

The Translation of the Main Modal Verbs in the General Provisions of the Civil Law of the People's Republic of China

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Abstract: This paper will mainly delve into the meanings and use of main modal verbs including “may”, “shall” and “must” in legal texts. Among all these three modal verbs, the modal verb “shall” is the emphasis of this article due to its most frequency of use, the importance of function and the very debatable translation in legal texts. Firstly, the author will introduce the basic meanings of them and the relevant theories of their translation. Secondly, in order to reveal how they exist in legal texts, the author will analyze the three modal verbs in *the General Principles of the Civil Law of the People's Republic of China* in combination with previous studies, and present examples to illustrate whether the translations are appropriate enough or not. Finally, the author will give her own opinion on the use and translation of those main modal verbs in legal texts.

Keywords: Modal verbs; Shall; May; Must; The General Provisions of the Civil Law of the People's Republic of China

1. Introduction

In English, there are plenty of main modal verbs, including “can”, “could”, “may”, “might”, “must”, “have to”, “shall”, “will”, “would”, “ought”, “dare” and “need”. However, in legal English, the main modal verbs, or the most commonly used modal verbs are “shall”, “may” and “must”. When it comes to translation, the most difficult one is “shall”.¹ Henry Watson Fowler, one of the great linguists of the last century, argued that “shall,” when used with first-person pronouns, is a purely auxiliary verb that expresses a future action, which is similar to “will”. When it is used in the third person, “shall” has the opposite effect: it can indicate the speaker’s command, intention, promise, admonition, warning, etc.² The importance of “shall” in legal English cannot be ignored, because it is the most important lexicon that forms the unique legal English style.³

Besides, “must” is also a debatable modal verb in the legal English. It is always compared with “shall” by scholars due to the overlap of their meanings, and it is also disputable to confirm which word can be the equivalent of “bì xū”(Chinese phonetic alphabets).

As for “may”, its meaning in the legal texts has relatively big differences from its use under other circumstances. That is also the reason why the author tries to analyze this modal verb in this paper.

Compared with other modal verbs, such as “can”, “should”, “will”, “need”, etc., these three modal verbs are more controversial, which are worth investigating. The in-depth study of the main modal verbs in legal texts will help improve the certainty, predictability and uniformity with respect to the rights and obligations stipulated by laws in English version, so as to reduce the uncertainty caused by the ambiguity in translation. Besides, the Civil Law is honored by all the jurists as the mother of all the other laws in a country, but there is currently no formal study of the use of main modal verbs in its general provisions in its translation to English, which is *the General Provisions of the Civil Law of the People's Republic of China*. Thus, to fill the gap, the author will study the three modal verbs in it to investigate how they are used and translated, whether there are mistakes in it in accordance with the relevant theories, and whether there are any changes of the use of model verbs from the English version of *the General Principles of the Civil Law*, which is the old version of this law.

2. Literature Review

The use and translation of the three modal verbs triggered a hot discussion. Plenty of Chinese scholars in the field presented their opinions. Among them, a famous Chinese scholar Li Kexing ever commented and concluded the use and translation of “shall”. In terms of his research, Chinese translators ever equated “shall” with “yīng”, “xū”, “yīng dāng”, “jiāng”, “kě”, “bì xū”, “/(Do not translate.)”, “yào”, etc. Among them, “bì xū” is the most coercive one, and “xū” can be regarded as the abbreviated form of it, while “yīng” as the abbreviated form of “yīng dāng” is less coercive. However, according to his opinion, “jiāng”, “yào” and “kě” are not appropriate counterparts of “shall”, while other translations of “shall”, including “yīng”/“yīng dāng”, “xū” and “/(Do not translate.)”, are relatively appropriate depending on the exact context⁴.

1 Li Kexing, “The Role of Major Modal Verbs in English Legal Texts and their Translation”, *China Translation*, no.6(2007):54.

2 Fowler H. W, *Modern English Usage* (London: Oxford University Press, 1965), 24-25.

3 Sun Ximin, “The Translation of Shall in Legal and Contract Documents”, *China Translation*, no. 4(1995):32.

4 Li Kexing, “Basic Principles of Legal Translation” *Translation Quarterly Hong Kong: The Hong Kong Translation Society* 4, no. 3 (1997): 23-24.

