

THE LEGAL STATUS AND THE SELF-IMAGES OF TRANSLATORS
IN TURKEY:
TRANSLATORS AT THE CROSSROADS: EXPERTS OR MESSENGERS?

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CHAPTER I

INTRODUCTION:

This study concerns the legal status of translators in Turkey and the factors that play a role in the construction of their self-images as well as the discourse they employ in presenting their professional status under certain circumstances which involve the threat of conviction. What first motivated me to do research on such a topic was a declaration handed out in an academic conference I attended in 2006. The declaration entitled as “Don’t Shoot the Translator” was circulated by Çevbir, a professional organization of literary translators and it was prompted by the legal proceedings against a translator due to a book she had translated. Being interested in law and witnessing how the declaration triggered a debate between translation scholars and practicing translators, I decided to write my master’s thesis on the topic of the legal status of translators in Turkey within the context of the prosecution of translators which was far from infrequent.

Turkish intellectual history abounds with cases of censorship, banning and confiscation of books as well as prosecution of authors and translators. Writers, intellectuals, journalists and translators have appeared in courts as defendants at different times facing indictments on different grounds.

The practice of suppressing authors and translators as well as literary censorship in Turkey dates back to earlier periods and predominantly to the rule of Abdulhamid II, who reigned as the Ottoman Sultan for 32 years between 1876 and 1908. His reign is referred to as the ‘İstibdad Dönemi’ in Turkish history, the term ‘istibdad’ connoting the absolute and despotic rule

of the Sultan and it can be suggested that the press, authors and translators were under constant pressure during his reign.

The exertion of pressure took place in various forms and was directed against both indigenous and translated works on political and ideological grounds as well as on the basis of the argument that they were obscene. For instance, during the 1960's, the legal proceedings against translators were started on the grounds that the books they translated included "communist propaganda", despite the higher degree of political freedom granted by the 1961 Constitution. As already mentioned, there have also been cases in which translators have appeared before the judge for translating obscene literature. The cases against the Turkish translation of Pierre Louis (Louÿs)' *Aphrodite: Moeurs Antiques* (1896), which was translated by Nasuhi Baydar and published by Semih Lütüfi Kitabevi in 1939, (known as the "Aphrodite" case) and the Turkish translation of Henry Miller's *Tropic of Capricorn* (1939), translated by Fatma Aylin Sağıtör and published by Can Yayınları in 1985 constitute two well-known examples. The most recent case is the case started on the grounds of obscenity against the three books included in the series "Books on Sex" published by Sel Publishing House. Needless to say, the list including examples of cases in which translators have been prosecuted can be extended. Suffice it to say that from January 2008 to July 2009, a total number of 62 works, both indigenous and translated, have been subject to legal proceedings and 25 cases have resulted in verdicts of conviction. Hence, the pertinence of dealing with such a widespread phenomenon which certainly constitutes an ensuing threat to freedom of expression, one of the basic human rights.

The cases where the translator is not a writer-translator have, to a large extent, gone unnoticed by the public while the prosecution of writers and writer-translators has drawn certain media attention. The notion of the 'invisibility' of the translator has been a central point of discussion in the field ever since the 1990s. Bassnett and Venuti dwell upon the 'invisibility' of translators in their works in terms of the secondary and lesser status of translation as against indigenous literature and the consequent expectation that the translator remains subordinate to the source author. The arguments regarding the 'invisibility' of the translator appear to be valid for even the most recent cases as such "invisibility" arises not only from the traditional approach to translators as merely the "faithful" conveyors of the source authors' ideas but also from translators' own professional self-images: Translators have predominantly pleaded not guilty on account of being the "faithful messengers of the source authors". Thus, there has not been a major change in the arguments translators present for defending themselves in investigations against them whereas there have been great efforts to enhance the professional status of the translator by both practicing translators themselves and the scholars working within the field of Translation Studies recently.

Thanks to the recent approaches in Translation Studies, viewing the translator as an expert, a "(re)writer" in her/his own right rather than a mere "messenger" who simply transfers the words of the source author, the translator is now attributed a more elevated position in terms of professional and social status by translation scholars. S/he is regarded as a "cultural expert" in translational action (Vermeer 2000: 222). Being an expert, s/he is

assumed to have the required knowledge and is entitled to make decisions as s/he deems fit, in other words, “[h]is voice must be respected, he must be “given a say”” (Vermeer 2000: 222). Indeed, it can be suggested that there is a consensus in the field of Translation Studies today in terms of viewing the translator as an expert, a “(re)writer” rather than a mere “conveyor” of the ideas of the source author. Roland Barthes’ declaration of “the death of the author” has resulted in a shift of emphasis from the author to the reader, and thus, to the translator who is both a reader and a (re)writer. The author’s dethronement has foregrounded the role of the translators who are nowadays encouraged to be more visible by means of various textual and peritextual strategies.

The viewing of the translator as “an expert”, “a rewriter in her/his own right” serves the purpose of enhancing the professional prestige of the translator by translation scholars. Nevertheless, as briefly stated above, an analysis of certain cases in Turkey, in which translated books are prosecuted/ banned or even confiscated and translators are tried in court, reveals that the translators base their defensive pleas on the argument that they are merely the “messengers” of the source authors and thus, should not be convicted. In other words, they do not agree to being assigned the same legal and professional status as the source author when it comes to facing prosecution and a possible conviction due to the books they translate. They hold that they are merely the “conveyors” of the ideas of source authors. This is indicative of a discrepancy between the image assigned to the translator by translation scholars and the translator’s “professed” self-image under certain conditions, which apparently include the possibility of

prosecution and sentence. And an in-depth analysis of the reasons for such discrepancy could provide valuable insights for the discipline itself.

Accordingly, the aim of this thesis is to analyze the above-mentioned discrepancy with a view to accounting for the factors which, in a way, urge the translator to be willing to assume the role of a “messenger”. In other words, the basic objective is making a descriptive and critical analysis of the legal and professional status of the translator in Turkey on the basis of a particular case study with reference to the notion of freedom of thought, and more significantly, its expression. Underlying all the discussions around the legal obligations of the translator is the actual legal status granted to the translator in the Turkish Law. As Tahir-Gürçağlar puts it; all the approaches involved in the debate concerning the extent to which translators should be held liable in case of prosecution against their translations “have the same point of departure, they seem to diverge on a basic point: the exact task of the translator” (2009: 20) The Turkish Law on Intellectual and Artistic Works, in which the translator and the scope of the act of translating are described, defines the translator as the ‘owner of the processed work’, whereas the Press Law holds the translator liable with the title of the ‘owner of the work’ in case of any claims against the translated work if the author is not a Turkish citizen and/or resides abroad. There is certainly a contradiction between these two laws which are both in effect. Nevertheless, it is not just the apparent contradiction, or controversy in terms of the definition of the exact position, the exact task or to put it in more legal terms, “the exact duties and obligations” of the translator in the two current Turkish laws that perpetuates the self-effacing attitude of translators in Turkey. There are

other factors which are strongly related to the socialization and professionalization of translators.

The main hypothesis in this study is that the self-images of translators are shaped by not only the present controversial legal status arising from the formulation of the copyright law but also the historical and social factors which have influenced the way laws have been drafted. Throughout the thesis I shall argue that these historical, social and legal factors have led translators to assume a subservient role rather than acknowledging their own power as cultural agents.

Following is an outline of the thesis:

In Chapter 2, which presents the theoretical background, the historical and social factors inducing translators to be willing to assume a secondary status *vis-à-vis* source authors are analyzed within the framework of the notions of the “in/visibility of the translator”, “the agency /lack of agency of the translator” and “the discourse of subservience” surrounding the practice of translation. As already mentioned, the factors which urge translators to claim innocence and endorse the role of a messenger do not stem simply from the threat of a possible conviction due to their controversial legal status. Underlying the readiness and willingness on the part of translators to assume the role of a “messenger”, there is the “sense of subservience”, “of being secondary to the source author”. There are certainly exceptional cases where translation, and thereby the translator, is empowered to assume a much more “visible” role taking quite the opposite stance and acting as a “rewriter” and a co-author of the text. Or there are other cases which represent challenges to the dominant conceptions about

translation and translators such as the role played by post-colonial translation in Ireland, where translators exercised political and ethical agency and “have had and still have a great deal of visibility” (Tymoczko, 2007: 13). Such cases will also be mentioned with a view to accounting for the specific circumstances which might have played a role in providing a more “visible” position to the translator. However, despite the foregoing examples to the contrary, the majority of translators appear to have internalized the role of “subservient servants” (of the source texts, the source authors and/or the source/target cultures) and build their whole discourse on their own professional role as such.

Within this framework, Daniel Simeoni’s conceptualization of translators’ self-perception of their status adopting “the discourse of subservience” will be discussed with reference to Pierre Bourdieu’s notion of ‘habitus’, as it pertains to translators. Simeoni asserts that the degree of civilization is dependent on the extent to which the constraints imposed by others are adopted and internalized by the self. Likewise, in Toury’s model, translator skill acquisition is dependent on the adoption of and submission to the norms effective in the society. The notion of ‘submissiveness’ and the quality of being ‘secondary to the source author’ seem to dominate and are reflected in the legal discourse about translation and the translator, as well. Thus, the two seemingly-separate factors which urge the translator to assume a subservient role are in a way intertwined. After all, the strict expectations of the society as regards the respective roles of individuals are influential in determining the ‘habitus’ of the members of that society including translators and it is in compliance with such expectations that laws

are made. Accordingly, the theoretical framework of the thesis is based on the intermingled sociological and legal factors both of which play a major role in prompting the translator to assume “subservience” to the source author. Venuti’s notion of ‘invisibility’ is also relevant to the whole discussion in that it is the translation scholars in this particular case (and in other similar recent cases) and not the translators themselves who demand ‘visibility’ for the translator.

Chapter 3 presents a detailed account of the history of the copyright law in the world and in Turkey. The rise of the notion of “originality” as of the end of the 19th century appears to have shaped the way copyright law has been drafted on the basis of the “Romantic concept of authorship”. Accordingly, the way translated works and thus, the rights of translators are described in the Berne Convention, which constitutes the basis of the national copyright laws of most states in the world, is indicative of the dominance of the notion of “originality”, regarded to be the privilege and domain of the source author. In other words, the fact that translators had failed to appear in the Berne Convention as entitled to a copyright whatsoever until the 1971 Paris Revision reflects the fact that the secondary status assigned to the translator by the society is perpetuated by the legal system, as well. Furthermore, the way the author’s “moral rights” are emphasized in the same Convention is another factor which diminishes the control of the translator over the translated work, while reinforcing the author’s power.

The course of the events paving the way to the drafting of the Turkish Law on Intellectual and Artistic Works, which was enacted in 1952 replacing

the Copyright Law (*Hakk-ı Telif Kanunu*) of 1910, is significant in terms of how translation was viewed in the first years following the foundation of the Turkish Republic. The Law on Intellectual and Artistic Works, which actually repeats the wording of the Berne Convention, is dealt with in detail in this chapter with a view to displaying the legal background contributing to the invisibility of the translator as well as contextualizing the case study elaborated in Chapter 5. This chapter also includes a section on the Nairobi Recommendation (1976), which aims at improving the legal, financial and social status of translators. Despite being a legally non-binding document, the Recommendation is important in that it imposes certain norms on individual states and constitutes a determined attempt to draw attention to translators' social, financial and professional problems.

In Chapter 4, the history of the Turkish Press Law and its implications for translators are discussed with a view to pondering upon the motives underlying the inclusion of translators within the definition of the owner of the work in the Law and the resulting extension of criminal liability to pertain to translators in cases of press crimes. This chapter presents interesting clues as regards the emphasis on the notion of 'objective liability' as against 'subjective liability' in the Press Law and its repercussions for the legal status of translators. The practice of censorship during the Republican Period is also analyzed in this chapter with specific examples of direct and indirect censorship on translated books.

Chapter 5 focuses on a case study concerning the prosecution of *Baba ve Piç*, (the translation by Aslı Biçen of) the novel *The Bastard of İstanbul* (2006) by the Turkish writer Elif Şafak. This particular case is

relevant to the above-mentioned hypothesis since it has stirred a heated debate among practicing translators and translation scholars.

The specificity of the *Baba ve Piç* case arises, perhaps, from the fact that although the charges against the translator were dismissed in the first hearing because the source author was a Turkish citizen domiciled in Turkey, the case itself triggered a campaign as well as an academic and professional debate for having the legal status of the translator amended in the Turkish Press Law. In their declaration entitled as “Tercümana Zeval Olmaz” (“Don’t Shoot the Translator!”), Çevbir (Literary Translators’ Society) put forth the argument that the translator should not be “shot”, or prosecuted as s/he has the sole responsibility to translate the message (a text or a speech) from one language into another, in compliance with the properties of both languages and cultures, in a “faithful, accurate and impartial manner”. Apart from defining the task and responsibility of the translator as such, Çevbir also made a call to start a campaign for having the Article 2 of the Turkish Press Law amended. The case is significant in terms of drawing attention to a much-neglected subject, i.e. the legal status of the translator in the Turkish law. In order to account for the legal implications of the case, other recent cases which took place around the same time as the *Baba ve Piç* case will be discussed briefly so as to discover whether the assumptions made regarding the “self-effacing attitudes of translators” apply to other cases, as well (Tahir-Gürçağlar 2009: 22). It is argued in this chapter that the history of translation in Turkey reveals an interesting pattern in line with the developments in the history of the Press Law, as there are certain

periods in the Turkish intellectual history when translators gained relative visibility.

In line with the above, the final chapter presents the conclusions arrived as a result of the analysis of the particular case study. Analyzing the reasons underlying the split of opinion between the academia and the practicing translators as regards the professional and legal status of the translator may shed light onto the ways an agreement may be reached between the two parties for the common purposes of enhancing the profession and empowering the translator. I hope this thesis makes a modest contribution to that end.

CHAPTER II

The Theoretical Background:

As mentioned briefly in the Introduction, the motives underlying the “self-effacing attitude of translators” and their denial of “their agency in the act of translating” involve both historical and social factors which are strongly related to the socialization and professionalization of translators and are perpetuated by the laws (Tahir-Gürçağlar 2009: 22). In what follows, such historical and social factors will be dealt with in terms of the notions of the “in/visibility of the translator”, “the agency /lack of agency of the translator” and “the discourse of subservience” surrounding the practice of translation. On the other hand, the cases where translation, and thereby the translator, is empowered to assume a more “visible” role acting as a “rewriter” and a co-author of the text will also be mentioned, though such cases prove to be much rarer.

The “invisibility’ of the translator:

The notion of the ‘invisibility’ of the translator has been a central point of discussion in the field ever since the 1990s. Bassnett, who defines ‘visibility’ as the keyword of the 1990’s (1996:22), and Venuti dwell upon the ‘invisibility’ of translators in their works in terms of the secondary and lesser status of translation as against indigenous literature. The consequence of such an expectation is that the translator remains subordinate to the source author.

Venuti attributes the translator's invisibility to various factors involving the dominance of fluency as the major expectation and assessment criterion regarding translations in the Anglo-American culture. According to Venuti, a translation is deemed acceptable only to the extent that it ensures easy readability thanks to "the absence of any linguistics and stylistic peculiarities" that make it seem transparent "giving the appearance that the translation is not in fact a translation, but the "original" (1994: 16). He reinforces his arguments by quoting examples from the literary reviews of translated works, emphasizing that the reviewers comment on translated works as though they were originals, failing to even mention the names of translators. Raymond van den Broeck points out the same tendency in criticizing a translated work, stating that "reviewers treat the translated work as if they were dealing with an original written in their mother tongue, without betraying even by a single remark that it is in fact a translation" (1995: 55). The resulting effect of such an attitude has been the confinement of translation criticism to an "error-hunting" activity", whereby translators are doomed to forever err and forced to adopt an apologetic tone even in the cases where they write prefaces and annotations for their translations. Thus, the role of translators in not only making the foreign works accessible to target audiences who have no other means to read such works but also enabling the evolution of cultures by means of cultural contacts is underestimated.

Rakefet Sela-Sheffy and Miriam Schlesinger make a similar comment when they assert that "(t)he marginality of translators and interpreters alike is especially paradoxical, in view of the enormous potential power

encapsulated in their work as cultural mediators *par excellence*" (Sela-Sheffy and Schlesinger, 2008: 80). In their research project concerning the construction and maintaining of group identity and pursuit of status of a group of Israeli translators and interpreters, Sela-Sheffy and Schlesinger define translators and interpreters as a "marginal occupational group" and analyze the self-perception of individual translators and interpreters as members of this group. They define the status of translators and interpreters as "ambivalent and insecure" stating that "(g)iven the weak institutional boundaries and obscure role definition and criteria of this profession, they often suffer from non-standardized conditions and pay scales, as well as fragmentary career patterns". In other words, translators and interpreters have still not been recognized as "full-fledged professionals" (Sela-Sheffy and Schlesinger, 2008: 80). Sela-Sheffy and Schlesinger also make reference to the notion of the "translator's invisibility", asserting that the above-mentioned factors render the translators "a rather "invisible" group and their trade a marginal professional option" (Sela-Sheffy and Schlesinger, 2008: 80). Quoting Chesterman and Wagner (2002), they define translators as those who belong "behind the scenes" "not as aware as they might be of their own power" (Sela-Sheffy and Schlesinger, 2008: 81).

Bassnett takes up the issue of the 'in/visibility of the translator' in a similar vein to Venuti, adding another perspective to the discussion though, in terms of the translators' own willingness to assume 'invisibility'. Like Venuti, she points out how translation has been regarded as a "secondary activity anyway, a craft rather than an art, a second-class, second-hand task that results not in literature, but in copies of literature", whereby the

translator becomes “subservient to the demand of both the source language author and the target language text and is trapped helplessly between, like a poor clerk in a fog-ridden Dickensian office, unable to satisfy the demands of his brutal master or appease the clients clamouring for their rights” (Bassnett 1994: 11). By underestimating and erasing the role of translators, the influence of the translation process on a reading of the text is overlooked (Bassnett 1994: 11). But even more interestingly, translators themselves seem to endorse such an attitude describing their work as “only a copy, something that cannot, by definition, be an original and so is inevitably diminished” (Bassnett 1994: 12). Bassnett argues that translators’ collusion in the “denigration of translation” results from a sense of inferiority, of the acknowledgement that translation is certainly, something of a lesser value than the original, without ever questioning the validity of that proposition. Thus, what is implicitly indicated by Sela-Sheffy and Schlesinger, is voiced in stronger terms by Bassnett in that she defines translators’ agreeing to the inferior status assigned to them as “collusion” rather than a lack of awareness of their own potential power.

The Dominance of the Notion of ‘Originality’:

At this point, it might be pertinent to dwell upon the notion of ‘originality’, which, according to Bassnett, is a fairly recent phenomenon, whereas “the power of translation to change things, to influence society, to innovate, expand and even create literary systems is a recognizable pattern in literary history” (Bassnett 1994: 11). Quoting the Earl of Roscommon (1633-1685),

who instructed translators to choose authors “who (their) ways do bend”, Bassnett suggests that translators were considered to engage in a process of fusion with the writer and that they were treated as “equals” in such a process. Likewise, she refers to the five rules that the translator must follow according to Etienne Dolet, who, in his book *La manière bien traduire d’une langue un aultre* maintained, as early as in 1540, that the “translator must not enter into slavery” by translating word for word and she claims that this metaphor “reinforces Dolet’s assertion that the role of the translator is an active one, and that the relationship between the writer and translator is one of equality and not of subservience”. Although Dolet’s statements display the awareness of the power of translation, and thereby of translators in the 16th century, his tragic fate exemplifies how dangerous translation and translators were considered: Dolet was burned at stake, condemned to death on account of his translation of a text by Plato (Bassnett 1996: 14). As Bassnett states with reference to the cases where Salman Rushdie’s translators were threatened, attacked and murdered, even if translators are not burned at stake today, they are still considered dangerous (Bassnett 1994: 14). The similar point can be made with regard to the cases in which translators are prosecuted; translators, who have in themselves the power to render accessible to a target audience a text which would otherwise be totally inaccessible, are considered as a threat.

As the above examples display, translators were attributed certain power at different times in history, at the high cost of their lives at times. With the advent of the notion of ‘originality’, however, the translator was degraded to a servile position, “bound in service to the original as slave was

to master” (Bassnett 1994: 12). Arrojo makes a similar comment when she argues that “if the original is seen as the true recipient of its creator’s intentions and expression, any translation is, by definition, devalued since it necessarily represents a form of falsification, always removed from the original and its author” (1995: 21).

Another scholar who argues that the notion of ‘originality’ dominates the contemporary thinking about translation is Theo Hermans. In his article “The Translator’s Voice in the Translated Narrative”, Hermans asserts that the discursive presence of the translator manifests itself in various ways in the translated text. However we, as readers, tend to ignore this “other” discursive presence because “current approaches to narrative have this blind spot when it comes to the Translator’s voice” (Hermans, 1996: 43). Hermans suggests that the reason for such ignorance of the Translator’s presence has to do with both cultural and ideological conception of translation as “transparency and duplicate, as not only consonant but coincident and hence to all intents and purposes identical with its source text; the view of translation as reproduction, in which the translation is meant to reproduce the original, the whole original and nothing but the original; the image of a translation being ‘as good as’ its original, except in regard of status” (Hermans, 1996: 44). Such an approach to translation placing high emphasis on the unquestionable supremacy of the original and setting the basic criterion of a “good” translation as that which best “reproduces” the original inevitably demeans translators and renders them invisible:

Translators are good translators if and when they have become transparent, invisible, when they have spirited themselves away. Only

a Translator who speaks 'under erasure' can be trusted not to violate the original. The loyal absence of the one guarantees the primacy and aura of the other.

(Hermans, 1996: 44)

Bassnett employs the term "collusion", meaning "to make a secret agreement", to account for the cases where we, as the readers "collude" with the usage of the term 'translation', pretending that we actually know what 'translation' is and tending more often than not, to consider translation as a "textual transfer across a binary divide" (of the original and the translation) and thus "tie ourselves up with the problems of originality and authenticity, of power and ownership, of dominance and subservience (Bassnett 1998: 28). On the other hand, the frequency of the cases of pseudotranslations or texts claiming to be originals despite apparently depending on a variety of "inauthentic sources" reveals how blurred the border between original writing and translation is and how difficult it is to define what is "original", let alone to argue for the supremacy of the original. However, the idea of "originality" is prevalent today and it shapes the conception of translation as an inferior task, an undertaking which is "manual as opposed to intellectual labour" (Venuti 1992: 2). It also underlies the conceptions of 'authorship' and 'copyright', which are closely related to the discussion of the current legal and professional status of translators, as will be elaborated in the next chapter on the Copyright Law. Suffice it to say, at this point, that the Copyright Law perpetuates the factors which undermine the position of translators and this reflects on the financial as well as the professional status of translators.

