



## Deontic modals in RP-US Visiting Forces Agreement (VFA): A corpus-based analysis

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### Abstract

The marriage between language and the law is apparent in any legal document of whatever purpose. Hence, at present, studies on the language of the law are definitely in vogue. Grounded on Quirk et al. (1985) and Matulewska's (2010) description of deontic modality, this corpus-based linguistic study aimed at analyzing the use of deontic modals in the 1998 Visiting Forces Agreement (VFA) between the Philippines and the United States of America (USA). The study also delved deeper into the presentation of deontic meanings in the agreement by illustrating how power is promoted and relegated in the distribution of the two countries' respective privileges and obligations. The results revealed that the most frequently appearing modal auxiliary in the document is *shall*, while the deontic meanings of permission and obligation outnumbered prohibition and volitional values in the VFA. As regards power distribution, the VFA gives more privileges to the United States, while posing more obligations or duties to the host country, the Philippines. In the end, it was concluded that analyzing deontic modals could provide an easier way of interpreting and describing the directives and provisions of the Visiting Forces Agreement (VFA) as a legal document.

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*Keywords:* Deontic modals; deontic meanings; Visiting Forces Agreement; Philippines; United States; legal language

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### 1. Introduction

The language of the law is widely spread in all areas of social life and may be combined with language from different domains (UKEssays.com, 2015). It encompasses a variety of sub-genres (statutes, conventions, contracts, etc.) where linguistic analysis could be initiated. Significantly, the marriage between language and the law is best captured by a thriving field of study in linguistics—*forensic linguistics*. The International Association of Forensic Linguistics (IAFL) puts forward detailed areas where language and the law intersect such as on legislation, comprehensibility of legal documents, language and disadvantage before the law, and the analysis and interpretation of legal texts (International Association of Forensic Linguistics, 2013). The lastly-enumerated area concerns the use of one's linguistic repertoire to understand the ambiguous and complex language of the law (Schane, 2011).

For Tiersma (1999), written texts are ubiquitous in the legal system. In fact, he added that lawyers and judges are often struggling to interpret and apply texts associated with the law. These texts, therefore, are to be made comprehensible and relatable to the reading public. This is because documents like statutes, judicial opinions, deeds, wills, and contracts literally govern much of our lives (Tiersma, 1999). These texts are significant to the rest of the society and the people who have accessed such documents. Nonetheless, linguistic analyses have bigger roles in making these documents user-friendly and in revealing the linguistic representations of legal texts. This further calls for the mediating role of linguists on issues that involve language and its related norms (Mendiola, 2017).

With the compelling demands to study the interaction between language and the law, various authors (Butt & Castle, 2006; Coulthard & Johnson, 2007; De Groot, 1998; Garner, 1986, 2002, 2011; Haigh, 2004; Hiltunen, 1990; Solan, 1993; Tiersma, 1999, 2008; Williams, 2004; Schane, 2006; Stanojević, 2011) have looked into the concept of language being the heart of the law. Aside from investigating the general features of legal language and the development and changes it underwent over time (Lintao, Arriero, Claustro, Dichoso, Leynes, Aranda & Celino, 2016), discourse and pragmatic studies, including simplification and comprehensibility of legal documents, are few of the efforts made in the aforesaid research area. On a relative note, Khan & Khan (2015) put emphasis on the stylistic analysis of legal language, describing it further on the graphological, lexical, syntactical, and phonological levels. To support this previous assertion, Cruz & Pariña (2015) underscore the applicability of stylistic analysis in understanding legal documents. As such, legal documents are stylistically analyzed since these are forms of writing which possess a distinct register formed meticulously by drafters (Ashipu & Umokoro, 2014). Besides archaisms, technical terms, nominalization, etc., other stylistic investigations may also include transitivity analyses such as the prevailing concept of modality in legalese (Lintao et al., 2016).

Modality, from the cognitive linguists' perspective, relates to a speaker's assessment and attitude towards the potentiality of a state of affairs (Radden & Dirven, 2007). Modality is defined as "the manner in which the meaning of a clause is qualified so as to reflect the speaker's judgment of the likelihood of the proposition it expresses being true" (Quirk, Greenbaum, Leech & Svartvik, 1985, p. 219). Huddleston & Pullum (2002) further describe modality as having various semantic notions—ability, possibility, obligation, and imperative meaning. In legal language, deontic modality is one common type of modality that is frequently traced among legal documents.

### *1.1. On deontic modality*

Deontic modality indicates whether the proposition expressed by the sentence is obligatory or permissible according to some nominative background such as law, morality, convention, etc. (Han, 1998). On the one hand, this type of modality has also been called agent-oriented (Bybee et al., 1994) or root (Coates, 1983). As regards meaning, deontic modality may express permission, ability, volition or obligation (Kastrone, 2008). With the primary function of modality as the carrier of proposition that the sentence expresses (Lyons, 1977), deontic modals could therefore bear with them meanings of "intrinsic" human control over events that would signify permission, obligation, and volition (Lyons, 1977; Palmer, 1986; Downing & Locke, 1992). The deontic modality, therefore, is contrasted with epistemic modality, which emphasizes possibility, necessity, and prediction (Angordans, Posteguillo & Beso, 2002).

Deontic modality specifically affords that the speaker "intervenes in the speech event by laying obligations or giving permissions" (Downing & Locke, 1992, p. 382). As extracted from the work of Angordans, Posteguillo & Beso (2002), deontic modality is traceable in the following sentences:

- (1) One *must* look into this matter in detail.
- (2) *Shall* we negotiate peace now?
- (3) This experiment *should* be repeated.

The above-given structures may refer to the authority and judgment of the speaker rather than knowledge or belief. As such, sentences with deontic meanings are often used to influence realizations of actions or situations (Huddleston, 2002). To present in detail the modals that carry with them deontic meanings, Quirk et al. (1985) classified modal auxiliaries based on the primary meanings embedded in deontic modality:

- (1) *permission* (can/could, may/might)
- (2) *obligation* (must, have to, should, ought to)
- (3) *volition* (will/would, shall)

The significant role modal auxiliaries fulfill in understanding the meanings of texts, either on the basis of deontic or epistemic realizations, has fortunately found place in the study of language and the law. Research efforts pioneered by Trosborg (1995) and Lauridsen (1992) allowed for new discoveries on notable taxonomies and functions of modal auxiliary verbs (Lintao et al., 2016). Modal auxiliaries also encompass expressions of time and necessity, and other grammatical phenomena such as negation, affirmation, and questioning. The value of modal auxiliaries in interpreting legal documents is an important linguistic possibility that should not be compromised. Mukhaini (2008) therefore avows that legal texts, by their very nature, exhibit a variety of modal meanings essential to their content and texture. Modality subsystems in language are a pane that provides for well-fathomed legal ideations and implications.

