Abstract

Modal verbs are treated as a paramount point in legal English because they are used to convey the two basic meanings in legal language: obligation and permission. It is argued that the translation of modals in legal texts has received little attention in Arabic. As such, this paper is an attempt to account for the translation of English central modal auxiliaries in a legal text into Arabic from a cross-cultural perspective. The legal text selected to represent the data of the study is "The Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment". For this purpose,
each modal is dealt with separately in terms of the distribution, meaning, and the Arabic equivalent used to convey its meaning. It is found that modals in legal English exhibit important differences from modals in general English as regards their meaning distribution and . The modal "shall", for instance, is the most frequent modal in legal English, whereas it is the least frequent modal in non-legal English. Moreover, semantically, the meaning of "shall" differs according to the text type it occurs in: it expresses obligation in legal English and futurity in non-legal English. Also, one of the conclusions of the study is that the modal "shall" has no lexical equivalent in Arabic. However, when it expresses obligation, its meaning is achieved in Arabic via the main verb of the sentence. Further, the study reveals that the modal "may" is quite frequently rendered into Arabic as "يجوز" when it implies permission; while it is rendered as "قد" when it implies possibility. Finally, the modal verbs "can", "would", "should" hardly occur in legal texts; while the remaining modals, "could", "might", "must", "will", have no occurrence in the data.

1. Introduction

Different scholars have studied modal verbs in English legal texts e.g., Trosborg, 1997; Dossena, 2001; Garzone, 2001; Gotti, 2001; and Poppi, 2008, among others. Crosslinguistically, however, little attention has been devoted to modals in the legal register. Traditionally, all linguistic studies in legal translation have dealt with modal auxiliaries as the primary exponents of modality with all its shades of meanings. Palmer (1990: 2), for instance, maintains that the study of modals can be viewed as a substitute for the study of modality itself. This approach still continues to work in contemporary research in modals, e.g. Facchinetti, Krug & Palmer, 2003; Hart 2004; and Tsangalidis & Facchinetti 2009. Butler (2003: 969), for instance, maintains that "modality is realized in Standard English mainly by the use of the modal auxiliaries”.

Legal language is regarded complex and difficult to comprehend. In the last two decades legal translation has been the centre of growing linguistic interest. As a matter of fact, a legal text may pose a problem not only for the layman but also for lawyers. Accordingly, a legal text constitutes a real challenge since any inaccuracy in the translation of such a text may lead to substantial legal consequences. Trosborg (1994) and Garzone (2000) discuss the meaning of modal verbs in legal speech acts from a translation perspective. Trosborg (1994:309) argues that the modal verb "shall" has an imperative meaning in legal English, while Garzone (2000:395) points that this modal may alternatively have a performative
meaning in legal texts depending on the context they occur in. Doubtlessly, significant studies have already been carried out in English legal texts, but cross-cultural investigations of this topic are still relatively rare especially in international conventions and often limited to general pragmatic features (Frade, 2005).

In this age of revolution in communication, the legal translator plays a decisive role in the process of communication within different legal systems. Sarcevic (2000:1) argues that "Translation of legal texts leads to legal effects and may even induce peace or prompt a war". Moreover, the need for legal translation becomes even greater due to the freedom of economic, political, and social interaction between people. Also, that different international organizations and judicial bodies recognize the right of every person to use their own language in all legal issues increases the demand for legal translation.

Garzone (2000: 3) states that “…according to the principle of legal equivalence, the translation of a legal text will seek to achieve identity of meaning between the original and the translation, i.e. identity of propositional content as well as identity of legal effects, while at the same time pursuing the objective of reflecting the intents of the person or body which produced the ST”. In this context, Chromá (2004) indicates that when translating legal texts, the translator should pay special attention to the abstract terms because these abstract terms are part of the cultural and intellectual tradition of people. Accordingly, legal translation necessitates the transference of such terms between the different legal systems involved in the process of translation.

Methodologically speaking, the data of the study are collected from an international convention that is entitled "The Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment". Accordingly, the English modals found in this convention are studied in terms of their distribution, meaning and translation.

2. Legal Translation

Traditionally, translation is an interlingual transfer process. As defined by Catford (1965: 1), it is "an operation performed on languages: a process of substituting a text in one language for a text in another". In legal translation, it is quite common for scholars to concentrate on a technique of functional equivalence. Newmark (1988) argues that functional equivalence as a procedure that occupies the universal area between the Source Language and the Target Language. Further, he strongly recommends that the
functional equivalence technique for the purpose of the official translation maintaining that it makes the Target Text both comprehensible to the target reader and faithful to the original Source Text. Sarcevic (1997) maintains that the main function of legal language is normative since they usually prescribe how people should or should not behave through the use of the imperatives. Sarcevic (2000:11) believes that the right translation strategy is the one that adequately differentiates between literary and non-literary texts. Legal texts are classified as non-literary texts. In order to translate them, they neither need creativity nor hermeneutics. Also, Sarcevic (2000:11) categorizes the functional equivalence in legal texts into three groups or levels: near equivalence, partial equivalence and non-equivalence.

