



## A Forensic Linguistic Analysis of Modality on Prosecutors’ Resolutions

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DOI: <http://doi.org/10.36892/ijlls.v4i2.933>

**APA Citation:** CATOTO, J. S. (2022). A Forensic Linguistic Analysis of Modality on Prosecutors’ Resolutions. *International Journal of Language and Literary Studies*. 4(3).112-138. <http://doi.org/10.36892/ijlls.v4i2.933>

<b>Received:</b> 09/05/2022	<b>Abstract</b> <i>Prosecutors are individuals assigned to resolve cases filed on courts. Their abilities to make keenly decisions provided a wide spectrum on the world of forensic linguistics. This study aimed at identifying the types of modals used and their functions in the prosecutors’ resolutions of different cases. Further, this forensic linguistic analysis determined the frequency of overused and misused modals. Anchored on the premise of Palmer (2001) on the types and functions of modals, this study found that the common speculative modality is -may. Deductive modality included modals such as -shall, -must, -would, -may, and -could. As appeared, modal -could was categorized under the reported modality. Permissives were -can, -cannot, -will, -would, and -must. Modals were used to predict, give the possibility, capability, and permission, necessity, requirement, and prescription. The modal -would appeared 14 times among the prosecutors’ resolutions. Implications for legal parlance and educational milieu were presented.</i>
<b>Accepted:</b> 30/05/2022	
<b>Keywords:</b> <i>Forensic Linguistics, modality, prosecutors’ resolutions, Cotabato Province, Philippines.</i>	

### 1. INTRODUCTION

#### Rationale

Forensic linguistics is an approach that applies the linguistic knowledge to a specific social parlance-the legal forum (Coulthard, 213, Coulthard & Johnson, 2010; Johnson & Coulthard, 2010; Coulthard et al., 2016; Olsson & Luchjenbroers 2013). It constitutes the interfacing between language, crime and law, which includes law enforcement (Cotterill, 2002; Shuy & Roger, 2005; Oxburgh et al., 2015), judicial matters (Gray, 2010; Galyashina, 2016), legislation (Gibbons & Turell, 2008; Coulthard et al., 2016), disputes or proceedings in law (Tiersma & Solan, 2002; Butters, 2011), and even disputes involving some infraction of the law or some matters which seeks legal solution (Leonard, 2006; Olsson & Luchjenbroers, 2013). Its application may result to some legal action (Kredens & Morris, 2010; Northcott, 2013).

Prosecutors are the ones who are responsible in providing resolutions to cases being filed in courts (Luna & Wade, 2010). They decided based on the evidences presented in the by both parties. Decisions are made to weather the case is dismissed or need to proceed to further hearings in the court. They make it sure that decisions made are not questioned, hence, thorough

presentation of the details of the case are their utmost considerations. Consequently, this study is forensic linguistics since it deals with how the modals are used in prosecutors' resolutions.

Different types of modals have been used in the courtroom proceedings. Its grammatical functions played a significant role to the veracity of the testimonies of the witnesses in the witness stand. In its extent, modalities were defined as a category which solidifies the proposition of the speaker based on their statements (Adha, 2020). As posited by Palmer (2001) and Narrog (2009), modality qualify the factual contents of the person's utterances, to oppose the possibility and necessity (Van der Auwera & Plungian, 1998), and it presents the speakers' subjectivity (Halliday, 1970; Lyons, 1977; Palmer, 1986).

The utilization of modals and its functions have been explored in the legal parlance. The study of Ballesteros-Lintao et al. (2016) focused on identifying the incorrect usage of *shall* which resulted to misunderstanding of the contracts reflected on cases filed in Philippine courts. Another, by Zelenka (2013) on the Modality in the Legal Document that the modal *shall* was the overused and misused in the legal documents. Among the frequently used modals, *may* is polysemous which gave an ambiguous meaning (Huisman & Blackshield, 2014). Similarly, some researches traversed on different aspects of forensic linguistics like courtroom questioning (Hale, 1999; Catoto, 2017), authorship identification (Grant, 2008; Nieto et al., 2008), and on online identification (Grant & Macleod, 2016).

The above premise motivated the researcher to conduct this study in the local context. This study is timely and relevant since this will open the doors of opportunities to legal practitioners and even in the academe to become mindful of the usage of the modals in their discourses. Also, it will guide speakers of the English language like the Filipinos to the proper and correct usage of the modals based on the contexts. Thus, this study was conceptualized.

### **1.1. Research Questions**

- 1- What are the types of modals used in the Prosecutor's Resolutions?
- 2- What are the functions of modals used in the Prosecutor's Resolutions?
- 3- What are the overused modals in the Prosecutor's Resolutions?