### 1.2. On Visiting Forces Agreement (VFA)

The affordance of linguistic analysis towards legal documents like bills, statutes, court proceedings, and at present, the thriving investigations on the linguistic characteristics of contracts or agreements, the latter being defined as the writing or document that records the meeting of the minds of the parties who join together for a common purpose intending to change their rights and duties (West's Encyclopedia of American Law, 2008), remains a researchable area in forensic linguistics. These contracts may include not only business contracts or contracts for a project management; they may also include agreements, a mutual one, involving countries that preserve sturdy military partnerships with each other—that is, a *Visiting Forces Agreement (VFA)*.

A Visiting Forces Agreement (VFA) is a pact between a country and a foreign nation having military forces visiting in that country, very much similar in intent to Status of Forces Agreements (SOFAs). The VFA typically covers foreign forces visiting temporarily in the host country, while a SOFA covers forces based in the host nation, including visiting forces (Fleck & Addy, 2001). The Philippines, being a country yet to achieve steadfastness in its defense power and mechanisms, has been very dependent on foreign countries' martial assistance. Hence, what the Philippines and the United States of America (USA) have in terms of defense and support exemplifies a kind of "armed" relationship that has existed since the post-colonial years.

Significantly, the Mutual Defense Treaty between the Philippines and the United States, a treaty that was signed in 1958 in Washington D.C. by both nations, is an accord dictating that both nations would support each other if either the Philippines or the United States were to be attacked by an external party (Chan Robles Law Library, 2012). In fact, after the 9/11 terrorist attack in the United States soil in 2001, national security has been one of the most pressing issues and primary concern of

the Philippines (Velasco, 2015). This relates to the creation of a Visiting Forces Agreement (VFA) between the Philippines and US in 1998, primarily, to give the more reliant nation military assistance and enhancement and upgrading of its soldiers' military skills and equipment.

Though the host country practically benefits from the military enhancement provided by the foreign country, in this case, the Philippines and the United States, respectively, the VFA is still questioned in regard to its constitutionality, since some provisions are in contrary to the Constitution and the sovereignty of the Philippines (Velasco, 2015). Questions on war and nuclear provisions, criminal jurisdiction of US soldiers, the recognition of the United States of the VFA as an executive agreement rather than a treaty, and tax exemptions on military supplies and equipment to be brought to the Philippines, are few of the concerns advanced by known critics of the VFA (Nemenzo, 1998). This kind of executive agreement from the United States appears to delimit the sovereignty of the Philippines to those dictated by the VFA which greatly favor the Americans (Velasco, 2015). Further, there exists a direct influence to Philippine foreign policy by the orders of the agreements in the VFA.

The imminent issue regarding the directives of the Visiting Forces Agreement (VFA) involving the Philippines and the United States are leaned towards sovereignty, security, and foreign policy. Hence, the problems in the agreement compel investigations on how the agreement itself presents the interference to Philippine sovereignty, since there are already calls for the framing of the VFA in a context that is mutual to both parties (Velasco, 2015). To respond to the said call, a linguistic investigation, illustrating how the VFA lays the Philippines aggrieved in an agreement that should provide more advantages to the aforesaid country in the first place, has to be conducted.

### 1.3. Related studies

At present, researches that directly investigated the language used in Visiting Forces Agreements (VFAs) are not yet conducted, especially on the use of deontic meanings in such kind of concord. The purpose of laying out the following related studies is to provide both theoretical and empirical discussions on how deontic modality behaves and could serve as a pane towards further understanding the meanings and realizations in legal documents and other written discourses like the VFA.

Lintao et al. (2016) addressed how contractual modalities are interpreted in the Philippine context and investigated how the most commonly misused modal *shall* is employed in different Philippine contracts through highlighting deontic meanings. Results revealed the likeness in the use of contracts in other countries. Moreover, two central findings of the study underscored how the differences on the rules and the overwhelming number of incorrect *shall* uses in Philippine contracts resulted to incomprehensibility and misunderstanding.

Angordans, Posteguillo & Beso (2002) conducted a pragmatic analytical framework to explore the reasons underlying the differences in the use of modal verbs in English research articles (RAs) in three different academic disciplines: medicine, biology, and literary criticism. The focus was on the linguistic distinctions of types of modalization: epistemic modality (questioning the certainty or probability of a statement) and deontic modality (laying obligations or giving permission to the reader/audience). Results indicated that scientific RAs mostly use epistemic modality, whereas literary criticism RAs combine the use of both epistemic and deontic modalities. It was concluded that the selection of the type of modality to be used is a matter of a deliberate stylistic choice of writers influenced by the pragmatic context of their specific and distinct academic discourse communities.

Zelenka (2013) also explored the use modality in the language of legal documents. The researcher found out that *shall* is the most overused and misused modal among the 20 legal contracts examined occurring 384 times in positive usage or 86% of the entire usage and 59 times in negative usage or

14% in expressing obligation. It was highlighted in the study that such misapplication of modals led to disorientation in understanding legal documents.

A systemic analysis, on one hand, was employed in the study of Mukhaini (2008) on modality in legal texts in both English and Arabic. The paper focused on a thorough study of translating modal expressions exhibited in legal texts from English to Arabic, and vice versa. The analysis was based on a theoretical framework explaining the main and secondary categories and applied on both languages, to provide dichotomies between English and Arabic. The study concluded that English and Arabic hold a different type of realization of modal expressions, where both languages can similarly provide syntactic, semantic and/or means of realization.

In the study of Bondi & Diani (2010) (as cited in Lintao et al., 2016), deontic values in English and Italian contracts were explored. The study pointed out that the use of *shall* in English contracts, while *dovere* are more common in Italian contracts. Modals of obligation were also predominant among English contracts. However, there was a balanced use of the modals of obligation, permission, and prohibition among Italian contracts. As stated by Lintao et al. (2016), in the foregoing study, English contracts were characterized to be formulaic and that the presence of the modal *shall* is an evident marker of an occurrence of a mandatory rule.