The arguments regarding the 'invisibility' of the translator appear to be valid for even the most recent cases. Such 'invisibility' arises not only from

the traditional approach to translators as merely the “faithful” conveyors of the source authors’ ideas but also from translators’ own professional self-images and Bassnett stresses the same point, as mentioned above. Despite the power of translation in transcending boundaries, translators have predominantly pleaded not guilty on account of being the “faithful messengers of the source authors”. Thus, there has not been a major change in the arguments translators present for defending themselves in investigations against them whereas there have been great efforts to enhance the professional status of the translator, by both the practicing translators themselves and the scholars working within the field of Translation Studies, by different means and through different arguments though.

The Dethronement of the Author and the Elevation of the Translator:

Within the field, the translator is now viewed as an expert, a “(re)writer”, in Lefevere’s terms, in her/his own right rather than a mere “messenger” who simply transfers the words of the source author, s/he is now attributed a more elevated position in terms of professional and social status by translation scholars. S/he is regarded as a “cultural expert” in the translational action (Vermeer 2000: 222). Being an expert, s/he is assumed to have the required knowledge and is entitled to make decisions as s/he deems fit, in other words, “[h]is voice must be respected, he must be “given a say”” (Vermeer 2000: 222). Source authors are no longer attributed a hierarchical supremacy vis-à-vis the translator and this is due to the

paradigmatic shifts in the field itself and in the adjacent fields like literary criticism. The dethroning of the author came with Roland Barthes' declaration that the author is dead (at the expense of the birth of the reader). For Barthes, "to give a text an Author" and assign a single, corresponding interpretation to it "is to impose a limit on that text." (1977: 148). Readers must separate a literary work from its creator in order to liberate it from the tyranny of the author. The dethroning of the author in the field of literary criticism has had certain implications for Translation Studies. Kaisa Koskinen dwells upon the impact of Barthes' views on the approaches to translation stating that with the death of the author the position of the translator has also changed, indeed there has been a switch of roles between the author, the translator and the reader: The reader now writes the text, the author becomes a reader of the text s/he has written, the translator is both a reader, a writer, while both the reader and the writer translate the text for themselves (Koskinen in Camcı 2008: 81).

Rosemary Arrojo concludes her "Writing, Interpreting and the Control of Meaning" stating that "(w)e are beginning to chart the almost unknown ground in which writing and interpretation overlap as we attempt to review the old clichés that have devalued the impact of the translator's task on the shaping of history and culture" (Arrojo 2002: 78). According to Arrojo, the "power of translation" puts an end to the translator's being regarded as having committed an unforgivable crime in cases where s/he attempts to become visible and surpass the original author's text mastery in translation. In a way, the translator is assigned a higher status as the source author is dethroned. Arrojo asserts that the author and the translator are involved in a

“power struggle” in terms of textual (re)production, never enjoying “a peaceful encounter inside the labyrinth as text” (2002: 74). In cases where peaceful encounters are maintained between the author and the translator, such peaceful relationship is secured thanks to the translator’s humility and “invisibility”. Although Arrojo’s arguments regarding translators are more confined to the field of literature and reading, they also apply to translation in the sense that the shift in the conception of “originality” shapes the way that the translators’ position is evaluated:

In the plot which tradition has constructed for the relationships which can be established between translation and original, between translator and author, or between the translated text and its readers, the translator’s name and interference have been condemned either to oblivion or to disdain by a conception of originality(...). (Arrojo 1995: 22)

There have, however, been changes in the conception of ‘originality’, as indicated above, which certainly bear upon the current dominant approach of viewing the translator as a “rewriter” in the field. Arrojo states that “(f)rom the perspective of certain trends in contemporary thought and, particularly, of deconstruction, (...) the typical notions of originality, authorship, and interpretation are radically revised” (Arrojo 1995: 23). Just like the reader, - or rather, in just the same manner as the reader, since the translator, herself /himself is the intelligent reader-, the translator is granted more freedom and consequently, an elevated position vis-à-vis the source author.

Doubtlessly, the change of discourse regarding (the superiority of) the original and the author under the influence of poststructuralism and deconstruction took place much earlier than the shift of emphasis in the appraisal of the role and status of the translator within the discipline.

Bassnett states that the re-readings of Walter Benjamin in the 1980's re-introduced his conception of translation as a means of securing the "after-life" of the original (1994: 13). In that sense, translation provides the means for the source text to survive as an original in a target culture and thus, the task of the translator becomes more significant. Bassnett refers to Derrida, who goes so far as to argue that the translation actually becomes the original, "for a translation is an original creation of a text that has previously existed in a language inaccessible to target language readers" (Bassnett 1994: 13).

Theo Hermans approaches the notion of 'originality' from a different perspective in terms of how translations actually replace their originals. According to Hermans, such replacement occurs through "authentication by declaration" whereby translations carry the same status as their originals. Arguing that equivalence is not an inherent feature of the relations between texts, Hermans asserts "(e)quivalence spells the end of translation" (2007: 25). Thus, equivalence to an original should not be the ultimate goal of a translated text because the translation already has its own originality for as long as it remains a translation.

The elevation of the status of translators by means of attributing more visibility to them can also be witnessed in the so-called "cannibalistic theory of translation" (Vieira 1994: 65). The term 'cannibalism', a concept of anthropophagy was coined by the modernist poet and critic Osvald de Andrade with reference to a common practice amongst Brazilian Indians, who would eat their defeated opponents to get what was good in them (Milton and Bandia 2009: 12). Andrade proposed that Brazilian literature had

been nourished by European literature, getting what was best in it, but now it was supposed to follow its own path. As the proponents of the cannibalistic theory of translation, de Campos Brothers liken translation to a cannibalistic activity, whereby the translator “ingests and recreates” a text worthy of reading by translating it.¹ Bassnett asserts that the “striking metaphors used by the de Campos brothers to describe the activity they term translation all insist upon the right of the translator to take the text and transform it”: The de Campos Brothers use images of translation as transfusion of blood, or translation as vampirism and Bassnett argues that:

The use of violent images such as these is in sharp contrast to the images of the translator as servant, as traveler along a path marked out by others, as transcriber of someone else’s work (Bassnett 1994: 13).

Indeed, all the above-mentioned theoretical approaches reflect a shift of emphasis on the task and the role accorded to the translator within the discipline of Translation Studies. How, then, can the self-erasing attitudes of translators be accounted for despite all such approaches? As already mentioned, the factors which urge translators to claim innocence and endorse the role of a messenger do not stem simply from the threat of a possible conviction due to their controversial legal status. Underlying the readiness and willingness on the part of translators to assume the role of a “messenger”, there is the “sense of subservience”, “of being secondary to the source author”.

¹ It should be noted that the term ‘cannibalistic translation’ was actually introduced to the field of Translation Studies by Else Vieira in her 1994 essay “A Postmodern Translational Aesthetics in Brazil” as Haroldo de Campos never used the term ‘cannibalistic translation’ itself, but coined other terms like *transcriação* (transcreation), *recriação* (recreation) etc. (Milton and Bandia 2009: 12).

Exceptional Cases: Subversive and Unorthodox Translators

There are certainly exceptional cases and quite the opposite stances taken by some other translators like Suzanne Jill Levine, the translator of the Cuban author G. Cabrera Infante's *Tres Tristes Tigres* (*Three Trapped Tigers*), a book posing numerous challenges for the translator due to its heavy load of cultural allusions and wordplay. Levine defines herself as the "subversive scribe" entitled to manipulate the source text in order to reflect the figures of speech in the Havanan dialect in the New York slang (in collaboration with the author Infante, who was more than willing to engage in such a process, though).

Andre Lefevere, who introduced the notion of 'rewriting', argues that translation is the most influential type of rewriting, which is at work at historiography, anthologization, criticism and editing, as well (1992b: 9). He states that "rewriters have created images of a writer, a work, a period, a genre, sometimes a whole literature" (Lefevere 1992a: 5) and evaluates translation as the most obviously recognizable and the most influential type of "rewriting" in the sense that it "projects an author and/or those works beyond the boundaries of their culture of origin" (Lefevere 1992b: 9). In that sense, Suzanne Jill Levine is a rewriter, projecting Infante and his TTT beyond the boundaries of the Cuban culture. After all, the Turkish readers are introduced to TTT through the translation of the English version, rather than the Cuban original. But, what is all the more interesting is that Infante himself is one of the rewriters forsaking his "authority" over the text or maybe, reinforcing it for the very same reason. Indeed, his conception of

writing as “something added to the original text” is reminiscent of the notion of “writing as “rewriting” (Levine, 1991: 24). By adding a parody here, a pun there up to the very last minute, as Levine’s quotations of their personal correspondence reveals, Infante rewrote his novel during the translation process. Levine was privileged enough to have the full support of the writer in the whole process of translating, or rather, “rewriting and recontextualizing” the novel. She admits that she and Infante had a shared language which was “the citywise humour of the American movies, as well as Lewis Carroll’s universe of nonsense” (Levine, 1991: 22). No doubt, such harmony is rarely found between the writer and the translator. There are, of course, other instances of effective and harmonious writer and translator relations as in the case of the cooperation between the prominent Turkish writer Yaşar Kemal and his late wife Tilda Kemal, who translated his works. As Robert Wechsler notes, “no translator is an island”, s/he almost always has a companion to help her/him along the way and in certain cases such a “symbiotic and harmonious relationship” produces remarkable results. Yet, for a harmonious relationship to exist, there has to be “understanding, affinity, immersion in the specific characteristics of the original” (Wechsler, 1992: 200). To that list, I would add “a shared wit, a shared sense of humour”, which would provide intimacy and render an otherwise tense relationship productive. Levine and Infante seem to have experienced this. And “Levine appears to have had more fun working with her authors than any other translator (Wechsler, 1998: 207). Although Levine seems to have been predominantly in control of their “translation affair”, I still hold on to my argument that Infante’s collaboration also arises from an authorly, instinctive

attitude to have a say in the translated version of his work: By collaborating with Levine, he supervised the rewriting phase of his novel.

Hermans asserts that the hierarchy governing the relation between original and translation has been construed in mostly around oppositions such as those between “creative versus derivative work, primary versus secondary, art versus craft, authority versus obedience, freedom versus constraint, speaking in one’s own name versus speaking for someone else”. In response to the arguments that such oppositions represent natural and necessary hierarchies, he reminds that the male/female distinction, as a result of which women were dismissed as second-class citizens, has also been constructed in terms of very similar oppositions (Hermans, 1996: 44). Like Hermans, Levine points out that there is some sort of a sexist approach in subordinating the translator to the original and that a different perspective has to be adopted in order to elevate the translator:

If we somehow learn to de-sex the original vis-à-vis the translation, particularly in our postmodern age, when originality has been all but exhausted, if we recognize the borderlessness or at least continuity between translation and original, then perhaps we can begin to see the translator in another light, no longer bearing the stigma of servant, of handmaiden.

(Levine; 1991: 183)

There are other cases which represent challenges to the dominant conceptions about translation and translators such as the role played by post-colonial translation in Ireland, where translators exercised political and ethical agency and “have had and still have a great deal of visibility” (Tymoczko, 2007: 13). Yet another example of what might be referred to as the ‘unorthodox translators’ are the French literary translators who take on a much more active role in their translations. Such translators are “usually

rigid, nervous and anxious in their approach to the text” standing their ground firmly and ready to be engaged in overt conflict and legal confrontation, far from being subservient (Buzelin in Milton and Bandia 2009: 9). However, despite the foregoing examples to the contrary, the majority of translators appear to have internalized the role of “subservient servants” (of the source texts, the source authors and/or the source/target cultures) and build the whole discourse on their own professional role as such.

The Sociological Approach to Translation:

Recently, the sociology of translation has become a particular point of interest among the translation scholars. This is predominantly due to the prevailing perception of translation as a socio-cultural activity rather than a linguistic endeavour. In a double effort to re-evaluate the current approaches and to redefine the role of the translator as a more active agent, translation research has started to focus on sociological approaches borrowing the concepts of the French sociologist Pierre Bourdieu. Stating that research has begun to draw on Bourdieu’s sociology in the past decade, Moira Inghilleri defines the increased attention to Bourdieu as “indicative of a paradigmatic shift within the discipline, toward more sociologically – anthropologically informed approaches to the study of translation processes and products” (Inghilleri 2005: 125). Inghilleri evaluates the application of Bourdieu’s theory to translation and interpreting research from two main perspectives. On the one hand, it can be considered as “part of the re-evaluation of descriptive and polysystems approaches, offering a more

powerful set of concepts than norms and conventions to describe socio-cultural constraints on acts of translation and their resulting products”, on the other, it has also made “a significant contribution to attempts within translation studies to focus more attention on translators and interpreters themselves – to analyze critically their role as social and cultural agents actively participating in the production and reproduction of textual and discursive practices” (Inghilleri 2005: 126).

Daniel Simeoni’s essay entitled “The Pivotal Role of the Translator’s Habitus”, where he bases his arguments on the conceptual framework of Pierre Bourdieu’s notion of “Habitus”, as a “habit-forming force, and “a stenograph for any system of dispositions” discusses how translators embrace the dominant norms in the society leading them to endorse subservience (1998, Target 10.1). Before dwelling upon the arguments put forth by Simeoni, it might be pertinent to briefly explore the basic notions of Bourdieu’s social theory.

According to Inghilleri, Bourdieu challenges the rationalist view that the knowledge of the world is based on the inner subjective world of the mind and he rejects “a philosophy of the subject which turns away from the external world and concentrates exclusively on the conscious individual”:

One of Bourdieu’s key concerns is to conduct an examination of social life *as constituted in social practices, not in individual actions*, decision-making processes or expressions.

(2005: 128)

The emphasis on social practices is related to Bourdieu’s argument that “(t)he social predates the individual, and the individual is always viewed through his or her membership in some collective history” (Bourdieu in

Inghilleri 2005: 128). In a way, the individual gains recognition as an individual insofar as s/he is part of a certain society. Inghilleri suggests that Bourdieu's reflexive sociology shares a common focus with the culturalist paradigm in translation studies in that it is "a critique of power as constituted in cultural, social and historical practices" (Inghilleri 2005: 138). In questioning how Bourdieu's social theory could offer a sound ground for the sociological paradigm in translation studies, Inghilleri concludes that;

Bourdieu's theorization of the social suggests that acts of translation and interpreting be understood through the social practices and relevant fields in which they are constituted, that they be viewed as functions of social relations based on competing forms of capital tied to local/global relations of power, and that translators and interpreters, through the workings of the habitus and *illusio*, be seen as both implicated in and able to transform the forms of practice in which they engage.

(2005: 143)

The key concepts of Bourdieu's social theory are the 'social space', 'habitus', 'field', 'capital' and 'illusio'. According to Jean-Marc Gouanvic, the fundamental concept is that of 'field' and every other concept revolves around (Gouanvic 2005: 151). Bourdieu defines 'field' with reference to the case of 'literary field' as follows:

I would say that the literary field is a force-field as well as a field of struggles which aim at transforming or maintaining the established relation of forces: each of the agents commits the force (the capital) that he has acquired through previous struggles to the strategies that depend for their general direction on his position in the power struggle, that is, on his specific capital.

(Bourdieu in Gouanvic 2005: 151)

Gouanvic suggests that the literary field can be autonomous as in the case of the French literary field as of the second half of the 19th century and such autonomy can enable authors –and I would add, translators- to gain "freedom vis-à-vis the social space for their work; they acquire a (relative)

freedom to write what they want, shifting the risk of censorship from social structures towards the literary field as it is being formed” although it might also lead the literary field to acquire “the right to exercise (self)censorship in addition to the censorship imposed by judiciary sources” (Gouanvic 2005: 152). In that sense, it might be suggested that the prosecution of (authors and) translators in Turkey is partly due to the lack of autonomy of the literary field or rather, the constraints upon the literary field imposed through the laws.

The notion of ‘symbolic capital’ is closely related to the notion of ‘field’ in that it is acquired by a writer through recognition and is to be “constantly regained through new works published in the literary field” (Gouanvic 2005: 161). According to Gouanvic, an author’s work gains enduring symbolic capital once her/his works become established as a classic, whereas the translator “benefits from the symbolic capital invested in the original work” by means of intervening as an agent “who confers on the author and on the work a quantity of capital by submitting it to the logic of a target literary field, and to its mechanisms of recognition” (Gouanvic 2005: 162). On the basis of such a role designated for the translator in terms of the recognition of a translated literary work, it is possible to argue that Gouanvic assigns the translator the role of an active, powerful agent who establishes the “symbolic capital” of an author and the work in a different culture. Likewise, the ‘literary *illuſio*’, “originating from adherence to the literary game which grounds the belief in the *importance* or *interest* of literary fictions”, “the adherence to the game as a game” (Bourdieu in Gouanvic 2005: 163) is “ultimately the task of the translator “, according to Gouanvic (Gouanvic 2005: 163).

Going back to Simeoni's arguments concerning the 'translatorial habitus', it would be pertinent to start with the definition of the notion of 'habitus'. Bourdieu defines 'habitus', which constitutes the basis of Simeoni's analysis, as "a sense of the game" and as "the generative principle of responses more or less adapted to the demands of a certain field" and in that sense, the 'habitus' is "the product of an individual history, but also through the formative experiences of earliest infancy, of the whole collective history of family and class" (Bourdieu in Gouanvic 2005: 158). The translator's "habitus" intervenes in the translated text in that "(i)f a translator imposes a rhythm upon the text, a lexicon or a syntax that does not originate in the source text and thus substitutes his or her voice for that of the author, this is essentially not a conscious strategic choice but an effect of his or her specific *habitus*, as acquired in the target literary field" (Gouanvic 2005: 158). Although the translator again assumes the role of an agent in terms of actualizing the writer's literary habitus in the target literary field, s/he achieves such a role through placing "him or herself at the service of the writer" in order to make the writer's habitus "manifest in the target language and culture" (Gouanvic 2005: 158).

In contrast to Gouanvic, who claims that "(t)ranslation as a practice has little to do with conforming to norms through the deliberate use of specific strategies", Simeoni develops his arguments concerning the translatorial habitus on the basis of the relationship between norms and habitus. Simeoni's arguments are meant to be a contribution to the debate Toury intends to stir with his *Descriptive Translation Studies and Beyond*. In order to discuss the developmental model proposed by Toury in the chapter

entitled “Excursus C: The Making of a “Native” Translator” in which Toury defines the process by which a bilingual speaker may be said to gain recognition in his/her capacity as a translator, Simeoni compares the professional development of the translator to the process of civilization as described by Norbert Elias. Elias lists *Selbstzwänge* (‘self-constraints’) and *Fremdzwänge* (‘constraints by others’) as the two major types of constraints which regulate human behaviour and to which all humans are exposed (Elias in Simeoni, 1998: 5). According to the developmental theory of Elias, ““Civilization”, with occasional relapses, tends towards more *Selbstzwänge* and relatively fewer overt *Fremdzwänge*” (Elias in Simeoni, 1998: 5). Thus, the degree of civilization is dependent on the extent to which the constraints imposed by others are adopted and internalized by the self. Likewise, in Toury’s model, translator skill acquisition is dependent on the adoption of and submission to the norms effective in the society:

As already indicated, a prerequisite for becoming a translator within a cultural environment is gaining *recognition* in this capacity.

Translatorship is not merely taken, then, it is granted. And since it should be earned first, it stands to reason that the process involves the acquisition of those norms which are favoured by the group that would grant the recognition (Toury 1995: 241).

With reference to the main environmental feedback received by novice translators, Toury asserts that translators start to develop a sort of “internal monitoring mechanism”, whereby they undergo “socialization as concerns translating” (Toury 1995: 250). Thus, during the course of their professional development, translators’ competence evolves as “a blend of nature and nurture, of the humanly innate, the individually assimilated and the socially determined” (Toury 1995: 250). In a similar vein, Rakefet Sela-Sheffy and Miriam Schlesinger point out the tendency on the part of

translators to conform to domestic norms (Sela-Sheffy and Schlesinger, 2008: 81). In a way, by adhering to the conventional norms imposed by the society, translators seek occupational prestige yet they suffer from an inferior status without really being aware of that in some cases. Although Toury's comments basically refer to the making of "native translators", they apply to the professionalization and socialization of all translators in the sense that Toury derives certain conclusions as to what implications such a developmental model of translator's skill acquisition may have on translator training in general.

Simeoni defines his aim in reframing or "translating" Toury's strictly behaviourist model as "giving it a slightly different slant on the assumption of a specific translating habitus" (Simeoni 1998: 4). According to Simeoni, the translator's interaction with the "environment", to put it in Toury's terms, takes place in incremental steps as a result of which the translator is relieved from the external pressures at work during the course of his professionalization only by internalizing the normative behaviour as dictated by such external pressures (Simeoni 1998: 5). As a matter of fact, the end result of the professionalization of the translator, i.e. the translations, themselves appear as "typically entwined mental and social products" (Simeoni 1998: 5). Indeed, Simeoni has a very strong point in asserting that Toury's model is "by far the most explicit defence of what can be called the cultural approach to translation matters" (Simeoni 1998: 4), not only in the sense that it treats translations as the facts of the target culture but also in terms of taking into account the socialization process of the translator according to the norms of the source culture.

In order to better analyze Simeoni's notion of the 'discourse of subservience' as it pertains to the self-evaluation of the translators' task, we should delve into the connection between the translatorial habitus and the internalization by translators of the social norms imposed upon them, as suggested by Simeoni. Stating that the "principle of rigorous subjection to norms has been validated", Simeoni analyzes "the forces that make norms such powerful instruments of control as to have all the agents, including those in a good position to change them, conform to their *diktat*" (1998: 6-7). He refers to Marja Jänis's study based on an interview with Finnish translators of theater plays. The results of Jänis's study shows that an overwhelming majority of the respondents define their role as being subservient to the playwright:

(t)ranslators seem to have been not only dependent, but willing to assume their cultural and socio-economic dependence- to the point that this secondariness has become part of the terms of reference for the activity as such. (...) The translator has become the quintessential servant: efficient, punctual, hardworking, silent and yes, invisible (1998: 11-12).

Simeoni argues that the projected servitude on the part of the translator is the result of the transmutation of the constraints by others into self-constraints, in other words, the internalization of the translatorial servitude in line with the "norms of the target culture" imposed upon the translator. It should, however, be noted here that Gouanvic is critical of Simeoni's treatment of Bourdieu and questions the resemblances between the polysystem theory and Bourdieu's social theory. He asserts that there are insurmountable limitations involved in a comparison between norms and habitus and that the inclusion of Bourdieu's theory in the polysystemic

approach to translation entails not only a redefinition of 'norms', but also a reevaluation of the polysystem theory "to the point where the polysystem theory might have to renounce its own paradigm in order to accommodate that of Bourdieu" (Gouanvic 2005: 149). He also claims that the notion of 'capital' should also be included, however he fails to explain why.

