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MODALITY IN ENGLISH AND RUSSIAN LEGISLATIVE DISCOURSE: A COMPARATIVE STUDY

This paper deals with the verbalization and functioning of modality in English and Russian legislative discourse. By comparing the means of modality in English and Russian legislative texts, both in their qualitative and quantitative aspects, it makes an attempt to explain the revealed differences. The data were collected through a comparative study of the English and Russian versions of the UN Charter and the Consolidated Version of the Treaty on European Union. The quantitative results confirm that the English language, as compared to Russian, has a more sophisticated set of modals which are used more regularly. The qualitative findings show some differences in the choices of linguistic forms and communicative strategies. Sociolinguistic and cognitive analyses were then conducted, suggesting that these differences are rooted in culture; that is, in social organization, cultural values, the concept of self, and the relations between authority and individuals. The results advocate the idea that grammar is an ideological instrument for the categorization and classification of things that happen in the world (Thornborrow 2002). Alongside other aspects of language, it provides a lot of sociocultural information. The results are relevant to the study of translation and intercultural communication, as well as to ESL teaching.

KEY WORDS: modality, English language, Russian language, legislative discourse, social organization, cultural values.

Introduction

Modality is a category which expresses different types of relations and attitudes between the utterance and reality, the speaker and the hearer. Being a universal linguistic category, modality has its culture-specific characteristics (see, e.g., Bybee et al. 1994, de Haan 2007): the concept of self, as well as the relations between individuals and their worldview, differ across cultures.

Comparative studies reveal that some languages have a more variable system

of modals compared with others, and the demand for them in different cultures also varies. As this paper will show, the English language has a larger repertoire of linguistic means of modality than Russian, and the category of modality plays a more significant role in the English language in different types of discourse—including legislative discourse. The paper will also demonstrate that there is no direct correspondence between sentences containing modals in English and Russian legislative texts.

Types of modality

There are different classifications of modality, and different ways to categorize it. Traditionally, it falls into three basic modal categories: dynamic, deontic and epistemic (Palmer 1979). Later, Palmer (2001) re-organized the categories of modality to distinguish between *propositional modality*, which is concerned with the speaker's attitude to the truth value or factual status of the proposition, and *event modality*, which refers to events that are not actualized, events that have not taken place but are merely potential (Palmer 2001, p. 8). Propositional modality encompasses epistemic and evidential modality, and event modality encompasses deontic and dynamic modality.

Fowler (1985) proposes five categories of modality which indicate the speaker's or writer's attitude(s) to the propositions they make. The attitudes fall into the areas of *validity*—the speaker expresses greater or lesser confidence in the truth of the proposition; *predictability*—the future events referred to are more or less likely to happen; *desirability*—the speaker makes practical, moral, or aesthetic judgments; *obligation*—the speaker judges that another person is obliged to perform some action; and *permission*—the speaker allows the addressee to perform some action (Fowler 1985, p. 72). While validity and predictability refer to epistemic modality, desirability, obligation and permission refer to deontic modality.

Deontic modality indicates how the world ought to be, according to certain norms, expectations, speaker desires, etc. In other words, deontic modals indicate that the state of the world does not meet some standard or ideal, whether that standard be personal (desires, wishes) or social (laws).

It indicates some action aimed at changing the world to make it closer to the standard or ideal. Deontic modality also connotes the speaker's degree of requirement of, desire for, or commitment to the realization of the proposition expressed by the utterance. The point is that the degree to which speakers tend to sound directive or prefer to soften the requirement varies across cultures.

Modality in English vs. Russian

The linguistic study of modality is carried out within the fields of different disciplines, which study their own aspects of modality. Morphology describes the lexical forms in which modality is manifested; syntax is focused on the complex syntactic configurations by which modality may be expressed; semantics identifies modal meanings and explores the ways these meanings may be expressed; and discourse analysis concerns the speaker's or writer's attitude towards the proposition or confidence in the proposition being presented. Modality is primarily located in the interpersonal component of the grammar, and choices in this component are independent of grammatical choices in other components (Halliday 2002, p. 200).

