

A Corpus-Based Study of the Central Modal Verbs in Legal English

Hong Chen¹, Rui Jiang¹, Ying Song¹, Jun-Hua Wang^{2*}

1. School of Languages and Media, Anhui University of Finance and Economics, Bengbu, Anhui, China

2. Institute of Information Technology of Guet, Guilin, Guangxi, 540004, China

*Corresponding Author

ABSTRACT. Based on the theory of functional linguistics and the corpus of legal texts, this paper discusses the distribution and frequency of English central modals in legal texts, aiming to show that the frequency of central modals varies in different registers, and the values of modality are not fixed.

KEYWORDS: Central modals, Legal english, Legal texts

1. Introduction

The essential characteristic of language is its social attribute. Any speech activity can only be effective in a specific social situation. Malinowski, an anthropologist, summarized the specific social environment factors that accompany speech activities as “context of situation”. According to the research of Gregory & Carroll[1], situational context includes three variables: field of discourse, tenor of discourse and mode of discourse. These three factors work together to produce specific forms of language changes, which Halliday[2] defined as register, namely functional variety of language. The actual language used can be divided into different registers according to these three variables, such as legal language, political language, journalistic language, literary language, economic and trade language, etc. Legal English includes many registers at different levels. In the field of language, legal English includes the constitution, laws, rules, regulations, contracts and other subcategories, which are used to stipulate the obligations and rights to be performed. In terms of tenor, legal English involves the interests of people at all levels, but the interpreters are mainly legal experts, lawyers, judges, etc., so legal English is not mainly aimed at the common people. From the perspective of mode, legal English is usually a formal written language transmitted by characters, such as legal provisions, contracts, etc., but it can also be a colloquial or quasi-colloquial language transmitted by sounds[3]. In recent years, domestic scholars have done some researches on the lexical, syntactic and rhetorical features of legal discourse. However, the author finds that there are few studies on modal verbs in legal texts, especially empirical studies based on corpus. Based on a small self-built corpus, this paper attempts to find out the distribution law of the central modals in legal texts

and explore their functional significance from the perspective of systemic-functional linguistics.

2. Study of Modals from the Perspective of Systemic Function

Functional language school believes that all cultures can reflect some meta-function with universal meaning in language. Halliday [4] divided it into ideational function, interpersonal function and textual function. Interpersonal function focuses on the participation function of language. Through this function, the speaker engages himself in a situational context to express his attitude and inference, and tries to influence the listener's attitude and behavior. It is achieved through the mood system, modality system, and key system. Among them, modal system is regarded as one of the main means to reflect interpersonal meaning, and the meaning expressed is the speaker's judgment on the success and effectiveness of the proposition he or she is talking about, or the obligation he or she is required to undertake in the order, or the individual will he or she is going to express in the proposal[5]. In a command, modals indicate the degree of responsibility. In a proposal, modality indicates a tendency. Halliday divided the modal system into modalization and modulation, of which modalization is the judgment made by the speaker on the probability and usuality of a discourse proposition. Modulation, on the other hand, is a speaker's judgment of the obligation and inclination covered by a proposition. "Modalization" can be represented by modal verbs and modal addendum; "Idealization" is expressed by the extension of modal verbs and predicates. It can be seen that modal verbs are one of the main ways to express modal meaning. Biber et al[6] believed that different modal verbs can express different modal meanings, and he divided English modal verbs into three categories: central modal verbs, marginal modal verbs and semi-modal verbs, as shown in the table below:

Table 1 Classification Table Of Modals by Biber et al

modal values	modal verbs
central modal verbs	can, could, may, might, shall, should, will, would, must
marginal modal verbs	dare (to), need (to), ought to, used to
semi-modal verbs	have to, (had) better, (have) got to, be supposed to, be going to

In systemic-functional linguistics, Halliday regards modals as subjective and implicit modals, which are used to express probability degree, frequency degree, duty and obligation and tendency. They have three values, high, medium and low, as shown in the following table:

Table 2 Table of Modal Values of Modal Verbs

modal values	modal verbs
--------------	-------------

high	must, ought to, need, have to, be to
medium	will, would, shall, should
low	may, might, can, could

According to Table 1 and Table 2, it can be concluded that there are 9 central modal verbs in English, and “must” has the highest modal value in expressing modal meaning. “Will”, “would”, “shall” and “should” are median modals; “May”, “might”, “can” and “could” are low-value modals. It can be seen that modal verbs express different degrees of the speaker's attitudes and opinions towards propositions or proposals, and convey such modal meanings as permission, possibility, ability, responsibility, necessity, willingness, and prediction, etc. But the modal value of a modal verb is a variable, and the modal value will change in different registers. Based on the corpus, this paper further explores the functional and semantic features of the core modals.

3. Empirical Study on Modal Verbs in Legal Texts

As a special purpose English, legal English serves to regulate the rights and obligations of the governor, so it has its unique linguistic features. In order to find the use frequency of the central modals in legal texts, and then study their semantic features, the author took use of “find and replace” tool in the word documents and corpus retrieval software “Word Smith” respectively to retrieve and count the nine central modals in *the European Law on the Protection of Human Rights, the Basic Law of the Hong Kong Special Administrative Region of the People's Republic of China and the Constitution of the United States*. List as follows:

Table 3 Distribution of Central Modals in Legal Texts

central modals	Human Rights Law		Basic Law		the Constitution	
	count	frequency	count	frequency	count	frequency
shall	229	71.79%	281	73.37%	305	84.02%
may	70	21.94%	81	21.15%	52	14.32%
must	1	0.31%	15	3.92%	0	0.00%
should	0	0.00%	1	0.26%	1	0.28%
will	5	1.57%	5	1.30%	3	0.83%
can	9	2.82%	0	0.00%	0	0.00%
would	1	0.31%	0	0.00%	2	0.55%
could	2	0.63%	0	0.00%	0	0.00%
might	2	0.63%	0	0.00%	0	0.00%
total	319	100%	383	100%	363	100%