Although Gouanvic's criticism that Simeoni does not discuss the notion of 'habitus' in a wider context including the notion of 'field', which, according to Gouanvic, can not be dissociated from 'habitus', sounds plausible, he does not justify his claim that there are "insurmountable limitations involved in an attempt to compare norms and habitus. After all, the socialization and professionalization process of the translator is shaped by her or his habitus acquired in time through subjection to the norms of the society as a result of which the norms imposed by the society become internalized by the translator to the extent that the translator perceives them as her or his own norms. Such a professionalization process which appears to be inevitable for acceptance and recognition as a professional translator is in line with Bourdieu's claim that individuals "act" in habitual, conventionalized ways not through an act of special knowledge, drawing on a world of possible meanings, but in and through social practice" (Inghilleri, 2005: 128). To put it in Bourdieusian terms, in a "literary field" where translators are expected to remain secondary to the source authors due to various factors involving first and foremost the emphasis placed on originality, they are supposed to assume a 'subservient discourse' in order to act as agents who actualize the source author's 'symbolic capital' in the target culture.

According to Simeoni, not only social but also historical factors are involved in the issue of “translatorial subservience” (1998: 8). Just as the authors of earlier times were supposed to produce their works under the patronage and commission of monarchs or patrons and in line with a stringent set of conventional rules, so are translators expected to follow the norms today in a submissive manner. Simeoni also refers to the motto of “moderation”, the notion of “the golden mean”, which implied avoiding both excess and defect, advocated by Dryden in relating to the approach to translation in early seventeenth century.

Following on from Simeoni, it would not be wrong to claim that the traditional approach to the role of the translator today follows more or less the same pattern since the major criterion in judging the performance of a translator still remains as “faithfulness” to the source text/author in circles outside the academia. What is of more concern here is the endorsement of such a role by practicing translators as revealed in their defensive pleas. And not surprisingly, but significantly, “the more vocal calls for translatorial emancipation have not originated in the ranks of translators as such, but among peripheral observers” (Simeoni, 1998: 12). In other words, it is the translation scholars and not the translators themselves who demand and struggle for translatorial emancipation. It is true, as Simeoni suggests, that the translator’s habitus “as a locus of tension of intercultural and global influences” (Simeoni: 1998:21) is undergoing change due to the complicated tasks the translator has to deal with today. Indeed, translators do use initiative and make their subjective decisions to come up with solutions to actual translational problems and as such, they are more authorized than

they seem to be aware of. The question to be posed here is whether the prevailing paradigm regarding the translator as an expert, a rewriter entitled to make decisions as s/he deems fit emerge from the self-images of the translators themselves or whether it is invented by translation scholars since translators do not appear to be willing to admit their own power. And these are the questions that will be discussed within the context of a detailed analysis of the particular case in the pages to follow.

CHAPTER III

THE COPYRIGHT LAW AND ITS IMPLICATIONS FOR THE TRANSLATORS' SOCIAL AND PROFESSIONAL STATUS:

As mentioned in the previous chapter, copyright law is related to our discussion as it perpetuates the factors which undermine the position of translators and this reflects on the financial as well as the professional status of translators.

The Dominance of the Authorial Rights:

Lawrence Venuti notes that "(c)opyright, the legal codes and conventions that govern the ownership of intellectual works, describes a narrow space for translation" (1998: 47). This is basically due to the fact that copyright is based on the idea of 'originality'. As discussed in detail in the previous chapter, the degradation of the translator to a subservient position vis-à-vis the author was brought about with the notion of 'originality', which regards the author as "the owner" of his/her work while the translator has limited control over the translated text:

Although the provisions of the actual publishing contracts can vary widely, in principle copyright law places strict limitations on the translator's control of the translated text.

(Venuti 1998: 47)

Like Bassnett, who states that translators were attributed much higher status during the course of history being treated on an equal footing with the author, Venuti maintains that earlier translators "did not suffer from the same legal limitations as their successors today" (Venuti 1998: 49). There have

been times during the course of the “centuries-long, contradictory development of the authorial rights in copyright law”, when “translator’s copyright in the translated text was not only recognized but given priority over that of an author or employer” (Venuti 1998: 49). Venuti makes specific reference to the *Stowe v. Thomas* case which took place in 1853, and in which the court found that an unauthorized German translation of Harriet Beecher Stowe’s novel, *Uncle Tom’s Cabin* (1852) did not infringe upon the author’s copyright. Limiting the author’s right to the actual language, the judge maintained that “granting her control over translations would interfere with the circulation of her ideas, thereby contradicting the constitutional view of authorial copyright as a legal means “to promote the Progress of Science and useful Arts” with reference to the pertinent article of the US Constitution (Venuti 1998: 57). The judge’s decision is indeed far from conventional as he also states that “the same conceptions clothed in another language cannot constitute the same composition” and “to make a good translation of a work often requires more learning, talent and judgment than was required to write the original” (Venuti 1998 57). The judge’s statements almost foreshadow Jorge Louis Borges’ postmodernist approach to translation as exemplified in the following statements:

Perhaps the translator’s craft is more subtle, more civilized than the writer’s: the translator obviously comes before the writer. Translation is a more advanced stage.

Borges in Levine (1991: I)

Borges asserts that the only difference between original and translation is that “the translator’s referent is a visible text against which the translation can be judged, while the original escapes this sceptical scrutiny because its

referent is unspoken, perhaps forgotten, and probably embarrassingly banal” (Levine 1991: 5). Thus comparing the original with the translation, he regards translation as a “more advanced stage” of textual production. It is quite interesting that a judge in as early as the mid 1850’s voiced similar opinions. Venuti defines this case as setting a precedent in terms of giving translators an exclusive copyright in their translations distinct from the copyright in the underlying work (Venuti 1998: 58). However, the case also proved to be “eccentric”, to put it in Venuti’s terms, as “precisely during the period when it recognized translators as authors by virtue of their form-creating labor, “the Romantic concept of authorship” came to dominate the law, dooming translation to the ambiguous legal status that it currently occupies” (Venuti 1998: 58). Venuti argues that the emergence of the “Romantic concept of original authorship” negates the translator’s work and he suggests that:

(I)ronically enough, cases that prove decisive in reserving copyright for the author contained alternative definitions of translation that were much more favorable to translators. These alternatives from the past can be used in challenging the present legal status of translation.

(Venuti, *ibid*)

What Venuti implies with the expression “challenging the present legal status of translation” also involves a reformulation of the concept of authorship, “in which the translator is seen as a species of author, and originality is revised to embrace diverse writing practices” (Venuti, *ibid*). This argument is in line with Lefevere’s notion of the translator as a “rewriter” and is indicative of a concern on the part of the translation scholars to elevate both the legal and the professional status of translators.

The Subordination of the Translator's Rights to the Author's:

The subordination of the translator's rights to the author's carries "some troubling consequences, both economic and cultural" (Venuti, 1998: 47) and in a way, the secondary status of the translator is reinforced by means of the legal provisions relating to a translator's financial gains from her/his translations. Venuti states that especially in cases where translations are done on a work-for-hire basis, which is most often the case in the U.S., "the translator receives a flat fee with no percentage of the royalties or subsidiary rights sales" (ibid). The unfavorable economic situation combined with the underestimation of translation as a respectable job requiring training and expertise contributes to the low image of translators. The situation in the European countries is no different from the case in the U.S. A recent survey conducted by the CEATL (European Council of Literary Translators' Associations)² reveals the fact that literary translators in even the wealthiest European countries are in a "catastrophic" situation in terms of their income. The CEATL defines this as an important social and cultural problem "on a continent that prides itself in being developed, multicultural and multilingual" and poses a question concerning "the implications for the quality of literary exchanges between our societies if literary translators have to dash off their work in haste in order to keep body and soul together."³

² CEATL (European Council of Literary Translators' Associations) is a council bringing together 28 literary translators' associations from 24 countries and representing a number of 8500 individual authors. The CEATL defines its main objectives as promoting the quality of the translation of literary works in Europe and working towards improving the social, moral, legal and economic status of the literary translator by means of EU lobbying and helping individual member associations to strengthen the status of literary translators.

³ http://www.ceatl.org/en/situation_survey_en.html

The lack of the conditions which would render translation as a respectable job are voiced by Aslı Biçen and Erkal Ünal, who assert that it is almost absurd to expect translators to assume a “more professional” and a “more ethical” stance when the painstaking task they undertake is not even regarded as a “profession” in its own right :

Emek sömürsünün, maddi karşılıksızlığın doğal bir olgu olarak kabul edildiği, meslektaşların beraberinde getirdiği olumsuz etkiler göz önünde bulundurulduğunda bu işi ancak bir hobi olarak sürdürmenin önerildiği bir piyasada, çevirmenden etik ilkelere uymasını, hatta böyle ilkelere haberdar olmasını bile beklemek abestir. Çevirmenliğin bir mesleğe dönüşmesi, çevirmenlerin haklarını talep ederken yükümlülüklerinin de farkına varması ve belli bir ahlaki kodun etrafında uzlaşması şu andaki iflah olmaz duruma tek care gibi görünmektedir.

(Biçen and Ünal, 2008: 51)

(In a market where the abuse of labor and the failure to financially compensate labor have become natural phenomena, in a market where it is recommended to perform translating just as a hobby rather than a profession given the adverse effects of professionalization, it is absurd to expect translators to be aware of certain ethical rules, let alone abide by them. The only solution to the problem which is currently irresolvable appears to be the professionalization of the translating activity and thus enabling translators to become aware of their obligations while claiming for their rights and to reach a consensus in terms of a certain ethical code.) (my translation)

A discussion on the market conditions of the translation sector as one of the factors bearing upon the resulting financial and social status of translators would constitute the subject matter of another study, however, from the point of view of the present study, it can be suggested that the laws regulating the market conditions are of primary influence. In that sense, the history of the copyright law in Turkey reveals interesting clues regarding both translations and the autonomy of the literary field but it is worthwhile to analyze the legal history of copyright in a wider perspective before dealing with the Turkish case.

The Basic Principles and Sources of the Copyright Law / The Berne Convention:

International copyright law is based on two conventions: the Berne Convention for the Protection of Literary and Artistic Works and the Universal Copyright Convention. Since the Berne Convention provides a higher degree of protection, it has superseded the Universal Copyright Convention and was preferred by the majority of states. The legal status of translators is defined in the Berne Convention⁴, which was first enacted in 1886, revised many times ever since with the last amendment being made in 1979. The Convention, which was originally signed by ten countries, currently has 164 contracting parties including Turkey. The relevant article of the Berne Convention relating to the “literary and artistic works” is Article 2.1; the first subparagraph of Article 2 entitled “Protected Works”. The full text of Article 2.1 is as follows:

“The expression “literary and artistic works” shall include every production in the literary, scientific and artistic domain, whatever may be the mode or form of its expression, such as books, pamphlets and other writings; lectures, addresses, sermons and other works of the same nature; dramatic or dramatico-musical works; choreographic works and entertainment in dumb show; musical compositions with or without words; cinematographic works to which are assimilated works expressed by a process analogous to cinematography; works of drawing, painting, architecture, sculpture, engraving and lithography; photographic works to which are assimilated works expressed by a process analogous to photography; works of applied art; illustrations, maps, plans, sketches and three-dimensional works relative to geography, topography, architecture and science.”

The subparagraph 2.3 of the same article relates to translations:

“Translations, adaptations, arrangements of music and other alterations of a literary or artistic work shall be

⁴ The full text of the Berne Convention is available at: www.wipo.int/treaties/en/ip/berne/trtdocs_wo001.html (last accessed in February 2010)

protected as original works without prejudice to the copyright in the original work.”

Although the above article is interpreted by the CEATL as conferring the same legal rights to the translator as the source author, whose rights may nevertheless supersede those of the translator, Venuti states that the Convention includes inconsistencies and renders the legal status of translation ambiguous. According to the CEATL, literary translations are in a double copyright situation just like musical and dramatic performances: “on the one hand there is the copyright of the original author, and on the other the copyright of the translator, who is the author of this particular translation, as distinct from all other possible translations of the same text”⁵. The CEATL holds that for the above stated reason, “the translator enjoys exactly the same legal rights as a writer”. At this point, it should be noted that CEATL’s statements are indicative of their own arguments in representing and defending the rights of their members worldwide, rather than the actual situation: The Article 8 of the same Convention, which relates to the right of translation and reads as follows, explicitly grants the exclusive right of making and of authorizing the translation of their works to authors:

“Authors of literary and artistic works protected by this Convention shall enjoy the exclusive right of making and of authorizing the translation of their works throughout the term of protection of their rights in the original works.”

Likewise, the subparagraphs of Article 11 relating to the right of public performance and of communication to the public of a performance of dramatic and musical works, and to the right of public recitation and of communication to the public of a recitation of literary works, expressly

⁵ http://www.ceatl.org/en/rights_status_en.html

stipulate that “authors of literary works shall enjoy, during the full term of their rights in the original works, the same rights with respect to translations thereof”.

The rights of the author recognized by the Berne Convention were further reinforced thanks to the inclusion of an additional article (Article 6bis) pertaining to the “moral rights of the author” in the Convention. The subparagraph 6.1 of this article entitled as “To claim authorship; to object to modifications and other derogatory actions” reads as follows:

“Independently of the author’s economic rights, and even after the transfer of the said rights, the author shall have the right to claim authorship of the work, and to object to any distortion, mutilation or other modification of, or other derogatory action in relation to, the said work, which would be prejudicial to his honor or reputation.”

What is actually implied with the expressions “distortion, mutilation or modification” or whether these expressions also involve translations remain ambiguous. Likewise, what is meant by “derogatory action” is not clarified, either. Yet, the article certainly endows the author with further rights, augmenting her/his authority over the work. Venuti attributes the inconsistencies and the consequential ambiguity in the definition of the rights of the translator in the Berne Convention to the 1948 Brussels Revision, as a result of which the above *droit moral* (the moral rights (of the author)) section was included in the Convention:

The *droit moral* gives the author various personal rights, including the right to be identified as author, the right to control the first publication, and the right to object to a distorted treatment of the work which may damage the author’s reputation. (...) In principle, legal protection against any distortions endows authors with enormous power over every aspect of the translating process, permitting them to develop their own idea of what constitutes the integrity of their work in a foreign language.

(Venuti, 1998: 52)

As Venuti emphasizes, particularly the right to decide whether a translation consists of a distortion of her/his work enables the source author to exercise control over the translation according to her/his own conception of translation, subjecting the translator's work to the author's approval. Venuti notes that the British law is the only exception in the sense that it specifically excludes translations from the author's right to object to a distorted treatment, despite recognizing the author's moral rights. Thus, with the exception of the British law, the current copyright law grants the author the copyright over not only reproductions, printed copies of the original work, but also derivative works or adaptations, including first and foremost translations. Ambiguity in terms of the translator's status arises in the same law, however, as copyright in a derivative work can be reserved for its producer, without excluding the right of the author who produced the underlying work. Venuti suggests that according to the above-mentioned clause, the translator is recognized as an author in that "translating originates a new medium of expression, a form for the foreign text in a different language and literature" (Venuti, 1998: 50). And indeed, this is exactly the same argument developed by the CEATL. However, according to Venuti, "this difference in the linguistic and literary medium is evidently not so substantive as to constitute a truly authorial originality for the translator", since the author's authority is not limited (Venuti, *ibid*). Thus, the "Romantic concept of authorship" is protected by the copyright law to the detriment of derivative works like translation implying the underlying idea that a translation is nothing more than a "second-order representation: only the foreign text can be original, authentic, true to the author's psychology or

intention, whereas the translation is forever imitative, not genuine, or simply false” (Venuti, 1998: 50). It should also be mentioned at this point that the Berne Convention started to recognize the translator’s copyright in the translated text after the 1971 Paris Revision. The pertinent article 2/3 reads as follows:

“Translations, adaptations, arrangements of music or other alterations of a literary or artistic work shall be protected as original works without prejudice to the copyright in the original work.”

Despite the inclusion of the above article, Venuti holds that “this new awareness of translation produced no change in the author’s exclusive right to licence derivative works” (1998: 52). Indeed, the definition of translations within the context of original works does not yield any meaningful results in terms of advancing the translator’s legal status as the authorial power is still dominant.

The Nairobi Recommendation:

UNESCO’s Nairobi Recommendation of 1976 aims to improve the status of translators in terms of their legal status, remuneration, contracts, social and fiscal situation as well as working conditions imposing certain norms on individual states. The Nairobi Recommendation is defined as “the first document published by an international organization to throw light on the profession of translator and to confront all peoples of all nations with the main problems of this profession.” It is also stated that the Recommendation draws attention to “a state of affairs urgently demanding improvement, not only in the interests of the translating profession but also in the interests of

international understanding, the spread of culture and the furtherance of science, technical progress and economic growth.”⁶ Though the Recommendation is legally nonbinding, it still signifies an awareness of the need for improving the status of translators and is an important step in that sense since it provides a strong legal and moral framework for national organizations defending translators’ rights including Çevbir. However, it is ironical that such awareness was raised years after the first signing of the Berne Convention. The pertinent subparagraph 3 of the Article 2 “General Legal Position of Translators” reads as follows:

“Member States should accord to translators, in respect of their translations, the protection accorded to authors under the provisions of the international copyright conventions to which they are party and/or under their national laws, but without prejudice to the rights of the authors of the original works translated.”

The Article 3 entitled as “Measures to Ensure the Application in Practice of Protection Afforded Translators under International Conventions and in National Laws relating to Copyright” lists a number of measures to be taken placing emphasis on drawing up a written agreement between a translator and a user and according an “equitable remuneration to the translator whatever his or her legal status” (Art.III/5(a)). As an interesting wording detail, it should be noted that the translator is referred to as “the author of the translation” rather than the “translator” in Article 5(h): “the name of the author of the translation should appear in a prominent place on all published copies of the translation, on theatre bills, in announcements made in connexion with radio and television broadcasts, in the credit titles of films and in any other promotional material”. Likewise, in the Article 5

⁶ The full text of the Nairobi Recommendation is available at: <http://www.fit-ift.org/en/nairo-e.php> (last accessed: March, 2010)

relating to the “Social and Fiscal Situation of Translators”, translators are referred to as writers: “Translators working as independent writers, whether or not they are paid by royalties, should benefit in practice from any social insurance schemes relating to retirement, illness, family allowances etc.”

The CEATL asserts that the key principle in the designation of the Recommendation is that translators should be afforded the same protection afforded to writers⁷. However, according to Venuti, it “actually repeats the wording of the Berne Convention and thereby continues the subordination of translators to the authors of the underlying works” (Venuti, 1998: 53).

On the basis of the above, it can be suggested that there is an ambiguity in the current copyright law in terms of the definition of the rights of the translator over the translated work similar to the inconsistency in the definition of the legal status of the translator in the Turkish Press Law and the Law on Intellectual and Artistic Works.

Special Provisions regarding Developing Countries in the Berne Convention:

Before proceeding with an account of the history of the copyright law in Turkey, it is worth mentioning that the Berne Convention includes an Appendix relating to the “Special Provisions regarding Developing Countries”. Salah Basamalah notes that “the international copyright conventions were forced to deal with developing countries” during the period of decolonization (Basamalah 2001: 156). In a meeting held in Brazaville in 1963, twenty-three African countries objected to the Berne Convention

⁷ Please refer to the official website of the CEATL: <http://www.ceatl.org>

stating that it ran counter to the interests of developing countries and that protected works should be available for free use for educational purposes (Basamalah 2001: 156). Led by India, some developing countries asserted that special concessions were required in the Convention to help improve the national rates of literacy in such countries: “India took the lead and proposed that a study be made of the possibility of introducing compulsory Licences into the Berne Convention for the reproduction-and hence the translation- of protected works for educational purposes” (Basamalah 2001: 156). As a result of heated discussions, an agreement was reached in 1967 (The Stockholm Act) on a Compulsory Licence for Translation, which is “obtained (against a fee) by a translator or a publisher in a developing country from the copyright holder of a literary and artistic work in order to translate and publish the copyrighted work” (Basamalah, *ibid*). Thus, developing countries became entitled to the above-mentioned Licences subject to two major restrictions.

The first of these restrictions stipulated that payment of just compensation be made to the copyright owner, while the other stated that there would be no grant of a licence in a developing country if the author has already been published in translation in that country (Basamalah 2001: 157). Basamalah claims that the Stockholm Protocol, which became the consensual appendix of the Berne Convention regarding developing countries was shaped by the views of the developed states, in which authors’ and publishers’ associations such as the International Literary and Artistic Association, the Confederation of Societies of Authors and Composers and the International Publishers Association were influential

(Basamalah 2001: 157). The Article II of the Appendix entitled as “Limitations on the Right of Translation” provides two concessions as regards the time that must elapse before a national of a developing country may apply for a Compulsory Licence for Translation: According to Article II (2a), a Licence could be obtained if a translation of a work has not been published in a language in general use in that country “after the expiration of a period of three years, or of any longer period determined by the national legislation of the said country, commencing on the date of the first publication of such work”. Article II (2b) stipulates that a license may also be granted subject to the conditions put forth in Article II, “if all the editions of the translation published in the language concerned are out of print”. The period of three years is substituted by a period of one year “in the case of translations into a language which is not in general use in one or more developed countries which are members of the Union” (Article II (3b)).

The History of the Copyright Law in Turkey:

The history of the copyright law in Turkey can be traced back to the *Encümen-i Daniş Nizamnamesi* (The Regulation of the Academic Committee) of 1850, the subject matter of which was the preparation of translated and indigenous coursebooks.⁸ This regulation governed the activities of the *Encümen-i Daniş* (The Academy), “established by the government to organize the selection, translation and production of teaching materials in science, history and literature for a prospective university

⁸ For further information, please refer to Sabri Gürses’ article “Çeviride Seferberlik Hali:”Telif ve Tercüme” presented in the 5th National Publishing Congress held in December, 2009.

(Darülfünûn)” (Paker, 1991: 19)⁹. The first regulation regarding the protection of authorial rights is the *Telif Nizamnamesi* (Copyright Regulation) of 1857, which granted copyright to authors for a period of 45 years, with the Appendix annexed to the Regulation in 1872 (Erel 1998: 28). The major act concerning the copyright law is, however, the *Hakk-ı Telif Kanunu* (The Copyright Law), which was enacted in 1910 and stipulated a copyright term of 30 and 5 years for indigenous and translated works, respectively. The *Hakk-ı Telif Kanunu* remained in force for more than 40 years until the enactment of the Law on Intellectual and Artistic Works in 1952.