He believes that it might be a mistake by accident to translate “shall” into “jiāng”, since in formal legal texts like contracts, there are almost no first-person pronouns like “I” and “we” for “shall” to represent the meaning of “jiāng”. And according to Flower, when “shall” is used in the third person, it should be translated into Chinese which contains the meanings of command, obligation, duty, promise, etc. And the famous scholar Reed Dickerson also set out the convention for using it—“To create a duty, say *shall*.”⁵ Thus, “shall” can be paraphrased into “have the duty to”, “have the obligation to”, etc., but rather than simply be regarded as a kind of tense. Therefore, if “shall” is translated into “jiāng”, there is a considerably high possibility that the translator forgets or does not understand the mission taken by “shall” in these particular texts.

Although “yào” in Chinese also has the meaning of coercion, and can perform the task of expressing orders, duties, rights, privileges and promises, “yào” is after all a very colloquial word. In the formal, serious and even solemn legal provisions, he argues that it is extremely not suitable. In fact, in any previous Chinese legal documents, no matter in national or local laws and regulations, it is rare to find the use of “yào” to indicate the mandatory provisions. In authoritative English-Chinese legal translation texts, almost no translators use “yào” to express the concept of “shall”. Therefore, we should also exclude this word to equate “shall”.

As for “kě”, it is also not proper to regard it as the counterpart of “shall”, according to Li Kexing’s research. For instance, in *the Basic Law of Hong Kong Special Administrative Region of the People’s Republic of China*, “they **shall** have the freedom to travel and freedom of entry and exit. Unless restrained by law, Hong Kong residents who hold valid travel documents **shall** be free to leave the Region without special authorization.” (The original text is: xiāng gǎng jū mín yǒu lǚ xíng hé chū rù jìng de zì yóu. yǒu xiào lǚ xíng zhèng jiàn de chí yǒu rén, chū fēi shòu dào fǎ lǚ zhì zhǐ, kě zì yóu lí kāi xiāng gǎng tè bié háng zhèng qū, wú xū tè bié pī zhǔn.) According to him, there is nothing wrong with the Chinese version of this text, but the two “shall”s in the English version are an abuse of the word “shall” in legal texts. If it does not use “shall”, but use the present tense, like replacing the sentences with “They have the freedom to travel and freedom of entry and exit” and “Hong Kong residents who hold valid travel documents are free to leave the Region”, the English can be more concise and standard⁶. We can see from the sense of language that the original Chinese version of the law is not a mandatory provision. Thus, adding the words “shall”, which contains a mandatory meaning, before the words “free to leave Hong Kong” would create a logical contradiction in the sentence itself, depriving the freedom of “freedom” and making “free to leave Hong Kong” nonsense. Furthermore, according to the methods used by English grammarians to test the appropriateness of the use of “shall” in legal English (i.e., replacing “shall” with a coercive word such as “must” or “have to” to see whether there are changes of meaning in original sentence in order to determine whether the word is properly used⁷), the two “shall”s in this text are indeed abused.