## **2. THEORETICAL LENS**

I anchored my analysis on the premise of Palmer (2001) on the types and functions of modals. He presented the two categories of modality. The propositional modality which includes the epistemic and evidential. Conversely, epistemic and evidential fall under event modality. In epistemic modality, the speaker verbalizes their judgment about the factuality of the proposition. It may be speculative, deductive, and assumptive. On event modality, the speaker presents evidences for the factuality of the proposition. This includes the reported and sensory evidences. Deontic modality allows the speaker to condition the external factors that are relevant to a specific person may it be permissive, obligative, and commissive. Lastly, dynamic modality expresses internal conditioning factors that have relevancy may it be ablative or volitive. For Palmer (2001), three grammatical categories dominated in the expression of the notional categories. These are affixation of verbs, modal verbs, and particles.

Correspondingly, modality talks about the certainty of the events to happen (Nuyts, 2001). Meanwhile, deontic modality was conceptualized on permission and obligation (Starr, 2016). Conversely, evidentiality is bounded obligatory grammatical evidential system and also considered to be universal since this is true to all languages (Aikhenvald et al., 2004).

Propositional modality focuses on the attitude of the speaker relative to the truth value or fact (Palmer, 2001).

Modality was found to be the core in negotiations of civil cases. Epistemic modality *sure* was used to elicit doubt in a testimony. Witnesses utilized modal expressions to lessen the force of opponent's lawyer propositions. Modal expressions are frequently used by witnesses in order to express futurity since lawyers usually asked them with regards to the condition of the plaintiff in the future caused by the injury they have. Thus, lawyers frequently engaged in a hypothetical way of questioning with markings as *If x then y* structure. This type of questioning is used to test the limits of expert opinion which might weaken the claim of the opposing side (Lowndes, 2007). Participants in a trial adopted to use different epistemic stance styles which may be motivated by pragmatic and rhetorical aims based on their role in the case (Mortensen S & Mortensen J, 2017).

Conversely, the functions of modals were anchored on Twaddle (1960). He proposed that modals will and shall are used to predict. On the other hand, modals can, may and dare function to give possibility, present capability of the speaker, and the ability to give permission. Moreover, modals like *need*, *must* and *ought* are used to assess the necessity, requirement, and prescription of the discourse.

### **3. RESEARCH DESIGN**

This qualitative research employing textual analysis aimed to analyze the contents of the discourses presented in the courtroom proceedings of murder cases. In the same manner, it is a process whereby the researcher has to seek for meanings and worldviews in a certain phenomenon (Slevitch, 2011; Steffen & Coyle, 2011; Bogna et al., 2020; Leavy, 2020). Additionally, it is referred to the collection of data and analysis by utilizing the purposive sampling (Bakkalbasioglu, 2020; Campbell et al., 2020; Hennink et al., 2020; Johnson et al., 2020), semi-structure (Kallio et al., 2016, Ralph et al., 2020; Walker et al., 2020), and open-ended interviews (Britten, 1995; Gaber, 2020; Schaefer & Alvesson, 2020; Tavory, 2020). Consequently, this process also involves the use of documents, corpora, pictures, films, and the immediate participation of the informants and participants where they have to share their stories and lived experiences (Gaber, 2020; Mays & Pope, 2020; Po & Hickey, 2020).

Correspondingly, used the content analysis to determine the different types of modals and their functions on Prosecutors' Resolutions. This type of methodology begins with a detailed description of its procedures by presenting different examples and applications (Downe-Wamboldt, 1992; Kyngäs, 2020; Lindgren et al., 2020). Similarly, its goal is for external validity since it focused on human communication (Raaphorst et al., 2020) Moreover, the analysis of the data is done systematically and reliably in order to make vivid generalizations (Oswald, et al., 2011; Hennink et al., 2020).

Content analysis also organized and elicited the meanings from the collected data to make the conclusions realistic (Bengtsson, 2016). The researcher must have to choose between the two structures of analyses-a broad surface (a manifest analysis) (Vaismoradi et al., 2013; Graneheim et al., 2017) or a deep structure (a latent analysis) (Lee & Kim, 2001; Thyme et al., 2013; Neuendorf & Kumar, 2015). There are four main stages in doing the content analysis: the decontextualization (Bergman, 2010; Stepchenkova, 2012) the recontextualization (Bergman, 2010; Wodak & Fairclough, 2010; Jones, 2020) the categorization (Spens &

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Kovács, 2006; Elo & Kyngäs, 2008; Neale, 2016) and the compilation (Finney & Corbett, 2007; Jegadeesh & Wu, 2013; Huber, 2020).