In the Trade Agreement annexed to the Lausanne Treaty signed in 1923, it was stipulated that Turkey would sign the international treaties regarding compliance with the principles of the ownership of intellectual, artistic and literary works within 12 months. However, Turkey signed the Lausanne Treaty with a reservation as regards the Article 14, which listed such principles, on the grounds that it was in need of translated works. Due to the objections of the member states of the Berne Union to such a reservation, Turkey did not join the Union in 1923 (Erel 1998: 29). On the other hand, thanks to a special agreement made with the French and German governments in 1929 and 1930, respectively, Turkey was exempt from the obligation to pay copyright for the works of French and German authors for a period of two years. Sabri Gürses states the reasons why Turkey refrained from signing the Berne Convention as follows:

Mustafa Kemal’in 1 Mart 1923 tarihli “Telif ve tercüme işleri hakimiyeti milliyenin ve milli harsın en mühim vasıta-ı intişarıdır” sözü, politik açıdan, dört ay içinde imzalanacak olan Lozan Antlaşması’na

⁹ In her article “Turkey: The Age of Translation and Adaptation”, Saliha Paker presents a comprehensive survey of the translation activities carried out during late *Tanzimat* (1839-1876) and *Servet-i Fünûn* (1896-1901).

yöneliktir. Aynı zamanda, Türkiye çeviriyi temel bir ihtiyaç olarak görmekte ve fikir ürününü bir ithal maddesi olarak belirleyen 1886 düzenlemesini ulusal çıkarlarına uygun bulmamaktadır. Batılılaşmanın ya da Batının “duyuş ve düşünüşü ile benliğini kuvvetlendirmek mecburiyetinin”, dolayısıyla “tercüme seferberliğinin” “emek ve para” maliyeti bu noktada somutlaşır: bu seferberlik yakın tarihli uluslararası anlaşmaların reddedilmesiyle başlar. (Mustafa Kemal’s statement that “Indigenous and translated works are the most important tools in reinforcing our national sovereignty and disseminating our national culture” was politically concerned with the Lausanne Treaty to be signed within four months. In those times, Turkey also regarded translation as a basic necessity and believed that the 1886 Convention ran counter to its national interests. The “labor and monetary” cost of Westernization or rather, “the obligation to reinforce its own national structure by means of Western thinking” and thus, the cost of the” translation campaign” become evident at this point. The translation campaign begins with the objection to the international agreements.) (my translation)

When the First National Publishing Congress convened in 1939, the *Hakk-ı Telif Kanunu* was still in force. Due to the fact that Turkey had not signed the international agreements imposing certain restrictions on the translation activity, publishing translated books was financially more attractive for private publishing houses, as a result of which several translations of the same books existed. The translation of foreign literature was performed in a disorderly manner, without proper planning or strategy. And this was to a great extent, due to the insufficiency of legal regulations concerning translation. Indeed, translation, which was actually regarded as a means of culture planning, was to play a decisive role in the young Turkish Republic’s Westernization project and it constituted one of the major points of discussion in the First National Publishing Congress. Referring to a report which was submitted by a translation committee to the Congress and which stated that a “method and order” had to be introduced for improving translation activity, which was in a “deplorable state”, Tahir-Gürçağlar emphasizes that “(t)he deliberations in the Congress which led to the

establishment of the Translation Bureau within the Ministry of Education are a clear example of the ideological context within which the Bureau and its journal *Tercüme*, flourished” (2008: 8). In line with the agreement reached at the Congress, the Translation Bureau was founded in 1940 and lasted until 1967, producing a total number of 1120 translations during that period. Hasan Âli Yücel, who was the Minister of Education of the one-party regime then, expressed that the translation of classical and modern works of the “civilized world” was a “must “if Turkey was to become a member of the ”western cultural and intellectual community” (Tahir-Gürçağlar, *ibid*). Translation was also entrusted with a “humanist mission” which made itself evident in the list of works prioritized for translation (Tahir-Gürçağlar, *ibid*). The “translation campaign” was actually welcome by the intellectuals of the time as there was “a general consensus (among the literati)” on the necessity and importance of translation as the report of the Translation Committee established in line with the decisions taken in the Congress was met with general approval (Tahir-Gürçağlar, *ibid*).

Another important resolution of the First National Publishing Congress was the decision regarding the drafting of a new law on intellectual and artistic works. Ernst Edward Hirsch, who was then a professor at İstanbul University, was entrusted with the task of preparing the draft, which he completed in 1941. Hirsch’s draft remained neglected until 1948, when Halide Edip Adivar, a scholar and a prominent writer, argued for a new law on intellectual and artistic works voicing her concerns about the then current state of translations in an article published in *Cumhuriyet* on 16, June, 1948 (Gürses, 2009: 7). Adivar demanded that a new law be enacted in order to

protect copyrights, to impose certain rules regarding the translation of foreign works and thereby to protect indigenous literature and writers. Her basic objection was that books which were haphazardly translated into Turkish constituted means of unjust enrichment for some publishing houses to the detriment of writers producing indigenous literature (Gürses, *ibid*). On 1, January, 1952, the new Law on Intellectual and Artistic Works, (*Fikir ve Sanat Eserleri Kanunu*), which is still in effect, was put into force¹⁰. As already mentioned in the Introduction, the translator is defined as “the owner of the processed work” in this law. During the same period, Turkey also became a member of the Berne Union. Nevertheless, the Article 28 of the new law stipulated a copyright term of 10 years for the author, rather than the period of 50 years, as stipulated in the Berne Convention. Turkey eventually signed the Convention in 1995 and is now to fully abide by its terms and provisions including the period of 70 years as the copyright term of the author.

Gürses argues that the Law on Intellectual and Artistic Works does not really contribute to the rights of the translator although it is an innovative law in terms of the rights of authors. Needless to say, lawyers approaching the issue from broader perspectives consider the Law on Intellectual and Artistic Works insufficient in terms of protecting the rights of the owners of works, as well (Erel, 1998: 31). Gürses’ arguments, on the other hand, are plausible in the sense that the Article 16 of the Law restate the same principle stated in the Article 6 of the Berne Convention regarding the moral rights of the author (Erel, 1998: 122). Erel argues that translation, among

¹⁰ The full text of the Law is available at: <http://www.mevzuat.adalet.gov.tr/html/957.html> (last accessed: February, 2010)

some other practices like staging, is excluded from the cases constituting a change of the copyrighted work and thereby a violation of the author's rights:

Eser sahibi, mâli hakları devrettiği kimselere eserde değişiklik yapmak yetkisini de tanımış olabilir. Gerçekten, fikir ve sanat eserlerinden yararlanma bazen bunlarda değişiklik yapılmasını gerektirir; mesela bir romanın tiyatro piyesi halie dönüştürülmesi veya bir piyesin sahneye konulması yahut edebi bir eserin başka bir dile tercümesi, zorunlu bazı değiştirmeler olmadan mümkün değildir. Bu yüzden eseri işleme, çoğaltma, temsil veya yayım haklarını devir almış olanlar, bu hakların kullanılması için zaruri görülen değiştirmeleri eser sahibinin özel bir izni olmadan yapmak yetkisine sahiptirler (Erel, 1998: 123). (The owner of the work might have also delegated the right to make changes in the work to those to whom s/he had delegated her/his financial rights. Indeed, making use of the intellectual and artistic works sometimes entails making certain changes on them; for instance when converting a novel into a drama or when staging a play or when translating a literary work, it might be obligatory to make some changes. Therefore, those who have been assigned the right to process, reproduce, stage or publish a work are entitled to make certain changes on the work without obtaining the prior consent of the owner of the work. (my translation)

However, it should be stated that the above quotation represents the interpretation of Erel; the Article itself does not make explicit reference to translation, in fact, the term "translation" is not used at all. Besides, there is the condition that the change implemented should not "objectively" harm the dignity and honor of the owner of the work or damage the quality of the work. Otherwise, the Article bestows the owner the right to prevent the work's being presented to the public even if s/he might have expressed her/his concern previously. The degree of "objectivity" in determining the extent to which a writer's reputation and dignity have been damaged remains vague. On the basis of these arguments, then, it can be suggested that the rights of the author are much more emphasized in the Law on Intellectual and Artistic Works in a similar fashion to the way the moral rights of the author are secured and safeguarded in the Berne Convention.

CHAPTER I V

THE HISTORY OF THE TURKISH PRESS LAW AND ITS IMPLICATIONS FOR TRANSLATORS:

Freedom of Expression as a Basic Human Right:

A discussion of the legal framework would be incomplete without an analysis of the Turkish Press Law since it is on the basis of the Article 2 of the Turkish Press Law that translators are held liable in case the source authors are not Turkish citizens domiciled in Turkey.

Interestingly enough, there is not an explicit statement in the present Press Law, put into effect in 2004, which states that translators are liable for the works they translate in case of prosecution against them. The Article 2 actually consists of the definitions of the terms referred to in the Press Law and it is in terms of the definition of the “owner of the work” that translators are referred to, together with writers and caricaturists. The criminal liability arising from published material is imputed on primarily the owner of the work according to Article 11. In the same article, it is also stipulated that in cases where the identity of the owner of the work is unclear or s/he does not have criminal capacity at the time of the commission of the crime or cannot be tried in Turkey because of residing abroad or in case the penalty to be imposed on the owner of the work does not influence the penalty imposed on her/him due to a crime for which s/he has already been convicted, the publisher is held liable. In cases where such exculpatory conditions as listed for the owner of work apply to the publisher, the owner of the printing press

is then taken to court. On the other hand, in Article 13, which relates to legal liability, it is stated that the owner of the work, the publisher of the work or her/his agent as well as the owner of the printing press if the publisher is unclear are jointly and severally liable in case material and spiritual losses are incurred due to the published material.

A careful reading of the above-mentioned articles reveals that the prosecution of translators is based on the notion of “joint and several liability”, which enlarges the scope of liability to include even the owners of the printing press who might certainly not be expected to know line by line the content of the work they print or be totally unaware of the possible elements of crime included therein. As a result, the Article 2, which defines the translator as “the owner of the work” together with the author and thus, paradoxically elevates the status of translators in contrast to the conventional secondary role they have been attributed, becomes instrumental in the prosecution and at times, the conviction of translators.

The attribution of legal liability to the translator (as well as the publisher and the owner of the printing press) in case the identity of the author is unclear or the author is beyond jurisdiction, dates back to the Press Law of 1950. Although extension of the scope of liability in such a way as to include the translator, the publisher and the owner of the printing press is explained in the Law within the framework of the concept of ‘joint and several liability’, there is a further underlying motive which is more significant. In his book entitled *İzahlı Basın Hukuku*, Sahir Erman notes the

following with reference to criminal liability stipulated in the Press Law of 1950¹¹:

Mes'uliyet bakımından ilk kademeyi basılmış eserin müellif, muharrir, mütercim, veya tersim edeni teşkil eder. İşaret edelim ki gerek Hükûmetin ve gerek Karma Komisyonun Tasarılarında sadece "eserin faili"¹² dendiği halde Meclis müzakereleri sırasında bu tabirin tafsil edilmesi ve **tercümeyle de şamil bir hüküm sevk edilmesi fikri ileri sürülerek kabul edilmiş ve madde o yolda tadil edilmiştir.**

(...)

Bununla beraber, basılmış eseri fikren vücuda getiren kimse belli olamamış ise, kendisinin cezalandırılması da mümkün olamayacağı cihetle ve **basın suçunun cezasız kalmaması endişesiyle**, ceza mes'uliyeti ikinci kademeyi teşkil eden naşire terettüp eder.

Unutmamak iktiza eder ki, basın suçlarında objektif mes'uliyetin kabulüne saik olan başlıca mülhaza, adalete bir sanık temin etmekten, suçun cezasız kalmasına mani olmaktan ibaret olmakla beraber, nâşir de kendi fiili ile eseri yayın sahasına çıkarmış olan kimsedir. (my emphasis)

(Erman 1964: 78)

(The first level of liability pertains to the author of the published work, the writer, the translator or the illustrator. It should also be pointed out that, although the term "the agent of the work" was used in both the Government's proposal and in the proposal submitted to the Joint Commission, it was suggested in the discussions held in the Parliament that **this term be explained in detail and interpreted to include a provision referring to translation, as well. This suggestion was accepted and the pertinent article was amended accordingly.**

(...)

Nevertheless, if the identity of the person on whose ideas the work has been created cannot be detected and thus, that person cannot be penalized, the legal liability becomes incumbent on the publisher **on the basis of the concern that crimes committed through the press should not go unpunished. It should not be forgotten that while the basic consideration causing the acceptance of objective liability in crimes committed through the press consists of the concern to find a suspect to be tried and not to allow the crime to go unpunished,** the publisher, on the other hand, is the one who publishes the work on his own will.) (my translation)

¹¹ Erman explains the Press Law from his point of view. He does, however, refer to the discussions which took place in the Turkish Grand National Assembly and quotes from the speech of Bahadır Dülger, who was a member of the parliament (and also a translator) then. For further information, please refer to Eman's *İzahlı Basın Kanunu*, İstanbul Üniversitesi Yayınları, 1964, İstanbul, p. 77.

¹² The term "fail" in Turkish can be translated as "perpetrator" or "the agent of an act" into English. The employment of the term here refers to the latter meaning in the sense that it covers all those involved in the creation and publication of a work, rather than only the "owner of the work".

There are two basic arguments that can be put forth as regards the above statement. First and foremost, the “concern to find a suspect to be tried and not to allow the crime to go unpunished” explains the mentality underlying the prosecution of translators in cases of legal obstacles in trying the source authors. In other words, the extension of the criminal liability, or the inclusion of the translator under the definition of the “owner of the work” in the Article 2 of the present Press Law does not stem from the fact that the law holds the translator on a par with the author. Rather, the law requires “a suspect” to hold liable “in order not to allow the crime to go unpunished” and that suspect can be the author, or the translator and/or the publisher and even the owner of the printing press. The second argument which, in a way, backs up the first is that the term “the person on whose ideas the work has been created” applies to the author and by employing the term and emphasizing the creative aspect involved in an author’s indigenous work, Erman implicitly reinforces the notion of ‘originality’ that forms the basis of the copyright law and is the domain of the author, as explained in the previous chapter. In that sense, it can be suggested that Venuti’s arguments regarding the dominance of the concept of “originality” in determining the copyright and thus, ownership seem to be justified in the way the concept of authorship is formulated in the Turkish law.

Doubtlessly, the prosecution of authors, translators, publishers, and in certain cases, the owners of printing presses is a means of restricting the freedom of press, which is a prerequisite of democratic regimes. The third article of the Turkish Press Law relating to the freedom of press stipulates that the press is free, adding that the freedom of the press includes the right

to gain, disseminate, criticize, interpret information as well as to create a work. The freedom of the press is a basic principle emphasized in almost all press laws in force throughout the various states. Sulhi Dönmezer notes that in its broad sense, the freedom of press covers not only the rights of the writers, journalists and publishers but also those of the readers. In that sense, it entails that censorship is abolished, no prosecutions are instituted to limit the free expression of thought except on the basis of generally accepted and legally enforced principles and no intervention is made to prevent legal dissemination of published works (Dönmezer, 1976: 41). It is no doubt that the freedom of thought is a basic human right, as first emphasized in the Articles 10 and 11 of the French Declaration of the Rights of Man (1789). As Bagnel Bury emphasizes in his *A History of Freedom of Thought* (1913), there is an indispensable link between freedom of thought and the freedom of expression since thoughts which are not expressed are, in any case, not subject to any restrictions and it is the expression of thought which should be free (Bury, 1913: 7). Despite the emphasis on the freedom of press in almost all press laws, it can be claimed that the expression of thought has always been subject to restrictions and the history of press in most states is, at the same time, a history of the censorship practices in that state.

Considered within the framework of the constraints on the freedom of thought and (its) expression, censorship and the suppression of authors/translators appear to be the most prominent method of exerting control on the expression of thought. The censorship history of books in Turkey reveals that not only writers but also translators have faced

prosecution or become obliged to practice self-censorship. Translators have been forced to appear before the judges as defendants in different periods, under different laws, as will be demonstrated in the following sections.

Censorship during the Rule of Abdulhamid II (1876-1908):

The practice of literary censorship in Turkey dates back to earlier periods and in fact, the first name that occurs to mind within the context of exerting pressure on the press and practicing censorship is Abdulhamid II, who reigned as the Ottoman Sultan for 32 years between 1876 and 1908. His rule was despotic and absolute. During the rule of Abdulhamid II, practices of censorship and exerting pressure on writers and translators reached their peak. The practice of censorship in his reign started with the enforcement of the Regulation on Martial Law in 1878. Paker notes with reference to Sevük that under “the Hamidian Despotism, pressures of censorship and restrictive measures significantly gave rise to a flood of translations of detective stories, thrillers, romances, sentimental novels and melodrama mostly from contemporary French literature”, in which case translated literature began to be regarded as a ‘secondary activity’ in contrast to its primary function during the late *Tanzimat* (1839-1876) (The Reorganization) (Paker 1991: 28).

Three types of censorship were practiced on the basis of the Regulation on Martial Law: The first applied to the censoring of newspapers published in Turkish and in the languages of the minorities within the Ottoman Empire. The second category of censored material consisted of the newspapers in foreign languages published in Turkey or brought to Turkey

from abroad. The third category, on the other hand, included indigenous or translated books. An education council ('Meclis-i Kebir-i Maarif') entrusted with the duty of book censorship was established in 1846 years before Abdulhamid II's succession to the throne. This council had the responsibility of analyzing books before they were published and granting licenses to newspapers (Topuz 2003: 55). It was forbidden to use certain words like "grev (strike), suikast (assassination), ihtilal (revolution), anarşi (anarchy), hürriyet (liberty), cumhuriyet (republic), büyük burun (big nose; (Abdulhamid II had a big nose) in indigenous or translated books (Topuz 2003: 56). In other words, writers and translators were forced to practice self-censorship even at the word level.

Alpay Kabacalı notes that Abdulhamid II resorted to some interesting measures in order to take under control the foreign publications concerning his rule. The official duty of "Matbuat-ı Ecnebiye" (The Foreign Press), founded during his reign, was to write responses on the articles against the Ottoman State and inform the foreign press about the performance of the State as well as the "improvement of prosperity" in the Ottoman land. This office was also entrusted with the task of assisting in the censorship of the foreign press and a "Tercüme Kalemi" (Personal assistant in charge of Translation) was in charge while the foreign embassies were supposed to provide information as regards the publications on the rule of Abdulhamid II in their respective countries (Kabacalı 1990: 73). The Sultan was particularly interested in the content of the foreign newspapers *Times*, *Temps*, *Kölnische Zeitung*, *Tribuna* and *Standart* and the political articles in these papers were translated into Turkish on a daily basis. The Sultan, in turn,

responded to the articles he was not fond of by means of his officials and the translators of the palace. Those who were detected to have such papers or “unfavorable” books in their house were either imprisoned or sent to exile (Topuz 2003: 80). The banned books were also burned down.

In his book entitled *Abdülhamit Devrinde Sansür* (Censorship in the Reign of Abdulhamid), Kudret Cevdet notes that the first regulation concerning the press (Matbuat Nizamnamesi) was issued during the reign of Abdulaziz in December 1864 (Cevdet 1977: 5). This regulation remained in force during Abdulhamid II’s rule, as well. In fact, a commission was established only a few months after his succession to the throne to draft a new press law, but the law was never put into force since the Sultan did not ratify it (Topuz, 2003: 53). The Regulation was translated from the press law enacted during the rule of Napoleon III (1852) and remained in force until the press law was enacted in the Second Constitutional Period (İkinci Meşrutiyet Devri) (1908-1918) (Cevdet, *ibid*). According to this regulation, those who wanted to publish a newspaper or a periodical were obliged to receive a license from the Ministry of Public Instruction (Maarif Nezâreti) in case they were Ottoman citizens, and from the Ministry of Foreign Affairs (Hariciye Nezâreti) in case they were foreigners. Those who did not abide by the regulation in force were subject to imprisonment and fines and their publications could be temporarily or permanently banned by means of an administrative decision of the government without the requirement of a court decision. Following this regulation, which caused several newspapers to be closed down, the ‘Kararnâme-i Âli’ (literally, ‘High Decision’, mockingly

referring to Âli Pasha, the Ottoman Grand Vizier of the time), a government decree imposing even stricter pressure on the press was issued.

Against such a background of legitimized censorship on the press, the existing press regulation of 1864 remained in force during the Reign of Abdulhamid II, while a new regulation referred to as 'Matbaalar Nizamnamesi' (Regulation on the Printing Press') was also issued. By means of this new regulation, anything that would be published was taken under the Sultan's control. The interesting point is that although the Article 12 of the Constitution 'Kanun-i Esasî', put into force a few months after Abdulhamid II's succession to the throne in 1876, stipulated that the press was legally free, the Sultan managed to render the law invalid on the basis of the 'Kanun-i Esasî', since he was entitled to convene or abolish the Parliament and renew the elections as he deemed fit (Cevdet 1977: 16). Thus, making an excuse of the Ottoman-Russian War, which broke out in April 1877, Abdulhamid II abolished the Parliament and compelled the Council of Ministers to issue a decree of martial law. This brief account sums up the starting of his reign of despotism, which would last for 32 years. During this period, denouncement and espionage paving the way to censorship became prevalent, as Süleyman Kâni İrtem argues in *Abdülhamid Devrinde Hafiyelik ve Sansür*, in which he quotes from Hüseyin Cahid Yalçın the following lines (İrtem 1999. 230):

Türk matbuatının Abdülhamid zamanına ait tarihi yazılırken sansür faslı mühim bir yer tutmak icab eder. Bugünkü gençlik ve Abdülhamid zamanına yetişip de gazetecilik hayatına temas etmemiş kimseler bu sansürün şiddeti, dehşeti ve aynı zamanda budalalığı, müvesvisliği hakkında kabik değil doğru bir fikir edinemez. Bunu vesikalar üzerinde görmedikçe insan inanamaz. (...)
Ecnebi dillerden tercüme edilen romanlarda bile Abdülhamid'e, saltanatına ait ne kadar çok şeyler görürdü! Bunlarda mananın ve

hikâyenin cereyan tarzının deęişebileceđine hi ehemmiyet verilmeyerek tashihler yapılırdı.

(Censorship occupies an important part in a historical documentation of the Turkish press during Abdulhamid's reign. It is impossible for today's youth and for those who lived during the reign of Abdulhamid but were not involved in journalism to have an idea about the degree of censorship, the terror caused by censorship as well as its stupidity, absurdity and suspiciousness. One can not believe in what he hears unless he sees it on documents (...)

How he was able to detect so many points relating to Abdulhamid and his reign even in the novels translated from foreign languages! These novels were corrected without paying any attention that the plot and the meaning would be changed altogether) (my translation).

The Press Laws of 1909, 1931 and 1950:

The Second Constitutional Rule (1908-1918) (İkinci Meşrutiyet) brought a brief period of freedom for the press. After the long, suppressive rule of Abdulhamid II, the newspapers were published without being censored on 25 July, 1908 for the first time. A number of newspapers like *Yeni Gazete*, *Tanin*, *Şura-yı Ümmet* started to be published in this period. However, on 14 July 1909, the Parliament passed a new press law imposing several restrictions upon the press. This law remained in force until 8 August 1931, being amended 15 times within this 22-year period. During the Second Constitutional Rule, four journalists, namely Hasan Fehmi, Ahmet Samim, Zeki Bey and Hasan Tahsin were assassinated.