As for “must”, although the meanings of that and “shall” are similar, there is still a difference. In theory, there is nothing semantically wrong with viewing “shall” as the English counterpart of “bì xū” when it is used to indicate a command, an obligation, or a duty. But in the practice of law drafters and translation experts in this field, especially in the practice of translation of authoritative legal documents, the convention of using “must” instead of “shall” to correspond to “bì xū” seems to have long been established. For instance, in a foreign-related law in China, “Except as provided for in Article 14 of this law, any entity or individual exploiting the patent of another **must** conclude a written licensing contract with the patentee and pay the patentee a fee for the exploitation of its or his patent...The entity owning or holding the patent right on a job-related invention-creation **shall** reward the inventor or designer. (rèn hé dān wèi huò gè rén shí shī tā rén zhuān lì de, chū běn fǎ dì shí sì tiáo guī dìng de yǐ wài, dōu **bì xū** yǔ zhuān lì quán rén dìng lì shū miàn shí shī xǔ kě hé tóng, xiàng zhuān lì quán rén zhī fù zhuān lì shǐ yòng fèi. zhuān lì quán de suǒ yǒu dān wèi huò zhě chí yǒu dān wèi **yīng dāng** duì zhí wù fā míng chuàng zào de fā míng rén huò zhě shè jì rén jǐ yǔ jiǎng lì.)” “shall” is used for hundreds of times in the law, but no one of them is translated into “bì xū”, except for “shall be required” as the double emphasis. So, the rule of choosing words is clear: when there is “bì xū” in the Chinese version of the law, it is not translated as “shall”; while when there is “yīng” or “yīng dāng”, the corresponding word is usually “shall” and sometimes “must”.⁸ This way of translating is more obvious in the English version of *the Constitution of the People’s Republic of China*, which almost represents the highest level of translation in China. Therefore, as Li Kexing suggests, “shall” in legal texts should not be translated into “bì xū”, and this task should be left to “must” to accomplish.⁹

When it comes to “may”, it can represent two meanings in legal texts. In the first case, it refers to the grant of right to someone.¹⁰ In Chinese, it can be translated to “kě” or “kě yǐ”. Second, “may” sometimes has the similar meaning with “shall”, representing the duty and obligation.¹¹ For instance, in a law of Canada, “a labour relations board **may** grant a certificate of recognition to a labour union.” (láo gōng guān xì wěi yuán huì yīng gāi shòu yǔ láo gōng lián méng rèn kě zhèng shū.¹²)

Above are the basic meanings and Chinese counterparts of “shall”, “must” and “may”. The author will later analyze the three modal verbs in accordance with these theories.

3. Analysis of the Translation of the Three Modal Verbs

In this section, the author will analyze how the three modal verbs are translated from Chinese to English in *the General Provisions*

5 Joseph Kimble, “The Many Misuses of Shall,” *Journal of Legal Writing* 3, no. 1 (1992): 61-78.

6 Li Kexing, “The Role of Major Modal Verbs in English Legal Texts and their Translation”, *China Translation*, no. 6 (2007) : 56.

7 Asprey, M. M, “Shall Must Go” *Journal of Legal Writing* 3, no.2 (1992):79-84.

8 Bryan Garner, *A Dictionary of Modern Legal Usage* (Beijing:Law Press, 2003) :41-48.

9 Li Kexing, Zhang Xinhong, *Legal Texts and Legal Translation* (Beijing:China Translation & Publishing Corporation, 2006) :24.

10 Fung, S. and Watson-Brown, A, *The Template: A Guide for the Analysis of Complex Legislation*, (London: Institute of Advanced Legal Studies, 1994), 13-21.

11 Song Lei, *Formats of International Economic and Trade Legal Documents* (Beijing)Law Press(1979):36.

12 Tao Bo, *Legal English: The Drafting of Bilingual Legal Documents in Chinese and English*(Taipei: Wu Nan Book publishing Co., LTD. 2008) :57-59.

of the Civil Law of the People's Republic of China. In the whole text, "shall" appears for 288 times as modal verbs, "must" appears for 4 times, and "may" appears for 53 times.

3.1 Analysis of "shall"

According to the analysis of the author, there are in total 4 ways to correspond to "shall" in *the General Provisions of the Civil Law of the People's Republic of China*.

The first and most frequent usage of "shall" in the English version of this law is as the equivalent of "yīng" or "yīng dāng" in its Chinese original version. The typical one is the Article 157, in which there are four "shall" in one article:

dì 157 tiáo mǐn shì fǎ lǚ xíng wéi wú xiào、bèi chè xiāo huò zhě què dìng bú fā shēng xiào lì hòu, xíng wéi rén yīn gāi xíng wéi qǔ dé de cái chǎn, **yīng dāng** yǔ yī fǎn hái: bú néng fǎn hái huò zhě méi yǒu bì yào fǎn hái de, **yīng dāng** zhé jià bǔ cháng. yǒu guò cuò de yī fāng **yīng dāng** péi cháng duì fāng yǒu cǐ suǒ shòu dào de sùn shī; gè fāng dōu yǒu guò cuò de, **yīng dāng** gè zì chéng dān xiàng yīng de zé rèn. fǎ lǚ líng yǒu guī dìng de, yī zhào qí guī dìng.

