

# A Corpus-Based Study on Modal Verbs in the Chinese-English Translation of the *Book of Contracts* in Chinese Civil Code

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**Abstract**—The inherent discrepancies and evolving nature of legal knowledge across various legal systems, coupled with the variability of communicative contexts, have long posed significant challenges in both the practice and studies of legal translation. This study adopts a corpus-based approach and examines the uses of modal verbs in the English translation of *Book Three: Contracts of the Civil Code of the People's Republic of China*. UNIDROIT *Principles of International Commercial Contracts 2016*, which has been drafted, revised and applied in English, has been selected as the reference corpus. The analysis investigates typical modal verbs from both quantitative and qualitative perspectives. Major findings include the overuse of the modal verb *shall* when referring to the imposition of obligation and inconsistent translation of related terminologies, which causes confusion and inaccuracy. Therefore, particular attention should be paid to the uses of modal verbs as well as the standardization and consistency of terminology in the translation of legislative texts so as to enhance quality and communicative efficiency. This study, through extensive research and corpus-based analysis, aims to provide insights into legal translation to ensure not only linguistic accuracy but also functional clarity, aligning the target text closely with the intended legal meaning and minimizing potential ambiguities in cross-linguistic interpretations.

**Index Terms**—legal translation, *Chinese Civil Code*, corpus-based study, modal verbs, terminology

## I. INTRODUCTION

The *Civil Code of the People's Republic of China* (hereinafter referred to as the *Civil Code*), as China's first codification of laws, took effect on January 1, 2021. It is a major achievement and marks a milestone in the construction of the socialist rule of law in China in the new era. The *Civil Code*, covering a comprehensive range of fields, integrates various aspects of civil law into a unified framework and thus is referred to as the "encyclopedia of social life". In the socialist legal system, the *Civil Code* is a fundamental law, second only to the *Constitution* (Wang, 2020). Therefore, translating the *Civil Code* is quite meaningful in that it provides clearer guidelines for foreigners and international businesses in China, opens a window for other countries to understand the Chinese legal culture and legal system and exhibits to the world the modernization and harmonization of China's legal system over the past decades.

Legal translation in China began in the late Qing Dynasty and it has become increasingly prominent with the soaring demand for translation of legal texts home and abroad as well as the advancement in the field of translation studies. Harvey (2002) highlights four aspects that distinguish legal translation from other types of specialized translation, namely, the legal effects of legal discourse, the system-bound nature of law, requirements for higher degree of fidelity of the translation and the ambiguity and interpretation of legal texts, among which being system-bound is the most significant one. China's legal system is distinctive, characterized by features that reflect its unique historical and cultural context. Many legal terms and concepts within contemporary Chinese legislation are derived from other legal traditions, either in their original form or through legal transplantation. When these terms are translated into English, it is often difficult to identify direct or analogous equivalents. This challenge arises from the fact that English-speaking countries are governed by a variety of legal systems, each shaped by different social and political backgrounds. Shortly after the enactment of the *Civil Code*, different translated versions in various languages, either produced by public institutions or private individuals, were published or made available online, demonstrating the society's great interest in its translation and research. However, the differing current English versions, in addition to incongruities in legal systems, may exacerbate confusion among target readers. It is necessary to promote the standardization of legal translation in order to improve its quality and level, so as to contribute to the international discourse system and strengthen the capacity for international communication (Zhang & Sun, 2023).

For this purpose, this study, among several English versions of the *Civil Code*, selects the one considered the most influential and formal as it was produced by a team of qualified translators and professors assembled by the Legislative Affairs Commission of the Standing Committee of the National People's Congress of the People's Republic of China, and focuses on *Book Three: Contracts of the Civil Code* (hereinafter referred to as CCC), which constitutes the most important part of the *Code*. A corpus-based approach is adopted where four self-created corpora have been used: the English monolingual corpus of CCC, the parallel corpus of CCC, the English monolingual corpus of *UNIDROIT Principles of*

*International Commercial Contracts 2016*<sup>1</sup> (hereinafter referred to as PICC) and the parallel corpus of PICC, with the corpora of CCC being the target corpora and those of PICC being the reference ones. This study employs the corpus tool *LancsBox X 5.0.0* to analyze the English translation of CCC in comparison with the reference corpora by both descriptive and quantitative methods. It focuses on the uses of modal verbs in both legislative texts. Through a detailed examination of these elements, the study identifies distinctive characteristics and challenges present in the English translation of CCC. Ultimately, it aims to provide actionable recommendations for enhancing legal translation practices, thereby contributing to the ongoing development of research in this field.