Based on the studies that explored the language of modalities in legal writing and other contexts, it can be gleaned that these modals would provide emerging themes on how to describe the behaviors of such linguistic items, particularly deontic modalities in different written discourses. There is also a need to delineate the role of modals in realizing the content of a document, a legal contract for an instance. Hence, the studies of both Lintao et al. (2016) and Zelenka (2013) provided evidence that *shall* is the most misused deontic modality among legal contracts in the Philippines and Czechoslovakia, respectively. Contrastive analyses on the use of modals, focusing on their distributions (epistemic or deontic) were the heart of the studies of Mukhaini (2008) and that of Bondi & Diani (2010) as they compared modal use in Arabic and English legal texts and deontic meanings in English and Italian contracts, respectively. Finally, Angordans, Posteguillo & Beso's (2002) study describes modalities as occurring also in other types of written discourses such as research articles in science and literary criticism.

From the consciousness that forensic linguistics moves in an exciting pace, the prevalence of deontic modalities among legal contracts, and the need to explore meanings incurred in concords like Visiting Forces Agreements (VFAs), the present study was eventually realized. Significantly, from the standpoint of forensic linguistics and using the concept of deontic modality, the present research tried to illustrate how deontic meanings represent the realizations of permission, obligation, prohibition, and volition in an executive agreement like the Visiting Force Agreement (VFA) between the Philippines and the United States. The present study was also grounded on the fact that there are no studies yet exploring the linguistic items used in the VFA, particularly its modalities. On a larger scale, the study would also be an attempt to support the idea that linguistic analysis could provide actuations on how the language of the law could be better interpreted and understood.

#### 1.4. Research questions

The study dwelt on the linguistic analysis (a corpus-based one) of the use of deontic modals in the 1998 Visiting Forces Agreement (VFA), explicitly titled "Agreement between the Government of the United States of America and the Government of the Republic of the Philippines on the Treatment of United States Armed Forces Visiting the Philippines." Specifically, it sought answers to the following questions:

1. What are the common modal auxiliaries present in the Visiting Forces Agreement (VFA) between the Philippines and the United States?
2. How are deontic modals in the VFA distributed in terms of the meanings they convey in the agreement:
  - 2.1 obligation;
  - 2.2 permission;
  - 2.3 prohibition; and
  - 2.4 volition?
3. How do deontic modals illustrate power relations and inequalities as regards the privileges and responsibilities given to the two countries involved?

### 1.5. Frameworks of the study

The study adopted two frameworks for the analyses done on the use of deontic modals in the 1998 RP-US Visiting Forces Agreement (VFA). To identify modals in the corpus with deontic values and to aid in determining the meanings conveyed by the modals, a combination of the frameworks of Quirk et al. (1985) and of Matulewska (2010) (as cited in Lintao et al., 2016), were used. The descriptions provided by Quirk et al. (1985) on the classification of modals in English have been used in many researches that dealt with modalities, while that of Matulewska (2010) fits the present context of the study, since the framework can be used to analyze modalities in legal contracts.

Quirk et al. (1985) classified modal auxiliaries based on the primary meanings embedded in deontic modality:

- (1) permission (can/could, may/might)
- (2) obligation (must, have to, should, ought to)
- (3) volition (will/would, shall)

Matulewska (2010) on the one hand, presents three meanings of deontic modals which are obligation, prohibition, and permission.

*Obligation* pertains to the “duty to perform” (p. 76) which is subdivided into three sub-meanings: a) *unlimited duty*- it is an imposed obligation that is binding whatever the situation is (a contractual obligation) b) *conditional duty*- it is an imposed obligation performed only in certain circumstances (a contractual obligation) c) *external duty*- imposed obligation enforced to the actor not by the contract but other factors (non-contractual obligation).

*Prohibition* refers to the obligation not to perform or withhold or refrain from doing with the three sub-meanings as follows: a) *unlimited prohibition*- inhibiting or forbidding to do an action regardless of any situation (contractual prohibition) b) *conditional prohibition*- inhibiting or forbidding to do an action applicable under certain circumstances (contractual prohibition) c) *external prohibition*- inhibiting or forbidding to do an action not by the contract but by other factors (non-contractual prohibition).

*Permission* refers to the right or claim to which a party is allowed or authorized. The following are sub-meanings characterized in permissions: a) *unlimited permission*- the right or claim which may be applied or exercised despite any situation (contractual permission) b) *conditional permission*- the right or claim which may be applied or exercised under certain situations (contractual permission) c) *external permission*- the right or claim which may be applied or exercised under statutory situations (non-contractual permission).

Combining the frameworks cited, the present study delved into four (4) meanings that may be represented by deontic modals in the study corpus. The first two meanings, *obligation* and *permission*, are common in both modal frames, while other meanings such as *volition (intention)* (e.g. He won't go.) is only laid out in Quirk et al. (1985), while Matulewska (2010) includes *prohibition* as another deontic meaning. Analysis of the deontic modals in the VFA was also grounded on the principles of Corpus Linguistics.

## 2. Method

### 2.1 Research design, Data analysis and Study corpus

This study employed a corpus-based analysis on the use of deontic modals in a VFA involving two nations, the Philippines and the United States of America (USA). Using *AntConc*, a freeware concordance tool, the relative frequency of deontic modals was used in order to describe how such modals are regarded in the Visiting Forces Agreement (VFA) and at the same time, be able to draw conclusions about the linguistic features of the document. The deontic meanings examined were based on the classifications made by Quirk et al. (1985) and of Matulewska (2010), respectively. The meanings analyzed include *obligation*, *permission*, *volition*, and *prohibition*.

Aside from *AntConc*, other computer programs like Microsoft Excel and Microsoft Word were utilized to quantify and better locate linguistic items in the document. Information provided as regards the occurrence (frequencies) and meanings conveyed among deontic modals identified, provided ways on how to interpret and describe the perceived disparity in the VFA's directives on the distribution of privileges and obligations to both countries involved.

For the study corpus, the 1998 Visiting Forces Agreement (VFA) of the Philippines and the United States of America (USA) was used. It is a 20-page legal document (converted into a word file) that carpets the legal framework under which US military personnel operate in the Philippines and how domestic laws of the foreign jurisdiction apply towards US personnel in the country (USAF Academy Legal Office, 2001). It consists of nine (9) articles:

Article I – Definitions

Article II – Respect for Law

Article III – Entry and Departure

Article IV – Driving and Vehicle Registration

Article V – Criminal Jurisdiction

Article VI – Claims

Article VII – Importation and Exportation

Article VIII – Movement of Vessels and Aircraft

Article IX – Duration and Termination

The VFA was signed in Manila on February 10, 1998 by representatives from the two countries, namely, Thomas C. Hubbard (USA) and Domingo L. Siazon, Jr. (the Philippines). Full text of the VFA was downloaded by the researcher from Chan Robles Virtual Law Library: <http://www.chanrobles.com/visitingforcesagreement1.htm#.WPUh3eE2zIU>.