Article 157 After a juridical act is void, revoked, or determined as having no binding force, the property obtained by the actor as a result of the act **shall** be restituted; if restitution is impossible or unnecessary, indemnification **shall** be made at an estimated price. The party at fault **shall** compensate the other party for any loss suffered as a result of the act; or if both parties are at fault, they **shall** assume corresponding liabilities respectively, except as otherwise provided for by any law.¹³

Since "shall" being used in third person indicates the meaning of command, "yīng dāng", which also has the similar meaning, is appropriately translated into "shall". And the use of "shall" here has no big difference from the English version of the old version of this law.

The second usage of "shall" is to convey the meaning of "yīng dāng" hidden in the original text. The Article 27 and the Article 56 are two typical examples:

dì 27 tiáo wèi chéng nián rén de fù mǔ yī jīng sǐ wáng huò zhě méi yǒu jiān hù néng lì de, yǒu xià liè yǒu jiān hù néng lì de rén àn shùn xù dān rèn jiān hù rén:

(1) zǔ fù mǔ、wài zǔ fù mǔ;

.....

Article 27 Where both parents of a minor are dead or incapable of acting as a guardian, one of the following persons capable of acting as a guardian **shall** act as the guardian of the minor in the following order:

his paternal grandparents and maternal grandparents;

...

dì 56 tiáo gè tǐ gōng shāng hù de zhài wù, gè rén jīng yíng de, yǐ gè rén cái chǎn chéng dān.

Article 56 Where the business of an individual industrial and commercial household is operated by an individual, the debts of the individual industrial and commercial household **shall** be assumed by the individual with his or her own property.¹⁴

It is obvious that there is no "yīng dāng" or "yīng" in the original text, but when it is translated into English, the translators add "shall" to accurately convey the meaning of the original text. In the Article 27, although there are no words like "yǒu jiān hù néng lì de rén" **yīng dāng** "àn shùn xù dān rèn jiān hù rén" in the original text, the meaning of "yīng dāng" is hidden in the text. Because if we want to understand why the translators add "shall", we should investigate into the spirit of the Article 27 itself. When the parents cannot take care of a minor, the legislators hope that the minor's other relatives (grandparents ranked first to do so) can assume the obligation to cultivate the minor. It embodies that the legislators believe that in such a case, the company of the minor's close relatives will be the most beneficial to the development of the minor. It is both a right to enjoy and a duty to assume. Thus, that is why the grandparents "shall" ("yīng dāng") rank first to act as the guardians. After figuring out the intention of the Article 27, it is not difficult to understand why the translators add "shall" in the English version to more accurately and obviously describe the duty of the relatives and the authorities relevant. In the Article 56, it desires to convey that in such a case, "the individual with his or her own property" has the duty to assume the "debts of the individual industrial and commercial household". It implies that there exists no option for individuals under the circumstance, and assuming debts is the obligation. Therefore, only adding "shall" in the English text, can it deliver the connotation of command from the government.

The third usage of "shall" is with "not" to express the meaning of "bù dé" or "bù kě". The typical case in point is the Article 132:

dì 132 tiáo mǐn shì zhǔ tǐ **bù dé** làn yòng mǐn shì quán lì sùn hài guó jiā lì yì、shè huì gōng gòng lì yì huò zhě tā rén hé fǎ quán yì.

Article 132 The parties to civil legal relations **shall not** abuse civil rights to damage the national interest, public interest, or the lawful rights and interests of any other person.¹⁵

According to the theory and statement of Flower, "shall" itself here actually also conveys the meaning of "yīng dāng", and when it is used with the negative word "not", it conveys the opposite meaning, which is in essence "bù yīng dāng". "bù dé" in the original text implies that the Article is a prohibitive norm, expressing that the civil subjects are not allowed to do something, which has the similar meaning of "bùyīng dāng". Therefore, the usage of "shall" here is also correct.