Legal translation is highly specialized translation whereby a translator has to produce a document in the target language with the same validity and effect of the original document in the source language. It is due to the special nature of legal translation that scholars started calling for a legal translator who is competent in the subject of law. Like other types of specialized translation, this sometimes raises the main debate whether legal translators should be experts of the law (Alcaraz & Hughes, 2002).

Sarcevic (2003) regards translation as an act of communication between two persons: text producer and receiver. Translation of legal documents including contracts is authoritative only if they have been approved by law, because authenticated translations are just as binding as the original text, they are not regarded as translations (Sarcevic 2000:20). In order for that to happen, the authenticated and the original texts should be equal in meaning, function and intent.

3. Features of Legal English

The studies investigating the English legal register tend to stress both syntactic and lexical characteristics. Broadly speaking, studies on this field come up with different conclusions. Among such conclusions are that structures in legal English are formulaic; that legal language considerably utilizes archaisms; that sentences are characterized by being long; and that style is referred to as impersonal. A high frequency of passive constructions and a high incidence of prepositional phrases are also among the main features in legal discourse which further complicates the legal language (Charrow & Charrow, 1979). Similarly, Danet (1985:298-280) maintains that the main features of legal register are archaic expressions, technical terms, doublets, formal items, unusual prepositional phrases, and common terms with uncommon meanings. Syntactic complexity addresses many
issues that hinder non-specialists from understanding legal English. Words in legal language differ in meaning, and effect depending on who utters them, where and when. Style on the other hand implies “the linguistic aspects of the written legal language and also the way in which legal problems are approached, managed and solved” (Smith 1995:190). Further, legal writing is characterized by an impersonal style, with the extensive use of declarative sentences that specify rights and obligations. Sarcevic (1997:167) maintains that drafting law tends "towards more direct expression, frequent repetition and more detail, in order to limit judicial discretion." Tiersma (1999:95) states that “legal language often strives toward great formality; it naturally gravitates towards archaic language”. Alcaraz & Hughes (2002:8) argue that using Archaism (old term) is done in purpose. The reason behind this is to give a flavor of formality to the language to which they belong.

Mattila (2006:65-96) tackles the specificity of the legal language from a different perspective. He (2006:35-36) states that in legal language, it often happens that communication does not succeed because the message is hermetic, or even closed. A legal message is sometimes built in such a complex way that a lay individual can hardly understand it. Broadly speaking, this is often the case with laws and regulations, and with judicial decisions. Hence, interpreting the legal text is a highly sophisticated matter, notably because figuring out meaning does not depend solely on linguistic knowledge.

The legal language is the only language, which combines between originality and creativity. Sometimes, it adheres the words that immigrate from language such as ancient legal terms. In addition to lexicon and syntax, Cao (2007) mentions two additional features that differentiate legal language from any other language. These two features are pragmatics and style of such language. As regards pragmatics, law relies upon the performative function of language. Accordingly, by legal utterances, we perform acts; and create rights, facts, and different institutions.

4. Modal Verbs in English

In the next subsections, the different uses of central modal verbs are presented briefly.

4.1 Can/Could

These modals have three basic meanings: possibility, ability, permission. They are explained below.
(a) **Possibility**

Quite frequently, the modals "can" and "could" express possibility, e.g.,
1. Everyone can make mistakes.
2. We could go to the cinema.

The modal "can" implies deontic modality, merely because it does not indicate the speaker's belief of the statement whether it was true or not (Quirk et al. 1985: 222). When expressing possibility, "can" is paraphrased by "it is possible" followed by an infinitive clause. So, example (1) is paraphrased by:

3. It is possible for everyone to make mistakes.

The modal "could" is also used when talking about something that is possibly true.

4. Tina could be working late tonight. (Eastwood, 1994: 123)

(b) **Ability**

The modals "Can" and "could" can both be used to express ability. They can be paraphrased by "be able to" (Biber et al., 1999: 492), e.g.,

5. He can speak English.
6. I never could play guitar.

(c) **Permission**

As an indicator of permission, the modal "can" is less formal than "may". When asking for permission, it is possible to be paraphrased by "be allowed to" (Quirk et al., 1985: 221-223), e.g.,

7. Can I smoke here?
8. Only some men could join the army.

According to Biber et al., (1999: 492-493), the modal "can" expresses mainly permission and ability. Most frequently, "could" represents the meaning of possibility in conversation when the speaker wants to express uncertainty

4.2 **Will/Would**

The modal verb "will" has a number of meanings. Generally, it is difficult to separate it from its temporal meaning, i.e. reference to future, e.g.,

The teacher will arrive today.

(a) **Prediction**

In addition to referring to future, the modal "will" can be used to make predictions, e.g.,

9. He will be late.
(b) **Logical Necessity**

Although not frequently, the modal "will" is used to express the meaning of logical necessity, e.g.,

10. That will be the postman (Quirk and Greenbaum, 1990: 228).

In this sense, "will" is very similar to "must".