This study is qualitative since I used the Prosecutors' Resolutions. Through this I was able to extract different types of modals and eventually drawing the meaning and the usage to give force to the discourses. Lastly, this study gave a wider perspective on the proper usage of modals and their implications in courtroom discourses and eventually will open the doors of opportunities to awaken the great minds to serve justice.

#### **3.1. Research Materials**

In this study, I used 30 Prosecutor's Resolutions as the corpora of my study. These were taken from the files of the Office of the Provincial Prosecutor. There were varied cases included in this study since the court did not provide the researcher with specific cases. This is also in consideration that the court was busy in this time of the COVID-19 Pandemic.

#### **4. Data Collection**

This study underwent the following processes. First, I consulted a gatekeeper who is an Assistant Provincial Prosecutor of the Cotabato Provincial Prosecution Office. Then, I wrote a letter addressed to the Provincial Prosecutor for the utilization of the Prosecutor's Resolutions taken from the archives. I immediately did the tagging of the corpora by assigning codes which guided me all throughout the course of the analysis. Second, I also assigned pseudonyms and codes to name of persons involved in the study to uphold the ethical standards.

The categorization of the cases followed. In the same vein, during the course of the analysis, I asked the help of a lawyer especially on the legal terms. As such, this gave me the profound understanding of the terms that are beyond my cognizance. After the analysis, this paper underwent peer-debriefing from the field of law and linguistics.

#### **5. DATA ANALYSIS**

The data were analyzed based on the research questions. I employ frequency to determine the number of occurrences of these modals in the Prosecutor's Resolutions. The modals were categorized based on their types and functions.

##### **5.1. Trustworthiness**

The assessment on the truthfulness in a qualitative study was anchored on the concept of Lincoln and Guba (1985) that includes credibility, confirmability, transferability, and dependability. These are contexts of the rigor in qualitative research which will manifest the strength of the research design and the appropriateness of the methods used to answer the problem (Milne & Oberle, 2005; Morse, 2015; Grodal et al., 2020; Hamilton, 2020; Johnson et al., 2020).

Credibility was addressed in this study for the confirmation of internal validity. This is essential in qualitative research to attain the truthfulness (Elfenbein & Schwarze, 2020; Nyirenda et al., 2020). Hence, I ensured that all the data are accurate since these were taken from the Provincial Prosecution Office of the Province of Cotabato. In terms of the analysis, I anchored it based on the theoretical lens of the study. Peer debriefing was employed through the help of the experts in the language of law and in linguistics to validate whether the analysis was done correctly (Benoot et al., 2020; Hamilton, 2020; Norris et al., 2020; Rose & Johnson,

2020; Sweeney et al., 2020). To further enhance this, I also did some readings on the Forensic Linguistics and books relative to law.

In terms of confirmability, I made it sure that the findings were not based on my viewpoints but were grounded on the contents of the corpora (Cutcliffe & McKenna, 2004; Korstjen & Moser, 2018). I did not make my own interpretations that were beyond the contexts of the previous researches. The audit trail was presented which enabled the auditor to confirm the transparency of the path of the research (Bowen, 2009; Backes et al., 2020; Rose & Johnson, 2020). More so, confirmability aims to allow the present study to confirm or to negate previous researches.

On the aspect of transferability, it is defined as type of external validity in which the findings of the study can be applied or used to theory, practice, and future researches. This allowed the transfer of the findings to other contexts to show its relevancy to other contexts (Kuper et al., 2008; Curtin & Fossey, 2007; Johnson et al., 2020). In addition, this can be used to predict findings especially when this will be applied in a wider scope (Malterud, 2001; Amin et al., 2020; Kaae & Traulsen, 2020)

To assert the essence of dependability, I presented the transparency through thick description of the process taken from the formulation of the study up to the presentation of the significant findings (Guest et al., 2012; Villarejo-Rodriguez & Rodriguez-Martin, 2020; Zhu et al., 2020). These were kept thoroughly to check the consistency whether the processes in analyzing the data are based on the contexts of the problem and the bodies of knowledge presented by the experts in the field of Forensic Linguistics.