The fourth usage of "shall" is with the phrase "have the right to" to represent "yǒu quán lì". The instance is as follows:

dì 122 tiáo yīn tā rén méi yǒu fǎ lǚ gēn jù, qǔ dé bú dāng lì yì, shòu sǔn shī de rén **yǒu quán** qǐng qiú qí fǎn huán bú dāng lì yì.

Article 122 Where a person is unjustly enriched without any legal basis, the person who so suffers a loss **shall have the right to** request that the person unjustly enriched return the amount to the extent of the unjust enrichment.¹⁶

13 *The General Provisions of the Civil Law of the People's Republic of China*, Article 157, <http://www.npc.gov.cn/englishnpc/index.shtml> (accessed January 12, 2021).

14 Ibid, Article 27, Article 56).

15 Ibid, Article 132.

16 Ibid, Article 122.

“Shall” is in the sentence written in the third person, so here it refers to “have the duty to”. Besides, many scholars in this field put forward that in legal texts, we should “translate the same terms in the same way”, and it should be considered as a vital principle. So, when other “shall”s in the text are translated as “have the duty to” in the third person, this “shall” should also be explained as “have the duty to”. However, with this meaning, the English text will be paraphrased as “the person who so suffers a loss has the duty to have the right to request...”. But it is apparent that “have the right to” cannot follow the meaning of “have the duty to”, because the right of the person who so suffers a loss here is granted, but not obtained due to a duty. This sentence contradicts in itself, and this is obviously an abuse of “shall”. If “shall” is eliminated, as a sentence in the present tense, the Article will be: “the person who so suffers a loss has the right to request”. This is actually a more concise text in English, and also a more standard constitutional style.¹⁷ Therefore, similar to the “shall have the freedom” mentioned in the Literature Review, it is also not that appropriate to use “shall” in the English version of this Article.

What is worth noticing is a change from the old version of this law. After the careful comparison, the author finds out that in the article which defines the “adult” and “minor”, the translators of this law eliminate the modal verb “shall” from the verb “be”, and change it to “is”, which is simply the present tense of “be”:

(The old version:)

shí bā zhōu suì yǐ shàng de gōng mín shì chéng nián rén

A citizen aged 18 or over **shall be** an adult.

(The new version:)

shí bā zhōu suì yǐ shàng de zì rán rén wéi chéng nián rén

A natural person attaining the age of eighteen **is** an adult.¹⁸

The change of the meaning of this article is actually slight, while the actual change is that the translators choose to eliminate “shall” in the new version. This is a huge difference between the two versions, so the author attempts to find out the exact reason. “Shall” in the old version is used and translated as the equivalent of “shì”. However, the sentence in this article is written in the third person, and “shall” here should represent the meaning of command or obligation. But it is obvious that the original text is simply a description of a certain definition, which does not at all deliver any connotation of command, and it is also unreasonable to use “shall” and explain the article as “A citizen aged 18 or over have the obligation to be an adult.”

Therefore, this can be the reason why those outstanding translators choose to eliminate this modal verb when translating the new version of this law. The author points out this mistake to appeal translators to pay attention to it to avoid other similar mistakes in the future.

3.2 Analysis of “must”

After the careful analysis of the author, there are in total 2 ways for “must” to act as the counterpart of the words in the original text of *the General Provisions of the Civil Law of the People’s Republic of China*.

The first usage of “must” is to be the equivalent of “xū”. The example in the law is as follows:

dì 27 tiáo wèi chéng nián rén de fù mǔ yǐ jīng sī wáng huò zhě méi yǒu jiān hù néng lì de, yǒu xià liè yǒu jiān hù néng lì de rén àn shùn xù dān rèn jiān hù rén:

.....

(4)qí tā yuàn yì dān rèn jiān hù rén de gè rén huò zhě zǔ zhī, dàn shì **xū** jīng bèi jiān hù rén zhù suǒ dì de jū mín wěi yuán huì、cūn mín wěi yuán huì huò zhě mín zhèng bù mén tóng yì.