(c) **Repeated Events**

The modals "will" and "would" can further express habits, i.e., actions which occur repeatedly. We use "will" for present habits and "would" for past habits, e.g.,

11. Every day Jane will come home from school and ring up the friends she's just been talking to (Eastwood, 1994:127).

### 4.3 Must

This modal verb has one of two meanings: it either carries the meaning of obligation or logical necessity (Palmer, 2001: 25).

(a) **Obligation**

The modal "must" expresses the meaning of obligation, e.g.,

12. you must obey the rules.

The modal "must" is paraphrased by "be obliged to". As such, sentence (12) becomes:

13. you are obliged to obey the rules. See Quirk et al. (1985: 221-225).

(b) **Logical Necessity**

The meaning of logical necessity is evident in the following example:

14. There must be some mistake

The speaker gives his judgements according to his previous information about the situation. Because "must" has no negative form, the modal "can" is used instead, e.g.,

15. You must be joking

16. You can't be joking

See Quirk et al. (1985: 221-223) for more details.

### 4.4 Shall

The modal verb "shall" is not common in English. It has two basic meanings, i.e. prediction and volition. These meanings are used only with a first person subject.

(a) **Prediction**

When expressing prediction, "shall" is a substitute for the future use of "will", e.g.,

17. According to the opinion polls, I shall win quite easily (Quirk et al.,1985: 229).
(b) Volition
The modal "shall" can also express the speaker's volition or determination, e.g.,
The modal "shall" is also used in legal texts to define rules and regulations.

4.5 Should
The basic use of "should" is to express tentative inference and obligation.
(a) Inference
The inference is tentative because the speaker is not certain about what they say, e.g.,
19. The school should be visible from there.
The speaker in this sentence is not definite that what they say is true.
So, they give their opinion tentatively (Quirk et al., 1985: 227).

(b) Obligation
The other meaning "should" expresses is obligation, e.g.,
20. You should relax (Biber et al., 1999: 494)
However, the modal "Should" is not as strong as "must", e.g.,
21. You should tour in a group. (It's a good idea to.)
22. You must tour in a group. (It's essential.) (Eastwood, 1994:118)

4.6 May/Might
These modals can express two meanings: possibility and permission.
(a) Possibility
They are used to say that something is possibly true. "May" is paraphrased as "it is possible" followed by that-clause. "Might" is regarded a more tentative form of "may".
23. This old picture may/might be valuable
(b) Permission:
The modals "May" and "might" can both express permission, but as is the case in possibility, "might" is considered more tentative than "may", e.g.,
24. I was wondering if I might borrow your car for the afternoon (Eastwood, 1994:122).

5. Modal Verbs in Arabic
It is believed that Arab grammarian do not recognize modality as a grammatical category although they have scattered references to the semantics of some modal like, "قد" and "ربما". El-Hassan (1990:164) states that modality does not appear in books of Arabic grammar. As such, one
just needs to tackle ways of expressing modality in Arabic language. Arabic is a rich language that can be studied in its own without reference to any other language.

Safi (2001: 9-11) discusses different types of modals. He mentions the Arabic modal auxiliaries, which are "قد", "كبد" ششع, and "تخز". Further, he argues that there are some verbs that are called finite verbs of modality like "يجوز" / and "يحتتم". Harbi (2011:2) classifies Arabic modalities into seven types:

1. "يريد", "آراد" (want, wanted, would like).
2. "قد" (can/could, be able to).
3. "قد يقدر" (may, might, could, be probable).
4. "يجوز", "سوف", "يتبغي جانў" can be, could be, possible, impossible.
5. "س, سوف" (will, shall, be going to).
6. "يجب", "يدينغي", "لابد" should, must, ought to, be obliged to, have to.
7. "يبلزم" "يبلزم" be obliged to, should, have to.

Modals in Arabic can be realized through different linguistic items. Methods of realizing these modals are stated below.

1. **Verbs**
   The most frequent verbs that imply modality are:
   "يجوز" "يحتتم" "يقد" "يتنغ" "يرسق" "يرسق" and "يستطيع".

2. **Prepositional phrases**
   These phrases are mostly structured out of a preposition followed by a noun or an adjective. Among these prepositional phrases are:
   "في الاستطاعة" "من الواجب" "في النية" "بالإمكان" "من الممكن" "من الجانў".

3. **Adverbs**
   Different adverbs are used to indicate the meaning of the English modals, e.g., "لايد", "لاريب", "لعل" "ربما". Some of these adverbs take the negative form, e.g., "لايد", "لاشك", "لازم", "لازم", "دون شك", "دون ريب", "لامحالة". For more details, see Abdel-Hamid (1972:19).