Modals have a wide variety of interpretations which depend not only on the particular modal used, but also on the meaning of the sentence independent of the modal—the conversational context, including to a great extent the cultural context. The modal verb *must*, for example, can be used to perform different speech acts, as in the utterances which follow: *You must do it immediately* (order) / *You must see this film* (advice) / *You must come for lunch tomorrow* (invitation) / *You must have a piece of my cake* (offer) / *You must not touch it* (prohibition).

Modality can be expressed by different linguistic devices. In the English language they are: modal auxiliary verbs (*may, shall, must, need, etc.*), adjectives (*necessary, evident, unfortunate, certain*), nouns (*obligation, likelihood, desirability*), adverbs (*probably, certainly, regrettably*), modal verb phrases (*had better, would rather, have got to, be going to*), and modal expressions with *be* (*be about to, be due to, be obliged to, be supposed to, be meant to, etc.*) (Fawler 1985, p. 73; Carter and McCarthy 2006, pp. 638–417). The same is true of Russian. But as for the possibility of conveying different shades of modal meanings—as well as the regularity of the use of means of modality—significant differences between the two languages can be observed.

The English language is abundant in modals, as compared to Russian. It has a more elaborated set of modals, which allows speakers to express subtle shades of meaning, including different degrees of requirement, obligation or desire. This is primarily evident in the modal verbs. In English, for example, there is a variety of ways of expressing obligation in different contexts: *You must do it / You have to do it / You are to do it / You should do it / You are supposed to do it*. Compare the examples which follow: *You must stay here* (as this is an order) / *You have to pass a test before you can get a driving license* (there is no other way of getting it) / *You are to be at the station at 10* (as we have agreed) / *You are supposed to be on time for class* (this is a rule); etc. All these sentences can be rendered into Russian with just one modal word—*dolzhen* (должен)—which is the closest equivalent of the English *must*.

I am not saying that Russian speakers always give orders. In different contexts, the

pragmatic meaning of *dolzhen* is the same as in the English sentences with *must / should / have to / is (are) to / is supposed to*. But for the English, who are individualists and value personal autonomy, it is very important to avoid being too direct and imposing on the hearer and to have various means for expressing impositions of different force and explicitness. For representatives of the collectivist Russian culture, this is not so important; because their culture lets interlocutors be more direct and demanding, the language does not provide them with a big choice of linguistic tools for softening imposition. As they are not used to bothering themselves about expressing different shades of obligation, they often find it difficult to perceive English modals and distinguish the differences between them—which affects understanding, translation and communication in intercultural contexts. To choose a proper modal while speaking in English is even a bigger problem.

Thus, among the reasons causing impediments in understanding, translating and using English modality by Russian speakers there should be mentioned:

- 1) the lack of coincidence of the means of modality in the two languages,
- 2) the polysemy of modal verbs,
- 3) the differences in their illocutionary force, and
- 4) sociocultural differences which impact the choice of modals.

In everyday interaction, these differences may cause communicative failures (see Larina 2009, 2012), whereas in judicial practice, which disapproves of any ambiguity or double meaning, the consequences of such drawbacks may be even more serious.

It should be emphasized that modal verbs have specific meanings in legal documents. For example, the verb *shall*, in texts of laws, orders, and charters, when used with the second or third person, still has the meaning of obligation which the ancient English verb *sceal* had. *McMillan's Dictionary for Advanced Learners* (MED, p. 1304) points out this fact: “**Shall** (legal) is used in instructions and legal documents for saying that something **must be done**: *The court shall have authority to demand the presence of a witness.*” In this meaning it is normally used in official writing to show a promise, command or law, e.g.: *Payment shall be made by cheque and the terms shall be as follows...* (LDELIC, p. 1235). It is used to say that something certainly will or must happen, or that you are determined that something will happen: *The school rules state that no child shall be allowed out of the school during the day, unless accompanied by an adult* (CALD). The verb *shall* in this meaning does not have a proper equivalent in the Russian language. It can be translated either as *dolzhen* ~ “must” or it can be omitted, as in the examples given by ERLD:

1. *The fine shall not exceed \$100 / Штраф не должен превышать 100 \$* (lit. “*The fine must not exceed \$100*”).
2. *It shall be unlawful to carry arms / Закон запрещает ношение оружия* (lit. “*The law prohibits carrying arms*”).
3. *The Senate shall be composed of two senators from each state / В сенат вводят по два сенатора от каждого штата* (lit. “*The Senate is composed of two senators from each state*”).