## **5.2. Ethical Consideration**

This study adhered to the following ethical principles of confidentiality, deception, affiliation, honesty and transparency, and misrepresentation (Bell & Bryman, 2007). The confidentiality requires the researcher to protect the anonymity of individuals or organizations (Sweeney, 2002; Doody & Noonan, 2016; Alderson & Morrow, 2020). Hence, it is my sole duty to change the names of persons involved in each case into alias or codes to hide their identities (Barnes & Wittingham, 2020; Chalfen, 2020; Dym & Fiesler, 2020; Gachago & Livingston, 2020; Jones, 2020). Also, I removed the docket number of each case to avoid being traced. Meanwhile, to avoid deception, I see to it that the process in the conduct of the study was strictly followed (Fisher & Anushko, 2008). Conversely, I declared my professional and personal affiliations and remove my personal interests (Bell & Bryman, 2007; Harriss et al., 2019). In terms of honesty and transparency, the audit trail was presented to show to the members of the panel the sources of the data information presented in the paper (Gelman, 2017; Chase et al., 2020). Lastly, I ensured that everything in the paper would not cause misleading, misunderstanding, or reporting of erroneous research findings (Alston & Bowles, 2020; Leavy, 2020; Mays & Pope, 2020).

## **6. RESULTS AND DISCUSSIONS**

### **Types of Modals used in Prosecutors' Resolutions**

There are two main types of modals as proposed by Palmer (2001). In which, these are divided into different categories. These *modals* were found the Prosecutors' Resolutions.

#### **A. Propositional Modality**

Propositional modality is categorized into two: the epistemic and evidential. Each category has also categorized each of the modals based on its usage in the written discourse.

### **1. Epistemic Modality**

This type of modality encompasses knowledge, belief, or credence in a proposition. Usually, it is exemplified by modals such as *may*, *might*, and *must*. Cross-linguistically, some modals are part of it depending on its syntactic features.

#### **1.1 Speculative Modality**

Table 1 presents the first type of propositional modality under the epistemic modality. Speculative modal *–may* here presents uncertainty based on the presented evidences in the court.

This type of modality is expressed based on its contexts in the resolutions. In PR 11, the modal *–may* used to present uncertainty and speculation with regards to the identity of the suspects. However, the prosecutor based on the evidence president did not find any probable to pursue the case in which led to the dismissal of the case being filed against them. The statement of the witness is just a mere speculation and no basis to put the suspects with regards to the case filed.

Also, in PR 14 a speculation can be attributed to the discourse of the prosecutor. As shown in the extract it can be inferred that there is no certainty with regards to the privileged communication because it could either be absolute or condition. In the same vein, another speculative modality is found in PR19 when the prosecutor decided about the identity of a certain individual who is named as “Sarge.” In fact, there are many persons in the province which have the same name, thus the charge filed was a mere speculation and no truth value which resulted to the dismissal of the case.

**Table 1** Speculative Modality found in Prosecutors' Resolutions

Modals	Examples	Sources
may	In the mind of the undersigned, he <i>may</i> have seen them but he did not know them by names.	PR 11
	Privileged communication <i>may</i> be either absolutely privileged or conditionally privileged.	PR14
	There are many Sarge in North Cotabato, which <i>may</i> refer to a policeman, soldier or even a plain nickname.	PR19

As Celce-Murcia and Larsen-Freeman (2008) affirmed, the use of the modal *–can* expresses a level of uncertainty. It is used to present that meaning can vary in the degree of speaker's confidence about the statement being true (Huddleston, 2002). Modal *may* signal the decreasing probability. It is used rarely in the permission sense.

#### **1.2 Deductive Modality**

The analysis of the corpora shows that there are varied modals under this type of modality as shown in table 2. This type of modality expresses that the prosecutors express

their inferences based on facts of the case as presented by the opposing parties. These include modals such as *-shall*, *-must*, *-would*, *-may*, and *-could*.

The use of the modal here is based on the underlying data/evidences/sources which led the prosecutors to make their decisions. In PR1, *-shall* is used in reference to the RA 4885 of June 17, 1967. The decision made was anchored in this law. Conversely, *-must* is used in reference in PR3 to the lawful actions that the arresting officer has especially the knowledge on the committing of the crime. In PR30, the prosecutor in their decision used the same modal to justify the business of the court which is the presentation of the evidences. Failure to present reliable witnesses leads to the dismissal of the case.

More so, in PR21 the record showed that the complainant was a retired police office. The modal *-would* was used to determine the information based on the record presented to the court. In PR14, modal *-may* was used by the prosecutor to refer to the previous case presented in the Philippine court which is the Yuchengco versus The Manila Chronicle Publishing Corp. This is also true in PR17 wherein the law provided that the respondent of the case is protected. Hence, due process allowed him to enjoy his rights and privileges as a citizen of this country to defend himself. Lastly, *-could* in PR16, and PR21 is not only used as a past form of *-will* but was used by the prosecutor to interpret their decisions based on the previous information and documents as mandated by law.

This type of modality I expressed based on the inferential statements which have concerned on the certainty of judgment. More so, it indicates the truthfulness of the statements as deduced from other information. Initially, it is used with the *-must* modal (Palmer, 2001).