## II. LITERATURE REVIEW

### A. Legal Translation

Legal translation has been a burgeoning field both in terms of translation practices and translation studies over the past decades with the deepening of globalization and cross-cultural communication. Apart from a soaring demand for different linguistic versions of legislative texts such as contracts, domestic laws and international treaties, legal translation studies have also gradually gained autonomy and recognition as a distinctive area in translation studies (Biel et al., 2020). The nature of legal translation practice determines that it is much more than just the transformation from the source text into the target text at the textual or linguistic level as this activity concerns understandings of quite different legal systems, historical backgrounds and social contexts. Therefore, legal translation studies rely heavily on the historical, social, ideological, political, institutional and even ethical considerations. Interdisciplinary theories and methods, for instance, categorizations and analysis of the different systems and branches of law, are indeed significant components in the area of legal translation studies (Ramos, 2014).

Along with the development of linguistics, translation studies and other neighboring disciplines, theoretical models and research methods employed to approach legal translation have also been greatly enriched, diversified and mixed, deepening our understanding of this activity. Traditionally, linguistic approach is one of the key aspects in legal translation research. In response to what Šarčević (1997) calls a “strict literal” approach, functionalists center on the concepts of *Skopos* and communicative purposes to be achieved in the target language. Thus, the principle of legal equivalence, similar to functional equivalence, is proposed and elaborated (Beaupré, 1986; Garzone, 2000; Paolucci, 2011). On this basis, the static equivalence in legal translation is discussed and explored, focusing on English and Chinese translation of legal texts in particular (Li, 2010; Yang, 2012). Qu (2022) further proposes that the translation of Chinese legislative texts should be subject to the law of equivalence, the law of identity and the law of equal authenticity. Multifaceted and complex as legal translation is, later approaches seek to incorporate linguistic and textual aspects to macro factors such as culture, society, politics and legal systems so as to develop more comprehensive research methods. According to observations on the translation of the common law into Chinese in Hong Kong as cultural transfer, Wang and Sin (2013) conclude successful transfer of foreign legal culture always requires the adjustment of translating language and the employment of metalanguage. An integrated view of legal translation as a third space also received attention as an attempt to explore and illustrate the dynamics in legal translation (Matulewska & Wagner, 2021; Clay & McAuliffe, 2021). At the same time, quite extensive studies have been conducted on legal translation in institutions like the United Nations and European Union. The discrepancies between different language versions of the EU law, with its supranational and multilingual nature, challenges the principle of its uniform application as translation creates and controls multilinguistic superdiversity in that case law (McAuliffe & Trklja, 2018). Other relative issues like the authenticity of different language versions of law, legal terminology and translation policies have also piqued attention and interest from the academia (Felici, 2010; Ramos, 2020; Li, 2021; Bourguignon et al., 2021).

### B. The C-E Translation of the Civil Code

The translation of legislative texts has been an increasingly important topic in the field of translation practice and theory. Since the promulgation of the *Civil Code* in 2020, its translation has aroused wide attention and interest. At present, the majority of studies on the C-E translation of the *Civil Code*, to the author’s knowledge, are conducted by Chinese scholars. Those studies approach the C-E translation of the *Civil Code* mainly from the macroscopic, microcosmic and interdisciplinary perspectives.

The macroscopic perspective generally concerns the translation process, translation principles and the like. Based on his experience in translating the *Civil Code*, Zhang (2021) holds that legal translation is a systematic project, the quality of which is governed by key factors such as the competence of translators, organizational management and coordination of resources, thus he proposes it is urgent and significant to construct a legal translation quality control system. Moreover, as the *Book of Marriage and Family of the Civil Code* embodies the moral attributes and cultural identity of the socialist core values, four layers of translation logic, namely, jurisprudential logic, linguistic logic, cultural logic and political logic, should be resorted to when translating it so as to achieve the restoration of social life and the reconstruction of the meaning embedded in the legal system (Li & Song, 2022). Another interesting study concerns the application of computer-aided translation (CAT) technology to the translation of *Book Three: Contracts of the Civil Code*, where SDL Trados is utilized as the tool (Jiang & Liu, 2023). It is concluded that legal logical thinking and legal language competency play the leading

<sup>1</sup> This study adopts the 2016 edition of UNIDROIT PICC because it is the latest version and it is formulated in English.

role in the translation process while CAT functions supplement the process and enhance the efficiency.