4. **Particles**
   Particles are typically realized by "قد". Aziz (1992:106) introduces the following table which summarizes modal verbs that express possibility in English and Arabic:

<table>
<thead>
<tr>
<th>Degree of Modality</th>
<th>English</th>
<th>Arabic</th>
</tr>
</thead>
<tbody>
<tr>
<td>Less probable</td>
<td>Would</td>
<td>من الراجح، على يرتجح الراجح</td>
</tr>
<tr>
<td>Probable</td>
<td>Will</td>
<td></td>
</tr>
</tbody>
</table>
6. Data Analysis

The data of the study have been investigated in order to point out the modals that may exist. It is found that modals are by no means equally distributed in the text. Some of these modals have high frequency of occurrence; others have no occurrence whatsoever. The following table shows the number of occurrences for all central modal verbs together with their percentages:

Table (2) Occurrence of Modals in the Data of the Study

<table>
<thead>
<tr>
<th>Modal</th>
<th>Number of Occurrences</th>
<th>Percentage</th>
</tr>
</thead>
<tbody>
<tr>
<td>Shall</td>
<td>132</td>
<td>75.4%</td>
</tr>
<tr>
<td>May</td>
<td>39</td>
<td>22.2%</td>
</tr>
<tr>
<td>Can</td>
<td>2</td>
<td>1.1%</td>
</tr>
<tr>
<td>Would</td>
<td>1</td>
<td>0.5%</td>
</tr>
<tr>
<td>Should</td>
<td>1</td>
<td>0.5%</td>
</tr>
<tr>
<td>Could</td>
<td>0</td>
<td>0%</td>
</tr>
<tr>
<td>Might</td>
<td>0</td>
<td>0%</td>
</tr>
<tr>
<td>Must</td>
<td>0</td>
<td>0%</td>
</tr>
<tr>
<td>Will</td>
<td>0</td>
<td>0%</td>
</tr>
</tbody>
</table>

So, in the following subsections the modals that appear in the data are investigated.

6.1 Shall

In the following sections, the distribution, meaning and translation of the modal "shall" are discussed.

6.1.1 The Distribution and Meanings of the Modal "Shall" in the Data of the Study

The data analyzed show that the modal that has the highest frequency of occurrence is "shall". Statistically, it occurred 132 times out of 175 times of the total number of occurrences for all modals. Hence, its percentage is 75.4%. The two meanings that "shall" has in the data are obligation and
prohibition. The meaning of prohibition, however, is indicated by "shall" only when it is negated.

(a) Obligation

Unlike its meaning in non-legal texts which implies futurity, this modal mainly denotes the meaning of obligation in legal language. The meaning of obligation is indicated by 115 occurrences out of the 132 occurrences of "shall". So, its percentage of occurrence is 87.1%. In this meaning, "shall" can be paraphrased into "be obliged to" or "has/have a duty to". The examples below show the meaning of obligation that "shall" indicates:

1. Accession **shall** be effected by the deposit of an instrument of accession with the Secretary General of the United Nations.
2. The Secretary-General of the United Nations **shall** transmit certified copies of this Convention to all States.
3. States Parties **shall** be responsible for the expenses of the members of the Committee while they are in performance of Committee duties.

In all the above three examples, the meaning is that of obligation and the modal "shall" can be substituted by "has/have a duty" or "is obliged to".

(b) Prohibition

This is the other meaning which is indicated by the modal "shall" when it is negated. The meaning of prohibition is by far less frequent than the meaning of obligation. Specifically, out of 132 occurrences, only 17 occurrences of "shall" express the meaning of prohibition. So, the percentage of "shall" as an indicator of prohibition is 12.9%, e.g.,

4. Such a withdrawal **shall** not prejudice the consideration of any matter which is the subject of a communication already transmitted under this article.
5. The Committee **shall** not consider any communications from an individual under this article.
6. Such a denunciation **shall** not have the effect of releasing the State Party from its obligations under this Convention.

However, the modal "shall" itself may not be negated by an immediate negator, but the whole sentence is negative. For example:

7. No one **shall** be subjected to torture or to cruel, inhuman or degrading treatment or punishment.
8. The standards of evidence required for prosecution and conviction **shall** in no way be less stringent than those which apply in the cases referred to in article 5, paragraph 1.
9. No further communication by any State Party shall be received under this article after the notification of withdrawal of the declaration has been received by the Secretary-General.

6.1.2 The Translation of "Shall" into Arabic in Legal Texts

It is found that different renderings are used for the modal "shall". In the following subsections, these renderings are examined in terms of the two meanings that "shall" has in the legal texts, i.e., obligation and prohibition.

(a) Obligation

Obligation is the dominant meaning indicated by the modal "shall" as the data of the study show. This meaning is conveyed into Arabic by different linguistic items. The data show that in most renderings, the modal "shall" has no equivalent (i.e., zero equivalent) in the Arabic version. In these cases, however, the data show that the meaning of obligation that "shall" expresses is rendered into Arabic merely by the main verb of the English sentence. That is, the main verb alone can express obligation in Arabic provided that the present tense is used. Statistically speaking, out of 115 sentences in which the modal "shall" shows obligation, 106 sentences are rendered accordingly, e.g.,

10. States Parties which do not make extradition conditional on the existence of a treaty shall recognize such offences as extraditable offences between themselves.

11. The committee shall, within twelve months after the date of receipt of notice under subparagraph (b), submit a report

12. States Parties shall carry out their obligations under paragraph I of this article in conformity with any treaties on mutual judicial assistance that may exist between them.

In examples (10), (11), and (12), the modal "shall" has no explicit Arabic lexical equivalent; rather, the meaning of obligation is achieved through the main verb following "shall" which are "تتفقد" "تعترف" "تنفذ" respectively.