**Table 2** Deductive Modality found in Prosecutors' Resolutions

Modals	Examples	Sources
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shall	The failure of the drawer of the check to deposit the amount necessary to cover his check within three (3) days from the receipt of notice from the bank and/or the payee of holder that said check has been dishonored for lack of insufficiency of funds shall be prima facie evidence of deceit constituting false pretense of fraudulent act (As amended by R.A. No. 4885, June 17, 1967)	PR1
must	For it to be lawful the arresting officer must have personal knowledge of such commission and it must precede the arrest.	PR3
	After careful evaluation of the evidence submitted for investigation, undersigned investigating prosecutor finds that <b>PROBABLE CAUSE DOES NOT EXISTS</b> for the commission of the acts complained. It is worthy to note that conspiracy, being alleged, must be proven not just by mere allegation such as naming all of the respondents, but with independent evidence showing that conspiracy indeed existed.	PR30
would	Record of the case <i>would</i> show that complainant is a retired PNP police officer.	
may	Since the qualifiedly privileged communications are the exceptions to the general rule, these require proof of actual malice in order that a defamatory imputation <i>may</i> be held actionable (Yuchengco v. The Manila Chronicle Publishing Corp.).	PR21 PR14
	Respondent has a right to due process in a preliminary investigation. Right to due process entails the right to be informed of the offense filed against them, so that they <i>may</i> be able to properly defend themselves.	
	However, the crimes for which he <i>could</i> be held liable have already prescribed.	PR17
could	The TRA contemplated by law where one <i>could</i> be held criminally liable for estafa under the RPC affect situations wherein entruster, who own or holds absolute title or security interests over specified goods. Documents or instruments, releases the subject goods to the possession of the trustee.	PR16
		PR21

## **2. Evidential**

This type of propositional modality connotes that the discourse is based on personal knowledge of the speaker based on the occurrence of the events (McLendon, 2003).

### **2.1 Reported Modality**

As shown in table 3 there is only one reported modality found in prosecutors’ resolutions. This is the use of the modal *–could*. It examines the reported details of events based on the evidences provided by the respondents in the court. Here the modal *–could* is used by the prosecutor to indicate that the respondent is person who cannot be trusted in terms of money because of her inability to pay as a borrower. Furthermore, it implies that the modal is used to report the presented evidences in the resolution.

This type of modal is usually used for the reported or indirect quotation. Here, the modal is changed from its present form to the past form to show that the statement is quoted from the original speaker (Celce-Murcia & Larsen-Freeman, 2008). On the other hand, Plungian (2001) argues that the evidential value is always inherently present in the epistemic meaning: “while an evidential supplement can always be seen in an epistemic marker, the opposite does not always hold: not all evidential markers are modal in that they do not all necessarily imply an epistemic judgment”. Interestingly, such a view implies that the evidential dimension does not necessarily overrule the epistemic modal qualification.

**Table 3. Reported Modality found in Prosecutors’ Resolutions**

Modals	Examples	Source
could	It allegedly threatens her reputation within the BJMP because respondent made it appear that she <i>could</i> not be trusted with money.	PR20

**3. Event Modality**

This type of modality has two categories. These are the deontic and dynamic. The latter is excluded in the study since its contexts are the ability and expressions of willingness in the discourses.

**3.1 Deontic Modality**

Essentially, this modality provides the performative acts of the discourses. Usually, it provides permission, obligation, a promise, or a threat.

**3.1.1 Permissives Modality**

Under the category of deontic modality, there is only one type of modal that was identified. Permissive modality presents the discourses of the prosecutors who command, request, and required the person involved in cases to act in accordance to the mandate of the law. Modal such as *–can*, *-will*, *-may*, *-would*, and the negated structure (*-cannot*).

The modal *–can* in PR2 suggested that the once the parcel of land is already registered on the name of the owner even the court could do otherwise but to respect his claim. Another, on PR9 implied that it is a reality that women regardless of their socio-economic backgrounds have their own choice with regards to men of their choice. In fact, the law suggested and that it is a universal rule that love cannot be taught it is felt and thus being respected by the law. This is also true in PR15 where in the modal is used by the prosecutor in making decisions to actions allegedly committed by the suspect but could not find probable cause to put him into trial.