The microcosmic perspective concerns specific aspects in the translation such as legal terms, sentence patterns, etc. Accurate translation of legal terms constitutes the foundation in translating the *Civil Code* (Gong, 2022). By examining the English translation of some key concepts like civil right, title/ownership and right of personality/right of personhood, Gong provides some advice to enhance the standardization of legal translation. Zheng and Liu (2023) analyze the conditionals led by *where* and *if* in one English version of the *Civil Code* in an attempt to clarify their usages and differences. It is found that conditionals led by *where* are more frequently used and seem to be more formal and appropriate. Zhu and Liu (2022), focusing on terms concerning parties to civil legal relations, adopt a corpus-based approach and conduct a comparative study on two different English versions of the *Civil Code* regarding legal terms and related linguistic parameters, with the *German Civil Code*, US Supreme Court Opinions and legal sub-corpus of the BNC as the reference corpora. Yu (2023) studies nominalization in one English version of the *Civil Code* under the metafunctional framework.

The interdisciplinary perspective usually combines translation studies with related disciplines such as law and communication. Herbots (2023) approaches the translation of the *Civil Code* in the perspective of comparative law. He warns about the danger of introducing foreign common law concepts, through the English translation, into the Chinese law by mistake and distinguishes authentic language versions from non-authoritative ones. Based on his observation of errors in the translation of the *Civil Code*, he proposes that translating legislative texts, as it must not only be linguistically good, but also juridically correct, should be conducted in cooperation with specialized comparative lawyers. Fu and Chen (2023) believe legal hermeneutics echoes traditional translation hermeneutics and thus analyze the English translation of Article 10 of the *Civil Code* from the perspective of legal hermeneutics, pointing out the translation strategies including parallel text's comparison and sorting, "translator's note", multilingual retranslation and people-oriented approach.

Judging from the existing research on the English translation of the *Civil Code*, the emphasis has been generally put either on the English translation as a whole or on some specific legal terms. However, given that the *Civil Code* comprises seven *Books* covering different branches of law, analyses concentrating exclusively on one individual *Book* or specific area of law are relatively scarce. For this reason, this study focuses on *Book Three: Contracts* and undertakes a combination of qualitative and quantitative research methods to analyze its translation, specifically concerning the usages of modal verbs. The aim is to enhance understanding in this domain.

### III. RESEARCH DESIGN

#### A. Corpora

Four self-created corpora have been selected and used in this study: the English monolingual corpus of CCC, the parallel corpus of CCC, the English monolingual corpus of PICC and the parallel corpus of PICC. The English translation of CCC is finalized by the Legislative Affairs Commission of the Standing Committee of the National People's Congress, and the Chinese translation of PICC is obtained from the UNIDROIT official website. The two English monolingual corpora are utilized for quantitative analysis and comparison of the usages of modal verbs, with the PICC corpus serving as the reference corpus (details of the two corpora are displayed in Table 1). Simultaneously, the parallel corpora enable a more detailed examination of those modal verbs and related contexts both in the source texts and target texts. Despite PICC being significantly shorter in terms of content length, its MATTR and MTLT values are comparable to those of CCC. This indicates that both legislative texts exhibit a similar degree of lexical complexity.

TABLE 1  
DETAILS OF THE TWO MONOLINGUAL CORPORA OF CCC AND PICC

	Tokens	Types	MATR	MTLT
CCC (English)	34447	2593	0.68	37.02
PICC (English)	13581	1492	0.70	42.15

The reasons for choosing and creating the corpora are listed as follows: on the one hand, the *Book of Contracts*, which includes 526 articles out of 1260 articles of the *Civil Code*, accounts for about 41.7% of the total and constitutes the largest and most important part of it, justifying the legitimacy and significance of studying this part. At the same time, the contract system plays an important role in the social and economic life—it is an important tool for parties to a contract to realize their autonomy of will and a significant legal guarantee to promote the healthy and orderly development of the society (Shi, 2020). On the other hand, PICC is chosen as the reference corpus due to its wide international recognition and application, authenticity, and overlapping content with the *Civil Code*. PICC is drafted, revised and applied in English, and most of its concepts can be found in many, if not all, legal systems irrespective of the legal, political and economic conditions of the countries in which they are applied, making it suitable as a reference corpus linguistically. Furthermore, the contract law in China has absorbed and borrowed some legal concepts and terms from other legal systems like the common law system and international instruments like PICC, thus it is possible to find the equivalents of some Chinese concepts in the target language (Wu, 2021). Consequently, selecting PICC as the reference corpus is both appropriate and justified.

