Translation Typology of Modal in Unclos 1982 in Indonesian

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Abstrak

A good comprehesion on the content of the convention of the law as formulated in the UNCLOS 1982 text translated   into KonvensiPerserikatanBangsa-BangsaTentangHukumLaut (KPBB-HL) in Indonesian is very crucial for the Republic of Indonesia because of the potentials of the sea. Data is 399 modal in UNCLOS and its translation. The translation of the UNCLOS 1982 into Indonesian should be accurate. Inaccuracy of the translation of the text, namely modal (Alwi 1992; Lyon 1977) cancause a conflict among the neighboring countries. The research objectives are (1) to identify the translation typology of modal in UNCLOS 1982 into KPBB-HL, (2) to assess the accuracy of the translation of modal. Qualitative descriptive method and content analysis (Miles and Huberman 2014) are implemented. Focus Group Discussion with the raters are carried out to assess the accuracy (Silalahi: 2012, Nababan: 2004; 2012). The result shows that there are 8 types of modal used, namely shall (269 data; 67.5%) with 6 translation types, may (88 data; 22%) with 6 translation types, should (16 data; 4%) with 7 translation types, can (9 data; 2%) with 2 translation types, must (6 data; 1.5%) with 2 translation types, would (6 data; 1.5%) with 3 translation types, will (3 data; 1%) with 1 translation type, might (2 data; 0.5%) with 1 translation type. 325 (81%) of the modal are accurately translated, and 74 data (19%) are inaccurately translated.

Keywords: Translation typology; Modals; Accuracy; UNCLOS 1982; KPBB-HL

1. Introduction

As a member of UNO, Indonesia, a maritime country, is very concerned in the UNCLOS 1982 because it regulates about seas.UNCLOS 1982 is the representation of the conception of Wawasan Nusantara/Nation of Archipelago has been struggled by Indonesia since 1957 through the Declaration of Djuanda(Kusumaadmadja,2012) Indonesia ratified the UNCLOS 1982 through Law No.17/1985. The UNCLOS1982 was translated into Indonesian by a team appointed by the Directorate of International Treaty of the Ministry of Foreign Affairs of the Republic of Indonesia in 1983 entitled KonvensiPerserikatanBangsa-BangsatentangHukumLaut (KPBB-HL).

One of the important pointsin the translation of the UNCLOS 1982 is the translation of modals.Inaccurate translation will meaningfully affect the quality of the translation. The possibility of having more than one meaning makes it possible for the translation to be inaccurate.

In (1) is exampleof inaccurate translation of the English modal in the KPBB-HL.

    (1) ST: The system of straight baselines **may** not be applied by a state. (Article 7, Clause 6)

        TT: Sistimpenarikangarispangkallurustidakbolehditerapkanolehsuatunegara. (Article 7,Clause 6)

The English modal **may**can be translated bolehin Indonesian because it is one of the common equivalents of ‗may'. However, a careful attention should be given to the context in which the modal is used. The use of the word boleh as the equivalent of **may**as in (1) is inaccurate because of the low level of obligation carried out by the word boleh. By substituting the word boleh with dapat, the meaning of the modality expression is more explicit or

becomes higher levelof obligation.Cahyadi (2015: 174) statesthat*dapat*produces a higher level of obligation of deontic modality indicating permission than *boleh*.

The level of importance and the level of explicitness are two important factors in a convention,such as UNCLOS 1982. These two factors are usually recognized by the uses of modals. Inaccuratetranslationof modals mayresult in a conflict to the bordering countries as stated by Knezevic et al.(2011), Abdurrahman (2011),and Asrana (2013).

In relation to the problems elaborated above the research objectives are (1) to identify thetranslationtypology of English modals in the KPBB-HL, and(2) to assess the accuracy of the translation of the English modals in the KPPB-HL .