Its negated counterpart *–cannot* explains in PR8 that the confession of the of the accused to the supposed crime that he committed is not a sufficient ground for him to be found guilty. The modal *–will* in PR4 and PR24 manifest that the prosecutor resolved the case based

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on the evidences presented before them. In fact, the presence of the witnesses as stated by law is the basis in the finding of the probable cause. However, the absence led the prosecutor to dismiss the case. Meanwhile, its past form –*would* entwines that the previous decisions made by the concerned agency would be an insult if this would be invalidated. Another, the violation of the law in PR9 would oblige men to marry women as what it mandates. Lastly, the modal – *must* showed a strong effect on the assessment of the case based on the preliminary investigation that evidences president must be quoted and used to the criminal respondent when the case was still in trial.

The study of Santos (2004) found out that modals such as can and could were utilized as softening device and on indirect request. These are the widely used modals during direct examination in the courtroom proceedings. Likewise, nominals were mostly used by the prosecution and the defense lawyers. In Gairdner's (1992) typology of the usage of modalities of permission included *may*, *may not*, *can*, *cannot*, and *could not*. These involved statements which or which is not permitted by law.

**Table 4** Permissives Modality found in Prosecutors' Resolutions

Modals	Examples	Sources
can	Once it is registered, the owner can rest assured without having to wait for the doors of the court, to avoid losing his land.	PR2
	After all, entering into a romantic relationship with a man is the utmost a choice. Women can very well choose whom to romantically involve themselves with.	PR9
cannot	Sadly, in this case there can be no point of reference to convince the undersigned that respondent contributed to the commission of the incident.	PR15
	The confession of the accused to another person as to a crime he committed cannot be considered as evidence for it was not made in the presence of counsel.	PR18
	Hence, the undersigned will resolve based on the uncontroverted allegations and evidence at hand. (PR4)	
will	The incidents on February 26, 2020, and February 28, 2020, are DISMISSED since there is no eyewitness to the incidents who will identify the respondents as the culprits.	PR4
	It would make a mockery of the whole proceedings underwent before the DENR concerned would have the effect of invalidating the title issued by it had been prosecuted successfully.	PR24

would	Otherwise, women would just file Violation of R.A. 9262 cases to compel men to marry them.	PR2
	A preliminary investigation is in effect a realistic judicial appraisal of the merits of the case; sufficient proof of the guilt of the criminal respondent must be adduced so that when the case is tried, the trial court may not be bound, as a matter of law, to order an acquittal.	PR9
must		PR10

### Functions of Modals

This part of the study is anchored on the two-dimensional matrix as proposed by Twaddell (1960) with three terms in each dimension. The functions of the modals are categorized into three. To predict, to show possibility, present capability, and to give permission. Another is the provide the necessity, prescribe, and require.

#### Predict

This category usually uses the modals –will and –shall and it's past tense counterpart. The following extracts show the function of the modals in each sentence.

*It is at this point in which the presence of the three witnesses is most needed, as it is their presence at the time of seizure and confiscation that **would** belie any doubt as to the source, identity, and integrity of the seized drug. If the buy-bust operation is legitimately conducted, the presence of the insulating witnesses **would** also be controverting the usual defense of frame-up as the witnesses **would** be able to testify that the buy-bust operation and inventory of the seized drugs were done in the presence in accordance with Section 21 of RA 9165. (PR12)*

Another example shows the function of modal –will:

*For whatever it is, in the prosecution and filing of cases, it is always important to provide every detail which **will** aid in the investigation of the case. (PR6)*

Meanwhile, the modal –shall is used in the extract below:

*The failure of the drawer of the check to deposit the amount necessary to cover his check within three (3) days from the receipt of notice from the bank and/or the payee of holder that said check has been dishonored for lack of insufficiency of funds **shall** be prima facie evidence of deceit constituting false pretense of fraudulent act (As amended by R.A. No. 4885, June 17, 1967) (PR1)*

In PR12, the prosecutor used the *–would* modal to make a prediction based on the evidences presented in the court. This is not just a mere understanding but based on the premise of the law. As stated in the extract, the prosecutor cited the section of the Republic Act. Consequently, the modal *–will* is used to assume that everything that is provided in the court especially that this is substantial enough would be of great help to the dismissal or finding a probable cause. In PR1, the use of *–shall* is evidently used based on the language of the law as cited by the prosecutor. Since it is unethical for the court to make an immediate decision without the due process as well as the filing of sufficient evidences with the presence of reliable witnesses, hence this modal is utilized.

Lewis (1986) convinced that even if most *will* examples refer to future time, not all of them do, offering counterexamples of general truth or likelihood/certainty. Further, he explains that time is an element of human experience of reality while tense is a purely grammatical idea and it is a mistake to introduce *will/shall* as the future in English. Instead, he offers the concept of logical inevitability which correlates with other sources (Eastwood, 1999), ranging from prediction to objective facts.