#### B. Research Methodology

Based on the corpora and linguistic studies of legal language, the study employs a combined methodology of qualitative and quantitative research. The corpus analysis tool *LancsBox X 5.0.0* (the latest version as of the study) developed by Brezina and Platt (2021) in Lancaster University is used to obtain reliable data from the corpora on which the research is based. The research procedures are as follows: first, collect the materials and create both monolingual and parallel corpora for CCC and PICC; second, retrieve relevant data for comparison by entering the pre-determined search queries into the two monolingual corpora respectively; third, conduct a detailed and in-depth analysis of the source texts and the target texts in the parallel corpora while comparing the data, examining instances individually where necessary; finally, perform a holistic analysis based on the data, including typical and exceptional instances, as well as insights from previous studies.

### C. Research Questions

The usages of typical modal verbs, which represent one of the most significant features of legalese, are investigated by adopting a corpus-based approach as regards the English translation of *Book Three: Contracts of the Civil Code*. The research is structured around the following three questions:

1. What are the main characteristics of the usages of modal verbs in the English translation of CCC compared to PICC?
2. What problems or challenges have arisen in the English translation of these modal verbs?
3. How can the quality and standardization of translations of Chinese legislative texts be enhanced?

## IV. RESULTS AND DISCUSSION

Based on previous research and the author's experience in legal translation, this study focuses on the modal verbs that have garnered the most attention in legal language: *shall*, *may*, *must*, *should* and *ought to*. These modal verbs mark the deontic modality that is related to the imposition of obligations and regulation of people's acts, reflecting the authoritative and prescriptive nature of legislative texts. The frequencies of these modal verbs both in the English translation of CCC and the reference corpus PICC are displayed in Table 2. The absolute frequency means the number of hits or times the search query (the specific modal verb as in this study) occurs in the corpus, and the relative frequency, also known as normalized frequency, is calculated as the absolute frequency of the search query divided by the total number of words searched (the number of words in the corpus), which is usually multiplied by an appropriate basis (i.e., 10,000 in this study) for normalization (Brezina et al., 2020, p. 45). Thus, the relative frequency refers to the number of occurrences of the specific modal verb per 10,000 tokens.

TABLE 2  
FREQUENCIES OF THE SELECTED MODAL VERBS IN THE CORPORA

Modal Verbs	CCC (English)		PICC (English)	
	Absolute Frequency	Relative Frequency	Absolute Frequency	Relative Frequency
shall	522	151.54	39	28.72
may	323	93.77	139	102.35
must	1	0.29	13	9.57
should	17	4.94	6	4.42
ought to	0	0.00	17	12.52

### A. Shall

In legal language, *shall*, being one of the most characteristic features, is arguably the most frequently used and scrutinized modal verb. The highest frequency of *shall* reflected in Table 2 serves as a notable example, with 522 occurrences in the English translation of CCC, corresponding to a relative frequency of 151.54. In contrast, only 39 occurrences of *shall* are found in PICC, with a relative frequency of 28.72 (only about 1/5 that of *shall*), demonstrating a substantial disparity between the two. The English translation of the CCC shows a clear preference for the use of *shall*, warranting a thorough examination of its usage and contextual implications. Table 3 illustrates how the source text aligns with the uses of *shall* in the target text.

TABLE 3  
THE EQUIVALENTS FOR *SHALL* IN THE SOURCE TEXT AND TARGET TEXT OF CCC

Source Text	Target Text	Total
应当	shall	342
应		1
null <sup>2</sup>		179

It is worthwhile to note that, of all the 369 instances of 应当 in the source text, 342 are literally translated as *shall*. Notably, there are 179 instances where *shall* is introduced based on contextual interpretation, without clear equivalents in the source text. Furthermore, a detailed analysis reveals that prevalent collocations within the category of null instances include: *shall be applied*, *shall be performed*, *shall bear (liability, risks, etc.)*, *shall (verb)* and the like. In these cases, the corresponding expressions in the source text consist merely of the action verbs, omitting the implication of modal verbs.

<sup>2</sup> Null in this context refers to instances where there are no obvious equivalents in the source text, yet *shall* is found in the target text.

However, the uses of *shall* in the reference corpus exhibit much lower frequency and percentage. Table 4 presents examples highlighting the main discrepancies in the uses of *shall* between the English translation of CCC and PICC in expressing similar meanings.