Article 27 For an adult who has no or limited capacity for performing civil juristic acts, the following persons, if competent, shall act as his guardians in the following order:

...

(4) any other individual or organization that is willing to act as his guardian, provided that consent **must** be obtained from the residents’ committee, the villagers’ committee, or the civil affairs department in the place where the adult’s domicile is located.¹⁹

In this Article, translators use “must” to translate “xū”. According to scholar Li Kexing, as mentioned above, “must” has the more coercive meaning than “shall”, while “xū”, as the abbreviation of “bì xū”, also has more coercive meaning than “yīng” or “yīng dāng”. What’s more, it is also a convention that the task of translating “bì xū” is left for “must” in most cases. Therefore, it is appropriate for “must” to act as a equivalent of “xū”.

The other usage of “must” is to more accurately embody the greater coerciveness hidden in the original text. The Article 111 is the example of this sort of usage:

dì 111 tiáo zì rán rén de gè rén xìn xī shòu fǎ lǜ bǎo hù. rèn hé zǔ zhī huò zhě gè rén xū yào huò qǔ tā rén gè rén xìn xī de, **yīng dāng** yī fǎ qǔ dé bìng què bǎo xìn xī ān quán.

Article 111 A natural person’s personal information is protected by law. Any organization or individual that needs to access other’s personal information **must** do so in accordance with law and guarantee the safety of such information.²⁰

According to the author’s analysis, it is reasonable for the translators to explain “yīng dāng” as “must” here. Although in most cases, “yīng dāng” is translated as “shall”, it is actually reasonable here to choose the modal verb “must” with greater coerciveness instead of “shall” if we deeply investigate the logic of this Article. The personal information of a natural person is inherently protected by laws and other irrelevant natural persons. In other words, a natural person’s private information “shall” be respected by other

17 Li Kexing, “The Role of Major Modal Verbs in English Legal Texts and their Translation”, *China Translation*, no.6(2007):57.

18 *The General Provisions of the Civil Law of the People’s Republic of China*, Article 17, <http://www.npc.gov.cn/englishnpc/index.shtml> (accessed January 12, 2021).

19 *Ibid.*, Article 27.

20 *Ibid.*, Article 111.

persons. Therefore, when they need to access and use it, which may threaten the security of such information, the requirement for those persons becomes much higher, which implies that they should intentionally adopt some measures to protect the information. It means that the individual who needs to access and use other's personal information create more obligations for themselves. And a reference can be taken from the instruction of the use of the legal terms from the Department of Justice of Canada, "provisions creating obligations in new legislative texts are ordinarily to be drafted using 'must'."²¹ Therefore, this way of translating the Article precisely embodies that the translators thoroughly understand both the meaning and logic of this Article, and accurately convey the true meaning of the original text in its English version.

3.3 Analysis of "may"

In *the General Provisions of the Civil Law of the People's Republic of China*, there are in total 2 functions for "may" as the equivalent words of the original text.

The most frequent and common usage of "may" is as the English counterpart of "kě yǐ" or "kě", and this kind of usage appears for 52/53 times in this law. The typical instance is the Article 31:

dì 31 tiáo duì jiān hù rén de què dìng yǒu zhēng yì de , yóu bèi jiān hù rén zhù suǒ dì de jū mín wěi yuán huì、cūn mín wěi yuán huì huò zhě mín zhèng bù mén zhǐ dìng jiān hù rén, yǒu guān dāng shì rén duì zhǐ dìng bú fù de, **kě yǐ** xiàng rén mín fǎ yuàn shēn qǐng zhǐ dìng jiān hù rén: yǒu guān dāng shì rén yě **kě yǐ** zhí jiē xiàng rén mín fǎ yuàn shēn qǐng zhǐ dìng jiān hù rén.