The Press Law of 1931, which authorized the government to close down newspapers temporarily if they were deemed to publish articles which were against the general policy of the state, remained in force until 23 March 1950. The Law granted very limited freedom for the press imposing

restrictions and sanctions. Şükrü Kaya, who was the Minister of Internal Affairs, defines the freedom of press as follows:

Yazarlarımız ülke işlerini eleştirmede özgürdürler. Eleştirme özgürlüğünü ve çerçevesini saptayacak ve sınırlayacak olan, yazarın irfanı, vicdanı ve sağduyusudur. Bu geniş özgürlükten doğabilecek sorumluluğu her kişinin ve her yazarın ayrı ayrı yorumuna değil, yasaların hükümlerine bırakıyoruz. Yazı özgürlüğü yazarın egemenliğindedir, yazarın sorumluluğunu da yargıç saptar
(Topuz 2003: 161)

(Our writers are free to criticize state affairs. What determines and restricts the freedom to criticize is the knowledge, conscience and common sense of the writer. We leave it to the laws to decide upon the liability which might arise from this vast liberty, rather than on the interpretations of each writer and individual. The freedom to write belongs to the writer, and it is the judge who determines the liability) (my translation).

The Press Law of 1950 was made by the Democrat Party whose first years in power provided relative freedom for the press. However, the liberty the press enjoyed under the Democrat Party rule was short-lived and the pressures on the press escalated year by year until the military coup of 1960, as will be detailed in the following section on censorship. During the Democrat Party rule, new laws enhancing the restrictions on the press were passed and a total number of 1161 journalists, 238 of which were convicted, were prosecuted from 1954 until 1958. The International Press Institute sent a letter in 1958 to the government questioning the freedom of press and demanding replies to some critical questions they posed like whether extra privileges and financial support had been granted to the newspapers and journalists which sided with the government while the opposing press was kept under constant legal and financial pressure (Topuz 2003: 202-203).

Following the military coup of 1960, the new constitution of 1961 provided considerable freedom for the press. The most significant rights and

liberties assigned to the press were listed in Article 22, which stipulated that the press is free and cannot be censored, no prohibition on publication can be enforced and newspapers and books cannot be confiscated. Despite the freedom granted by the 1961 Constitution, literary censorship ensued in those years, as well, as will be demonstrated below. It should also be noted that the Press Law of 1950 remained in force until 2004, when the present Press Law was put into effect.

Censorship in the Republican Period:

The exertion of pressure on authors and translators as well as the practice of censorship, which dates back to the late Ottoman Period, as indicated above, ensued in the Republican Period, as well. In fact, the practice of censorship may be suggested to have mostly occurred in the form of 'indirect censorship', which exists in cases where there are constraints upon thought (and its expression) introduced by means of legal provisions in a given country. Under such circumstances, although there may not be an actual practice of censorship, the fear of being penalized is regarded as 'indirect censorship', also defined as 'penal censorship' (Kabacalı 1990: 7).

Starting in the 1930s, when there was the single party regime, indirect censorship has been practiced against both indigenous and translated books published in Turkey. The translations of Lenin's, Marx's and Engels' books by Haydar Rifat during the 1930s constitute examples of books prosecuted for ideological reasons.¹³ In the 1930s, the works of the

¹³ For further information, please see Milliyet Kitap, Haziran 2009.

prominent poet Nazım Hikmet were banned and he was sentenced to 28 years 4 months imprisonment in 1938 on the grounds of “encouraging the soldiers to rebel”. Hikmet served a sentence of 12 years and the publication of his poetry was banned in Turkey from 1938 till 1965¹⁴. The banning of books and the prosecution of writers and translators ensued in the 1940s, as well. The periodical *Marko Paşa*, for which writers like Sabahattin Ali, Aziz Nesin and Rıfat Ilgaz wrote satires, was banned many times and almost all its writers had to appear before the courts for making communist propaganda in contravention to the law. Aziz Nesin served a sentence of 16 months on the grounds of translating an article by Georges Politzer, whose works were included in the list of banned books circulated in Turkey in those years.

The Democrat Party, which had close ties with the USA was in power in the 1950s, when the emphasis was on economic, rather than cultural development. Press censorship and anti-communist pressures which created an oppressive political atmosphere prevailed during the whole decade. As already mentioned, the pressures on the press were so strong that a number of journalists were prosecuted and many newspapers including *Milliyet*, *Ulus* and *Akis* were closed down (Topuz 2003: 205-206).

The military coup of 1960 was supported by the intelligentsia and the university students and a new constitution “drafted in 1961 supported a relatively freer environment that tolerated a wider range of political opinions and activities in the initial few years” (Tahir-Gürçağlar, 2008: 12). Although the 1961 Constitution provided higher degrees of freedom for the press,

¹⁴ İbid.

independence for the judiciary and autonomy for the universities, banning of books and prosecution of writers and translators were still prevalent. Communism and socialism were taboo subjects. There were numerous court cases against translators and publishers of books which supposedly made a propaganda of socialist and leftist political views despite the relatively higher degree of political freedom granted by the 1961 Constitution. In fact, in the 1960s, the political function of translation was more in the foreground as “various private publishers whose leftist orientations gave rise to a recontextualisation of the social role of translation” were set up (Tahir-Gürçağlar, 2008: 11). The majority of the translated texts consisted of non-fiction Marxist publications and leftist books in the 1960s: “In the liberal atmosphere created by the new constitution, socialist newspapers and periodicals flourished and a great number of political and philosophical foreign works that were considered to be disruptive in the past were now translated and published” (Berk, 2004: 182). However despite this relative liberty, the Articles 141 and 142 of the Turkish Penal Code, which banned “communist propaganda”, were retained (Berk, 2004: 184). Likewise, the Press Law, which was enacted by the Democrat Party in 1950, remained unchanged, with its Article 31, which authorized the Council of Ministers to ban the translated books they deemed to harm the territorial integrity and the national sovereignty of the Turkish Republic (Yılmaz and Doğaner, 2007: 11). The Article 31 of the Press Law reads as follows:

“Devletin ülkesi ve milletiyle bölünmez bütünlüğüne, milli egemenliğine, Cumhuriyet’in varlığına, milli güvenliğe, kamu düzenine, genel asayişe, kamu yararına, genel ahlaka ve genel sağlığa aykırı olup, yabancı memleketlerde çıkmış eserlerin

Türkiye'ye sokulması ve dağıtılması Bakanlar Kurulu kararı ile yasaklanabilir”
 (“The entry into Turkey and the publication of such works which are deemed to harm the national unity and the territorial integrity of the state, the national sovereignty, the Republican regime, the national security, the public order, the public security, the public benefit, general ethics and general health, can be banned with the resolution of the Council of Ministers.”) (my translation)

Thus, against such a background of the persistence of laws legitimizing censorship and banning and due to the fact that Marxism was regarded as a “subversive ideology, perceived to be against the state”, many translators and publishers were prosecuted and books banned. The first book to be banned in 1961 within this context was *Histoire Illustree de la Russie* (The Official History of Russia) and a total number of 11 books had been banned until the end of 1961 (Yılmaz and Doğaner, 2007: 48). As mentioned in the Introduction, one example of the prosecuted translators was Vedat Günyol, who translated François-Noël (Gracchus) Babeuf’s writings jointly with Sabahattin Eyuboğlu in 1964. Aziz Nesin, who wrote articles supporting Eyuboğlu and Günyol, was also tried in court¹⁵. In 1962, an even more radical resolution was adopted by the Council of Ministers prohibiting the entry into Turkey and the publication of not only the books but also other artistic works like soundtracks produced in the Soviet Union and the other Iron Curtain countries (Yılmaz and Doğaner, 2007: 49). Meanwhile, the government intervened in the selection of the books for translation to impose control over the Translation Bureau. Actually, as Özlem Berk notes, thirteen members of the Bureau resigned in January, 1967, protesting against the government’s intervention in the selection process of the books for translation (Berk, 2004: 184).

¹⁵ For further information: <http://www.ido.org.tr/dergiarsiv098.asp?ID=775> (last accessed: March 2010)

Direct and indirect censorship practices ensued in the 1970s, as well. Berk notes with reference to the Turkish Writers Association's report on translation problems that in the period following the 1971 Ultimatum, the majority of the prosecuted books consisted of translated books (Berk 2004: 194). Can Yücel was tried in court for translating a book by Che Guevara and sentenced in 1971 for a term of 15 years. He was released in 1973. Following the ultimatum of 12 March, 1971, there was martial law until 1973, causing great pressure on the press and the publishing sector. Numerous periodicals and newspapers were closed down, books were confiscated and not only translators and writers but also university professors and journalists were arrested (Berk, 2004: 193). Berk notes that many translators were prosecuted together with their publishers in those years for translating leftist literature and she adds that Sabahattin Eyuboğlu, one of the most prominent translators and directors of the Translation Bureau in the 1940s, was one of the victims of this period as he was arrested in December 1971 for translating Thomas More's *Utopia* into Turkish (Berk, *ibid*). The literary books which were confiscated during the martial law of 1971-1973 include the translations of John Steinbeck's *The Grapes of Wrath*, Ernest Hemingway's *For Whom the Bell Tolls* and Jean Paul Sartre's *The Age of Reason* (Berk, *ibid*).

Many books including world literary classics were banned from school libraries by the school staff commissioned on the basis of the decision of the T.R. Ministry of Education on October, 16, 1975 to act as evaluators and

decide on which books to have in Turkish school libraries.¹⁶ It was stated in the decision rendered by the Ministry of Education that some books in the school libraries had such content as to undermine and eventually destroy our national and moral values and that they were written by writers who were conspiring to overthrow the existing regime. The comprehensive list included the translations of the works of Charles Dickens, Albert Camus, Dostoyevski, Gogol and Jean Paul Sartre, to name a few, as well as the works of Turkish writers like Aziz Nesin, Çetin Altan, Tarık Dursun K., Mahmut Makal, Yaşar Kemal, Orhan Kemal and Rıfat Ilgaz. It is worth noting that the decision of the Ministry was strongly protested against by the Turkish Union of Writers (Türkiye Yazarlar Sendikası), who was supported by foreign writers whose books were among the banned titles like Sartre. Indeed, during the second half of the 1970s, when Turkey experienced political chaos and terrorism, and during the martial law following the military coup of 1980, intellectuals were under pressure, indirect censorship ensued and books were confiscated from not only school libraries but also homes. After the military coup of 12 September 1980, the books of Aziz Nesin, Yaşar Kemal, Tolstoy and Dostoyevski were banned. Nedim Gürsel's *Uzun Sürmüş Bir Yaz* (1976) and *Kadınlar Kitabı* (1983) were also among the banned books.

Adalet Ağaoğlu was prosecuted on the grounds of “denigrating the military forces” in her novel *Fikrimin İnce Gülü*, which was confiscated in 1981. In the defensive pleas, Ağaoğlu's attorney Turgut Kazan presented an argument similar to Elif Şafak's in that he emphasized the textual integrity of

¹⁶ For a detailed account of the banning of both indigenous and translated books from school libraries on the basis of the decision of the T.R. Ministry of Education, please refer to *Toplatılan Kitaplardan Seçmeler*, Türkiye Yazarlar Sendikası Yayınları: 1, 1976.

a novel which should be read as a whole rather than singling out certain statements making reference to the defensive plea presented by the attorney Esat Mahmut Karakurt in the Afrodit case, mentioned above:

Romanda metin bir bütündür. (...) Romanı anlamak, o bütünü anlamaktan geçer. (...) Bir değerlendirmesi yapılacaksa, romanın değerlendirmesi yapılır. O değerlendirme de bütünü değerlendirmekten geçer. Yoksa kitaptan bir cümle alarak sonuca varmak olmaz. Böyle roman okunmaz.

(There is textual integrity in a novel. (...) To understand the novel, you have to understand that integrity. (...) If novel is to be assessed in any aspect, such an assessment should be based on the textual integrity of the novel. Otherwise, you cannot reach a conclusion as to its value singling out a statement. That is not the way a novel is to be read.¹⁷)

On the basis of the above, then, it can be suggested that in the long history of the banning of books and the prosecution of writers and translators in Turkey, the majority of cases have been started on the grounds of carrying out communist propaganda, encouraging class conflict and provoking the public to revolt in contravention to the Articles 141 and 142 of the Turkish Penal Code and that writers and translators have been convicted for having committed “thought crimes”.

On the other hand, there have also been cases in which translators have appeared before the judge for translating obscene literature. The cases against the Turkish translation of Pierre Louis (Louÿs)’ *Aphrodite: Moeurs Antiques* (1896), which was translated by Nasuhi Baydar and published by Semih Lütfi Kitabevi in 1939, (known as the “Aphrodite” case) and the Turkish translation of Henry Miller’s *Tropic of Capricorn* (1939), translated by Fatma Aylın Sağtür and published by Can Yayınları in 1985 constitute typical examples of such cases. *Aphrodite: Moeurs Antiques* (1896) was published in Turkish in 1939 under the title *Afrodit: Eski Adetler* and it was in the same

¹⁷ Unpublished minutes of the proceedings against Ağaoğlu’s *Fikrimin İnce Gülü* (from Emin Karacan’s archive)

year that the legal proceedings against the book were started. The charges were brought against the publisher Semih Lütfi Erciyas and Kenan Dinçman, the owner of the printing press in this case and both defendants were acquitted after heated debates and a long series of trials. The translator Nasuhi Baydar was not tried in this case thanks to his legal immunity as a member of the Turkish Grand National Assembly. Miller's *Tropic of Capricorn*, on the other hand, was first published in 1985 by Can Yayınları, under the title *Oğlak Dönencesi*. On February, 19, 1986, legal proceedings were started against the publisher Erdal Öz, and the translator Fatma Aylin Sağıtür. In 1988, the book was banned on the basis of the court ruling and according to the article 426 of the Turkish Criminal Code. All its published copies were confiscated and destroyed in conformity with the court ruling and the defendants' application to the Supreme Court of Appeals was rejected.¹⁸ Ahmet Altan and Pınar Kür were two other writers whose books were prosecuted in the 1980s. Altan's *Sudaki İz* and Kür's *Bitmeyen Aşk* were charged with obscenity.

In the 1990s, charges were predominantly made against books on the grounds of obscenity, as in the cases of Enis Batur's *Elma*, Şebnem İşigüzel's *Hanene Ay Doğacak* and the translation of Chuck Palahniuk's *Choke* (Tıkanma, in Turkish), while cases on political and ideological grounds appeared to constitute the majority of the prosecutions in the 2000s. Books on Armenian and Kurdish issues as well as fiction were subject to prosecutions, as discussed above.

¹⁸ For further information, "Censorship on the Translated Obscene Literature in Turkey: An Analysis of Two Specific Cases" (Üstünsöz, forthcoming).

The prosecutions of the Turkish translations of Noam Chomsky and Edward S. Herman's *Manufacturing Consent* (1988) (*Kitle Medyasının Ekonomi Politiđi: Rızanın İmalatı*, in Turkish) and Richard Dawkins' *The God Delusion* (2006) (*Tanrı Yanılgısı*, in Turkish) are more recent cases (2005 and 2008, respectively). The former case was started on the basis of the Article 301 of the Turkish Penal Law, while the latter was based on the Article 216/3 of the same. The legal action against Erol Karaaslan, the translator and the publisher of *The God Delusion* was started on the grounds of inciting hatred among the public and insulting sacred values, as stipulated in this pertinent article. Chomsky's book, on the other hand, was published by Aram Publishing, who was also the publisher of John Tirman's *Spoils of War: The Human Cost of America's Arms Trade* (*Savaş Ganimetleri: Amerikan Silah Ticaretinin İnsani Bedelleri*, in Turkish), which was prosecuted in 2006, around the same time the *Baba ve Piç* case took place. It should be mentioned that Aram Publishing started an online campaign for having the article 301 abolished while supporting Çevbir's campaign detailed in the chapter on the case.

The most recent case against translated fiction is the case of January 2009 against the three books included in the series "Books on Sex" published by Sel Publishing House.¹⁹ These books, whose translators are charged with obscenity according to the Article 226 of the Turkish Penal Code, are the Turkish translations *Genç Bir Don Juan'ın Maceraları* and *Görgülü ve Bilgili bir Burjuva Kadınının Mektupları* of Apollonaire's *Les exploits d'un jeune Don Juan* and P.V.'s *Correspondance d'une Bourgeoise*

¹⁹ For further information, please see Milliyet Kitap, Haziran 2009.

Avertie, respectively, as well as *Perinin Sarkacı*, whose writer has not disclosed her/his identity preferring to use the pseudonym “Ben Mila”. The translator İsmail Yerguz and the publisher İrfan Sancı are being tried in this case and Sancı has objected to the Expert Witness Report written by the academicians in İstanbul Commerce University, in which there is not a French Language and Literature Department.²⁰ As a result of his objections, the court has decided that a new expert witness council consisting of academicians from the Law and French Language and Literature Departments of İstanbul University shall be appointed.

In short, it should be noted that from January 2008 to June, 2009, a total number of 62 works, both indigenous and translated, have been subject to legal proceedings and 25 cases have resulted in verdicts of conviction and the practices of direct and indirect censorship on indigenous and translated works have been carried out.²¹ All in all, it can be suggested that translators have performed their tasks taking the risk of prosecution at different times and under different legal systems.

The Reports of the Committee on the Freedom of Publication:

The Committee on the Freedom of Publication of the Turkish Publishers Union issues annual reports regarding the freedom of expression in Turkey and has been awarding writers and publishers with the Award on the

²⁰ For detailed information including Sancı’s statements, please refer to www.tumgazeteler.com

²¹ The 2009 Report of the Committee on the Freedom of Publication can be accessed at: <http://turkyaybir.org.tr/> .

Freedom of Thought and Its Expression since 1995. Yaşar Kemal, Elif Şafak and Enis Batur are among the writers awarded with this prize.

In the 2006 Report of the Committee, it is stated that a number of 284 books have been confiscated between 2000-2005, according to the data provided by the Ministry of Internal Affairs, while there has been a relative decrease in the number of the cases against writers, translators and publishers. It is indicated in the report that translators have recently not been held legally liable for the books they translate and that this is a positive development. Such a comment is probably made with implicit reference to the *Baba ve Piç* case, in which the charges against Biçen were dismissed; it fails, however, to take into account that Biçen was not tried simply because Şafak is a Turkish citizen residing in Turkey, rather than thanks to an improvement in the legal status of translators *per se*. It is worth noting that of the 49 books which were subject to prosecution between January 2005 and the first half of 2006, 13 were translated works.

The discussions regarding a possible amendment in or a total abolition of the Article 301 are detailed in the same report with reference to the new Turkish Penal Code put into effect in 2005 and it is stated that the Article, which is retained in the new law, continues to form a basis for indictments. The report also announces a demand on the part of the publishers to have the Articles 125, 134, 214, 215, 216, 220, 226, 301, 304, 305, 318, 323, 327, 329, 34, 336, 339, 340, 341 and 342 of the Turkish Penal Code amended, asserting that the new Code, which was enforced without being negotiated well enough is prone to instigating even more cases limiting the freedom of expression.

As for the 2009 Report of the Committee, it is indicated in the introduction section that despite the relative decrease in the number of books banned in 2000s when compared to the previous years, the granting of banderoles for books has turned into a new tool of censorship as books which are deemed “unfavourable” are denied the banderole required for publication. It is worth noting that the majority of the books which were subject to prosecution between January 2008 and the first half of 2009 were indigenous works. What causes such a decrease in the number of translated books subject to prosecution is not really clear but it can reasonably be assumed that the cases against translators in the previous years might have led to “indirect” or “self-censorship” on the part of the translators refraining from translating works which are likely to get them into trouble. The cases started on various grounds including defamation, obscenity and insulting religious values are listed in the report with the conclusive remark that the problems as regards freedom of expression still persist and are likely to persist in the future unless there is a change of mentality on the part of those who enforce the law in addition to legal improvements.

CHAPTER V:
A CASE STUDY REGARDING THE LEGAL AND PROFESSIONAL
STATUS OF THE TRANSLATOR

The Baba ve Piç Case:

The Bastard of İstanbul (*Baba ve Piç*, in Turkish), originally written in English by the Turkish writer Elif Şafak was published in 2006. Following the publication of the book, legal proceedings were started against the author, the translator and the publisher for insulting the so-called notion of ‘Turkishness’. As already mentioned, this case study can be evaluated in terms of the constraints on the freedom of thought and expression and the heated debate it has evoked on the issue of the professional and legal responsibilities of translators regarding the works they translate.

Elif Şafak is a well-known Turkish novelist, whose first novel *Pinhan* (1997) was awarded the “Mevlana Prize”²² in 1998. *The Bastard of İstanbul*, her second novel written in English was translated into Turkish by Aslı Biçen, who had also translated her first English novel, *The Saint of Incipient Insanities* (2004) (*Araf*, in Turkish) and worked in close cooperation with the author Elif Şafak. The novel was published by Metis Yayınları, one of the most prominent publishing houses in Turkey. Soon after its publication, the book became a bestseller in Turkey, where Şafak had already earned a great deal of literary fame. The plot of the novel can be defined as the tangled histories of two families, a Turkish family of four sisters and the

²² A prize awarded in various fields in homage to Mevlâna Celâleddin Rûmî, the great Anatolian philosopher, poet and the father of the Mevlevi sect. His teachings advocate unlimited tolerance, positive reasoning, goodness, charity and awareness through love.

daughter of the youngest sister living together in an İstanbul household and the family of their brother whom they have not heard from for quite some time. The brother lives in Arizona with his American wife and her American-Armenian daughter. With the arrival of their brother's step-daughter in İstanbul in search of her identity as the daughter of an Armenian father whose family immigrated into the US in the 1915 Armenian deportations, a secret that connects the two families is unveiled.