TABLE 4  
DISCREPANCIES IN THE USES OF *SHALL* BETWEEN THE ENGLISH TRANSLATION OF CCC AND PICC

	1. description of content	2. operation of law	3. declaration of liability
CCC <sup>3</sup>	Article 510 ...where the parties fail to reach a supplementary agreement, such contents <b>shall be determined</b> according to the relevant clauses of the contract or the course of dealing. 第五百一十条 .....不能达成补充协议的, 按照合同相关条款或者交易习惯 <b>确定</b> 。	Article 468 For a creditor-debtor relation not arising from a contract, the provisions of laws relating to such relations <b>shall be applied</b> ; in the absence of such provisions, the relevant provisions of the <i>General Provisions of this Book shall be applied</i> ... 第四百六十八条 非因合同产生的债权债务关系, <b>适用</b> 有关该债权债务关系的法律规定; 没有规定的, <b>适用</b> 本编通则的有关规定.....	Article 686 Where there is no agreement in the surety contract on the form of the suretyship or the relevant agreement is unclear, the surety <b>shall bear the liability</b> as in the form of a general suretyship. 第六百八十六条 当事人在保证合同中对保证方式没有约定或者约定不明确的, 按照一般保证 <b>承担保证责任</b> 。
PICC <sup>4</sup>	Article 5.2.1 (2) The existence and content of the beneficiary's right against the promisor <b>are determined by</b> the agreement of the parties and are subject to any conditions or other limitations under the agreement. 受益人对允诺人享有权利的存在及其内容, 由当事人之间的协议 <b>确定</b> , 并受该协议项下的任何条件或其他限制的约束。	Article 3.2.17 The provisions of this Chapter <b>apply</b> with appropriate adaptations to any communication of intention addressed by one party to the other. 第 3.2.17 条 本章各项规定经适当调整后, 亦 <b>适用</b> 于一方当事人向另一方当事人传达的任何意思表示。	Article 2.1.15 (2) However, a party who negotiates or breaks off negotiations in bad faith <b>is liable for</b> the losses caused to the other party. 第 2.1.15 条 (2) 但是, 一方当事人如果恶意进行谈判或恶意终止谈判, 则应对因此给另一方当事人所造成的损失 <b>承担责任</b> 。

The observation of the uses of *shall* raise the possibility of overuse or misuse of *shall* in the English translation of CCC. As shown in Table 4, when it comes to expressing meanings such as description of document content, operation of laws and provisions and declaration of liability, the English translation of CCC unanimously adopts the modal verb *shall* as in the structures of *shall be determined*, *shall be applied* and *shall bear the liability*. In these instances, the action verbs of *确定*, *适用* and *承担* in the source text are translated with the addition of *shall* in the target text, meaning no equivalents for *shall* are found in the source text, unlike the other 343 instances where *应当* or *应* that indicates obligation is directly translated as *shall*. In contrast, the reference corpus PICC avoids the uses of *shall* in expressing the similar meanings by simply adopting the present tense as in *are determined by*, *apply* and *is liable for*. Traditionally, the usage of *shall* in legal prescriptive texts has been assumed to carry an essentially deontic, agent-oriented meaning, i.e., laws, regulations, and commands are viewed as inherently directive, imposing rules that unequivocally influence individuals' behavior. Also, it has a performative/constitutive value while featuring the component of futurity which in certain cases maintains a degree of usefulness (Garzone, 2013). Then its semantic functions have expanded to include imposing an obligation, expressing a prohibition, granting permission, and adding some flavor of the law (Boginskaya, 2021). However, with Plain Language movement that aims to simplify legal drafting, an increasing number of scholars and plain language advocates have recognized the problems and confusion associated with the uses of *shall* and are calling for its more restricted usage. *Shall* functions both as a marker of obligation and as an indicator of futurity, which creates potential ambiguity (Triebel, 2009). Furthermore, the stylistic use of *shall* can undermine clarity, as it may lead readers to mistakenly interpret it as imposing obligations when none are intended (Foley, 2002). This suggests that the overuse and misuses of *shall* in legislative texts can easily mislead readers, and even courts. Therefore, authorities on legal drafting insist that *shall* must be used for modal meaning only, which is "has a duty to". It must be used to recite an obligation in a contract, or to give a command in a statute, and it should be interpreted as highly obligatory, with the implication that its violation entails legal punishment. If *shall* can be substitute by *has a duty to*, then it is used correctly (Kimble, 1992). A case in point is the declining frequency of *shall* in U.K. legislation, which has been steadily decreasing since the early 1990s and is now approaching zero. This gradual abandonment is attributed to a restricted notion of its meaning (Garzone, 2013).