2. Translation

2.1 Translation as a Process and Product

Translation as a process is a process of transferring a language from the source language (SL) to the target language (TL) through writing. This is in line with Newmark (1981: 7) who defines translation as an effort of transferring written messages from the SL to the TL by giving priority to meaning equivalence. Meaning equivalence is much influenced by a translator's ability in understanding the messages contained in the source text (ST) and rewriting them in the TL. The translation product is much influenced by the translator's grammatical, reading and discourse analysis skills. Larson (1984: 3) states thattranslation concerns with the process of rendering the meaning from SL into TL. The meaning is then re-expressed by using an acceptable expression in the TL. The meaning re-expressed in the TL is called a translation product.

2.2 Translation Quality

When translator are engaged in translating, they try to make an equivalence relation between ST and TT text to reach the good quality of translation. But what is actually parameter for the quality of translation? Although translation proceeds as a rule on a sentence by sentence basis, the product is undoubtedly a text, in this case modal in its context. Williams (2009) indentifies ten areas consensus is lacking between ―practitioners and theorists ‖ on translation quality. It 's been a long debate of the absence of a clearly models of Translation Quality Assessment (TQA) because academics and industry are asking different questions when they consider quality as stated by Drugan (2013). Various techniques for TQA were suggested such as cloze techniques, knowledge test, back translation, equivalence-based approach. Lauscher (2000) said that text type stylistic an extralinguistic factors have to be considered. ST are translated accurately when there is no addition, deletion or information changes. It's said inaccurate when the message translated inaccurately. After understanding the positive and negative points of assessing models above, the researchers decided to apply the model proposed by Nababan et.al (2012), Silalahi (2012) that assessess translation quality holistically based on three aspects, they are accuracy, acceptability, and readibility. In this study, it is limited only on the accuracy of modal translation whether the ST message is equivalent to TT message.

3. Modal and Modality

Meaning of a sentence may be either positive or negative; nevertheless, meaning of a sentence may also be neither positive nor negative. In other words, meaning of a sentence must not always be completely positive nor completely negative. Such meaning is delivered in a modal or modality expression. Modal is auxiliary verb consist of will, would, can could etc. Meaning carried out by a modal or modality expression delivers the speaker's attitude towards his/her utterance, and a tool to express such attitude is called a modal. In Indonesian, modalityis expressed either by words such as barangkali(may), harus(must), akan(will) or by adverbial clause such as padahakikatnya (as a matter of fact), menuruthematsaya (in my opinion), and so forth.

Alwi (1992); Warnsby (2006) classified modal into four categories, namely epistemic, deontic, dynamic and existential modality. Epistemic modality is related to _knowledge'. Deontic modalityis related to permission and obligation. Alwi (1992: 20) specifies obligation as command and prohibition.Dynamic modality is related to ability

which in Indonesian, is expressed by several words such as dapat, sanggup, biasandmampuas stated by Alwi (1992).In dynamic modality, the speaker's view on the event is objective because the actualization of the event does not depend on the speaker, but the subject serving as the doer which emphasizes on the doer's ability or inability. Existential or intentional modality includes "wish", "hope", "offer" and "request".Thespeaker's involvement in actualizing the eventserves as the basis to distinguish "wish" from "hope". Meanwhile, "offer" and "request" are distinguished based on which speaker serves as the doer when the event is actualized.

4. Result and Discussion

A. Translation Typologyof Modal in the KPBB-HL

Based on the data analysis, 8 kinds of modals, namely**may**, **might**, **shall**, **should**, **will**, **would**, **canand must**are found in the UNCLOS 1982. The frequency of their occurrence can be seen inthe following table.

Table 1: The frequency of modals used in the UNCLOS 1982

Modals	Frequency	
	Number	Percentage
Shall	269	67,5%
May	88	22%
Should	16	4%
Can	9	2%
Must	6	1,5%
Would	6	1,5%
Will	3	1%
Might	2	0,5%
Total	399	100%

Each modal presented in Table 1 has its own translation typology in the KPBB-HL as shown in the following discussion