Also, the modal "shall" may be rendered into Arabic by the prepositional modal "على" which implies the meaning of obligation in Arabic. The data of
the study reveal that out of the 115 renderings that show obligation, "على" is used in six renderings only, e.g.,

13. States Parties **shall** afford one another the greatest measure of assistance.

14. After examining the findings of its member or members submitted in accordance with paragraph 2 of this article, the Commission **shall** transmit these findings to the State Party concerned together with any comments or suggestions which seem appropriate in view of the situation.

15. Within three months after the receipt of the communication the receiving State **shall** afford the State which sent the communication an explanation or any other statement in writing clarifying the matter.

16. Steps **shall** be taken to ensure that the complainant and witnesses are protected against all ill-treatment or intimidation as a consequence of his complaint or any evidence given.

17. At those meetings, for which two thirds of the States Parties **shall** constitute a quorum, the persons elected to the committee **shall** be those who obtain the largest number of votes.

The verb phrase comprising "shall", however, is exceptionally rendered into Arabic by a noun phrase, e.g.,

18. The State which makes the preliminary inquiry contemplated in paragraph 2 of this article **shall** promptly report its findings to the said States and **shall indicate** whether it intends to exercise jurisdiction.
In one occurrence, however, the rendering of shall that expresses obligation is inaccurate, e.g.,

19. Each report shall be considered by the committee which may make such general comments on the report as it may consider appropriate and shall forward these to the State Party concerned.

Quite clearly, this rendering is not accurate because the modal "shall" implies obligation while the rendering "shows permission because. In fact, the coordinated clauses..." both relate to the sentence "the report as it may consider appropriate..."

The data reveal that the verb "تَمَرَ" is used in the Arabic version although it has no origin in the English sentences. This usage of the verb "تَمَرَ" is not only redundant but also affects the level of formality of the Arabic version, e.g.,

20. The Secretary General shall thereupon communicate the proposed amendment to the States Parties.

The accurate translation of example (20) is to use the main verb of the sentence only without the redundant verb "تَمَرَ":

21. After the first election the names of these five members shall be chosen by lot by the chairman of the meeting referred to in paragraph 3 of this article.

The proposed translation for example (21) is:

22. At least four months before the date of each election, the Secretary-General of the United Nations shall address a letter to the States Parties.

The proposed translation for example (22) is:
The following table summarizes all methods of translation for the modal shall which expresses obligation:

**Table (3) Methods of Translating the Modal "Shall" denoting obligation**

<table>
<thead>
<tr>
<th>Method of Translation</th>
<th>Number of Occurrence</th>
</tr>
</thead>
<tbody>
<tr>
<td>Omission (Zero Equivalent)</td>
<td>105</td>
</tr>
<tr>
<td>Prepositional Modal (علي)</td>
<td>6</td>
</tr>
<tr>
<td>Modal Verb (يجب)</td>
<td>2</td>
</tr>
<tr>
<td>Noun Phrase</td>
<td>1</td>
</tr>
<tr>
<td>Inaccurate Translation</td>
<td>1</td>
</tr>
</tbody>
</table>

**Modals in English and Arabic Legal Texts**

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العدد (27) أيلول 2016م

The negative particle "لن" has three occurrences in the data of the study, e.g.,

23. This **shall not** be the rule where the application of the remedies is unreasonably prolonged.

لا تسري هذه القاعدة في حالة اطالة مدة تطبيق قواعد الاختصار بصورة غير معقولة.

24. Such a withdrawal **shall not** prejudice the consideration of any matter which is the subject of a communication already transmitted under this article.

لا يخل هذا السحب بنظرية مسألة تشكل موضوع بلاغ سابقت احالته بمقدستي هذه المادة.

25. Following the date at which the denunciation of a State Party becomes effective, the Committee **shall not** commence consideration of any new matter regarding that State.

بعد التاريخ الذي يصبح فيه انهاء ارتباط دولة بالاتفاقية نافذا لا تبدأ اللجنة النظر في اية مسألة جديدة تتعلق بتلك الدولة.

(b) **Prohibition**

The modal "Shall" simplifies prohibition when it is negated. The data show that there are 17 sentences implying prohibition through the negated "shall". This implies that prohibition is dramatically less frequent compared to the 115 occurrences of obligation indicated by the modal "shall". It is found that prohibition is rendered into Arabic by different linguistic elements. These elements are the negative particles "لا"، "ليس"، "لا"، and the negative noun "عدم". The most frequent negative particle used in rendering negated "shall" is "لا". Out of 17 occurrences of "shall" denoting prohibition, the negative particle "لا" is used in 11 renderings e. g.,

23. This **shall not** be the rule where the application of the remedies is unreasonably prolonged.

لا تسري هذه القاعدة في حالة اطالة مدة تطبيق قواعد الاختصار بصورة غير معقولة.

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The negative particle "لن" has three occurrences in the data of the study, e.g.,

26. The other States Parties **shall not** be bound by paragraph I of this article with respect to any State Party having made such a reservation.
27. Such a denunciation **shall not** have the effect of releasing the State Party from its obligations under this Convention.