As we can see, the first Russian sentence contains the strong modal word *dolzhen* ~ “must”, which makes it sound directive

and unequivocal. Interestingly, although the second Russian sentence does not have this word, there is the verb *zapreschat'* (запрещать) ~ “prohibit” instead, which seems to compensate the illocutionary force of *ne dolzhen* (не должен) ~ “must not”. Compare: *It shall be unlawful* vs. *The law prohibits*. It is also worth paying attention to the fact that in the Russian sentence, the word *law* is the subject, while the English one has no subject which makes *stating the act of prohibition a general rule*. According to Brown and Levinson (1987), this is one of the negative politeness strategies used to soften imposition. The word *law* (закон) as the subject in the Russian version of this sentence (Закон запрещает) emphasizes the strong power of the law and the dominating role of the state over individuals. The third example at first sight seems to be neutral, as it has neither *dolzhen* nor any other imposing lexemes. Nevertheless, its tone is rather categorical, as it states a fact, emphasizing that there are no other options. It might be supposed that the illocutionary force of the verb *shall* is weaker than that of *must*, which is translated into Russian as *dolzhen*; perhaps for that reason it is often omitted in the Russian texts.

Hardly any English textbook pays any attention to the mentioned meaning of the verb *shall*. Meanwhile, most of the English legal texts are filled with it. In the English text of *Consolidated Version of the Treaty on European Union*, for example, the verb *shall* is used 487 times. Compare this with the uses of *may* (102 times), *should* (6), *will* (8), *must* (3), and *cannot* (2).

The data analysis

In order to obtain new data and to objectify the differences observed in the use of

modals in English and Russian legislative texts, I have undertaken a comparative analysis of the English and Russian versions of the *Charter of the United Nations* (both qualitative and quantitative). This analysis aimed to reveal the differences in the two versions of the document concerning the use of modals, their pragmatic meanings, illocutionary force, and their impact on the style. The English text was taken as the basis for comparison. To explain the differences revealed in my study, I have used contrastive analysis based on Hofstede's Cultural Dimensions (Hofstede 1984) and on Politeness Theory (Brown and Levinson 1987).

The data confirmed the arguments presented in the previous section.

Firstly, it confirmed the larger variety of modals in the English text as compared to the Russian one. While the English text contained such modals as *shall*, *may*, *should*, *must*, *can*, and *be able to*, in the Russian text only *moch* (мочь) ~ "can" (in its forms *mozhet* [может] and *mogut* [могут]) and *dolzhen* (должен) ~ "must" were found.

Secondly, it showed some significant differences in the frequencies of the modals in the English and Russian texts. The quantitative analysis showed that the abovementioned verb *shall* turned out to be the most frequent in the English text, being used 179 times, with the verb *may* in second place (85 uses). Other modals were rather scarce: *should* (5), *might* (3), with *must*, *can*, and *be able to* being used only once each. The quantitative analysis of the Russian text gave different results: *moch* was used 56 times, while *dolzhen* was used 30 times.

Thus, on the whole, modals in the English text appeared to be more diverse and frequent compared with the Russian

one. In total, 276 English modals and 86 Russian modals were found, giving a ratio of 3 to 1. The most frequent English modal verbs were *shall* and *may*; the Russian text contained only the modal words *moch* and *dolzhen*.

The analysis showed that there were no true equivalents of English modals in the Russian text. As a result, the Russian text demonstrated a great variety of translations. The most frequent translation "equivalents" were as follows:

1. *Shall* → no modal:

Each member of the Security Council shall have one vote (article 27) / Каждый член Совета Безопасности имеет один голос (lit. "Each member of the Security Council **has** one vote").