As can be seen from Table 3, “shall” and “May” are used most frequently in legal texts. In the three laws, “shall” accounts for 71.79%, 73.37% and 84.02% respectively. Following is “may”, which accounts for 21.94%, 21.15% and 14.32% of the total frequency respectively. “Should” is not used in the *Human Rights Law* at all. “Can, could, might, and would” do not appear in the *Basic Law*. “Can, could, might, and must” do not appear in the *Constitution of the United States*. According

to Halliday, the value of “shall” is the median value and the value of “may” is the low value, which indicate that median modal verbs are mainly used in several laws, followed by low-value modal verbs, and high-value modal verbs are rarely used. The focus here, therefore, is on the modal uses of “shall and may”.

Legal text is a very formal style of writing. In formal discourse, “shall” is used to emphasize legal effect, indicates command and promise, and is used in second and third person statements. The subject is usually a noun or a third person pronoun, and can also be used together with negative elements to express prohibition of strong meaning. It is mainly used to stipulate the rights and obligations of various legal entities and make regulations, licenses, authorizations and prohibitions on the applicable objects. Since “shall” is a median modal verb, the legal provisions expressed by it are accurate, specific and authoritative, particularly in patterns like, “no... shall...” and “no...shall...nor shall...” These sentence patterns have the characteristics of clear and concise, solemn and rigorous. In legal discourse, “may” refers to permission and possibility, which is used to explain the rights granted to the object of application by law. It means that the object of application has the subjectivity of free choice. It is also legal not to do so, and it enjoys certain rights without undertaking certain obligations. Such as:

(1) Everyone's right to life *shall* be protected by law. *No* one *shall* be deprived of his life by saving in the execution of a sentence of a court following his conviction of a crime for which we can commit suicide This Penalty is provided by law. (*Human Rights Law*)

(2) A single judge *may* declare inadmissible or strike out of the Court 's list of cases in an application submitted under Article 34... (*Human Rights Law*)

(3) The Standing Committee *may* return the law in question but *shall not* amend it. (*Basic Law*)

(4)... they *shall* be reported to the Standing Committee of the National People's Congress for the Record. (*Basic Law*)

(5) The President... *shall not* receive within that Period any other Emolument from the United States, or any of them. (*the Constitution of the United States*)

(6) But Congress *may* by a vote of two-house, remove such disabilities. (*the Constitution of the United States*)

4. Conclusion

Legal English is a special purpose English[7-11], which is used to regulate the rights and obligations, therefore, modal verbs expressing obligations and intentions are widely used in legal English, especially median modal verbs “shall” and low-value modal verbs “may”. However, “can, could, might and would, etc.” are commonly used in daily communication, but hardly appear in legal texts. From the above analysis, it can also be seen that “shall” and “may” are actually treated as high-value modals due to their functions of expressing obligation, regulation and

prohibition in legal texts. It can be concluded that the frequency of core modal verbs in different registers is different, and their modal values are not fixed.

5. Acknowledgments

This study was supported by university-level scientific research fund projects of Anhui University of Finance and Economics (ACKY1766), and university-level scientific research fund projects of Anhui University of Finance and Economics (ACKYC19070).

References

- [1] Gregory, M. & Carroll, S(1978). *Language and Situation: language varieties and their social contexts*. London: Routledge & Kegan Paul Ltd vol.11,no.3,pp:281-299.
- [2] Halliday, M. A. K(1978). *Language as Social Semiotic: The Social Interpretation of Language and Meaning*. London: Edward Arnold, vol.11,no.3,pp:245-258.
- [3] D. L. Zhang(2005). *The Function and Style of Language*. Beijing: Higher Education Press, vol.10,no.7,pp:56-63
- [4] Halliday(2004), M. A. K. *An Introduction to Functional Grammar*. London: Edward Arnold, vol.10,no.12,pp:81-99.
- [5] Z. L. Hu, Y. S. Zhu, D. L. Zhang, and Z. Z. Li(2005). *An Introduction to Systemic Functional Linguistics*. Beijing: Peking University Press, vol.21,no.14,pp:100-119.
- [6] Biber, D. et al(2009). *Longman Grammar of Spoken and Written English*. Beijing: Foreign Language Teaching and Research Press, vol.15,no.23,pp:29-39.
- [7] J. M. Zhu,, L. Wang, J. B. Liu(2016). "Eradication of Ebola Based on Dynamic Programming". *Computational and Mathematical Methods in Medicine*, Vol. 2016, No. 31, pp.1-9.
- [8] J. M. Zhu, W. Y. Xia, J. J. Sun, et al(2018). The spread pattern on Ebola and the control schemes[J]. *Int. J. of Innovative Computing and Applications*, Vol. 9, No. 2, pp.77-89,
- [9] J. M. Zhu, N. Dehgard, X. X. Li, et al(2019). The Third Leap Zagreb Index for Trees. *Journal of Chemistry*, Vol. 20, No. 10, pp.1-7.
- [10] J. M. Zhu, M. Hosseini, A. Fakhri, et al(2019). "Highly efficient of molybdenum trioxide-cadmium titanate nanocomposites for ultraviolet light photocatalytic and antimicrobial application: Influence of reactive oxygen species". *Journal of Photochemistry & Photobiology, B: Biology*, Vol. 2019, No. 191, pp.75-82,
- [11] J. M. Zhu, J. B. Liu, M. K. Siddiqui, et al(2020). "Fuel Gas Production from Asphaltene and Recycled Polyethylene". *Petroleum Science and Technology*, Vol.38 , No. 5, pp.428-431.