It is argued, however, that the negative particle "\( \text{ن} \)" is not an adequate translation for the negated "shall" because "\( \text{ن} \)" is never used in legal drafting in Arabic; rather it is substituted by the negative particle "\( \text{لا} \)" which is regarded as to be more formal than "\( \text{ن} \)". Further, the negative particle "\( \text{لا} \)" is more suitable because it negates the present and the future; whereas "\( \text{ن} \)" negates the future only.

Furthermore, the negative noun "\( \text{عدم} \)" has two occurrences, e.g.,

28. Any statement which is established to have been made as a result of torture **shall not** be invoked as evidence in any proceedings.

The modal "shall", however, may not be followed by an immediate negator like "not", but the whole sentence is negated, e.g.,

29. **No one shall** be subjected to torture or to cruel, inhuman or degrading treatment or punishment.

30. **Nothing** in this article **shall** affect any right of the victim or other persons to compensation which may exist under national law.

31. **No communication** shall be dealt with by the Committee under this article if it concerns a State Party which has not made such a declaration.

The table below summarizes all linguistic items used in rendering the modal "shall" that expresses prohibition:

**Table (4) Method of Translating of the Modal "Shall" denoting prohibition**

<table>
<thead>
<tr>
<th>Method of Translation</th>
<th>Number of Occurrence</th>
</tr>
</thead>
<tbody>
<tr>
<td>The Negative Particle (لا)</td>
<td>11</td>
</tr>
<tr>
<td>The Negative Particle (ن)</td>
<td>3</td>
</tr>
<tr>
<td>The Negative Particle (ليس)</td>
<td>1</td>
</tr>
<tr>
<td>The negative noun (عدم)</td>
<td>2</td>
</tr>
</tbody>
</table>
6.2 May

The modal "may" is discussed in the following subsections in terms of distribution, meaning, and translation.

6.2.1 The Distribution and Meaning of the Modal "May" in the Data of the Study

The data of the study show that the occurrence of "may" is much less in number than "shall". It occurred only 39 times. However, it is the second most frequent modal occurring in the data. The main meaning this modal expresses in legal texts is permission, which is paraphrased into "it is permitted". The other less frequent meaning is possibility, which is paraphrased into "it is possible".

(a) Permission

The data of the study show that the most frequent meaning found for "may" is that of permission. Out of 39 occurrences, "may" expresses permission in 30 sentences. So, the percentage of "may" as an indicator of permission is 77%, e.g.,

32. Any State Party having made a reservation in accordance with paragraph I of this article may, at any time, withdraw this reservation by notification to Secretary-General of the United States.
33. Each state party may nominate one person from among its own nationals.
34. Any State Party to this Convention may propose an amendment and file it with the Secretary General of the United Nations

(b) Possibility

The modal "May" expresses possibility in 9 sentences. The percentage of "may" as an indicator of possibility is 23%. This number of occurrence of "may" as an indicator of possibility indicates that it is much less common than "may" as an indicator of permission, e.g.,

35. Thereafter, the state Parties shall submit supplementary reports every four years on any new measures taken and such other reports as the Committee may request.
36. Nothing in this article shall affect any right of the victim or other persons to compensation which may exist under national law.
37. State Parties shall carry out their obligations under paragraph I of this article in confirmity with any treaties on mutual judicial assistance that may exist between them.

6.2.2 The Translation of "May" into Arabic in Legal Texts
Whether it implies permission or possibility, "may" is translated into Arabic by different linguistic items according to the meaning it implies. So, the translation of these meanings is discussed below.

(a) Permission

The data reveal that the most frequent Arabic equivalent for "may" as an indicator of permission is the verb "يجوز". Further, some other Arabic equivalents are found in the data, i.e., the verb "يمكن" and the modal preposition "ل". Out of 30 occurrences of "may" indicating permission, "يجوز" is used 17 times, e.g.,

38. A declaration may be withdrawn at any time by notification to the Secretary-General.

39. Each State may, at the time of signature or ratification of this Convention or accession thereto, declare that it does not consider itself bound by paragraph I of this article.

40. After such proceedings have been completed with regard to an inquiry made in accordance with paragraph 2, the Committee may, after consultations with the State Party concerned, decide to include a summary account of the results of the proceedings.

The verb "يمكن" is the least one used in the data to show permission. It only appears three times in the Arabic version, e.g.,
44. Each State **may**, at the time of signature or ratification of this Convention or accession thereto, declare that it does not recognize the competence of the Committee provided for in article 20.

يمكن لأي دولة وقت التوقيع أو التصويت على هذه الاتفاقية أو الانضمام إليها أن تعلن أنها لا تعرف

بخصوص اختصاص اللجنة المنصوص عليها في المادة 20

45. Any State Party having made a reservation in accordance with paragraph I of this article **may**, at any time, withdraw this reservation by notification to the Secretary-General of the United Nations.

يمكن لأي دولة طرف تكون قد ابدت تحفظًا وفقًا للفقرة 1 من هذه المادة، أن تسحب هذا التحفظ، في

أي وقت تشاء بإرسال إخطار إلى الأمين العام للأمم المتحدة

46. This article is without prejudice to any international instrument or national legislation which does or **may** contain provisions of wider application.