Thus, it can be inferred that the uses of *shall* in modern legal language should be restricted to the deontic and agent-oriented meaning of *has a duty to* in order to enhance the obligatory sense and clarity and that certain uses of *shall* can be properly replaced by the use of simple present tense. Specifically, when describing the content or structure of documents where non-agent subjects are identified, *shall* blurs the boundaries as to whether it is a requirement or merely a description, adding no meaningful obligation since these subjects cannot perform actions (type one in Table 4); when

<sup>3</sup> All the Chinese articles of CCC listed as examples in the present study are cited from the *Civil Code of the People's Republic of China* (effective January 1, 2021) and the corresponding English translation is finalized by the Legislative Affairs Commission of the Standing Committee of the National People's Congress of the P.R.C.

<sup>4</sup> All the English articles of PICC listed as examples in the present study are cited from *UNIDROIT Principles of International Commercial Contracts 2016* and the corresponding Chinese translation is retrieved August 1<sup>st</sup>, 2024 from the official website of UNIDROIT <https://www.unidroit.org/wp-content/uploads/2021/06/Unidroit-Principles-2016-Chinese-bl.pdf>.

expressing legal status like the operation of law, the futurity component implied by *shall* can cause confusion as legislative texts are intended to include current situations and apply throughout their operation (type two in Table 4); when declaring inherently obligatory concepts like liability, *shall* becomes redundant because liability itself already implies a legal obligation (type three in Table 4). Therefore, these uses of *shall* in the English translation of CCC can be effectively replaced with the simple present tense, as demonstrated in the PICC. To enhance clarity, the uses of modal *shall* should be limited to contexts where it explicitly indicates the imperative meaning of imposing an obligation or duty.

### B. *May*

While *shall* denotes a binding requirement, leaving no room for discretion, *may*, as the second most commonly-used modal auxiliary in legal English (Williams, 2007), allows discretion and flexibility. As is shown in Table 2, the usage of *may* in the translation of CCC does not exhibit great discrepancies with that in the PICC, with the relative frequency of the former being 93.77 and that of the latter 102.35. As *may* is typically distinguished in both affirmative contexts and negative contexts, it is essential to further delineate its various uses in the English translation of CCC in Table 5.

TABLE 5  
THE USES OF *MAY* AND *MAY NOT* IN THE ENGLISH TRANSLATION OF CCC

	Source Text	Target Text	Total
Affirmative Contexts	可以/可	may	240
	有权		9
	可能		2
	null		5
Negative Contexts	不得	may not	60
	不		4
	无权		1
	不得	no...may	1
	不得	neither...may	1

In affirmative contexts, *may* mainly refers to permission, conveying the meaning of granting discretionary power, while sometimes it also expresses a possibility. In negative contexts, *may* conveys prohibition (Williams, 2007; Black, 2009). Data from Table 5 indicates that the vast majority of instances in affirmative contexts, where permission is granted by 可以 and 可<sup>5</sup> in the source text, are translated as *may*, while most instances of prohibition expressed by 不得 or 不 in the source text are rendered as *may not*. Two instances conveying the meaning of possibility are translated as *may*. These usages align with the widely recognized functions of *may* and *may not*, as well as their occurrences in the reference corpus PICC. However, one interesting observation arises: nine instances of 有权 (the literal meaning being: having the right to) in the source text are translated as *may* and one instance of 无权 (the literal meaning being: having no right to) as *may not* (see Table 6), which somehow contradict the intended meanings of *may* and *may not* in legal language.

TABLE 6  
EXAMPLES OF 有权 AND 无权 RENDERED AS *MAY* AND *MAY NOT* IN THE ENGLISH TRANSLATION OF CCC

	Terms	Source Text	Target Text
Affirmative contexts	有权	第五百二十五条 .....一方在对方履行之前 有权拒绝其履行请求。一方在对方履行债务不符合约定时, 有权拒绝其相应的履行请求。	Article 525 ... Either party <i>may</i> reject the other party's request for performance before the other party performs. Either party <i>may</i> reject the other party's request for the corresponding performance if the other party's performance does not conform to the agreement.
Negative Contexts	无权	第八百七十五条 .....没有约定或者约定不明确, 依据本法第五百一十条的规定仍不能确定的, 一方后续改进的技术成果, 其他各方 无权分享。	Article 875 ... Where there is no agreement on such method or the relevant agreement is unclear, if it cannot be determined according to the provisions of Article 510 of this Code, the subsequently improved technological product made by one party <i>may not</i> be shared by any other party.