### 3. Results and Discussion

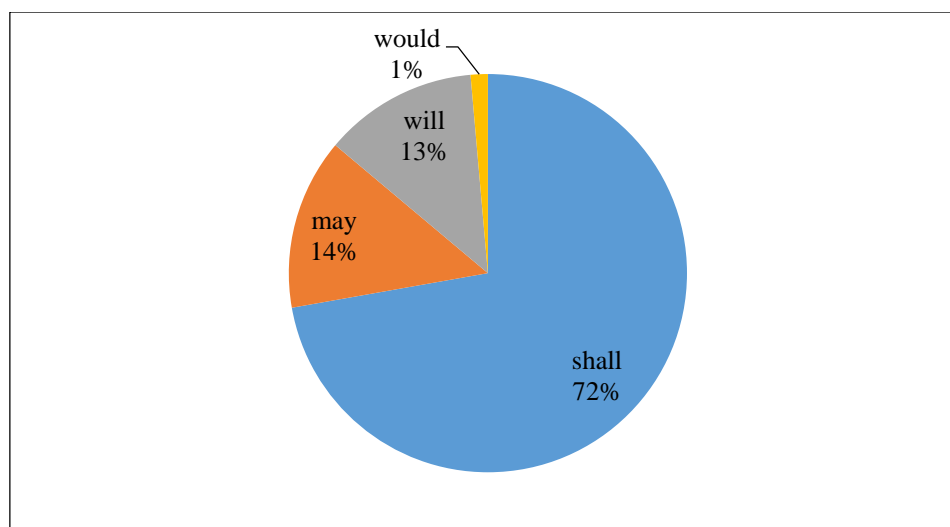
Modals are one of the commonly researched topics in linguistics even when electronic tools for corpora generation have been invented. Katrone (2008) describes modals as polysemous and express a whole range of different meanings. Modals also vary in degree as well as between registers of spoken and written language. One of the main types of modality, as mentioned earlier, is deontic modality. Palmer (1979) refers to deontic modality as concerned with the necessity or possibility of acts performed by morally responsible agents. In the first research question, modal auxiliaries were quantified to show their incidences in the Visiting Forces Agreement (VFA) analyzed. This was made possible using corpus linguistics tools.

#### 3.1. Frequencies of modal auxiliaries in the VFA

Using the classification provided by Quirk et al. (1985) on modal auxiliaries, the following table and figure illustrate the modal auxiliaries present in the VFA. Discussions in connection to the results are also provided.

**Table 1.** Frequency distribution of modal auxiliaries in the VFA

Rank	Frequency	Modal Auxiliary
10	52	shall
37	10	may
47	9	will
606	1	would



**Figure 1.** Graph of the frequency distribution of modal auxiliaries in the VFA

Based on the frequencies of modal auxiliaries used in the Visiting Forces Agreement (VFA), it is apparent that the use of *shall* is prevalent, with 72% (52) of occurrence considering the total number of modals used which is 72 (100%). Next in rank is *may* with 14% (10) of occurrence and followed by *will*, 13% (9). The modal auxiliary with the least number of occurrence in the corpus is *would* which only occurs once or 1% of the total number of modals in the agreement.

It could be gleaned from the quantified data that the use of *shall* is prevalent in the VFA which can also be considered as a document where an executive agreement prevails. This would support the description of Adams (2008) that *shall* is overused especially in business contracts, and that the modal is commonly used among litigations involving the language of statutes. *Shall*, basically, expresses



obligation in legal documents. This was also found among the Philippine contracts studied by Lintao et al. (2016), where *shall* occurred 90 times in the documents analyzed. However, despite the preponderance of *shall* in the language of contracts, it is still the most misused modal auxiliary (Adams, 2008; Lintao et al., 2016; Zelenka, 2010). Aside from overusing it, drafters also have a poor grasp of how to use it to construct the different categories of contract language. In the present study, the Visiting Forces Agreement (VFA) between the Philippines and the US may also depend on the use of *shall* to highlight obligations of both countries in terms of exercising the rights of the American soldiers and on implementing laws on sovereignty of the host country which is the Philippines.

On the one hand, the use of *may* in legal contracts or concords like the VFA may not be accounted as “common.” *May* is only used 10 times in the VFA, which presents the idea that there could be more directives or obligations included in the agreement more than those that are basically *permitted*. In contrary, the use of *may* is prevalent in the study of Lintao et al. (2016) especially in expressing unlimited, conditional, and external permissions among Philippine contracts. In terms of clarity in legal writing, Schiess (2005) suggests the use of “may” because it is short, unanimously approved by legal-drafting experts, and presents only the remotest chance of ambiguity.

In terms of the use of *will* in the VFA, the modal is not also predominant in the featured concord, which only surfaces nine (9) times in the VFA. The use of *will* in legal writing may also overlap with the meaning of *shall*—that is, expressing obligation (Schiess, 2005). However, beyond obligation, *will* can state a future event. The limited occurrence of *will* in the VFA may either present the promises—a mutual obligation between the Philippines and the US or just to tell futurity or possible things to happen once directives are not fulfilled, for an instance. Significantly, Lintao et al. (2016) state that *will* is common in other contracts, but not in legislative texts like the VFA. The use of *will* in legal writing is best to tell future time than obligations (Adams, 2008). The lone use of *would* in the VFA would eventually show that the modal auxiliary is not commonly used for VFAs that are embedded with statements of obligations provided for the two countries participating. This is so since *would* is mainly used to mean “expression of preference” (Lebovits, 2008).

### 3.2. Deontic modals in the VFA

To account for the prevalence of deontic values among legal contracts like the VFA (Lintao et al., 2016), concordance lines provided in *AntConc* were studied. Hence, the modal auxiliaries that carry with them meanings of *obligation*, *permission*, *prohibition*, and *volition* could be classified as deontic modals (Quirk et al., 1985; Matulewska, 2010).

#### 3.2.1. Semantic distributions of deontic modals in the VFA

Practically, the four (4) identified modal auxiliaries in the VFA could also fall under the four meaning-classifications outlined in the present investigation. The following are the deontic modals identified in the VFA, with corresponding meanings they carry in the foregoing executive agreement.