The charges of insulting Turkishness were raised against Elif Şafak, the translator Aslı Biçen and the publisher Semih Sökmen on the basis of the controversial Article 301 of the Turkish Penal Code, which is entitled as "Insulting Turkishness, the Republic, the Institutions and the Bodies of the State" ("Türklüğü, Cumhuriyeti, Devletin Kurum ve Organlarını Aşağılama") soon after the publication of the novel in March, 2006. The charges against the translator and the publisher were dismissed on the grounds of the Article 2 of the Press Law, which does not hold the translator liable in case the author is a Turkish citizen residing in Turkey. The charges against Şafak, on the other hand, were based on the statements uttered by some characters in her novel making reference to the 'Armenian issue' and actually calling the whole event as 'genocide':

There are references to the "Armenian issue" in the parts of the book consisting of the correspondences in a chat room called Café Constantinopolis between Armanoush and young Armenian-Americans. Armanoush is the daughter of an Armenian father and an American mother; she is the step daughter of Mustafa, the son of the Turkish family, who immigrated to the US 20 years ago and has never come back to Turkey ever

since. Armanush's mother has a strong dislike for her ex-husband's Armenian family and the Tchakhmakhcian family, on the other hand, is resentful that their granddaughter is raised by a Turkish stepfather:

The parts of the book which formed the basis for the prosecution were identified as follows:

I am the grandchild of genocide survivors who lost all their relatives at the hands of Turkish butchers in 1915, but I myself have been brainwashed to deny the genocide because I was raised by a Turk named Mustafa! (pp. 53- 54)

(Bütün akrabalarını 1915'te kasap Türklerin ellerinde kaybetmiş soykırımda bir sülalenin torunuyum, amma velakin Mustafa adında bir Türk tarafından büyütüldüğüm için köklerime ihanet etmeyi öğrendim, soykırımı inkâr etmek üzere yetiştirildim!) (pp. .63- 64)

Only a handful of Turks come from Central Asia, right? And then, the next thing you know they are everywhere! What happened to the millions of Armenians who were already there? Assimilated! Massacred! Orphaned! Deported! And then forgotten! (p. 55)

(Sen kalk gel Ortaasya'dan, dal dosdoğru Anadolu'nun bağına, sonra bir bakmışsın her yerdeler! Orada yerleşik olan milyonlarca Ermeniye ne oldu peki? Asimile edildiler! Eridiler! Yetim bırakıldılar! Sürüldüler. Mal mülklerinden oldular!) (p. 65)

What are you going to talk about with ordinary Turks? asked Lady Peacock/Siramark. Look, even the well-educated are either nationalist or ignorant. Do you think ordinary people will be interested in accepting historical truths? Do you think they are going to say: *Oh yeah, we are sorry we massacred and deported you guys and then contentedly denied it all.* Why do you want to get yourself in trouble? (p. 118)

(Sıradan Türklerle ne konuşacaksın eğitim görmüşleri bile ya Milliyetçi ya cahil" dedi Leydi Tavuskuşu/Siramark. "Eğitim görmüşleri bile ya milliyetçi, ya cahil. Sıradan insanlar tarihi gerçekleri kabul eder mi sence? 'Sizi katliamdan geçirip sürdürdükümüz sonra da bunları inkar ettiğimiz için özür dileriz' mi diyecekler sanıyorsun? Neden başını derde sokmak istiyorsun?) (p. 130)

Nobody survived in Ayash. The ones taken to Chankiri were killed gradually. (...) they were beaten with canes and pickax handles. Many starved to death. Some others were executed. (p. 161)

(Ayaş'ta sağ kalan olmamış Çankırı'ya götürülenler de peyder pey öldürülmüşler. (...) Sopalarla, balta saplarıyla dövülmüşler. Bazıları açlıktan ölmüş bazıları da öldürülmüş.) (pp. 170-171)

I mean the 1909 Adana massacres or the 1915 deportations... Do those ring a bell? Did you not hear anything about the Armenian genocide? (p. 178)

(1909 Adana katliamlarından ya da 1915 tehcirinden... bunlar sana bir şey hatırlattı mı? Ermeni soykırımını diye bir şey duymadın mı hiç?) (pp. 185-186)

All we Armenians ask for is the recognition of our loss and pain, which is the most fundamental requirement for genuine human relationships to flourish. This is what we say to the Turks: Look, we are mourning, we have been mourning for almost a century now, because we lost our loved ones, we were driven out of our homes, banished from our land; we were treated like animals and butchered like sheep. We have been denied even a decent death. Even the pain inflicted on our grandparents is not as agonizing as the systematic denial that followed. (p. 184)

(Ermenilerin arzusu kaybımızın ve çektiğimiz derin acının tanınmasıdır. Hakiki insani ilişkilerin gelişebilmesi için en temel gereklilik bu. Türklere şunu diyoruz: “Bakın biz yas tutuyoruz çünkü sevdiğimizimizi kaybettik, evlerimizden çıkarıldık, toprağımızdan kovulduk, eşyalarımızdan olduk, hayvan muamelesi gördük, koyun gibi kesildik. Doğru düzgün, haysiyetli bir ölüm bile esirgendi bizden. Dedelerimize, ninelerimize çektiğiniz acı bile onu takip eden sistematik inkardan daha çok yaralamadı bizleri...”) (p.192) ²³.

After the interrogation, the case was dismissed as the prosecutor stated that the case was not justiciable and there were no grounds for an indictment. He made reference to Şafak’s statements that her aim in writing the book was not to denigrate Turkishness but to contribute to the flourishing of a peaceful encounter between Turks and Armenians. The prosecutor also mentioned the sections of the book where there were references to the counter arguments concerning the issue and Turks were portrayed as treating the Armenian orphans in a humane manner:

But you have to understand it was a time of war. People died on both sides. Do you have any idea how many Turks have died in the hands of Armenian rebels? Did you ever think about the other side of the

²³ The scope of the present study prevents a detailed translation analysis. Still, it is worth mentioning that the translator does not appear to have censored the sections on the Armenian issue, as far as the relevant excerpts are concerned. The extent to which this results from Şafak’s involvement in the translation process is hard to detect. It is, however, interesting, to note that the term “brainwashed” in the first sentence of the first excerpt (pp. 53-54) has been translated as “köklerime ihanet etmeyi öğrendim”, which can be rendered into English as “I have learned to betray my ancestors”.

story? I'll bet you didn't! How about the suffering of the Turkish families? (...) It was not even a Turkish state back, then, it was the Ottoman Empire for God's sake. The premodern era and its premodern tragedies. (p.209)

Ama o zamanlar savaş zamanıydı. İki taraftan da insanlar öldü Ermeni isyancıların ne kadar Türk öldürdüğünü biliyor musun? Hikâyenin öteki tarafını düşündün mü hiç? Eminim düşünmemişsinizdir. Acı çeken Türk ailelerine ne diyeceksin?... Türk Devleti bile yokmuş. Osmanlı İmparatorluğu varmış. Modernite öncesi devir, modernite öncesi trajediler...(p. 215).

The claims of the Armenians are based on exaggeration and distortion. Come on, some go as far as claiming that we killed two million Armenians. No historian in his right mind would take that seriously.

(Ermeni iddiaları abartı ve çarpıtma üzerine kurulu, yapmayın bazıları iki milyon Ermeni öldürdüğümüzü bile söylüyor. Akli başında hiçbir tarihçi bunu ciddiye alamaz) (p. 216).

(...), little Shushan was discovered by two women from a nearby Turkish village. They were a mother and a daughter. They took the sick girl back home with them and bathed her with chunks of daphne soap and washed off the lice in her hair with potions concocted from the herbs in the valley. They fed and cured her. (p. 241)

(...), küçük Şuşan'ı yakınlardaki bir Türk köyünden iki kadın buldu.. Ana kızdılar. Hasta çocuğu evlerine taşıyıp kalıp dağ kekiği sabunuyla yıkadılar. Saçlarındaki bitleri yabancı otlardan terki edilmmiş ilaçlarla temizlediler. Onu besleyip iyileştirdiler.) (p. 247)

Despite the court's decision that there were no legal grounds for an indictment, a group of lawyers referring to themselves as the Unity of Jurists and headed by the lawyer Kemal Kerinçsiz took the case to an upper court, which overturned the previous court decision. In this second case, Elif Şafak and the publisher Semih Sökmen were acquitted in the first trial. Şafak accounts for the trial as follows, expressing her hope that her acquittal will provide Turkey an opportunity to realize a transformation of the legal system:

My publisher and I had kept a low profile up to then, but now all hell broke loose. The media began to clamor about my case; many journalists took my side. A well-known progressive newspaper asked:

"Are we going to be the kind of country that prosecutes fictional characters?"

In response, the ultranationalists claimed that my novels are, in fact, planned and written by Western imperialist powers that want to destroy Turkey. They contended that in the book, despite being a Turk myself, I had taken the Armenians' side by having an Armenian character call the Turks "butchers" in a reference to the Ottoman Empire's deportation and massacre of Armenians during World War I. I had thus sold out my nation.

I don't know precisely what happened in 1915. But as a writer, I'm interested in people -- their stories, their silences, their pain. I believe in recognizing human grief. I find it sad that some Turks can't talk about 1915, that ours is a society with collective amnesia. We haven't come to grips with our past, nor have we recognized how bitter the Armenians are because their grief goes unacknowledged. I would like Armenians to forgive and forget one day, too, but we Turks need to remember first.²⁴

Meanwhile, the indictment prepared by the public prosecutor triggered a heated debate among the translation scholars and practicing translators about the legal status of the translator in the Turkish Press Law. Both the case and the debate following the case attracted media attention and found wide news coverage both in Turkey and abroad.

The Controversial Article 301 of the Turkish Penal Code:

As already stated, the case against the book was started on the grounds of "denigrating Turkishness" on the basis of the Article 301 of the Turkish Penal Law. The first subparagraph of the Article 301 of the Turkish Penal Law states that a person who publicly denigrates Turkishness, the Turkish Republic and the Turkish Grand National Assembly is sentenced to imprisonment for no less than six months and up to three years. The fourth

²⁴ Şafak's statements can be reached at: <http://www.washingtonpost.com/wp-dyn/content/article/2006/09/22> (last accessed: January 2010)

subparagraph, however, states that the expression of a thought intended to criticize does not constitute a crime. The fact that this article has been the basis of indictments towards non-violent opinions expressed by writers, journalists and intellectuals indicate that it is the interpretation of the Article 301 by the prosecutors, rather than the Article per se that causes prosecutions. The Article reads as follows:

Türklüğü, Cumhuriyeti, Devletin Kurum ve Organlarını Aşağılama:

Madde 301 (1) Türklüğü, Cumhuriyeti veya Türkiye Büyük Millet Meclisi'ni alenen aşağılayan kişi, altı aydan üç yıla kadar hapis cezası ile cezalandırılır.

(2) Türkiye Cumhuriyeti Hükümeti'ni, Devletin yargı organlarını, askeri veya emniyet teşkilatını alenen aşağılayan kişi, altı aydan iki yıla kadar hapis cezası ile cezalandırılır.

(3) Türklüğü aşağılamanın yabancı bir ülkede bir Türk vatandaşı tarafından işlenmesi halinde, verilecek ceza üçte bir oranında artırılır.

(4) Eleştiri amacıyla yapılan düşünce açıklamaları suç oluşturmaz.

(Insulting Turkishness, the Republic, the Institutions and the Bodies of the State:

Article 301 (1) A person who publicly insults Turkishness, the Republic or the Turkish Grand National Assembly, is sentenced to a term of six months to not more than three years' imprisonment.

(2) A person who publicly insults the Government of the Turkish Republic, the legal institutions of the State, the military and the law enforcement agency is sentenced to a term of six months to not more than two years' imprisonment.

(3) In the event that the crime of insulting Turkishness is committed by a Turk in a foreign country, the term of the sentence is increased at a rate of one thirds.

(4) The expression of ideas for the purpose of criticism does not constitute a crime (my translation).

As already indicated, the Article includes a provision to exclude the expression of ideas with a critical purpose. Likewise, there is no reference to literary works or the statements made by fictional characters. As a matter of fact, the defenses of both Semih Sökmen and Elif Şafak were based on the same argument that being a literary work; a work of art, the book is not to be regarded as a research paper as it makes no claims to offer views regarding political issues. The publisher Semih Sökmen dwells upon the issue of the negative impact of banning books on the cultural life in Turkey and argues that books and fictional characters in the books should not be subject to legal charges in his testimony while Elif Şafak asserts that the charges raised against her are based on the singling out of certain sentences in the book without respecting the textual unity. Like Sökmen, she argues that it is non-sensical to try an author on the grounds of the utterances of her/his characters and she further claims that there are some other characters in the novel who contradict the Armenian characters:

Roman bir bütün olarak değerlendirilmelidir. *Baba ve Piç* adlı kitabım bir edebiyat eseridir ve tamamen kurgusaldır. Anlatılan hikaye tamamen hayal gücümün ürünüdür. Kitapta iyi ve kötü yanlarıyla anlatılan onlarca karakter mevcuttur. Bu kadar çok karakterden bir veya birkaçının laflarını cımbızlamak eserin bütünü hakkında yanlış bir fikir verdirtir: Nitekim, kitabımda cımbızlanan bu tür lafların tam aksini söyleyen karakterler de bulunmaktadır. Bir romanda bir katilin, bir cinayetin anlatılması yazarın da katil olduğunu, ya da cinayeti haklı gördüğünü, ya da karakterlerin eylemlerini ve düşüncelerini birebir paylaştığı anlamına gelmez. Bu nedenle şikayetçilerin başvuruları haksız ve yasaya aykırıdır.

(A novel should be evaluated as a whole. My book *The Bastard of Istanbul* is a literary work and as such, it is totally fictional. The story is nothing but the product of my imagination. There are a number of characters in the book who are described in terms of their positive and negative aspects. The singling out of the statements of one or a few of these characters causes a false impression about the novel as a whole. After all, there are other characters in the novel who totally

contradict the characters uttering the singled out statements. The fact that a murderer or a murder is narrated in a book does not mean that the writer herself/himself is also a murderer, nor does it imply that the writer approves of the crime or shares the opinions of her/his characters or finds their crimes justifiable. For these reasons, the complainants' application to the court is unjustifiable and against the law.) (my translation)

Şafak defines her objective in writing this novel as “trying to contribute to the establishment of a humanistic and peaceful relationship between the Turks and Armenians” and not “insulting Turkishness. Şafak states that she finds the whole trial process “surreal” and asserts that the group of ultranationalists who target intellectuals and authors trying to “silence the critical minds [...] do not represent the majority of the voices in society” (audio interview with NPR.)

Although there is not a direct reference to the book, the cases which threaten the freedom of the expression of non-violent opinions are mentioned in the EU's Turkey Progress Report issued in 2006 with specific reference to the Article 301 of the Turkish Penal Code, which, according to the EU Commission, “may contribute to a climate of self-censorship in the country” and “needs to be brought into line with the relevant EU standards”²⁵. There is also an explicit reference to the case against the journalist Hrant Dink, who was brought to court on the basis of the same article for writing a series of articles on the Armenian identity. Dink was assassinated in January 2007 and the case about his assassination has not yet been finalized.

²⁵ The EU Commission's Turkey Progress Report is available at: http://ec.europa.eu/enlargement/pdf/key_documents/2006/nov/tr_sec_1390_en.pdf (last accessed: April, 2010)

As demonstrated in the Chapter on Turkish Press Law, also relating to the banning of books and prosecution of writers and translators in Turkey, there have been other similar cases during different periods in Turkish political and intellectual history. However, the *Baba ve Piç* case is particularly significant in that it triggered a heated debate in terms of the professional and ethical status of the translator and prompted Çevbir, a professional organization which initially represented book translators and has recently decided to admit technical translators also as its members, to start a campaign for having the Article 2 of the Press Law amended. Çevbir (Literary Translators' Society) was established in 2006, following an initiative of an e-mail group founded in 2003 to provide a professional network for sharing experiences and discussing translation problems. Çevbir, which currently has around 180 members and some 800 translators registered with the e-mail group, lists its objectives in its statute as follows:

a. To raise awareness among all literary translators, regardless of their membership to the Society, prospective translators and public opinion of their rights resulting from derivative work ownership defined in the related laws,

b. To work for removal of ambiguities and problems in the laws and regulations relating to the profession of literary translation and extension of rights recognized by laws,

c. To strive for ensuring free exercise of translation profession and freedom of thought and expression,

d. To foster professional solidarity among literary translators at the national and international level,

e. To work for establishing among literary translators the ethical values of UNESCO Nairobi Recommendation and European Council of Associations of Literary Translators (CEATL) pertaining to translation profession.

In the sense that it represents translators defending their legal and financial rights, Çevbir fulfills an important mission. Its emphasis on the need for an amendment in the legal status of translators is evident in its objectives b and c mentioned above. The arguments of the parties involved in the debate on the *Baba ve Piç* case and the discourse surrounding this case are analyzed in the next section.

The Discourse Surrounding the *Baba ve Piç* Case:

The controversy stirred by this case reflects two diverse viewpoints regarding the issue of the “rights and responsibilities of the translator” as well as her/his legal accountability. On the one hand, there are the publishers and translators asserting that the sole job of the translator is to translate a text from one language into another in an impartial and “faithful” manner. On the other hand, there is the other party to the debate involving predominantly the translation scholars who argue against the passive role attributed to the translator. They maintain that designating such a role for the

translator reinforces the “invisibility of the translator”, rather than fighting against the constraints on the freedom of expression.

In their declaration entitled as “Tercümana Zeval Olmaz” (Don’t Shoot the Translator) , Çevbir supports the argument that the translator should not be “shot”, or prosecuted as s/he simply performs her/his task and fulfills her/his obligations by translating the words of the author:

Oysa çevirmen, çevirmekle yükümlü olduğu iletiyi (metni, konuşmayı) bir dilden diğerine, taşıyıcısı olduğu her dilin ve kültürün özelliklerine uygun şekilde, sadık, eksiksiz ve tarafsız olarak aktarmakla yükümlüdür. Sorumluluğu bundan ibarettir: Çevirmen kendine ait bir düşünceyi dile getirmez, meslek etiği gereği, yazarın ya da konuşan kişinin söylediklerine bağlı kalmak zorundadır.

(The translator has the sole obligation to translate the message (a text or a speech) s/he is supposed to translate from one language into another in a faithful, complete and impartial manner taking into consideration the properties of both languages and cultures.) (my translation)

The declaration, or rather, the manifesto also includes a section in which it is stressed that the translator is still supposed to translate in a manner “faithful to the original” even if such original consists of views and arguments which the translator is completely against:

Kaldı ki çevirmen, değil içeriğine katılmak, aslında içerdiği görüşlere tümüyle karşı olduğu bir iletiyi bile çevirirken, kendi siyasi, felsefi düşüncelerini kenara bırakıp, o iletiyi aynı mesleki titizlikle, aslına sadık olarak çevirmekle görevlidir. İşi budur.

(The translator has to translate even a message which includes views s/he is totally against in a manner faithful to the original, leaving aside her/his own political, philosophical views and approaching the text with the same professional meticulousness as

s/he would translate a text the content of which s/he approves of. This is her/his job.)(my translation).

The fact that translators may not be fully aware of the elements of crime which may be involved in the texts they translate is stressed as follows:

Her şey bir tarafa, kendisinden çevirmesi istenilen metnin “suç” içerip içermediğini çevirmen nereden bilecektir? “Suç” unsuru taşıyabileceğini düşündüğü bölümleri kendiliğinden sansür mü edecektir? Oysa savcı ve yargıçlar bile, çevirisi yapıp Türkçeleştirilmediği sürece bir metnin “suç unsuru” içerip içermediğine hukuken karar veremezler. Dolayısıyla çeviri yapmış olmayı suç saymak, hukuk mantığına da tamamen aykırıdır. İfade özgürlüğünün kısıtlanmasından bile daha öte bir mantıksızlıktır.

(After all, how is the translator supposed to know whether a text s/he is asked to translate includes elements of “crime”? Is s/he supposed to self-censor the parts s/he deems to include elements of “crime”? Even the prosecutors and judges would be unable to decide whether a text involves “elements of crime” unless such text itself is translated into Turkish. Thus, it definitely runs counter to the notion of jurisprudence to define translation as a “crime”. It is even more nonsensical than restraining freedom of expression. (my translation)

Çevbir’s arguments regarding the “elements of crime” in a text are particularly significant in terms of bringing forth the notion of “self-censorship”, which results from the threat of conviction and often goes unnoticed –for at least a long while or forever- as, for instance, in the case of the various editions of the Turkish translations of Dostoyevsky’s *Brothers Karamazov*. In the translation, the sections portraying Turks as barbaric

people who attack and rape women and violently kill infants has been either partially or totally censored or cut.²⁶

As already mentioned in the previous chapter on the Turkish Press Law, Article 2 of the Turkish Press Law regards the translator as the owner of the work and holds her/him liable in cases where the source author is not a Turkish citizen residing in Turkey.

The campaign was headed by Çevbir and supported by some other translators and writers organizations like Çeviri Derneği, Birleşik Konferans Tercümanları Derneği and PEN; EDİSAM, Yay-Bir, Yayıncılar Birliği, Yazarlar Sendikası. Çevbir's declaration found media coverage and was dwelt upon by such columnists as Doğan Hızlan and Özdemir İnce, who write for Hürriyet, one of the major national dailies. In fact, it can be asserted that the campaign itself has provided "visibility" to the profession of translation in the sense that it has created a forum in which diverging opinions clashed.

Hızlan and İnce sided with the arguments put forth in Çevbir's declaration and voiced by its proponents.²⁷ Metin Celal and Yiğit Bener, who speak on behalf of EDİSAM and the Association of United Conference Interpreters, respectively, point out that preventing the translator from fulfilling her/his task by means of prosecution is a violation of the public's right to to be informed". According to Celal, the fact that most of the translators are acquitted does not really matter since the real intention

²⁶ For further information, please refer to: www.haberpan.com/dostoyevskinin-kitabina-tadilat-dostoyevskinin-olmeden-once-tamamladigi-karamazov-kardesler-kitabindaki-turklerle-ilgili-haberi/ (last accessed May, 2010)

²⁷ Hızlan's and İnce's articles can be reached at: <http://hurarsiv.hurriyet.com.tr/goster/haber.aspx?id=5742151&yazarid=4> and <http://www.hurarsiv.hurriyet.com.tr/yazarlar/5732844.asp?yazarid=72> , respectively. (last accessed: August, 2009)

underlying such cases is making translators practice self-censorship.²⁸

Celal has a point in claiming that the pressure exerted on translators leads to self-censorship, which takes place in subtler forms. The translator forced to practice self-censorship in translating texts in breach of the relevant articles of the Turkish Penal Law also resorts to some other methods like using pseudonyms to disguise her/his identity. A case in point is the aforementioned translation of Dawkins' *The God Delusion* (2006), in which the translator(s) use the pseudonym "Kalipso", in the first edition. In *The God Delusion*, Dawkins defies the existence of God describing the belief in God and religions as a "delusion". The translator must have been aware of the risk of a possible prosecution while translating a book on such a thorny subject as 'atheism' and accordingly, decided to use a pseudonym to disguise her/his identity. In fact, the threat of conviction may urge translators to refrain altogether from translating books which are likely to put them into trouble at the cost of devoiding the Turkish readers of the chance to read such books in Turkish

As for Bener's statements, it can be suggested that together with Tuncay Birkan, he has the strongest arguments in favor of the campaign. In his article published on the "Freedom of Expression" corner of Çevbir's website, Bener responds to those who criticize Çevbir's campaign for degrading the translator to a mere transferor of ideas and states that they would not be avoiding professional responsibility by demanding the required conditions of freedom and exemption from prosecution in order to perform their job. He also stresses that exerting control over the translator by means

²⁸ Bener's and Celal's statements are quoted in the articles "Tercümana Zeval Olur mu?" and "Çevirmenlerin Önemi ni Bilmiyoruz" by Mahmut Hamsici and Doğan Hızlan, respectively. (available at: <http://www.ceviridergisi.net> (last accessed: August, 2009)

of criminal cases is an infringement of the public's right to be informed. When Bener states his reasons why they "persistently" pursue their campaign, he refers to the notion of "fidelity" to the content of the source message as the limit to the "interpretation" and "the creative contribution" of the translator to the text s/he translates. In response to the arguments of those who criticize Çevbir's discourse, Bener approaches the notion of "visibility" from a different perspective stating that the "legitimacy" of Çevbir's campaign is questioned by certain circles since they are not used to viewing the translator as a "social agent" due to the "invisibility" of translators whose names may not even appear on the book covers they translate. Bener obviously does not include translation scholars in that category as he says that even those who argue in favor of "visibility" for translators regarding them as rewriters, criticize Çevbir's campaign for reducing the translator to a mere "conveyor" . As a third group of critics, he mentions those who hold that Çevbir is justifiable in carrying out such a campaign but should nevertheless change the wording of the campaign messages placing more emphasis on the freedom of expression than the innocence of translators. In the sense that he bases his arguments on the Article 2 of the Press Law and argues against the legal rationale of the Article, Bener is justified. As elaborated in the chapter on the Turkish Press Law, the definition of the translator as the owner of the work together with the author does not mean that the legislators actually regard the translator *on a par* with the author. The concern to find a suspect to try for a crime so that the crime does not go unpunished has been the real motive and Bener has a point when he says that this mentality runs counter to the notion of the "subjectivity of crime".