In legislative language, 有权 means one is granted the legal right to do something or is legally qualified for something, and 无权 means just the opposite. In the strict sense, the equivalent for 有权 in the target text should be *have the right/be entitled to* while that of 无权 should be *have no right/be not entitled to*. *Have the right/be entitled to* and *may* express different levels of legal authority in granting permission. The former denotes a strong, legally protected entitlement that is enforceable and cannot be arbitrarily denied, thus enabling its defense in court; whereas the latter suggests discretionary power or flexibility that may be subject to conditions or limitations, allowing for potential restriction or withdrawal under

<sup>5</sup> There is only one instance of translating 可 as *may*. Since both 可以 and 可 express permission in Chinese, they are classified into the same category in this study.

certain circumstances. Moreover, a thorough examination of the parallel corpus of CCC has found that all the other instances of 有权 and 无权 are translated as *have the right/be entitled to* and *have no right/be not entitled to*, making the nine instances of translation as *may* and one instance of translation as *may not* (shown in Table 5) inconsistent and confusing in the target text. In contrast, PICC, when conveying the granting or denial of legal rights, consistently employs *have the right/be entitled to* or *have no right/be not entitled to*, avoiding confusion with the uses of *may*. Therefore, the abovementioned 10 instances where 有权 and 无权 are translated as *may* and *may not* should be corrected as *have the right/be entitled to* and *have no right/be not entitled to*.

Another important point to note is that negation of the subject with a modal verb, as seen in constructions like *no... may...* and *neither... may...*, also expresses prohibition in legal language (see Table 5). Although only two instances are identified, this structure serves the same prohibitive function as *may not* in negative contexts. Finally, attention should also be drawn to the fact that, although Williams (2007) asserts that *shall not* remains far more prevalent than *may not* in expressing prohibition in legal texts, this study presents contrasting evidence: no instances of *shall not* are found in either the English translation of CCC or PICC and only constructions of negation with the modal verb *may* are employed.

### C. Must

In legal language, there has been a great increase in the use of *must* to denote obligation alongside the decline in the use of *shall*. Due to the frequent and indiscriminate usage of *shall* in legal texts—including its appearances in subordinate clauses where it carries no prescriptive force—drafters often tend to resort to *must* to convey strong mandatory obligations or urgent necessities (Williams, 2007). However, in the English translation of CCC, *must* appears only once, resulting in a relative frequency of 0.29, which contrasts sharply with the much higher frequency of 9.57 observed in PICC. A detailed examination shows that the vast majority of instances involving obligation in the English translation of CCC are translated as *shall*, resulting in its highest frequency and thus limiting the use of *must*. Table 7 presents a comparison of the contexts where *must* is used in the English translation of CCC and PICC.

TABLE 7  
CONTEXTS WHERE *MUST* IS USED IN THE ENGLISH TRANSLATION OF CCC AND PICC

	Left		Right	Total
CCC (English)	The main structure of the construction project	<i>must</i>	be completed by the contractor itself.	1
PICC	...the party/beneficiary /obligor/obligee	<i>must</i>	act/perform/assert...	9
	...the offer/payment/notice		be accepted/made/ specify...	4

It can be seen from Table 7 that *must*, whether used in active voice or passive voice, imposes an obligation on an agent who should be committed to fulfilling it. The use of *must* has to involve or imply an agent who bears the obligation to complete the action following *must*. Legal drafters believe *must* conveys a more clearly deontic meaning and regard it as clearer, more modern, and more consistent with Plain English drafting (Garzone, 2013). Moreover, as it appears that English legal texts exhibit three levels of prescriptive force, increasing in strength from the present simple tense, to *shall*, and finally to *must*, which signifies the strongest obligation (Williams, 2007), certain instances where obligation is conveyed by *shall* in the English translation of CCC could be replaced with *must*, depending on the strength of the obligation.

### D. Should and Ought to<sup>6</sup>

As discussed above, *shall*, *may* and *must*, the three most frequently used modal verbs in legal language, are recognized for their association with deontic modality. In contrast, *should* and *ought to* convey a more directive meaning rather than explicit obligation. Palmer (1990) treats *should* and *ought to* as cases of dynamic necessity whereas Smith (2003) holds *should* marks “weak” necessity, the non-performance of which incurs less severe punishments than the “strong” necessity marked by *must*. Unlike *must* or *shall*, *should* conveys the so-called “escapable obligation” and implies subjective doubt regarding the actualization of the situation (Declerck, 1991). Through careful examination of the uses of *should* and *ought to* in the English translation of CCC and PICC, several facts have been observed: first, the frequencies of the occurrences of *should* and *ought to* are low in prescriptive legal texts; second, the uses of *should* exhibit similar relative frequencies in both corpora (see Table 2); third, no instances of *ought to* are found in the English translation of CCC while 17 instances with the relative frequency of 12.52 exist in PICC (Table 2); fourth, the uses of *should* and *ought to* demonstrate different tendencies and characteristics (see Table 8).