**Table 2:** Semantic distributions of deontic modals in the VFA

Deontic Modals	Deontic Meaning							
	<i>Obligation</i>		<i>Permission</i>		<i>Prohibition</i>		<i>Volition</i>	
	f	%	f	%	f	%	f	%
<i>SHALL</i>	26	50%	22	42.31%	4	7.69%	0	0%
<i>MAY</i>	0	0%	9	90%	1	10%	0	0%
<i>WILL</i>	6	66.67%	0	0%	2	22.22%	1	11.11%
<i>WOULD</i>	0	0%	1	100%	0	0%	0	0%
<b>TOTAL</b>	32	44.44%	32	44.44%	7	9.72%	1	1.39%

The frequency distribution of the deontic modals based on the meanings they carry in the Visiting Forces Agreement (VFA)—*obligation, permission, prohibition, volition*—reveals the dominance of both meanings of *permission* (44.44%) and *obligation* (44.44%) in the concord. This would mean that there are more statements that refer to the situations or activities allowed for the two parties, the Philippines and the United States, and that along with these permissions or privileges are obligations or responsibilities asked from the two nations. Apparently, both meanings are essentially contributed by the most prevalent deontic modal in the VFA, the use of *shall*. A small percentage, however, is contributed by *may* for the deontic meaning on *permission*. Though there are incidences of *prohibition* (9.72%) and *volition* (1.39%) in the agreement, these are not prevalently occurring in the corpus. Thus, it can be gleaned from the data that the legal framework for the day-to-day operations of US personnel, while serving in a foreign country such as the Philippines (USAF Academy Legal Office, 2001), may greatly rest on the meanings of *permission* and *obligation* laid out for the two participating countries. Such potentiality of a state of affairs (Radden & Dirven, 2007) could therefore be realized through deontic values or meanings.

To account for the definite occurrences of the foregoing deontic modals and the meanings they provide in the VFA, the following extracts and discussions are presented.

### 3.2.1.1. On the use of *shall*

The most common modal used to refer to obligations is the modal *shall*. As such, Lintao et al. (2016) assert that the use of *shall* is also common among legal documents like Philippine contracts. However, pertinent data extracted from the Visiting Forces Agreement (VFA) as the main corpus of the study, would reveal that *shall* may be used to mean not only *obligation* but also meanings involving *permission, prohibition, and rarely, volition*. The following extracts represent deontic realizations on the use of *shall* in the VFA:

**[Extract No. 1]** *The Government of the United States shall take all measures within its authority to ensure that this is done. (Article II, Respect for Law) – (obligation)*

**[Extract No. 2]** *The Government of the Philippines shall facilitate the admission of United States personnel and their departure from the Philippines in connection with activities covered by this agreement. (Article III, Entry and Departure) – (obligation)*

**[Extract No. 3]** *These proceedings shall be public unless the court, in accordance with Philippine law, excludes persons who have no role in the proceedings. (Article V, Criminal Jurisdiction) – (obligation)*

The foregoing extracts are culled statements from the VFA that represent the obligations given to the visiting country, the United States, and to the host country, the Philippines. It can be seen that these obligations are perpetuated by the use of *shall* preceding the verbs that further help the readers process the statements provided. Hence, the US *shall* take measures, while the Philippines *shall* facilitate admission. Interestingly, one of the problems on the “overused” status of *shall* in legal documents just like a VFA is its correct usage. Stark (2007) therefore admits that drafters commonly misuse *shall* that they even believe they are employing it correctly even if they are not. *Shall* was found to have been misused many times in legal texts in the studies of Lintao et al. (2016) and Zelenka (2010). On a relative note, Stark (2007) reports that in order to account for the correct usage of *shall* to mean obligation, a party must come before the modal (*shall*) and it must not be coupled with a form of the verb, “to have” or “to be.” If these rules are violated, then *shall* is misused. In the third extract, such misuse of *shall* is demonstrated, since the party represented should have been the Philippines or

USA or any governing body or person and not the neuter proceedings. Also, *shall* is proceeded by a verb “to be” which makes it incorrect.

On the one hand, three meanings were cited by Matulewska (2010) on the use of *shall* to mean “obligation.” They include unlimited duty, conditional duty, and external duty. Unlimited duty follows with an obligation that is binding whatever the situation is; conditional duty is an imposed obligation performed under different circumstances; external duty is imposed obligation to the actor not by contract but by other factors. In view of the extracts provided on the use of *shall* under obligation, extracts 1 and 2 follow unlimited duty, while the last one is an example of a conditional duty.

**[Extract No. 4]** *United States civilian personnel shall be exempt from visa requirement but shall present, upon demand, valid passports upon entry and departure of the Philippines. (Article III, Entry and Departure) – (permission)*

**[Extract No. 5]** *Philippine authorities shall have the primary right to exercise jurisdiction over all offenses committed by United States personnel. (Article V, Criminal Jurisdiction) – (permission)*

The above-given extracts would account for the permissions or basically, privileges given by the VFA to both parties. Both culled extracts are leaned towards the permissions granted to both the Philippines and the United States, respectively. As such, it appears that it is the “obligation” of the host country, the Philippines, to exempt US civilian personnel from visa requirements, while the United States gives the Philippines the “permission” to exercise jurisdiction on offenses committed by the US personnel while they are staying in the Philippines. In the classification made by Matulewska (2010) on deontic meanings, the researcher identified *unlimited permission*, *conditional permission*, and *external permission*. *Unlimited permission* relates to the right or claim which may be applied despite any situation; *conditional permission* only operates under certain conditions; *external condition* is applied or exercised under statutory situations (non-contractual). The above extracts actually follow unlimited and conditional permissions, respectively—deontic meanings that are established in the VFA through the use of *shall*.

**[Extract No. 6]** *Nothing in this paragraph, however, shall prevent United States military authorities from trying United States personnel for any violation of rules of discipline arising from the act or omission which constituted an offense for which they were tried by Philippine authorities. (Article V, Criminal Jurisdiction) – (prohibition)*

**[Extract No. 7]** *United States personnel shall be subject to trial only in Philippine courts of ordinary jurisdiction, and shall not be subject to the jurisdiction of Philippine military or religious courts. (Article V, Criminal Jurisdiction) – (prohibition)*

As regards prohibitions, favor is still given to the side of the United States soldiers in terms of criminal proceedings and control. The two above-given extracts relate to the interference that US authorities could exercise once American soldiers are given criminal liabilities in the host country by violating inherent laws and regulations. As such, the two unlimited prohibitions presented above exemplify how the US military authorities are given the opportunity by the VFA to repel existing laws in the Philippines relevant to criminal jurisdiction.

3.2.1.2. *On the use of may*

According to the British Council (2017), aside from *can* and *could*, another way of asking a more formal and polite permission is using the modal verb, *may*. It may also be used to refuse permission by simply adding the negative adverb, “not.” Hence, the following extracts and discussions describe the realizations of *may* in the VFA as a deontic modal that carries both meanings of *permission* and *prohibition*.