The Security Council shall be so organized as to be able to function continuously (article 28) / Совет Безопасности организуется таким образом, чтобы он мог функционировать непрерывно (lit. "The Security Council **is so organized** as to be able to function continuously").

2. *Shall* → *mozhet* (может) ~ "can":

...the General Assembly shall not make any recommendation with regard to that dispute or situation unless the Security Council so requests (article 12) / ...Ассамблея не может делать какие-либо рекомендации, касающиеся данного спора или ситуации, если Совет Безопасности не запросит об этом (lit. "...the General Assembly **cannot** make any recommendation with regard to that dispute or situation unless the Security Council so requests").

3. *Shall* → *dolzhen* (должен) ~ "must":

...party to a dispute shall abstain from voting (article 27) / ...сторона, участвующая в споре, должна воздержаться

от голосования (lit. "...party to a dispute **must** abstain from voting").

Each member of the Security Council shall for this purpose be represented at all times at the seat of the Organization (article 28) / Для этой цели каждый член Совета Безопасности должен быть всегда представлен в месте пребывания Организации Объединенных Наций (lit. "Each member of the Security Council **must** for this purpose be represented at all times at the seat of the Organization").

It is interesting to note that *shall* was rendered as *dolzhen* in 27 sentences containing *shall* out of 179. Another curious fact is that Russian *dolzhen*, which was used in the Russian version 30 times, corresponded to English *must* only once. One time it corresponded to the verb *should*: *...legal disputes should as a general rule be referred by the parties to the International Court of Justice in accordance with the provisions of the Statute of the Court* (article 36) / ...споры юридического характера должны, как общее правило, передаваться сторонами в Международный Суд в соответствии с положениями Статута Суда (lit. "...legal disputes **must** as a general rule be referred by the parties to the International Court of Justice in accordance with the provisions of the Statute of the Court"). As the verb *should* has a meaning of recommendation rather than direction, the two sentences have a different tonality. The Russian sentence sounds more prescriptive, while the English one is more recommending and soft.

The fact that there is no direct correspondence between the English verb *shall* (in the meaning of *must*) and the Russian modal word *dolzhen* enhances our assumption that the illocutionary force of *shall* is weaker.

If that is true, then English sentences with *shall* sound less prescriptive than Russian sentences with *dolzhen*.

Conclusions

The results of my study confirm the fact that the English language has a more numerous set of modals than Russian, and uses them more regularly. This peculiarity is characteristic of different types of discourse, including legislative, and it affects the style. Due to the great number of modals used in the English texts, which soften obligation and prescription, it sounds more neutral—while the Russian text, which in general has less modals and, instead of softeners, contains a considerable number of modals with semantics of obligation, sounds more instructive and directive.

It is known that obligation is connected with power (Fowler 1985, p. 72), and power is considered to be one of the main dimensions of culture (Hofstede 1987). Thus, the reason for the differences revealed is rooted in culture, that is, in social organization, cultural values, the concept of self, and the categorization of sociocultural reality. In the individualistic English culture, where the power index is very low, the individual and his independence are the main values. On the contrary, in the collectivist Russian culture with its higher power index, the individual is subordinated to the state and the language shows this inequality in power. Perhaps that is the reason why English legislative texts sound less directive and prescriptive than Russian ones.

For objective theoretical conclusions, deeper research is required. But it is quite obvious that there is no direct correspondence between the modals in the two

languages. They have a wide variety of interpretations, and the choice of modals in legislative documents greatly depends on the cultural context. The last thesis confirms Fairclough's statement that language is always shaped by the material and social conditions in which it is produced (1995), and corroborates his view that discourse is linked with power and social structure. This is especially typical of legislative discourse. On the other hand, "We communicate the world as our language structures the phe-

nomena of the world and categorizes them as entities, processes, actions, space, time, etc." (Dirven 1989, p. 57).

Thus, for mastering Legal English, it is essential to give students sociocultural knowledge and to use authentic texts, paying particular attention to modal verbs and their differences, both from their Russian equivalents and from each other. This approach will help to improve the skills of law students in the practical translation of legislative documents.

