccourts.ca/jdb-txt/sc/20/14/2020BCSC1461cor1.htm>.

Jud.6 *Ruling on (a) Application by Person Sought to Adduce Evidence* (20201028) <https://www.bccourts.ca/jdb-txt/sc/20/16/2020BCSC1607.htm>.

Jud.7 *Oral Reasons for Judgment—Re: Application to Vary Bail* (20210129) <https://www.bccourts.ca/jdb-txt/sc/21/01/2021BCSC0137.htm>.

Jud.8 *Ruling on Application #2 by Person Sought to Adduce Evidence under s. 32(1)(c) of the Extradition Act* (20210311) <https://www.bccourts.ca/jdb-txt/sc/21/04/2021BCSC0440.htm>.

Jud.9 *Ruling on Application #3 to Adduce Evidence in the Extradition Hearing* (20210319) <https://www.bccourts.ca/jdb-txt/sc/21/05/2021BCSC0514.htm>.

Jud.10 *Ruling on Adjournment Application* (20210514) <https://www.bccourts.ca/jdb-txt/sc/21/09/2021BCSC0935.htm>.

Jud.11 *Ruling on Application for a Ban on Publication* (20210624) <https://www.bccourts.ca/jdb-txt/sc/21/12/2021BCSC1253.htm>.

Jud.12 *Ruling on Application #4 to Adduce Evidence in the Extradition Hearing* (20210720) <https://www.bccourts.ca/jdb-txt/sc/21/14/2021BCSC1412.htm>.

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Bionotes

Le Cheng

Guanghua Law School and School of Cyber Science and Technology, Zhejiang University, Hangzhou, China
chengle163@hotmail.com
<https://orcid.org/0000-0002-4423-8585>

Le Cheng is a Chair Professor of Law and a concurrent Professor of Cyber Studies at Zhejiang University. He serves as the Executive Dean of Zhejiang University's Academy of International Strategy and Law, Executive Dean of Zhejiang University's Institute of International Cyberspace Governance, Editor-in-Chief of *International Journal of Legal Discourse* (De Gruyter Mouton), and Co-Editor of *Social Semiotics* (Francis & Taylor). His research interests and publications are in the areas of international law, cyber studies, discourse studies, semiotics, terminology, and legal discourse and translation.

Xiuli Liu

School of International Studies, Zhejiang University, Hangzhou, China

liuxiuli@zju.edu.cn

<https://orcid.org/0000-0001-8534-6753>

Xiuli Liu is Research Fellow in the School of International Studies, Zhejiang University. Her research fields include legal discourse, data protection laws, forensic linguistics, and corpus linguistics.