**[Extract No. 8]** *Philippine authorities at the highest levels may also present any information bearing on its validity. (Article V, Criminal Jurisdiction) – (permission)*

**[Extract No. 9]** *Transfers to persons or entities in the Philippines not entitled to import privileges may only be made upon prior approval of the appropriate Philippine authorities including payment by the recipient of applicable duties and taxes imposed in accordance with the laws of the Philippines. (Article VII, Importation and Exportation) – (permission)*

**[Extract No. 10]** *...they may not be tried again for the same offense in the Philippines. (Article V, Criminal Jurisdiction) – (prohibition)*

The extracts highlighting the use of *may* in the VFA, presenting both permission and prohibition as deontic meanings, may also conform to the meanings classified by Matulewska (2010). As such, the first extract represents the use of *unlimited permission*, permitting Philippine authorities to exercise its laws without restrictions when they deal with US civilian offenders, the second one with *conditional permission* wherein transfer to persons or entities of a US civilian may only be permitted upon approval of appropriate Philippine authorities, and the third extract underscoring a kind of *conditional prohibition*, where permissions are granted for convicted US civilians who have been pardoned, acquitted, have served their sentence, etc. In the study of Lintao et al. (2016), the use of *may* to represent “permission” among Philippine contracts is strongly evident. Structurally, it can be deduced from the data that by simply adding the adverb “not” to the modal, “may,” statements of prohibitions can be made.

3.2.1.3. *On the use of will*

The use of *will* is quite evident in the VFA. Although the use of *will* in legal documents is rare but possible, Adams (2008) contends that in general use, *will* expresses future time rather than obligations; it expresses that parties have agreed upon an event’s occurrences without intending to impose a duty on a party. For Lintao et al. (2016), the use of *will* indicates a creation of promise to perform something in the concord. Conversely, the present study underscores that *will* may encompass three deontic meanings—(1) obligation; (2) permission; and (3) volition.

**[Extract No. 11]** *This certificate will be transmitted to the appropriate authorities of the Philippines and will constitute sufficient proof of performance of official duty for the purposes of paragraph 3(b)(2) of this article. (Article IV, Driving and Vehicle Registration) – (obligation)*

**[Extract No. 12]** *Also, the one year period will not include any time during which scheduled trial procedures are delayed because United States authorities, after timely notification by Philippine authorities to arrange for the presence of the accused, fail to do so. (Article V, Criminal Jurisdiction) – (prohibition)*

**[Extract No. 13]** *Philippine authorities will, upon request by the United States, waive their primary right to exercise jurisdiction except in cases of particular importance to the Philippines. (Article V, Criminal Jurisdiction) – (volition)*

Extracts from the VFA reveal that the use of *will* as a form of deontic modality may dwell on the meanings of *obligation*, *prohibition*, and *volition*, excluding from the analysis the occurrence of the modal verb to mean “permission.” More specifically, the first extract is an example of an unlimited obligation because US civilian personnel under the VFA are obligated to give to Philippine authorities a certificate that “will” also be counted as proof of their performance as regards driving and vehicle registration. On the one hand, conditional prohibition applies to the second extract, where one year period to appeal by any accused US civilian personnel is not granted, provided that the US side was deemed guilty of non-appearance in scheduled trials. Significantly, volitional modality applies to the last extract, where Philippine authorities, as interpreted from the given statement, are given discretion on whether they will waive their right to exercise jurisdiction. Essentially, the third extract also presents conditions. This analysis is in relevance with the assertion made from the study of Lintao et al. (2016) that the use of *will* connotes a promise of doing something without imposition of obligation; hence, a realization of the use of one’s volition or intention (Lew, 1997).

#### 3.2.1.4. On the use of *would*

Although the modal verb *would* was classified by Quirk et al. (1985) as a kind of volitional modal, its incidence in legal writing may not be accounted as “predominant.” In the present study, it occurred once in the VFA analyzed, while it had never occurred among the corpus of Philippine contracts studied by Lintao et al. (2016). This may be due to the fact that its use is apparent in academic writing or even in everyday utterances to mean the past form of *will* and a modal to form hypotheses or conditions. The lone use of *would* in the Visiting Forces Agreement (VFA) between the Philippines and the US is presented below:

**[Extract No. 14]** *The exemptions provided in this paragraph shall also extend to any duty, tax, or other similar charges which would otherwise be assessed upon such property after importation into, or acquisition within, the Philippines. (Article VII, Importation and Exportation) – (permission)*

The use of *would* in the given extract from the VFA relates to the deontic meaning of “permission.” Further, it can be described as an example of *conditional permission*. This is so, since US civilian personnel’s properties would only be assessed if they are imported into or acquired within the Philippines. Simple futurity and conditions are therefore justified in the foregoing extract.

### 3.3. Power and privilege distributions in the VFA thru deontic meanings

The main purpose of a Visiting Forces Agreement (VFA) is for the Philippines and the United States to practice joint military training, combined planning, combat readiness, and interoperability while enhancing security relations (Global Security, 2008). Hence, by any means, what is laid out in the VFA should benefit both countries involved. However, a call for an intensive review and renegotiation of the VFA with the United States is sought, especially on the issues of jurisdiction and custody for erring US soldiers (Romualdez, 2010). Robles (2006), on the one hand, asserts that the VFA is unfair. Further, he added that the VFA is a *bastardization* of Philippine sovereignty—that is, the Americans want to reign and set laws and regulations for themselves in the Filipinos’ own

territory. The question now is, “*Is there really an existence of power relations between the Philippines and the United States in the VFA?*”

To answer the aforementioned question, the researcher made use of the lens of linguistic analysis to fully describe both power and privilege distributions between the concerned parties. The use of deontic meanings in terms of which country, RP or US, is given more advances and responsibilities or duties, was highlighted in bringing out the possible inequalities that exist in the Visiting Forces Agreement (VFA).