Tuncay Birkan, the chairman of Çevbir, dwells upon the same point by suggesting that the definition of the translator as “the owner of the work” in the Article 2 of the Press Law does not provide any advantage to the translator and actually appears to have resulted from the ill-will of legislators. In response to Sabri Gürses, he asserts that for the above reason, they do not regard the status of “the owner of the work” as an acquired right and argue in favor of the status of “the owner of the processed work” as stipulated in the Law on Intellectual and Artistic Works. Birkan distinguishes between ethical/intellectual responsibility and legal responsibility stressing that they definitely accept the former, while rejecting the latter. He also states that the market conditions are much harder today in that translators do not always have the “luxury” to choose whatever work to translate; they have to make a living, and they have a hard time trying to survive under such conditions since they often have very low income and translation is still not recognized as a decent profession. In his arguments regarding the prevailing tough market conditions and in response to Gürses, who criticizes Çevbir’s discourse for reducing translators to mere automats rather than cultural agents, Birkan maintains that those golden days when translators were active agents able to choose which books to translate and to use translation as a political, ideological and artistic tool of intervention are gone. In saying so, he actually responds to Gürses, who makes the following statement with reference to Sabahattin Eyubođlu:

Çevirmeni sorumsuz bir yerelleřtirici, bir aracı olarak kabul edersek, çeviri çalışmasının toplumsal zeminini de ortadan kaldırırız ve geçmişte (erotik, politik vb.) çevirileri nedeniyle yargılanmış çevirmenlerin deneyimini de sahiplenemeyiz: Sabahattin Eyubođlu Babeuf çevirisi için yargılandığı zaman kendisini yabancı bir markanın

tarafsız bir yerelleştiricisi olarak değil, bir kültür insanı olarak görüyordu.

(If we regard the translator as an unaccountable localizer, a mediator, we destroy the social platform of translation and cannot claim heritage of the experience of those translators who had been prosecuted for their (erotic, political etc.) translations in the past. When Sabahattin Eyuboğlu was taken to court for translating Babeuf, he was regarding himself as a cultural agent, not as the impartial localizer of a foreign brand. (my translation)²⁹

Birkan's argument that different conditions prevail today as regards the status of translators serves to prove the point that translation undertakes different missions and thus gains different rates of visibility and significance at different times in the intellectual history of a given society. Doubtlessly, the same argument is valid for translators, as well. Thus, there have been certain times in Turkish political and intellectual history when translation and translators have gained higher rates of visibility depending on the emphasis placed on the importance of translation. The importance attributed to translation during the first years of the Translation Bureau in line with the state policy in the early years of the Republic and the translation strategies and the discourse of two important translators, namely Sabahattin Eyuboğlu and Nurullah Ataç, who were the first two directors and prominent translators of the Bureau, will be analyzed in the pages to follow.

As for the other arguments in favor of the campaign, the opinions of lawyers who supported the campaign should also be mentioned. After emphasizing that the definition of the translator as "the owner of the work" is acceptable only in terms of the financial and moral rights pertaining to the translated text, Turgut Açar states that the translator should be exempt from

²⁹ Birkan's and Gürses' articles are available at the "Fikir ve İfade Özgürlüğü" ("Freedom of Thought and Expression") corner at the official website of Çevbir: <http://www.cevbir.org> (last accessed: March, 2010)

the criminal liability arising from the content of the work since it is the writer, not the translator who creates the work.³⁰ Ađar stresses that it runs counter to the basic principles of law to hold the translator responsible for the content of the work together with the author. As a matter of fact, as explained in detail in the chapter relating to the Press Law, the law does not hold the translator responsible for a translated work together with the author, the cases when the translator is held responsible are those in which the author cannot be taken to court for the primary reasons of not being a Turkish citizen and not residing in Turkey. The attribution of criminal liability to the translator has to do with the concern to find a suspect for a crime and in that sense, the notion of the subjectivity of crime does not apply; in a way, subjective liability is replaced with objective liability. Ađar’s opinions actually represent the legal perspective. He suggests that the notion of “Turkishness” in the Article 301 can be defined in explicit terms bearing in mind that the Turkish Republic is not based on the principle of ethnic origin but citizenship. He also maintains that if prosecutors refrain from starting legal action unless all the elements of the crime exist, that would be an important step towards solving the problem. This suggestion supports the argument put forth previously in this thesis that it is not the Article 301 of the Criminal Law itself that causes the indictments but the way it is interpreted by prosecutors. Changing the mentality of those who enforce the law is actually more difficult than changing the law itself.

Öykü Didem Aydın is another lawyer/translator involved in the debate.

Aydın points out the legal constraints to the freedom of expression and she

³⁰ Ađar’s article is available at the “Fikir ve İfade Özgürlüğü”(Freedom of Thought and Expression) corner at the official website of Çevbir: [http: www.cevbir.org](http://www.cevbir.org) (last accessed: March, 2010)

states that attributing criminal liability to the translator on the basis of the Article 11 of the Press Law runs counter to the basic human rights in that the translator can not be expected to know whether a text s/he is going to translate includes elements of crime at the time of deciding to translate that text³¹. And when s/he feels that a certain section included in the work is likely to be interpreted as displaying elements of crime, s/he resorts to self-censorship.

Hasan Anamur, the head of Çeviri Derneği, one of the professional organizations supporting Çevbir's campaign states that the translator, who has to be "faithful" to the original, must present the source author's views to the audience without distorting or changing them even if s/he does not agree with the author³². Anamur emphasizes the notions of "fidelity and equivalence", which have so far been approached from different perspectives. His argument that a translator can only be questioned and judged ethically and not legally if s/he distorts the source text according to her/his beliefs, political views and feelings is plausible. Likewise, he has a strong point when he claims that translators should not only be entitled to a copyright over their translations but also enjoy the same rights as the source author. In other words, he states that translation should enjoy the same rights (of protection) as the original work of art since it involves a creative process. It is at this point that a question can be posed: If the translator is entitled to have the same status as the source author, does not the same

³¹ Öykü Didem Aydın's article is available at the "Fikir ve İfade Özgürlüğü" ("Freedom of Thought and Expression") corner at the official website of Çevbir: <http://www.cevbir.org> (last accessed: March, 2010)

³² Anamur's views are quoted in Vercihan Ziflioğlu's article "Biz Sadece Fikirleri Türkçe'ye Taşıyoruz 'Tercümana Zeval Olmaz'" (available at the archive of articles of Çeviri Dergisi: <http://www.ceviridergisi.net> (last accessed: August, 2009)

status also implicate responsibility? Advocating the status of a writer for translators on the one hand, and rejecting accountability on the other appears to be self-contradictory.

The same question has been raised by the opponents of the argument that translators are merely “messengers”. It should be noted that the counter argument is voiced mainly by the Translation Studies scholars and students, rather than practicing translators. This, in a way, confirms Simeoni’s argument that it is the “peripheral observers”, i.e. the translation scholars, who demand “translatorial emancipation” rather than the practicing translators (Simeoni, 1998: 12).

Making reference to the papers presented in the “Translation Ethics” symposium held at İstanbul University in December 2006, Alev Bulut expresses why she has “mixed feelings” about the statements in Çevbir’s declaration in her role as both a translator and a scholar. She raises a question similar to the above stressing the connection between rights and responsibilities. She argues that the demand of respectability for the profession of translation entails assuming responsibility on the part of the translator; if the translator claims to be a “transparent mediator”, it appears that s/he denies her/his involvement in the whole process.³³

Meral Camcı also argues against such a “passive” role for the translator. Camcı asserts that the demand of exemption from prosecution can be interpreted as implying that the writer is responsible for what s/he has written and thus can be prosecuted whereas the translator is a neutral mediator and thus is not responsible for what s/he has translated. She also

³³ Alev Bulut’s article is available at: <http://www.cevbir.org/hicmizeval.html> (last accessed: August, 2009)

asserts that such a campaign should be based on the visibility of the translator and as such providing visibility for the translator must be the primary goal of a professional organization like Çevbir (Camcı 2008: 68-84). Camcı's arguments in favor of the visibility of the translator as a responsible and active agent represent the effort on the part of the translation scholars to elevate the professional prestige of translators.

Sabri Gürses takes a broader perspective. His main argument is that in cases of prosecution, the publisher is principally liable and that the translator is responsible for the works s/he translates due to her/his position of an intellectual supposed to assume responsibility for and bear the consequences of her/his deeds. Gürses also proposes that the prosecution of authors and translators does not only stem from the oppression of the freedom of thought but also from the essential flaws in the Turkish legal system as regards the status of the translator.

Bulut's arguments also depict the discrepancy between the academic approach to the role of the translator and translators' own arguments regarding their own roles. Indeed, Tuncay Birkan responded sharply to the opponents' comments emphasizing the same discrepancy between the views of translators and translation scholars and stating that such discrepancy indicates the general lack of dialogue between them. On the other hand, by referring to the essential flaws in the Turkish legal system, Gürses, in a way, points out the conditions forcing translators to claim to have the role of a messenger. As displayed in the chapter on the Press Law and indicated by the lawyers involved in the debate, the attribution of criminal liability to translators on the basis of the definition of "the owner of

the work” is problematic and as such deserves a thorough legal discussion. Meanwhile, the objections of the translation scholars to the campaign do not center on the issue of whether translators should be prosecuted on the basis of their controversial legal status. Their focus is on the discourse of the campaign, which underestimates the role and status of translators. The most severe criticism of the campaign’s discourse is made by Neslihan Kansu Yetkiner, who states that the use of the Turkish words like “taşıyıcı, aktarıcı, elçi” (conveyor, transferor, messenger), statements such as “aktarmakla yükümlü olmak, bağlı kalmak zorunda olmak, sorumlu ol(ma)mak” (being obliged to transfer, being supposed to remain faithful, being (ir)responsible) or adjectives like “sadık, eksiksiz, tarafsız, titizlikle” (faithful, complete, impartial, meticulously) all serve to portray the translator as a passive and secondary individual:

Bu kampanya metni aynı zamanda bir ideolojik duruş manifestosudur. Şu anda piyasada var olan çevirmen mesleği grubu kendini entelektüel düşünceye katkı yapan, yaratan, üreten “düşün grubu”nun içinde değil, sadece işini yapıp parasını alan “profesyonel iş dünyası”na dahil etmektedir. (Kansu Yetkiner: 2007: 9)
(This campaign text is also a manifesto of ideological stance. The professional group of translators active in the sector today define themselves as part of the “professional business world” consisting of individuals who simply do their jobs and get paid in return, rather than members of an “intellectual group” who contribute to intellectual thought, who create and produce.) (my translation)

Kansu-Yetkiner’s article dwells upon the discourse of the campaign from a critical discourse analysis perspective. In line with such a perspective, she criticizes the discourse employed in voicing the opinions of the campaign’s proponents rather than refuting Çevbir’s arguments.

The efforts of Çevbir to have the Article 2 of the Turkish Press Law amended are an important step to secure legal protection for the translator.

Such legal protection would surely contribute to the freedom of expression but then, the approach reducing the translator to the position of a mere “messenger” of the source author undermines the argument itself. Indeed, such an approach towards the task of the translator prevents the formation of a united front against the constraints on the freedom of expression.

As already mentioned, the list of the censorship cases in which the translators base their defensive pleas on the same notion of “innocence” can be extended. One such example is the above-mentioned *Tanrı Yanılgısı* (*The God Delusion*) case. Following the publication of Richard Dawkins’ *The God Delusion* in Turkey in June, 2007, a complainant named Ali Emre Bukağılı applied to the court claiming that the book is offensive and insulting to the Muslim majority living in Turkey as it denigrates the Islamic values, rejects God’s existence and incites hatred among public. Erol Karaaslan, who was the defendant, emphasized in his testimony that he was merely the translator, not the writer of the book and stated that the book was written by a prestigious scholar. Yet another case in point is the prosecution of the editors, the publisher and the translator of Noam Chomsky and Edward S. Herman’s *Manufacturing Consent* (Kitle Medyasının Ekonomi Polisiği: Rızanın İmalatı, in Turkish). The translator Ender Abadoğılu made similar statements in his testimony, in which he asserted that he was only the translator of the book and he had translated the book without any alterations or misrepresentations (the exact term he uses in legal Turkish is “tahrifat”, which can be translated into English as “fraudulent alteration, distortion or misrepresentation”)³⁴. The particular choice of the term is very significant in

³⁴ The news about the case can be reached at. <http://www.yorumla.net/yurtici-haberler/57271-10-18-06-rizinin-imalati-adli-kitap-ile-ilgili-dava-basladi.html> (last accessed August, 2009)

the sense that it indicates how the translator himself unconsciously regards the task of translation as some sort of an intervention which has the potential to distort or alter the original meaning. Claiming that he has translated the text without any such alterations or distortions, Abadođlu pleads not guilty. As Ülker İnce notes admittedly, for a long time translators were regarded as “traitors”, who commit the crime of fraudulently altering the original meaning due to the lack of “fidelity” to the source author (İnce in Tahir-Gürçađlar, 2005:106). It seems as though such sense of guilt has been internalized by some, if not all, translators. Or it might as well be the case that the conditions force translators to put forward such arguments in order to avoid conviction. In any case, such arguments based on the “innocence of translators” definitely diminish and disempower the translator.

The Relative Visibility of the Translator during Certain Periods in Turkish Intellectual History:

As mentioned above, the rate of the visibility of translators varies according to the importance attributed to translation in different periods in the intellectual history of a given society. Although the discourse which developed around Çevbir paints a portrait of the translator as a neutral carrier it has had an undeniable role in giving visibility to translators, who had been in the shade for many decades. Interestingly enough, translators have not always occupied a secondary position, a brief historical survey will help to present the ways in which translators were perceived as active and visible agents for a long time. Translation was entrusted with a significant

role in terms of the Westernization project of the young Turkish Republic. Thus, during the first years of the Translation Bureau, which was founded in 1940 and which performed the translation of world classics in line with the state policy of cultural development, the translators had a higher rate of visibility.

As regards the discourse on translation “during the period leading up to the foundation of the Translation Bureau as well as the first few years of its existence”, Tahir-Gürçağlar notes that it “is marked by statements, comments or criticisms reflecting the writers’ conceptualization of translation as an idealized activity”, however, she also adds that “these statements have a largely textual focus and, rather than problematizing the issue of the translator’s socio-political position as reflected in his or her translations, they assume an impersonal distinction between “fidelity” and “freedom”” (Tahir-Gürçağlar, 2008: 10). In other words, “fidelity” to the source text and the source author” was desirable despite the fact that it remained a relative concept while “freedom” was definitely unwelcome, at least by the intellectuals: “Those who wrote about translation in the 1930’s and 1940’s wanted to see only aspects of the source text and the source author in translations” (Tahir-Gürçağlar, 2008: 10). Given the fact that the “translation campaign”, which paved the way to the foundation of the Translation Bureau the success of which enabled Turkey to become one of the founding members of the FIT³⁵, it can reasonably be assumed that translators were

³⁵ Fédération Internationale des Traducteurs (International Federation of Translators): FIT is an international federation of associations of translators, interpreters and terminologists gathering more than 100 associations from all over the world. Its purpose is to promote professionalism in the discipline..

empowered as active agents playing a crucial role in the Westernization project. However, it turned out that:

Interested as they may have been in textual translation strategies, early republican writers and translators did not refer to larger issues such as the translator's politics (as opposed to the writer'), his or her responsibility, or the ethics of translation and the limits of interpretation.

(Tahir-Gürçağlar, 2008: 10)

Tahir-Gürçağlar notes that the creative aspects of translation were a discussion point in the sense that writers were encouraged to engage in literary translation so that the quality of translations would be improved. In other words, creativity was attainable or rather desirable only insofar as the translator was a well-known writer, who had the literary talent. In fact, Hasan Âli Yücel, who was the Minister of Education then and the founder of the Translation Bureau, acknowledges the crucial role of translators but still the emphasis is on the source author, on "absorbing the mentality" of the author and "penetrating into the cultural soul" of the author's society:

For any work to be considered as transferred into the mother tongue, the translators must have absorbed the mentality of the author, in other words, they have to be penetrated into the cultural soul of the author's society. In this way, it is obvious that they will enrich the intellectual treasure of their society with the concepts of the author's society. This is why we believe that with these systematic intellectual studies our mother tongue will find new improvement opportunities. For each understanding is a recreation, a good translator is worthy of a great author. (Yücel in Berk, 2004: 140)

Two of the most prolific and prominent translators of the Bureau were Nurullah Ataç and Sabahattin Eyuboğlu, who were also writers of indigenous works and were "among the first to establish the governing translation strategies in the early Republican era" (Berk, 2004: 150). Berk argues that fluency became the dominating norm following Yücel's views and this resulted in the adoption of a domesticating and acculturating strategy by

most translators like Nurullah Ataç and Sabahattin Eyuboğlu, who were also the first two directors of the Bureau. The translation norm they set in their respective translations and discourse about translation can be defined as “acculturation” maintained through fluent use of Turkish. As a matter of fact, the use of Turkish and the improvement of the Turkish language by means of translations was a basic concern for them:

For Ataç translation was “to think something that has been thought in one language over in another language” or “to be able to express an idea, a feeling in a different language than the one in which it was initially expressed” (...) His main concern, like Eyuboğlu, was the use of Turkish. On another occasion he wrote that “the goal of the poet, the author is always to make things that are hard or thought to be hard in his/her language easier. The translator too is a poet, an author, hence his/her goal cannot be any different”.

(Berk, 2004: 152)

On the basis of the above quotation, it can be suggested that Ataç’s approach to the translator was “empowering” as he defines the translator as “a poet, an author”, herself/himself, but then, the translator appears to be empowered and entitled to take liberties with the text only when s/he herself/himself is indeed an author like Ataç and Eyuboğlu. Ataç emphasizes that writers should be involved in translation, emphasizing the creative aspect of translation at the same time as follows:

Tercüme ile uğraşanlara büyük yazarlarımız yol göstermelidir; kendisi yaratamayan, kendisinin söylenecek sözü olmayan kimse başka brinin dediklerini de çeviremez (Ataç in Güzelşen (ed.) 2008: 85)
(Those who deal with translation should be guided by our great writers. If a person is unable to create something, if s/he has nothing to say, s/he cannot translate the words of another.) (my translation).

Furthermore, it goes without saying that Eyuboğlu’s and Ataç’s translation strategies were not welcome by all the critics; Nüvit Özdoğru, for instance, criticized Eyuboğlu for his *Macbeth* translation asserting that the

main characters Macbeth and Lady Macbeth were speaking Turkish like common people and the figures of speech which constitute the basic components of the stylistic traits of a Shakespeare play are totally lost (Berk, 2004: 159). Berk notes that Eyuboğlu's response is an argument for the visibility of the translator as Eyuboğlu claims that "(e)ach translation is perforce an interpretation. Because it is an interpretation, it is variable and relative. A person translating a book written hundreds of years ago in a certain language into another cannot reproduce the book with its complete value and requirements whatever s/he does" (Berk, 2004: 159)³⁶.

Despite the existence of such visible translators, the dominant norm in translation was still "faithfulness to the source author" and translators like Ataç and Eyuboğlu actually went against the grain with their styles which they defended in their prefaces, responses to the criticisms and writings elsewhere.

Berk plausibly argues that translators of the 1940's manifested their visibility in creating another original text by means of domesticating the text and admitting their role in manipulating the text and/or writing prefaces for their translations. However, such visibility was predominantly reserved for writer/translators who were themselves criticized for their approach to translation, as much as they were praised. What is more, such visibility was definitely short-lived as there were radical changes in the Bureau's approach to translation after Yücel's replacement by Reşat Şemsettin Sirer and the dismissal of the Bureau's leading members in 1946. As of 1947, the Bureau actually lost "its initial impetus" (Berk, 2004: 139) and "the necessity of

³⁶ "Her çeviri ister istemez bir yorumdur, yorum olduğu için de, ister istemez değişken ve görecedir. Yüzyıllar önce belli bir dilde yazılmış bir kitabı bir başka dile aktaran adam ağzıyla kuş tutsa o kitabı bütün değeri ve gerçeği ile tekrarlayamaz." (Sabahattin Eyuboğlu)

fidelity was emphasized more than before” (Berk, 2004: 161). Thus, visibility of the translator did not become the established norm, nor did the importance attached to translation last. This shift of emphasis was due to the change in the political atmosphere which certainly had its implications for the cultural policies:

Starting in 1946 (an important year in Turkish politics, when the multi-party system was adopted and the cultural policies of the single-party era started to be softened and modified), the missions attributed to literary translation by the state started to disappear from public discourse, with less attention given to the explicit functions or roles associated with translation in speeches and printed material.
(Tahir-Gürçağlar, 2008: 11)

The 1940’s was surely not the only period in Turkish Intellectual history when translation gained importance. Although it lost its initial impetus and orientation in the later years, the Translation Bureau lasted until 1967 and both the Bureau and its journal *Tercüme* had enormous influence in terms of defining the role of translation in bringing about cultural change.