ولا تخل هذه المادة باي عقد دولي أو تشريع وطني يتضمن أو يمكن أن يتضمن احكاما ذات تطبيق

اشمل

However, the modal "may" occurs three times in negative sentences, e.g.,

47. **No** exceptional circumstances whatsoever, whether a state of war or a threat of war, internal political instability or any other public emergency, **may** be invoked as a justification of torture.

لا يوجد التدبر بأية ظروف استثنائية أيا كانت، سواء كانت هذه الظروف حالة حرب أو تهديدا بالحرب أو عدم استقرار سياسي داخلي أو أية حالة من حالات الظروف العامة الأخرى كمبرر للتعذيب

48. An order from a superior officer or a public authority **may not** be invoked as a justification of torture.

لا يوجد التدبر بال الأوامر الصادرة عن موظفين أعلى مرتبة أو عن سلطة عامة كمبرر للتعذيب.

It is worth mentioning that, in one occurrence expressing permission, there is no overt linguistic item that renders the permission meaning indicated by "may".

Nevertheless, this meaning is retained in Arabic by the expression "على الا" which is used due to the presence of the adverb only that indicates implied negation:

49. The custody and other legal measures shall be as provided in the law of that State but **may** be continued only for such time as is necessary to enable any criminal or extradition proceedings to be instituted.

ويعم الاحتجاز والإجراءات القانونية الأخرى مطابقة لما ينص عليه قانون تلك الدولة على الا

يستمر احتجاز الشخص الا للمدة اللازمة للتمكن من إقامة اية دعوى جنائية أو من اتخاذ اي

إجراءات لتسليمها.
The following table shows the methods of translating may that expresses permission:

Table (5) Methods of Translation of "May" Expressing Permission

<table>
<thead>
<tr>
<th>Method of Translation</th>
<th>Number of Occurrence</th>
</tr>
</thead>
<tbody>
<tr>
<td>Modal Verb (ٚدٕص)</td>
<td>17</td>
</tr>
<tr>
<td>Preposition (لا)</td>
<td>7</td>
</tr>
<tr>
<td>Modal (يمكن)</td>
<td>3</td>
</tr>
<tr>
<td>Others</td>
<td>1</td>
</tr>
</tbody>
</table>

(b) Possibility

When it shows possibility, the modal "may" is translated into Arabic solely by the particle "قد" that is followed by a simple present verb, e.g.,

50. Thereafter, the States Parties shall submit supplementary reports every four years on any new measures taken and such other reports as the Committee may request.

(c) Lost in Translation

It is found that "may" is lost in translation four times. In all these sentences, "may" expresses possibility, e.g.,

53. Each State Party shall likewise take such measures as may be necessary to establish its jurisdiction over such offences in cases

To show the possibility meaning indicated by "may" in example (53), the following rendering is proposed:

54. Each State Party shall likewise take such measures as may be necessary to establish its jurisdiction over such offences in cases
where the alleged offender is present in any territory under its jurisdiction.

In order to show possibility, the translation proposed for example (54) is:

55. Within six months, the receiving State shall submit to the Committee written explanations or statements clarifying the matter and the remedy, if any, that may have been taken by that State.

In example (55), the meaning of possibility is not retained in the Arabic rendering because the modal "may" is dropped in translation. It is suggested that the adverb "ربما" is added so that the translation becomes:

56. The members of the Committee and of the ad hoc conciliation commissions which may be appointed under article 21, paragraph I (e), shall be entitled to the facilities, privileges and immunities of experts.

6.3 Other Modals

These modals hardly occur in the data of the study. They are presented below.

6.3.1 Can

The remaining modals have no significant occurrence in the data. If compared to the frequency of occurrence of both "shall" and "may", they are to a great extent marginal. Thus, the modal "can" appears two times in the data. "Can" usually expresses ability. The scarce usage of "can" is perhaps attributed to the fact that law prescribe the rights and duties of people instead of addressing their abilities. In its occurrences in the data, "can" shows
inability due to the negative adverbs present in both sentences, i.e., the adverbs "no longer" and "not", e.g.,

57. If a member of the Committee dies or resigns or for any other cause can no longer perform his Committee duties, the State Party which nominated him shall appoint another expert from among its nationals to serve for the remainder of his term,

58. Any dispute between two or more States Parties concerning the interpretation or application of this Convention which cannot be settled through negotiation shall, at the request of one of them, be submitted to arbitration.

Clearly, "can" in sentences (57) and (58) is rendered in "اجبة" and "لا عجبه" respectively because both sentences are negative.

6.3.2 Would

The modal "would" has one occurrence in the data of the study. The rare occurrence of "would" can be attributed to the fact that this modal expresses possibility or future in the past which are both irrelevant for lawmakers. Law utilizes the simple present since this tense refers to the general present which includes the past, the present and even the future, e.g.,

59. No State Party shall expel, return ("refouler") or extradite a person to another State where there are substantial grounds for believing that he would be in danger of being subjected to torture.

The modal "would" is rendered into Arabic by the particle "سوف" which implies futurity.