**Table 3:** Power and privilege distributions between the Philippines and the United States in the VFA

<i>Deontic Meanings</i>	<b>The Philippines</b>								<b>The Unites States of America (USA)</b>							
	<i>Advantages</i>				<i>Disadvantages</i>				<i>Advantages</i>				<i>Disadvantages</i>			
	<i>shall</i>	<i>May</i>	<i>will</i>	<i>would</i>	<i>shall</i>	<i>may</i>	<i>will</i>	<i>would</i>	<i>shall</i>	<i>may</i>	<i>will</i>	<i>would</i>	<i>shall</i>	<i>may</i>	<i>will</i>	<i>would</i>
OBLIGATION	3	0	1	0	11	0	0	0	1	0	2	0	17	0	2	0
PERMISSION	3	1	0	0	1	0	0	0	12	6	0	1	2	2	0	0
PROHIBITION	0	0	0	0	0	0	0	0	4	1	0	0	0	0	2	0
VOLITION	0	0	0	0	0	0	1	0	0	0	0	0	0	0	0	0
<b>TOTAL</b>	<b>6</b>	<b>1</b>	<b>1</b>	<b>0</b>	<b>12</b>	<b>0</b>	<b>1</b>	<b>0</b>	<b>17</b>	<b>7</b>	<b>2</b>	<b>1</b>	<b>19</b>	<b>2</b>	<b>4</b>	<b>0</b>
	<b>8 (11.94%)</b>				<b>13 (19.40%)</b>				<b>27 (40.30%)</b>				<b>25 (37.31%)</b>			

van Dijk (1984) asserts that social power abuse, dominance, and inequality are enacted, reproduced, and resisted by text and talk in the social and political context. These injustices could therefore be uncovered thru critical discourse analysis (CDA). Though the present study does not rely on critical discourse analysis (CDA) as one of its frameworks, it still tried to divulge how power and privileges are distributed in the Visiting Forces Agreement (VFA) between the Philippines and the United States using the meanings provided by deontic modals, as facilitated by a corpus-based investigation.

Out of the 67 statements with deontic meanings that directly involve the countries in the VFA (the other five statements were not included in the analysis), it can be gleaned that 8 (11.94%) of the statements give favor to the Philippines, while 13 (19.40%) is deemed disadvantageous. A bigger percentage, however, of both statements that give advantages and disadvantages is on the side of the United States, with 27 (40.30%) and 25 (37.31%) distributions. Using deontic meanings of obligation, permission, prohibition, and volition, the statements in the VFA were classified based on how they give advances (privileges, rights, etc.) and liabilities (tasks, duties, restrictions, etc.) to both countries. Hence, although the United States of America (USA) is given more disadvantages in the VFA than the Philippines, it is still apparent that more advances are given to the foreign country (US), owning the highest percentage of privileges.

In an article written by Robles (2006), he enumerated a number of privileges given to American soldiers under the VFA. These soldiers, under Articles III, IV, VII, and VIII of the VFA, special privileges need not abide by laws and regulations on passport visa, driver’s license, vehicle registration, and payment of custom duties and taxes. What is interesting to note is that these privileges are not granted, and are in fact denied to ordinary Filipino citizens.

Another privilege given is through criminal jurisdiction (Velasco, 2015). As such, US soldiers who violated the laws of the Philippines are given a special process in Philippine trial. They will also be put under the custody of the US Embassy or US authorities. As regards claims, the United States including the Philippines, may waive its right to asking damages for what might be caused by combat and non-combat operations under the VFA in any part of Philippine territory (Robles, 2006). This is said to be disadvantageous on the part of the host country, since the US troops could be rendered “not

responsible” for damages incurred during the conduct of their operations in the country. Lack of restrictions by the VFA for the unilateral training operations of the United States is also the same with allowing the country to bring up nuclear fire arms in the Philippines, which is against the latter’s sovereignty.

Following are extracts that show some of the privileges given to American soldiers under the Visiting Forces Agreement (VFA):

*[Extract No. 15] United States military personnel shall be exempt from passport and visa regulations upon entering and departing the Philippines. (Article III, Entry and Departure) – (permission)*

*[Extract No. 16] United States civilian personnel shall be exempt from visa requirements but shall present, upon demand, valid passports upon entry and departure of the Philippines. (Article III, Entry and Departure) – (permission)*

*[Extract No. 17] Aircraft operated by or for the United States armed forces may enter the Philippines upon approval of the Government of the Philippines in accordance with procedures stipulated in implementing arrangements. (Article VIII, Movement of Vessels and Aircraft) – (permission)*

*[Extract No. 18] Vehicles, vessels, and aircraft operated by or for the United States armed forces shall not be subject to the payment of landing or port fees, navigation or overflight charges, or tolls or other use charges, including light and harbor dues, while in the Philippines. (Article VIII, Movement of Vessels and Aircraft) – (permission)*

As regards the privileges given to the Philippines in the VFA, most of them are on the jurisdiction on applying its own laws while the American soldiers are in the country. However, these privileges are also countered by a number of exemptions and other liberties that neutralize the advances given to Philippine authorities. For an instance, the same jurisdiction is also given to the United States once US civilian personnel are tried or proven to have violated the laws of the Philippines. Significantly, as stated in Article V (Criminal Jurisdiction) of the VFA, *United States military authorities shall have the right to exercise within the Philippines all criminal and disciplinary jurisdictions conferred on them by the military law of the United States over United States personnel in the Philippines.* Moreover, though the Philippines is given the privilege to conduct quarantine inspection of US vessel for possible intrusion of quarantinable disease in the country, this is no equal with the privilege given to American troops to bring nuclear weapons into the country without restrictions (Robles, 2006).

To illustrate the privileges given to Philippine authorities, the following extracts are presented:

*[Extract No. 19] Philippine authorities shall have jurisdiction over United States personnel with respect to offenses committed within the Philippines and punishable under the law of the Philippines. (Article V, Criminal Jurisdiction) – (permission)*

*[Extract No. 20] In the event Philippine judicial proceedings are not completed within one year, the United States shall be relieved of any obligations under this paragraph. The one year period will not include the time necessary to appeal. Also, the one year period will not include any time during which scheduled trial procedures are delayed because United States authorities, after timely notification by Philippine authorities to*

*arrange for the presence of the accused, fail to do so. (Article V, Criminal Jurisdiction) – (prohibition)*

For the disadvantages or restrictions, majority of them are imposed on how the Philippines, the host country, would exercise juridical process over the American soldiers or any US civilian personnel for that matter. Most of these impositions are stipulated in Article V (Criminal Jurisdiction) of the Visiting Forces Agreement (VFA). Hence, the Philippines is prohibited to question US military authorities from trying US personnel for any violation of rules of discipline in the Philippines. The Philippines is also prohibited to subject into trial US personnel who have been acquitted, have been convicted and are serving, or have served their sentence or have had their sentence remitted or suspended for the same offense in the Philippines. What is more disadvantageous is that the Philippines is only given one year to finish proceedings of cases involving American soldiers (Robles, 2006). Such provision eventually affected the result of the Subic rape case trial in 2006 and the murder case of a Filipino transgender involving another US marine soldier back in 2014 (Laude, 2014). The restrictions carpeted in the VFA, still, benefit the United States, and put more responsibilities to the host country, the Philippines, the one whose laws and jurisdictions must be respected.