4.1.2 Modalshall
Modalshallhas 6 kinds of translation typology in the TT, among which the word ‗*harus*' (60%) is the most frequently used. The translation typology of shall (269 data, 67,5%) is: *harus* (162; 40,5%); *akan (*24; 0,08%); *adalah* (4; 0,67%); *boleh* (26; 6,75%); *dapat* (3; 0,67%); *Ø* (50; 12,83%)
One of the examples of how shallis equivalent in meaning with *harus* can be seen in (2).
    (2)   ST : These charges <u>shall </u>be levied without discrimination. (Article 26 Paragraph 2)
          TT : *Pungutaniniharusdibebankantanpadiskriminasi. (Pasal26 Ayat 2)*
Translation of modalshallin (2) contains the meaning of deontic modality indicating obligation. By choosing harus as the equivalent of shall, the modality expression in the TT means that "the charges that are levied without discrimination" is an imperative that cannot be negotiated

4.1.2 Modalmay
Like shall, another modal may,also has six kinds of equivalent typology in the TT, among whichdapat (79%) is the most frequently used. The translation typology of may(88 data, 22%) is: dapat (69; 17,38%); boleh (10; 2,42); dibenarkan (1;0,22%); mungkin (4;1,1%); dianggap (2; 0,44%); Ø(2; 0,44%).
The ST in(3) shows how modal mayis equivalent in meaning with the word dapatin the TT.

(3) ST : The appropriate points may be selected along the furthest seaward extent of the low-water l
ine. (Article 7 Paragraph 2*)*
*TT : Titik-titik yang tepatdapatdipilihpadagaris air rendah yang paling jauhmenjorokkelaut.
(Pasal 7 Ayat 2)*

The modalmayas a modal can be used to express the meaning of either permission (deontic) or possibility (epistemic). As the ST in (3) shows that mayis translated withdapatin the TT. The modality expression in the TT contains the meaning of 'permission'. In other words, choosing —the furthest seaward extent of the low-water line" is a permissive action.

4.1.3 Modalshould

In spite of being used less frequently in the UNCLOS 1982 text, 16 times (4%), the modal shouldis found to have the most variety of equivalents in the KPBB-HL. Based on the data analysis, it is found that 'should' has 7 kinds of modal translation typology, among which harusis themost frequently used(37%). The trasnalation typology of should(16 data, 4%)is:dapat (1;0,24%); akan (2;0,52%); seharusnya (1;0,24%); hendaknya (2; 0,52%); harus (6; 1,48%); boleh (1, 0,24%); Ø(3; 0,76%).

One of the examples of how shouldis equivalent in meaning withharusin the TT can be seen in (4).

(4) ST :The conflict should be resolved on the basis of equity and in the light of all there levant
circumstances. (Article 59)
TT : Sengketa itu harus diselesaikan berdasarkan keadilan dan dengan pertimbangan
segala keadaan yang relevan. (Pasal 59)

Literally, shouldmeans seharusnya in Indonesian which indicates suggestion, meaning that —it is suggested to resolve the conflict on the basis of equity". However, in the context of TT in (4), choosingharusas the modal equivalent of shouldmeans that the TT contains the modality expression indicating obligation. Therefore, the modality expression in (4) means that —the conflict resolution" must be done on the basis of equity.

4.1.4 Modalcan

Modalcan has 2 kinds of equivalent typology in the TT, among which the word dapat (89%) is the equivalent most frequently used. The equivalent typology of can(9 data, 2%) is: dapat (8; 1,8%); Ø(1; 0,02%).

One of the examples of how can is equivalent in meaning with the word dapat in the TT can be seen in (5).

(5) ST : If no agreementcan be reached within a reasonable period of time, the States
concerned shall resort to the procedures provided for in Part XV. (Article 74 Paragraph 2)
TT : *Apabilatidakdapatdicapaipersetujuandalamjangkawaktu yang pantas, Negara-negara
yang bersangkutanharusmenggunakanprosedur yang ditentukandalam Bab XV.
(Pasal 74 Ayat 2)*

Based on the example in (5), the modal canis equivalent in meaning with the word dapatin the TT which shows a dynamic modality indicating ability. The use of the word dapatas the equivalent expresses the ability or inability of the subject to —reach the agreement", each of which has their own consequences.