### **Possibility, Capability, and Permission**

Modals such as *–can*, *–may*, the negation, and its past tense counterpart are included in this category. The extracts from the resolutions show the function of each of the modals that illuminates both parties on the decisions being made by the prosecutors:

*After all, entering into a romantic relationship with a man is utmost a choice. Women **can** very well choose whom to romantically involve themselves with. (PR9)*

*Hence, if we file this case in Court, we **cannot** prove with certainty that the respondent was referring to the herein complainant. (PR19)*

*In the mind of the undersigned, he **may** have seen them but he did not know them by names. (PR11)*

This assumed that the speaker presents the possibilities, capacity to do the action, and give permission. As the extract shows in PR9, the modal *–can* allowed the capability women to choose the person whom they are going to love and be with them. In fact, women here are pictured as someone who have the sagacity not to be coerced and influenced by the decisions that they are going to make. As human as they are, they need to be rationale enough in choosing their partners. On the contrary, PR19 shows that modal *–may* leads the the decision of the prosecutor on behalf of the court that it cannot proceed with the case unless evidences would be filed against the respondent. The ability of the prosecutor presumes that the witness did not have the ability to name the culprit, thus it resulted to the dismissal of the case.

In virtue of this function, the speaker involves himself into a certain condition, expressing his own attitudes, and meanwhile, trying to affect others' opinions and behaviors. With the authentic transcripts of judicial cases as the data, this study adopts both quantitative and qualitative research methods to analyze the modal verbs used in Chinese criminal courtroom discourse from the perspective of its prosodic features. It has been found out that, in criminal courtroom discourse, the distribution of modal verbs indicates the discourse center

in the trial, value shows the asymmetry in power among different participants, and their goal-oriented prosodic features, namely, extension in length and stress in pitch and intensity, highlighting their important roles in the realization of interpersonal function (Zejun et al., 2017).

### **Necessity, Requirement, and Prescription**

The discourse of the speakers contains modals such as need, must, and ought. The necessity of discourses is found on the following extracts with the modal –must.

*For it to be lawful the arresting officer **must** have personal knowledge of such commission and it must precede the arrest. (PR3)*

*Although this Office sympathize with the loss the complainant and her family suffer, its however worthy to note that conspiracy, being alleged, **must** be proven not just by mere allegation such as naming all of the respondents, but with independent evidence showing that conspiracy indeed existed. (PR10)*

*After careful evaluation of the evidence submitted for investigation, undersigned investigating prosecutor finds that **PROBABLE CAUSE DOES NOT EXISTS** for the commission of the acts complained. It is worthy to note that conspiracy, being alleged, **must** be proven not just by mere allegation such as naming all of the respondents, but with independent evidence showing that conspiracy indeed existed. (PR30)*

The modal –*must* explains that there is necessity in the discourse of the resolutions. In PR3, the prosecutor verbalized that it is must for the arresting officer to have the knowledge of the crime being committed and must know when to arrest the suspect. In addition, it provided that the police officer's background on the legal aspect is necessary to avoid any detrimental actions that could sometimes put them in the perilous situations.

The court in PR10 affirmed the necessity and thus required the complainant to provide sufficient evidences and not just mere allegations. In the same manner, the court stated that having the reliable witnesses could lead to the solving of the case. Lastly, PR30 articulated that probable cause does not exist because of the lack of the evidences provided. Hence the case was dismissed.

Different interpretation of *should* and *ought* was presented by Coates (1983). However, this was based on the contexts of two large corpora. Further, it was argued that *ought* is weak compared to that of *should* especially in the conveyance of moral obligation. *Must* typically implies obligatory to the person. On the other hand, she also reiterated that quasi-modal *have to* also signals obligation.

Coates (1983) presents a different interpretation of *should* and *ought*, however, based on her study of two large corpora. Specifically, she argues that *ought* is somewhat weaker than *should* on a continuum from offering advice through conveying moral obligation, to conveying obligation typically communicated by *must*. Obligation is most often signaled by *must*, but Gairdner (1992) also employed the quasi-modal *have to* to signal obligation.

### **Overused Modals**

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Table 2 provides information on the overused modals transpired in the resolutions. It can be gleaned that modal *–would* appear 14 times. This is followed by the modals *–must*, and *–may*. Each of which appeared in the corpora for 13 times. The negated *–can* with 11, 7 each for *–should* and *–will*, 5 *–could* and 3 *–shall* and *–can*.

The result indicated that among the modals transpired in the Prosecutors' Resolutions, the *–would* modal appeared to have been used more in the corpora. This implies that this is not only shows its used to report the occurrences of the events but to integrate the language is more in a formal manner. Further, it shows that the court as a respected institution of the land carefully uses words which is integral in the decisions made.