6.3.3 Should

This modal, which has one occurrence in the data, expresses obligation. This marginal presence of this modal is due to the fact that obligation is achieved in English legal language by the modal "shall". The following example is the only occurrence of "should".

60. Within three months after the receipt of the communication the receiving State shall afford the State which sent the communication an explanation or any other statement in writing clarifying the matter,
which should include, to the extent possible and pertinent, reference to domestic procedures and remedies taken, pending or available in the matter.

The modal "should" in example (60) has zero equivalent in Arabic. However, the meaning of obligation is expressed through the verb "يتضمن".

The four remaining modals, i.e., "could", "might", "must", "will" have no presence in the English data. It is argued that the absence of "could" and "might" is attributed to the fact that they indicate tentativeness and they refer to past tense which are not characteristics of legal language. The modal "will" is not present in legal texts, because it refers to future events only whereas language of law addresses the present and the future. The modal "must" is not found in legal English because it is substituted by the modal "shall" in expressing obligation.

7. Conclusions

The study has come up with different conclusions regarding the translation of modals, their meaning, and distribution. They are presented below.

(a) The Distribution of Modals

1. The most frequent modal in the English data is "shall" constituting 75.4% of all the modals present in the data (see p.13).
2. The second less frequent modal in the data is "may" scoring 22.2% of the total occurrence of modal (see p.13).
3. The remaining modals, other than "shall" and "may", have no scientifically important occurrence. "Can" occurs two times, "should" and "would" occur in one position each. The modals "will", "must", "could", "might", "ought to" have no occurrence in the data.

(b) The Semantics of Modals

1. Unlike its meaning in general English, the dominant use of "shall" in legal texts is to express obligation. Out of 132 occurrences of "shall", 112 occurrences express obligation (see p.14).
2. "Shall" implies prohibition in 17 occurrences out of the 132 occurrences of "shall" (see p.15).
3. "May" implies permission in 30 occurrences out of its 39 occurrences, which indicates that the primary meaning of "may" in legal texts is to show permission (see p.23).

3. "May", although less commonly, is used to express possibility. Specifically, it shows possibility nine times (see p.24).

3. The modal "can" occurs in two positions in the data of the study. In both positions, it expresses ability. The scarce usage of "can" is perhaps attributed to the fact that law prescribe the rights and duties of people instead of addressing their abilities (see p.30).

4. The modals "would" and "should" occur in one position each where "should" expresses obligation whereas "would" expresses futurity (see pp.31-32).

5. The modals "will", "must", "could", and "might" are not used in legal English. It can be, somehow tentatively, concluded that "will" does not appear in legal English because this modal is only used to describe future events for which legal English prefers simple present tense. "Must" is not found in legal English because legal language uses "shall" to substitute it in expressing obligation. That "Could" and "might" do not appear in legal English is due to the fact that both of these modals show tentativeness and past time which are not what legal language addresses (see p.32).

(c) The Translation of Modals

1. The modal "shall" has no linguistic equivalent in 106 occurrences out of the 115 occurrences where "shall" expresses obligation. Rather, the meaning of obligation it expresses is rendered into Arabic merely by the main verb of the English sentence (see p.16).

2. The modal "shall" is rendered into Arabic by the modal verb "يُبْقَى" only in two renderings out of 115 occurrences of "shall" showing obligation (see p.).

3. The prepositional modal "على" is used in rendering "shall" that implies obligation. The data of the study reveal that out of the 115 renderings that show obligation, "على" is utilized in six renderings (see p.17).

4. It is argued that the presence of the verb "يُبْقَى" which has no corresponding item in the source language is not only redundant but also affects the level of formality of the Arabic version (see p.19-20)

5. When it implies prohibition, the modal "shall" is rendered into Arabic by one of the negative particles "لَا" "لَات", "لَات" "لَا" "لَات" "لَا","لَا" "لَا" "لَا" "لَا". The most frequent negative particle used in rendering negated "shall" is "لَا". Out of 17
occurrences of "shall" denoting prohibition, the negative particle "لا" is used in 11 renderings (see p.21)  
6. The negative particles "لن" and the negative noun "عدم" occur two times each as equivalents for "shall" denoting prohibition. It is argued that "لا" is a more suitable rendering than "لن"، because "لا"، in addition to being more formal, is more conclusive. That is, the negative particle "لا" negates both the present and the future whereas "لن" negates the future only (see p.22).  
7. The data, also, reveal that the most frequent Arabic equivalent for "may" as an indicator of permission is the verb "يجوز". Out of 27 occurrences of "يجوز"، "may" is used 17 times (see p.25).  
8. The modal "may" that indicates permission is rendered into Arabic by some other linguistic items, i.e., the modal preposition "ل" and the verb "يمكن". The modal preposition "ل" is used seven times; the verb "يمكن" is used two times only (see p.25-26)  
9. It is found than when it shows possibility, the modal "may", is translated into Arabic by the particle "قد" that is followed by a simple present verb (see p.28).  
10. The modal "may" is lost in translation four times. This makes it different from "shall" whose meaning is always retained in Arabic (see p.28-29).  

References  