<sup>6</sup> *Should* and *ought to* are analyzed in the same section here because they are used interchangeably in most cases.

TABLE 8  
CONTEXTS WHERE *SHOULD* AND *OUGHT TO* ARE USED IN THE ENGLISH TRANSLATION OF CCC AND PICC

	Left		Right	Total
CCC (English)	A contract-offering party may not break up one construction project that	<i>should</i>	be completed by one contractor into several parts and offer them to several contractors.	1
	...the party/debtor...		have done... (subjunctive mood)	16
PICC	...the mistake/payment/right...	<i>should</i>	be borne/be made/be adjudicated...	4
	...the contract/party...		have done...(subjunctive mood)	2
	...the party/it...	<i>ought to</i>	have done...(subjunctive mood)	15
	...the fraud/obligee		be known/know	2

As shown in Table 8, 16 out of 17 instances of *should* in the English translation of CCC appear in the perfect form to convey the subjunctive mood from the source text, referring to counterfactual situations, while only one instance of *should* delivers the “directive” or “necessity” meaning. In the reference corpus of PICC, both *should* and *ought to* are used to express the subjunctive mood and the “directive” or “necessity” sense, with *ought to* being the preferred modal for subjunctive mood and *should* more commonly used to express the latter. This echoes with Williams’ (2007) observation that *ought to* is generally considered as informal and typically refers to contingent situations associated with the near future rather than with enduring laws and principles, but occasionally, it can be found in the perfect form when describing counterfactual past situations. On the other hand, *Should*, uncommon in statutory law, may be the most appropriate modal verb to use in prescriptive contexts that often carry strong moral or ethical implications, expressing a recommendation, advisability or desirability to undertake specific actions.

## V. CONCLUSION

Legal translation studies, encompassing translation studies, linguistics, terminology, comparative law, and cultural studies, inevitably engages with the substantial advancements in translation studies driven by corpus-based research (Biel, 2010). This study, adopting a corpus-based approach, examines the English translation of CCC and compares it to PICC, which has been drafted, revised and applied in English. The analysis focuses on the usages of typical modal verbs from both quantitative and qualitative perspectives. The following findings serve to answer the research questions: first, the frequency of the occurrences of *shall* in the English translation of CCC is five times higher than that of PICC and the vast majority of 应当 and 179 null<sup>7</sup> instances in the source text are translated as *shall*, indicating the overuse or misuse of it. As a result, only one instance of *must* is found in the English translation of CCC. This means whenever referring to the deontic modality of imposing an obligation, the English translation of CCC uses *shall* in almost all the instances. Second, *may* is used to express permission in the affirmative contexts and prohibition in negative contexts in the English translation of CCC, exhibiting similar characteristics to those of PICC. However, several instances of inconsistency are identified where 有权 and 无权 are rendered as *may* and *may not* respectively, which is inappropriate and does not align with the translation of these terms as *having the right to/entitle to* in the rest of the target text. Third, *should* and *ought to*, uncommonly seen in legal prescriptive texts, are only employed to convey the subjunctive mood and express a recommendation or desirability to undertake specific actions with strong moral or ethical implications.

These findings suggest that on the one hand, particular attention should be paid to the uses of modal verbs in the translation of legislative texts to enhance both quality and standardization. For example, the uses of *shall* can be effectively replaced by present tense in cases of describing document content, expressing operation of law and declaring liability. Depending on the strength of the obligation, different modal verbs such as *must*, *may*, and *should/ought to* can be employed to convey varying degrees of prescriptive force, rather than relying solely on *shall*. Moreover, since the inherent discrepancies and evolving dynamics of legal knowledge across different legal systems, along with the variability in communicative contexts, pose significant challenges for linguistic choices in legal translation, extensive research and comparative legal analysis are required in translating legislative texts, where corpus-based approaches and tools prove to be useful and reliable. High-quality English translations of legal texts facilitate the exchanges of diverse legal cultures and promote more in-depth academic dialogues among experts and practitioners. It is hoped that this study will offer some insights and guidance for future legal translation practices and research.

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<sup>7</sup> See footnote 2.

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