This is in congruency Celce-Murcia and Larsen-Freeman (2008) that the past form of modal *will* is more polite and less presumptuous than the historical present forms, and thus the person making the request will often use historical past tense to “soften” the request. More so, it contradicts the findings of Zelenka (2016) that the modal *shall* was the overused and misused in the legal documents. However, the Lemana and Gatcho (2019) revealed that the most evident modals in speeches were *must*, *should*, and *actually*.

**Table 2** Overused Modals found in Prosecutors' Resolutions

Types of Modals	Frequency of Occurrence	Percentage	Sources
shall	3	3.95	PR1, PR1, PR29
should	7	9.21	PR4, PR10, PR24, PR24, PR25, PR27, PR30
can	3	3.95	PR2, PR9, PR15
can (negated)	11	14.47	PR1, PR6, PR17, PR18, PR19, PR24, PR25, PR25, PR27, PR28, PR30
could	5	6.58	PR12, PR16, PR20 PR21, PR21
will	7	9.21	PR4, PR6, PR9, PR20, PR24, PR29, PR30
would	14	18.42	PR1, PR2, PR2, PR2, PR9, PR9, PR10, PR11, PR12, PR21, PR21, PR22, PR26, PR27,
must	13	17.11	PR3, PR10, PR10, PR11, PR12, PR17, PR20, PR20, PR20, PR20, PR25, PR30
may	13	17.11	PR4, PR9, PR9, PR10, PR11, PR14, PR14, PR14, PR17, PR19, PR25, PR29, PR30

	13	17.11	
Total	76	100.00	

### Implications for Practice

My interest with the language of the law opened this greater opportunity for me to explore the wonders of language in different perspectives. To study Forensic Linguistics as one of the disciplines of Linguistics is such an enormous and gargantuan task to fulfill. As a teacher and a researcher, it is deemed necessary first for teachers to have the profound knowledge of modals in which in the simplest form called as an auxiliary verb. These are the types of verbs which have significant roles to play in the construction of sentences and also by allowing people to have the full understanding of the discourse.

Basically, modals are being taught to express the tense of the verb, the possibility of the actions, as well as the certainties. By looking into the results of the study, one cannot easily grasp the purport of the identification as proposed by Palmer (2001) where the study is anchored. It is being studied, recorded, and presented based on the findings of the researches of linguists especially in the field of Syntax. Hence, it is necessary for teachers to determine the types of modals and integrate them into teaching.

Having the immense background on modals one can be satisfying since this body of knowledge will not only be utilized by students, teachers, but also lawyers and those in the legal parlance. Indeed, modals are not just words being utilized in the Prosecutor's Resolutions but these have deeper meaning of expression which give the vivid picture of the details to why the case is dismissed and if they found any probable cause to bring the case in the courtroom proceedings.

Lastly, lawyers are great individuals since they knew how to play with words. The choice of words in the resolutions are well-studied and these put together in order to come up with better decisions. The fact that prosecutors are well-rounded persons, still they are able to present the story of the case clear and are beyond questions.

### 7. Implications for Future Research

Undeniably, this paper has its limitations. Hence, future researchers can still find another lens where the study will be anchored. Consequently, it is suggested that a Corpus Linguistics Analysis will be utilized as an approach in the identification of words in the corpora. This can be conducted using the quantitative method whereby the researcher has to make an authorial analysis based on the choice of words that are unique to each of the prosecutors. As such, an additional number of corpora is deemed necessary.

In the same vein, the identification should not only be limited to the types of modals but also to the different lexical categories and their functions in the sentence. Also, if possible after the end of the COVID-19 Pandemic future researchers could sit in the courtroom to record the courtroom discourses. Through this, they will be able to see the modalities in the court and therefore can find studies that would bring the wonders of language in the greater heights.

Henceforth, this study also implies for future researchers to empower themselves to explore the possibilities by using the same corpora –the prosecutors' resolutions. They can look into the structures by utilizing the moves of Swales and Bhatia. Having this, researchers will be guided well with the contents and sequence of writing that prosecutors follow.

## **8. Concluding Remarks**

The utilization of different types of modalities in prosecutors' resolutions manifested the fluidity of the language. Indeed, the language of law is crucial in making a good example how prosecutors used them in making decisions. This may have an effect on the fate of the person under oath and those who are facing any legal battles.

I can say that this study is timely and relevant. Not only because it adds to the limited studies on Forensic Linguistics but it will serve as guide to other researchers. It can be used in different parlance of linguistics like for example in stylistics and the like. However, this study reiterates the importance of knowledge of prosecutors in making a just and fair decisions.

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