As briefly displayed above, translation, and thus, translators played a very active role in shaping the political and cultural atmosphere of Turkey and introducing alternative and counter ideologies in the 1960’s, similar in terms of function to the case in the 1940’s, totally different in context, though. Given the role played by translation in the dissemination of the leftist ideas, Tahir-Gürçağlar questions why publishers, editors, writers, translators and readers remained silent regarding “the role played by translation, not only in terms of relaying foreign ideas and trends to Turkey, but also in terms of contributing to the violent political events of the late 1960’s and early 1970’s” (Tahir-Gürçağlar, 2008: 14). The question itself manifests how translators continued to remain invisible despite the socio-political conditions

which seemingly granted them “relative visibility”. Tahir- Gürçağlar also makes reference to the “double mirror” function of translation, “reflecting both the other and the self” and questions why it “failed to rekindle a public debate on the use, necessity and nature of translation” and she argues that the lack of such a debate could either be attributed to the perception of Marxism as being against the state unlike humanism, which was the core of the translation campaign in the 1940’s or to the fact that the intentions of the translators and publishers of leftist books were in no need of further elaboration, i.e. they were clear enough (Tahir-Gürçağlar, 2008: 14). It can further be argued that the systematic banning of books and the prosecution of authors, translators and publishers might have created a feeling of intimidation which had “silenced” the public and to a certain extent, the intelligentsia. At any rate, such an oppressive atmosphere must have also caused self-censorship, which is an inevitable outcome of the laws restricting the freedom of expression, as mentioned previously.

What other observations can, then, be made against such a cultural and historical background? The topic of translation in 1960’s Turkey and the prosecution of writers/translators in that period deserves to be the subject matter of yet another extensive study.³⁷ On the other hand, for the purposes of this study, it can be suggested that the dominance of the source author was further reinforced as manifested in the articles published on translation criticism in *Yeni Dergi* in 1966 and 1967. As Tahir-Gürçağlar indicates, “(t)he writers of these articles encouraged close adherence to the source author’s style and condemned “free” translations (Tahir-Gürçağlar, 2008: 15). Such

³⁷ For further information on translations of Marxist literature into Turkish, please refer to Erkal Ünal’s unpublished MA thesis *Invited Sojourners: A Survey of the Translations into Turkish of Non-fiction Left Books between 1960 and 1971*.

an emphasis on “close adherence to the source author’s style”, or “fidelity” and the “condemnation of “free” translations reflect how the social position of translators were overlooked despite their explicit roles in shaping the political atmosphere in Turkey. Indeed, it can even be argued that their social status deteriorated let alone being improved, when their respective situations in the 1940’s and 1960’s, the two periods when translation assumed an explicitly cultural and ideological role, are compared. In the 1940’s, translators were part of the discussions regarding the translation activity, the qualities of a successful literary translator were defined, the successful translators were favorably compared to writers, although such views were predominantly voiced for and by writer-translators. In any case, the role of translators as cultural transformers was recognized and translators performed their activities in an environment where the prevailing “habitus” among readers and critics was clearly more favorable. In the later periods, however, translation was not contextualized most of the time owing to the fact that the political mission of translation was terminated and a new Turkish literature/culture developed with indigenous sources for better or worse. To these factors, I would add the manner in which translators approached their own images and defended their own positions, as exemplified in the case study. The consequences of these external factors combined with the internalized discourse of “faithfulness to the source author”, or to put it in Simeoni’s terms, the “discourse of subservience”, all contribute to the rendering of the translator invisible and “unaccountable”, as discussed in the previous pages.

CHAPTER VI:

CONCLUSION:

The legal status of translators in Turkey is controversial. This controversy arises from the fact that translators are defined in diverging, or rather, contradictory terms in two different laws. The Law on Intellectual and Artistic Works regards the translator as “the owner of the processed work”, whereas the Press Law includes translators in the definition of “the owners of work” in cases where the source author is not a Turkish citizen and/or resides abroad. The definition of the translator as such, which seems to arise from a technical mistake on the part of the legislators, has constituted the legal ground for the indictment of a number of translators in cases of prosecutions against the books they translate.

As mentioned in Chapter 4, translators have been forced to appear before the court in many cases at different times during the Turkish political and intellectual history. However, the legally controversial status of translators has never instigated a debate as heated as the case in 2006 presented here, when legal proceedings against the Turkish translation of Elif Şafak’s *The Bastard of İstanbul* were started. What renders the case even more interesting and worthy of analysis is the fact that the translator was not actually prosecuted in this particular case and yet the charges against her which were dropped in the first hearing were enough to kindle a debate on the professional role of the translator among translation scholars and practicing translators. Furthermore, they led to a manifesto declared by a number of translators’ associations headed by Çevbir, Literary Translators’

Society. Indeed, the case itself provided visibility to translators who had remained in the shade for a long while (in even the cases where they were actually convicted) and brought the issue to the public attention. This was thanks to not only the clash of opinions on the case but also the campaign started by Çevbir to have the Article 2 of the Press Law amended.

The case was also significant in terms of displaying the discrepancy between the academia and practicing scholars as regards the way they apprehended the professional and ethical status of translators and commented on the discourse developed by translators in defending themselves. Çevbir advocated the presumed innocence of translators on the grounds that they were “messengers” of source authors with whose ideas they did not necessarily agree but nevertheless ideally translated in a “faithful, complete and impartial” manner. Translation scholars, on the other hand, criticized this discourse of being no more than a “conveyor” of the source author’s ideas, a “faithful messenger”, rather than an active agent, a cultural expert and a rewriter. Although none of the parties involved argued for the prosecution of translators, translation scholars asserted that Çevbir’s discourse undermined the fight for freedom of expression and the demand for the empowerment and emancipation of the translator while Çevbir accused the academia of remaining in their safe ivory towers and failing to sympathize with the harsh conditions translators have had to deal with to perform their task and the utter sense of terror caused by the indictments.

Two perspectives were adopted in order to approach this case. The first perspective has to do with the social and historical factors which bear upon translators’ endorsement of the role of messengers, and the second is

geared to account for the legal factors, i.e. how the formulation of the laws relating to the professional status of translators influence the way translators form their own self images. The hypothesis offered rests on the assumption that these two different sets of factors are intermingled as the way laws are drafted in a given society is reflective of the social, cultural and historical milieu of that society. Thus, translators are induced to adopt a secondary position, “a discourse of subservience” in Simeoni’s terms, due to not only social and historical but also legal factors, i.e. the threat of conviction.

The theoretical framework presented in Chapter 2 supports the first perspective in that it elaborates on the notion of the “discourse of subservience”, as introduced by Daniel Simeoni who conceptualizes the endorsement of a servile position by translators using the Boudieusian concept of “habitus”. Simeoni reframes Toury’s model of norms suggesting that in order to gain recognition, the translator abides by the rules imposed by the dominant norms in the society to such an extent that s/he is relieved from the external pressures shaping her/his professionalization process only by internalizing them. What is more, the forces; the habitus eventually become such powerful instruments of control over how translators regard their tasks and consequent images that even those who are in a position to change them conform to their rule. Thus, according to Simeoni, those who demand emancipation for translators are not the translators themselves but the “peripheral observers”; the translation scholars in the particular case analyzed. The notion of the “invisibility of the translator, as discussed by Venuti and Bassnett are also interrelated in the sense that translators are in a way urged to remain in the shade when the major expectation from

translation is “to read like the original”. The emphasis on “originality” renders translation a mere second-order representation, no more than a copy of the source text which is uniquely entitled to claim “originality”. Despite the changes in the approaches to the notion of “originality” under the influence of poststructuralism and deconstruction and the existence of the examples to the contrary, the source author is still regarded as superior to the translator in all senses of the term including the legal rights, as dwelt upon in Chapter 3.

The conception of “originality” as being the domain of the source author and the “Romantic concept of authorship” developed around originality has shaped the way international copyright laws have been drafted. The historical evolution of the international copyright law, namely the Berne Convention is discussed in Chapter 3. The way translator’s rights are subordinated to the author’s reveals that the conventional approach to translators as being inferior to authors is reinforced by the legal regulations. The consequence of such an approach has been the failure to mention translators’ rights in the Berne Convention until as late as the 1971 Paris Revision, which still endows authors with substantial moral rights in full control of the translation of their work. Thus, translators have been subject to unfavorable economic conditions and suffered from low professional images in most cases, as exhibited in Sela-Sheffy’s and Schlesinger’s study on the occupational prestige of Israeli translators and interpreters. The Nairobi Recommendation, which represents an attempt to further the rights of translators and improve their legal and financial conditions do not completely resolve the problem, either owing to the fact that it is not a legally binding

document. A scrutiny of the historical background and evolution of the Turkish copyright law, namely the Law on Literary and Artistic Works, reveals that the Law repeats the wording of the Berne Convention in terms of emphasizing the authorial rights.

As the criminal liability of translators in cases of prosecution against the books they translate originates from their being defined as “the owners of the work”, any discussion on the legal framework would be incomplete without an analysis of the Turkish Press Law and more importantly, the reasons why translators have been defined as such. The inclusion of translators within the definition of the owners of the work enlarges the scope of criminal liability and appears to be based on the notion of “joint and several liability”. However, the notion of “joint and several liability” do not fully explain the underlying motive in the prosecution of translators in place of authors. The concern to find a suspect to prosecute and punish so that the crime would not go unpunished appears to be the real cause of defining translators as the owners of the work rather than regarding them *on a par* with the source authors. To that end, the principle of the “objectivity of crimes” overrules that of “the subjectivity of crimes” in the punishments pertaining to press crimes. In light of this observation, it can be suggested that Çevbir is justified in demanding an amendment in the Press Law, which ironically elevates the translator’s position only to use it as a means of punishment.

Chapter 5, which discusses the case within the context of the discourse surrounding it, demonstrates the diverging views on the professional and ethical stance of translators. The arguments put forth by

the translators and Çevbir members are indicative of a “translatorial habitus” which has shaped the perception of translators’ self-images and has, in turn, been indirectly shaped by the laws, themselves shaped by the social conventions and norms. The discourse employed by the proponents of Çevbir’s campaign “Don’t Shoot the Translator” center around the notions of “fidelity to the source author”, resulting in the demand for unaccountability on the part of translators and it is this discourse which undermines an argument in favor of the elevation of the translator’s status, which would otherwise be much stronger. It is the discrepancy in terms of the means and the discourses in line with such means, rather than the aims that causes the conflict between the translation scholars and practicing translators involved in this debate. Resolving this conflict would serve the common purposes of enhancing the professional prestige of the translator, empowering translation and forming a united front against the restraints on the freedom of expression.

REFERENCES:

- Ağaoğlu, A. (1976/2006). *Fikrimin İnce Gülü*. T. İş Bankası Kültür Yayınları.
- Altan, A. (1985) *Sudaki İz*. İstanbul: Can Yayınları.
- Arrojo, R. (1995). The “death” of the author and the limits of the translator’s visibility In Snell-Hornby, M., Jettmarova, Z. & Kaindl, K. (eds.), *Translation as Intercultural Communication*. Amsterdam/Philadelphia: John Benjamins, (pp. 21-32)
- Arrojo, R., (2002). Writing, interpreting and the control of meaning. In: Gentzler, E.& Tymoczko, M.(eds.)*Translation and Power*. Amherst.: University of Massachusetts Press, (pp. 63-79).
- Ataç, N. (1942). Tercüme üzerine. .In Rifat, M. (ed.) *Çeviri Seçkisi I/ Çeviriyi Düşünenler* (2004/2008) İstanbul: Sel, (pp. 84-85).
- Bandia, P. & Milton, J. (2009). (eds.) Introduction. In: *Agents of Translation*. Amsterdam/Philadelphia: John Benjamins.
- Barthes, R. (1967/ 1977). Death of the author in: *Image, Music Text. Noonday*. New York.
- Basamalah, S. (2001). The thorn of translation in the side of the law: toward ethical copyright and translation rights. In: *The Translator* Volume 7; Number 2 (pp. 155- 167).
- Bassnett, S. (1994). The visible translator. In *In Other Words*, 4, (pp.11-15).
- Bassnett, S. (1996). The meek or the mighty. reappraising the role of the translator.In Alvarez R., Vidal, M.C.A. (eds.). *Translation, Power, Subversion*. Clevedon, Philadelphia and Adelaide: Multilingual Matters, (pp. 10-24).
- Bassnett, S. 1998. When is a translation not a translation? In Bassnett, S. & Lefevere, A. (eds.) *Constructing Cultures/ Essays on Literary Translation*. Multilingual Matters. Clevedon, Philadelphia. (pp.25-39).
- Berk, Ö. (2004). *Translation and westernization in Turkey from the 1840’s to the 1980’s*. İstanbul, Ege.
- Biçen, A. & Ünal, E. (2008). Değerler ile gerçeklik arasında çeviri mesleği. In: *Çeviri Etiği Toplantısı/ Çeviri ve Çevirmenliğin Etik Sorunları 7-8 Aralık 2006/ Bildiri kitabı*. İstanbul: İstanbul Üniversitesi Yayınları. (pp. 43-53).
- Bulut, A. Tercümana hiç mi zeval olmaz? Available at: <http://www.cevbir.org/zeval.html> (last accessed: August, 2009).

- Bury, J. B. (1913/1957). *A History of Freedom of Thought*. Oxford University Press, London.
- Buzelin, H. (2005). Unexpected allies: how Latour's network theory could complement Bourdieusian analyses in translation studies. . In *Bourdieu and the Sociology of Translation and Interpreting*. Special issue of *The Translator* 11(2), (pp. 193-218).
- Camcı, M. (2008). Çevirmen 301. madde'den yargılanmalı mı? yargılanmamalı mı? Çevirmen sorumluluğunun (suz)(lu)luğunun açılım ve sınırları. In: *Çeviri Etiği Toplantısı/ Çeviri ve Çevirmenliğin Etik Sorunları 7-8 Aralık 2006/ Bildiri kitabı*. İstanbul: İstanbul Üniversitesi Yayınları, (pp.67-84).
- ÇEVBİR Kitap Çevirmenleri Meslek Birliği (The Association of Book Translators). "Tercümana zeval olur mu?" available at: <http://www.cevbir.org/zeval.html> (last accessed: August, 2009).
- Dawkins, R. (2006/2007). *The God Delusion*. Bantam Press Transworld Publishers. Great Britain.
- Dawkins, R. (2007). *Tanrı Yanılgısı* (çev. Kalisto, Bilgin, Tunç Tuncay), İstanbul: Kuzey.
- Doğan, T. Çevirmen masum mu? Çevirmenlerin çevirdikleri metin karşısında entelektüel ve ahlaki sorumluluğu available at: <http://www.bgst.org.keab/td20061210.asp> (the website of BGST Bilim ve Toplum) (last accessed: August, 2009).
- Dönmezer, S. (1976). *Basın ve Hukuku*. İstanbul: İstanbul Üniversitesi Yayınları.
- Erel, Ş. N. (1998). *Türk Fikir ve Sanat Hukuku*. Ankara: İmaj.
- Erman, S. (1964). *İzahlı Basın Kanunu ve İlgili Mevzuat*. İstanbul: İstanbul Üniversitesi Yayınları.
- Gouanvic, J.-M. (2005). A Bourdieusian theory of translation, or the coincidence of practical instances: field, 'habitus', capital and 'illusio'. In *Bourdieu and the sociology of translation and interpreting*. Special issue of *The Translator* 11(2) (pp. 147- 166).
- Gürses, S. Çevirmen: mesleki sorumluluk sahibi kişi. Available at: <http://www.bgst.org.keab/td20061210.asp> (last accessed: August, 2009).
- Gürses, S. (2009). Çeviride seferberlik hali: telif ve tercüme. Speech delivered at the 5th National Publishing Congress, Ankara.
- Herman, E. S. and Chomsky, N. (1988). *Manufacturing Consent*. Pantheon Books. New York.

- Hermans, T. (1996). The translator's voice in translated narrative. *Target* 8.1, (pp.23-48).
- Hermans, T. (2007). *The Conference of the Tongues*. Manchester: St.Jerome.
- Hızlan, D. Tercüman cezalandırılır mı? available at: <http://hurarsiv.hurriyet.com.tr/goster/haber.aspx?id=5742151&yazarid=4> (last accessed: August, 2009).
- İnce, Ü.(2005). In: Tahir-Gürçağlar, Ş. Kapılar./ Türkiye'de Çevirmen Üzerine Söylemler. Scala, İstanbul
- Infante, Cabrera G., (1965/1985). *Three Trapped Tigers* (trans. Gardner D., Levine S.J., Infante G.C.,First Bard Printing, USA.
- Inghilleri, M. (2005). The sociology of Bourdieu and the construction of the 'object' in translation and interpreting studies. In *Bourdieu and the Sociology of Translation and Interpreting*. Special issue of *The Translator* 11(2). (pp.125-143).
- İrtem, S. K. (1999). *Abdülhamid Devrinde Hafiyelik ve Sansür*. İstanbul: Temel Yayınları
- Kabacalı, Alpay. (1990). *Başlangıçtan Günümüze Türkiye'de Basın Sansürü*. Gazeteciler Cemiyeti Yayınları, İstanbul.
- Kansu-Yetkiner, N. (2007). Çevirmen kararları ve sorumluluğu bağlamında bir kampanya metninin çözümlenmesi. In:*Litera*. (pp.145-156).
- Kudret, C. (1977). *Abdülhamid Devrinde Sansür*. İstanbul: Milliyet Yayınları.
- Lefevere, A. (1992a). *Translating Literature /Practice and Theory in A Comparative Literature Context*. The Modern Language Association of America. New York. 1992a.
- Lefevere, A. (1992b). *Translation, Rewriting, and the Manipulation of Literary Fame*. Routledge. London and New York.
- Levine, S.J.. (1991). *The Subversive Scribe: Translating Latin American Fiction*. St: Paul: Graywolf Press, USA.
- Louÿs, Pierre. (1896/1926) *Aphrodite-Moeurs Antiques*. Ed. E. Fasquelle, Paris.
- Louÿs, Pierre. (1896/1926). (trans. Baydar, Nasuhi) *Afrodit: Eski Adetler*. Semih Lütfi Kitabevi, İstanbul.

- Miller, Henry. (1961). *Tropic of Capricorn*. Grove Press, New York
- Miller, H. (1985/1991) (trans. Sağıtür; Aylin) *Oğlak Dönencesi (Tropic of Capricorn)*. Can, İstanbul.
- Paker, S. (1991). Turkey: The age of translation and adaptation. In: Ostle, R. (ed.) *Modern Literature in the Near and Middle East 1850-1970*. London and New York, Routledge. (pp. 17-32).
- Sela-Sheffy & Shlesinger, M. (2008). Strategies of image-making and status advancement of translators and interpreters as a marginal occupational group. In: *Beyond Descriptive Translation Strategies /Investigations in Homage to Gideon Toury*. Amsterdam/Philadelphia: John Benjamins. (pp. 79-90).
- Simeoni, D. (1998). The pivotal status of the translator's habitus. In: *Target* 10:1, (pp. 1-39).
- Shafak, E. (2007). *The Bastard of Istanbul*. England: Penguin Books.
- Şafak, E. (2006). *Baba ve Piç*. (çev. Biçen, Aslı). Metis, Beyoğlu, İstanbul.
- Tahir-Gürçağlar, Ş. (2004/2008). Tercüme Bürosu nasıl doğdu? Birinci Türk Neşriyat Kongresi ve Çeviri Planlaması. In Rifat, M. (ed.) *Çeviri Seçkisi II / Çeviriyi Düşünenler* İstanbul: Sel. (pp. 37-43).
- Tahir-Gürçağlar, Ş. (2009). Translation, presumed innocent. In: *The Translator*, Volume 15, Number 1
- Toplatılan Kitaplardan Seçmeler*. (1976). İstanbul: Türkiye Yazarlar Sendikası Yayınları
- Topuz, H. (2003). *II. Mahmut'tan Holdinglere Türk Basın Tarihi*. İstanbul: Remzi.
- Toury, G. (1995). *Descriptive Translation Studies and Beyond*. Amsterdam/Philadelphia: John Benjamins.
- Tymoczko, M. (2007). *Enlarging Translation, Empowering Translators*. Manchester: St. Jerome.
- Üstünsöz, İ. (forthcoming). Censorship on the Translated Obscene Literature in Turkey: An Analysis of Two Specific Cases in: *The dynamics of translation in Turkey: continuity and change*. Amsterdam: John Benjamins.
- van den Broeck, R. (1995) Second thoughts on translation criticism/ A model of its analytic function. In: Hermans, T. (Ed.), *The Manipulation of Literature, Studies in Literary Translation*. London/Sydney: Croom Helm. (pp. 54-62).

- Vieira, E. (1994). *A postmodern translation aesthetics in Brazil*. In: Snell-Hornby, Pöchhacker, F. and Kaindl, K. (Eds) *Translation Studies: An Interdiscipline*. Amsterdam: John Benjamins. (pp. 65-72)
- Venuti, L. (1992). Introduction. In Venuti, L. (Ed.) *Rethinking Translation: Discourse, Subjectivity, Ideology* London/ New York: Routledge. (pp. 1-17).
- Venuti, L. (1994). The translator's invisibility: The evidence of reviews. *In Other Words* 4. (pp.17-22).
- Venuti, L. (1998). *The Scandals of Translation*. London/New York: Routledge.
- Vermeer, H. 1989/2000. *Skopos and commission in translational action*. In: *Readings in Translation Theory*. (ed. Chesteman, A.). 1989. Oy Finn Lectura Ab., (pp.173-200).
- Wechsler, R.(1998) No translator is an Island in: *Performing Without A Stage*, North Haven, Catbird Press.
- Yılmaz, M. Ve Doğaner, Y. (2007). *Cumhuriyet Döneminde Sansür: 1923: 1973*. Ankara: Siyasal Kitabevi.
- Basın Kanunu (Turkish Pres Law) available at: <http://www.byegm.gov.tr/basinmevzuati/kanunlar.htm> (last accessed: March, 2010)
- Berne Convention available at: www.wipo.int/treaties/en/ip/berne/trtdocs_wo001.html (last accessed: February, 2010)
- Fikir ve Sanat Eserleri Kanunu (Turkish Law on Intellectual and Artistic Works) available at: <http://www.mevzuat.adalet.gov.tr/html/957.html> (last accessed: February, 2010)
- Nairobi Recommendation available at: <http://www.fit-ift.org/en/nairo-e.php> (last accessed: March, 2010)
- Testimonies of Elif Şafak and Semih Sökmen (Available at: <http://www.metiskitap.com/Scripts/Catalog/text.asp?ID=11907&BID=1930>)
- The 2009 Report of the Committee on the Freedom of Publication can be accessed at: <http://turkyaybir.org.tr/> (last accessed: March, 2010)
- The EU Commission's Turkey Progress Report is available at: http://ec.europa.eu/enlargement/pdf/key_documents/2006/nov/tr_sec_1390_en.pdf (last accessed: April, 2010)