4.1.5 Modalmust

Like can,modal mustalso has 2kinds of equivalent typology in the TT, among which the word harus(83%) is the equivalent most frequently used.The equivalent typology of must(6 data, 1,5%) is: harus (5; 1,24%); boleh (1; 0,26%).

The example in (6) shows how modal mustis equivalent with *harus*in the TT.

(6) ST : Due notice <u>must </u>be given of the construction of such artificial islands. (Article 60
Paragraph 3)
T T : *Pemberitahuansebagaimanamestinyaharusdiberikanmengenaipembangunanpulaubu
atan. (Pasal 60 Ayat 3)*

The modal 'must' in (6) is equivalent with the word harusin the TT. Therefore, the TT sentence contains the function of deontic modality indicating obligation, i.e. a must to "give a proper notice".

4.1.6 Modalwould

   Modalwouldhas 3 kinds of translation typology in the TT, among whichakan(50%) is the most frequently used. The typology of would(6 data, 1,5%) is: dapat (1, 0,25%); akan (3; 0,75%); Ø(2; 0,5%).

Modal wouldis the past form of willwhich, literally, means *akan*in the TT. The example in (7) shows how would is equivalent in meaning with the word *akan* in the TT.

   (7)   ST : Without prejudice to applicable international rules and standards relating to the seaworthiness of vessels, the release of a vessel may, whenever it <u>would</u> present an unreasonable threat of damage to the marine environment, be refused or made conditional upon proceeding to the nearest appropriate repair yard. (Article 226 Paragraph 1 Item c)

   TT : *Dengantidakmengurangiketentuan-ketentuandanstandar-standarinternasional yang berlakuberkenaandengankelaikanlautkendaraan air, makapembebasanbagikendaraan air, jikaakanmengakibatkanancamanterhadaplingkunganlaut, bolehditolakataudibebaskanbersyaratuntukberlayarmenujukegalanganreparasi yang terdekat. (Pasal 226 Ayat 1 Huruf c)*

   The use of akan in (7) shows existential modality indicating intentionality. In the context as described in (7), the use of akanindicates conditional intention. In other words, "the release of a vessel" may be refused if the release does not fulfill the requirements as mentioned in the intentional clause "whenever it presents an unreasonable threat of damage to the marine environment".

4.1.7 Modalwill

   Modal will is only used 3 times(1%) in the UNCLOS 1982 text and only has 1 typology in the KPBB-HL, namelyakan (3 data, 1%) is: akan (3; 1%).

The example in (8) shows how willis equivalent with *akan*in the TT.

   (7)   ST : Every State shall require the master of a ship flying its flag, in so far as he can do so without serious danger to the ship, the crew or the passengers after a collision, to render assistance to the other ship, its crew and its passengers and, where possible, to inform the other ship of the name of his own ship, its port of registry and the nearest port at which it <u>will</u> call. (Article 98 Paragraph 1 Item c)

   TT   : *Setiap Negara harus mewajibkan (meminta) nakhoda suatu kapal yang berlayar*
   di bawah benderanya untuk, selama hal itu dapat dilakukannya tanpa bahaya yang besar bagi kapal, awak kapala atau penumpang, setelah suatu tubrukan, untuk memberikan bantuan pada kapal lain itu, awak kapal dan penumpangnya dan dimana mungkin, untuk memberitahukan kepada kapal lain itu nama kapalnya sendiri, pelabuhan registrasinya dan pelabuhan terdekat yang <u>akan</u> didatanginya. (Pasal 98 Ayat 1 Huruf c)

   In (8),modal willwhich is equivalent with akanin the TT shows the function of existential modality indicating intention. Unlike the use of would in (7), in the context provided in (8), the use of the word akanindicates general intention because the "port" mentioned in the ST does not refer to a "specific port", instead it refers to any 'nearest port' wherever it is located.

The example in (8) shows how willis equivalent with *akan*in the TT.