Article 31 In case of any dispute over the determination of guardian, the urban residents' committee, villagers' committee, or civil affairs department of the place of the ward's domicile **may** designate the guardian, and against the aforesaid designation, the relevant parties **may** apply to the people's court for designating the guardian; and the relevant parties **may**, notwithstanding, directly apply to the people's court for designating the guardian.²²

The Department of Justice of Canada, as an authoritative institution, expresses in the instruction of the use of legal terms that, "provisions granting a permission, power or right to do something are to be drafted using the auxiliary verb 'may'.²³" In the Article 31, if the certain situation in which a dispute over the determination of guardian appears, the authorities relevant (the urban residents' committee, villagers' committee, or civil affairs department of the place of the ward's domicile) then are granted the right to designate the guardian, and the relevant parties in specific situation are also granted the right to apply to the people's court for designating the guardian. Although the first "may" does not have the direct corresponding word "kě yǐ" in the original text, the sentence obviously conveys the meaning of "granting the permission" for the authorities relevant to interfere in such a case. Thus, the translation of the three "may"s in this Article is proper.

The only exception of the usage of "may" is in the Article 192, which is used with "not" to translate "bù dé":

dì 192 tiáo sù sòng shí xiào qī jiān jiè mǎn hòu, yì wù rén tóng yì lǚ xíng de, bú dé yǐ sù sòng shí xiào qī jiān jiè mǎn wéi yóu kāng biàn: yì wù rén yǐ zì yuàn lǚ xíng de, **bù dé** qǐng qiú fǎn hái:

Article 192 Where the obligor agrees to perform after the prescriptive period expires, the obligor **may not** defend on the ground that the prescriptive period has expired; and if the obligor has voluntarily performed, no request for restitution may be made.²⁴

As is mentioned above, sometimes, "may" has the similar meaning with "shall", representing the duty and obligation. Therefore, under the circumstances, when it is used in "may not", it delivers the meaning of "have the obligation not" to do something, which can be equivalent to "bù dé". Thus, it is also appropriate to translate "bù dé" into "may not".

Chapter 4 Conclusion

In this paper, the author analyzes the use and translation of "shall", "must" and "may" in *the General Provisions of the Civil Law of the People's Republic of China* with the theories of other scholars in this field. "Shall" can be the equivalent of "yīng" or "yīng dāng", can convey the meaning of "yīng dāng" hidden in the original text, and it can also be with "not" to express the meaning of "bù dé" or "bù kě", but it is not that proper to be used in the phrase "shall have the right". Besides, the author discovers that there are fortunately no mistakes like using "shall" in the legal text as the equivalent of "jiāng", "yào" or "kě" in this law, as scholar Li Kexing mentioned. It should be noted that many translators deliberately add "shall" before a verb to show the severity of laws, but it is an illusion and results to its abuse. "Shall" has its own and unique functions in legal English, we should use it carefully when translating laws. As for "must", it can be used as the counterpart of "xū" and sometimes "yīng dāng" in this law. When it comes to "may", it is for most of time used to translate "kě yǐ" or "kě", and sometimes used with "not" to express the meaning of "bù dé".

The author contends that whenever we translate laws, although we should attach great importance to the theories of translating the modal verbs, we should not merely stick to them to translate a particular modal verb. We should first understand the original text, and sometimes even the logic and intention of a particular article, and then identify that if the translation of the particular modal verb is an exception to the general principle. Otherwise, the meaning of the translation in the target language may not match the true meaning hidden in the original text.

At last, the author appeals all the translators to pay special attention to the choice of modal verbs in the legal texts, or it can bring great uncertainty and ambiguity of the rights and obligations of individuals and some organizations, which in the end may incur unnecessary chaos among the relevant parties.

21 Department of Justice of Canada, "Legistics" Department of Justice of Canada, <https://www.justice.gc.ca/eng/rp-pr/csj-sjc/legis-redact/legistics/p1p8.html> (accessed January 25, 2021).

22 *The General Provisions of the Civil Law of the People's Republic of China*, Article 31, <http://www.npc.gov.cn/englishnpc/index.shtml> (accessed January 23, 2021).

23 "Legistics" Department of Justice of Canada, <https://www.justice.gc.ca/eng/rp-pr/csj-sjc/legis-redact/legistics/p1p8.html> (accessed January 25, 2021).

24 *The General Provisions of the Civil Law of the People's Republic of China*, Article 192, <http://www.npc.gov.cn/englishnpc/index.shtml> (accessed January 12, 2021).

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