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MODALUMAS ANGLŲ IR RUSŲ TEISĖKŪROS DISKURSE: LYGINAMOJI ANALIZĖ

MODALNOŚĆ W ANGIELSKIM I ROSYJSKIM DYSKURSIE PRAWNYM: STUDIUM PORÓWNAWCZE

Santrauka

Streszczenie

Straipsnyje aptariamas modalumas, jo verbalizacija ir funkcionavimas teisėkūros diskurse anglų ir rusų kalbomis. Dėmesys telkiamas į teisinių tekstų modalumo pienes, jos lyginamos tiek kokybiniu, tiek ir kiekybiniu aspektu, bandoma paaiškinti skirtumus. Duomenys buvo renkami atliekant anglų ir rusų kalbų JT chartijos ir Europos Sąjungos konsoliduotos sutarties versijos lyginamąją studiją. Kiekybiniai tyrimo rezultatai patvirtina, kad anglų kalba, palyginus su rusų, turi daugiau sudėtingų modalinių vienetų, kurie yra naudojami gana reguliariai. Kokybiniai duomenys rodo tam tikrų kalbinių formų ir bendravimo strategijų pasirinkimo skirtumus. Atlikti sociolingvistiniai ir kognityviniai tyrimai atskleidžia, kad šie skirtumai yra išsiskiriantys kultūroje, t. y. socialinėse organizacijose, kultūros vertybėse, savivokoje ir santykiuose tarp institucijų bei individo.

Niniešisis straipsnis yra dedėtas modalnošei, šrodėkėm jėj vyraėania oraz ich funkėionovania v anglieskim i rosyjskim dyskursie pravny. Dokonano zestawienia šrodėkėm vyraėania modalnošei v tekstach dokumentėm pravnych, zarėowo v aspekcie ilošciowym, jak i jakošciowym. Podjėto prėbė vyėaėnienia zaobserwowanych rėznic. Materiał został zebrany podczas analizy porėwnawczej angielskich i rosyjskich wersji jėzykowych Karty Narodėm Zjednoczonych oraz skonsolidowanego tekstu Traktatu o Unii Europejskiej. Stwierdzono rėznicę zarėowo v wyborze jednostek jėzykowych, jak i strategii komunikacyjnych. Wyniki analizy ilošciowej (statystycznej) po raz kolejny dowiodły, że jėzyk angielski, v porėwnaniu z rosyjskim, posiada bogatszy system šrodėkėm modalnošei, ponadto sę one stosowane bardziej regularnie. Przeprowadzona analiza kognitywna i socjolingwistyczna pozwoliła wysunęć przypuszczenie, że przyczyny tych rėznic tkwię v kulturze, a mianowicie – v formie organizacji społeczeństwa, v wartošciach kulturowych, samošwiadomošci oraz stosunkach miėdzy władzę a jednostkę.

Rezultatai rodo, kad gramatika yra ideologinis instrumentas, leidžiantis pasaulio reiškinius klasifikuoti į kategorijas (Thornborrow 2002). Kartu su kitais kalbos aspektais ji suteikia daug sociokultūrinės informacijos. Tyrimo rezultatai yra susiję su vertimo ir tarpkultūrinės komunikacijos nagrinėjimu, taip pat ir su ESL (anglų kaip antrosios kalbos) mokymu.

Uzyskane wyniki potwierdzają tezę, że gramatyka jest ideologicznym narzędziem kategoryzacji i klasyfikacji zjawisk zachodzących w świecie (Thornborrow, 2000). Obok innych aspektów języka gramatyka dostarcza ważnych informacji o charakterze socjokulturowym. Wyniki badań mogą znaleźć zastosowanie w teorii i praktyce tłumaczenia, v komunikacji międzykulturowej, mogą być również wykorzystane na zajęciach praktycznych z języka angielskiego jako obcego.

REIKŠMINIAI ŽODŽIAI: modalumas, anglų kalba, rusų kalba, teisėkūros diskursas, visuomeninė organizacija, kultūros vertybės.

SŁOWA KLUCZOWE: modalność, język angielski, język rosyjski, dyskurs prawny, organizacja społeczeństwa, wartości kulturowe.

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