   (7)   ST : Every State shall require the master of a ship flying its flag, in so far as he can do so without serious danger to the ship, the crew or the passengers after a collision, to render

assistance to the other ship, its crew and its passengers and, where possible, to inform the other ship of the name of his own ship, its port of registry and the nearest port at which it <u>will</u> call. (Article 98 Paragraph 1 Item c)

> TT: *Setiap Negara harus mewajibkan (meminta) nakhoda suatu kapal yang berlayar di bawah benderanya untuk, selama hal itu dapat dilakukannya tanpa bahaya yang besar bagi kapal, awak kapala atau penumpang, setelah suatu tubrukan, untuk memberikan bantuan pada kapal lain itu, awak kapal dan penumpangnya dan dimana mungkin, untuk memberitahukan kepada kapal lain itu nama kapalnya sendiri, pelabuhan registrasinya dan pelabuhan terdekat yang <u>akan</u> didatanginya. (Pasal 98 Ayat 1 Huruf c)*

4.1.7 Modalmight

The final kind of modal used in the UNCLOS 1982 is might, the least frequently used modal. It is only used 2 times (0.5%) in the text. Besides, might also has only 1 kind typology in the KPBB-HL, namely dapat (2 data, 0,5%) is: dapat (2; 0,5%).

The example in (9) presents *dapat* as the equivalent of mightin the KPBB-HL.

> (9)   ST : They shall refrain from any action which <u>might</u> reflect on their position as international officials responsible only to the Authority. (Article 168 Paragraph 1)
>
> TT   : *Merekaharusmenghidarkandiridarisikapapapun   yang dapatmempengaruhikedudukanmerekasebagaipejabatinternasionalOtorita yang bertanggungjawabhanyakepadaOtorita. (Pasal 168 Ayat 1)*

4.2 The Translation Accuracy of English Modal in the KPPB-HL

Based on the assessment on translation quality, it was found that 325 data (81%) are translation are accurately and (19%) inaccurately.The inaccuracy of the translation of the modal used in the KPBB-HL is also caused by the deletion of modality expression as can be seen in (10).

> (9)   ST : The organization <u>may</u> adopt only such sea lanes and traffic separation schemes as <u>may</u> be agreed with the archipelagic State, after which the archipelagic State <u>may</u> designate, prescribe or substitute them. (Article 53 Paragraph 9)

TT:OrganisasitersebuthanyadapatmenerimaalurlautdanskemapemisahlalulintasyangdemikiansebagaimanaØdisetu juibersamadenganNegarakepulauan,setelahmanaNegara kepulauandapatmenentukan, menetapkanataumenggantinya. (Pasal 53 Ayat 9)

The deletion of meaning of the modality expression in (10) leads to the inaccurate TT. The modal mayused in the ST ―as may be agreedexpresses the meaning that the 'traffic separation schemes"may either―have been in―existence" or―will be in existence". By deleting the word mungkinas the modal indicating possibility meaning, the sentence in the TT has concluded by itself that such schemes have been in existence. The use of personal comment or conclusion is the decision that must be avoided by a translator to produce an accurate TT. In the context of TT in (10), the best way to improve its accuracy is by keeping the meaning of the modality expressions in the ST.

5. Conclusions

English modal has a certain equivalent typology in another language including Indonesian. However, if it is translated into another language,in this case, Indonesian, the context where it is used should be taken into account since it will affect the translation quality. Such context can be either internal context (i.e. the sentence in which the modal is used) or external context (i.e. the genre of the translated text). Moreover, in translating modals used in a

legal text (e.g. UNCLOS 1982), inaccuracy cannot absolutely be tolerated. Therefore, even though the accuracy level of the translation of English modals KPBB-HL is high (81%), it still needs to be improved.

This research is limited only on the translation typology of 'modals' and the translation accuracy of UNCLOS 1982 into Indonesian.The future research is recommended to carry out similar studies involving other two aspects of translation quality those are acceptability and readibility.

The implication for Indonesian translators is that they must have a greater competence both in English and Indonesian at an academic level that enables them to recognize unit of sentence such as modal and skillful in utilizing dictionaries. They must be aware that the accuracy in content must be in priority besides acceptablity and readibility.

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