Prohibitions and responsibilities imposed to Philippine authorities regarding the day-to-day activities of American soldiers are presented below:

*[Extract No. 21] Recognizing the responsibility of the United States military authorities to maintain good order and discipline among their forces, Philippine authorities **will**, upon request by the United States, **waive** their primary right to exercise jurisdiction except in cases of particular importance to the Philippines. (Article V, Criminal Jurisdiction) – (volition)*

*[Extract No. 22] If the Government of the Philippines determines that the case is of particular importance, it **shall communicate** such determination to the United States authorities within twenty (20) days after the Philippine authorities receive the United States request. (Article V, Criminal Jurisdiction) – (obligation)*

*[Extract No. 23] Philippine authorities **shall accept** as valid, without test or fee, a driving permit or license issued by the appropriate United States authority to United States personnel for the operation of military or official vehicles. (Article IV, Driving and Vehicle Registration) – (permission)*

Apparently, though respect for laws, military enhancement, and strengthened security to combat terrorism and transnational crimes, are laid out in the VFA between the Philippines and the United States, non-intervention principle is seen as “weak” in the agreement. Hence, it is the duty of the states not to interfere with the internal affairs of a sovereign state, *it is the principal [and the] practical expression of the right of sovereignty in the context of inter-state relations* (Gill & Reilly, 2000). In the present context, using deontic meanings to interpret power relations and prohibitions in the VFA, it is justifiable to agree with the assertion made by Velasco (2015) that the RP-US Visiting Forces Agreement (VFA) is an expression of the interference of the United States in the sovereignty of the Philippines.



#### 4. Conclusions

This study puts forward a corpus-based analysis of the deontic meanings present in the Visiting Forces Agreement (VFA) between the Philippines and United States of America (USA) drafted in 1998. Recognizing the need to come to terms with the language of the law, the study made use of linguistic perspectives in understanding the use of deontic modals in the agreement and in illustrating how these deontic meanings provide ways to uncover possible power relations in legal documents like the VFA. Hence, the following conclusions were made.

First, the study revealed that *shall* is the most commonly occurring modal auxiliary in the Visiting Forces Agreement (VFA), which was also found to have been misused a number of times. Other modals like *may*, *will*, and *would* only occur in limited incidences in the document. The analysis therefore shows that the VFA is embedded with modals that would help readers comprehend and realize provisions of such kind of written document. Significantly, modality may bridge gaps in understanding contracts and other legal documents which often contain ambiguities and complex interdependencies between contract clauses (Tiersma, 1999). In the present study, the use of deontic modals has paved ways towards understanding the mandates of the Visiting Forces Agreement (VFA) and potentially, in revealing unequal distributions of privileges and obligations in the said concord.

Second, meanings laid out in an executive agreement like the VFA primarily rest on both *obligation* and *permission* that two countries involved are ought to recognize. Garner (1995) describes four types of legal rules: authorizations, obligations, prohibitions, and permissions. In a Visiting Forces Agreement (VFA), though not as obligatory as the aforesaid meanings, deontic modals may also give the document instances of volitional values, one where parties involved are not forced into carrying out agreements in the document (Quirk et al., 1985). Essentially, the use of deontic modals in the VFA has again served as looking glass towards analyzing obligations, permissions, prohibitions, and volitions embedded in the document. Studying concordances of deontic modals such as in the use of *shall* also aided in identifying the party or the country who is more obligated, permitted, prohibited or given more volition in realizing the agreements made in the VFA.

Third, deontic modals may also be used to look into the relations of power and language in the VFA. Moreover, the modals presented are instrumental in accounting for who is given more privileges and obligations based on how agreements are presented. In the present study, the American soldiers are given more privileges, while Philippine authorities are rendered more obligations. Such inequality as regards distributions of privileges and obligations break the mutuality the VFA should embody (Velasco, 2015). Hence, within the perspectives of critical discourse analysis, the concept of modality could be used to characterize the political orientations of texts, thus revealing power relations and inequalities (Lillian, 2008).

Finally, this study shall be enriched by including a larger corpus of Visiting Forces Agreements (VFAs) involving the Philippines and other countries. This is to further investigate on whether the conclusions made as regards the interplay of deontic meanings with the realization of the content of the VFA also apply to other agreements involving other countries. Also, considering more types of modalities in analyzing such kind of legal document is deemed necessary to improve the quality of the paper. Exploring other features offered in Corpus Linguistics like the use of collocations may also offer more detailed descriptions of the language of the law (Krieger, 2003) in executive agreements like VFAs. This would also generate more patterns of usage of modals like those that represent deontic meanings in legal language.

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## Amerika Birleşik Devletleri ve Filipinler arasında Ziyaretçi Güç Anlaşmasındaki yükümlülük kipleri: Derlem temelli analiz

### Öz

Dil ve hukuk arasındaki evlilik amacı ne olursa olsun tüm yasal belgelerde açıktır. Bu nedenle, şu anda, hukuk dili ile ilgili dilbilimsel çalışmalar oldukça popüler. Quirk ve ark. (1985) ve Matulewska' nın (2010) yükümlülük kipi tanımına dayanarak, bu çalışma Amerika Birleşik Devletleri ve Filipinler arasında 1998 yılında imzalanan ziyaretçi güç anlaşmasındaki yükümlülük kiplerini incelemek amacıyla yapılmıştır. Çalışma, ayrıca iki ülkenin ayrıcalıklarının ve yükümlülüklerinin dağılımında, anlaşmadaki yükümlülük anlamlarının sunumunda gücün nasıl yüceltildiğini ve aşağı bir mevkie çekildiğini derinlemesine incelemiştir. Sonuçlar izin ve zorunluluğun yükümlülük anlamlarının yasaklama ve irade ile ilgili anlamlardan sayıca üstün olduğu halde, en çok kullanılan yardımcı kipin "shall" olduğunu ortaya çıkarmıştır. Güç dağıtımı ile ilgili olarak anlaşma Filipinlere daha fazla zorunluluk veya görev verirken Amerika Birleşik Devletlerine daha fazla ayrıcalık vermektedir. Sonuç olarak, yükümlülük kiplerinin incelenmesi yasal bir belge ziyaretçi güç anlaşmasındaki talimat ve hükümlerin tanımlanması ve yorumlanmasında kolaylık sağlamıştır.

*Anahtar sözcükler:* Yükümlülük kipleri; yükümlülük anlamı; ziyaretçi güç anlaşması, Filipinler; Amerika Birleşik Devletleri; yasal dil

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