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## IMPLEMENTING MANIPULATIVE STRATEGIES IN LEGAL SPEECH

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**S. Gasparyan. Implementing manipulative strategies in legal speech.** The article aims at exploring peculiar linguistic features of Legal English – a variety of thematically oriented language applied in the social domain. The focus is on the interaction of language and law and the linguistic maneuvering achieved by the manipulative strategies applied to the use of language. The investigation is meant to show that linguistic manipulation may stimulate the occurrence of ambiguous expressions and double-speak even in legal documents, violating the basic function of law to communicate the truth and express clear-cut ideas. The research also reveals that the use of manipulative tools aimed to achieve practical ends is directly connected with domination and control over people's perception and interpretation of objective facts. Of particular interest is the analysis of Turkishness (Turkish nation) in the legal texts of Article 301 of the Penal Code of Turkey (versions of 2005 and 2008) which, in fact is a dangerous challenge for the Turkish society, a real threat meant to endanger the fundamental right of humans to Freedom of Expression. The comparative-contrastive approach to the sources helps to reveal linguistic facts exposing the manipulative strategies implemented in the infamous Article 301 through which the Turkish political authorities try to exert a devious influence on the public and stifle dissenting opinion. The “amendments” introduced in the changed version of 2008 of Article 301 of the Turkish Penal Code had nothing to do with contextual improvements and were, in fact, an attempt to delude the European Union into believing that Turkish authorities had readily accepted its advice to amend the Article. The research establishes that the prevalence of politics over law is disastrous as it obviously leads to a covert resorting of manipulative strategies in legal speech and is meant to satisfy the best interests of those in power.

**Keywords** intersection of language and law, legal documents, linguistic manipulation, freedom of expression, violation of human rights.

**С. Гаспарян. Реалізація маніпулятивних стратегій в юридичному мовленні.** Стаття спрямована на вивчення мовних особливостей юридичної англійської мови – різновид тематично орієнтованої мови, застосованої в соціальній сфері. Основна увага приділяється взаємодії мови і права та лінгвальному варіюванню, досягнутому завдяки маніпулятивним стратегіям, застосованим у використанні мови. Ця розвідка має на меті показати, що мовна маніпуляція може стимулювати виникнення неоднозначних виразів і двозначності навіть у юридичних документах, порушуючи основну функцію юридичної мови – передавати правдиві та чітко висловлені ідеї. Дослідження також виявляє, що використання маніпулятивних інструментів, спрямованих на досягнення практичних цілей, безпосередньо пов'язане з домінуванням і контролем над сприйняттям людей та їх інтерпретацією об'єктивних фактів. Особливий інтерес становить аналіз турецької ідентичності (турецької нації) у юридичних текстах статті 301 Кримінального кодексу Туреччини (версії 2005 та 2008 рр.), які насправді є небезпечним викликом для турецького суспільства, реальною загрозою для основного права людини на свободу вираження поглядів. Порівняльно-контрастивний підхід до джерел допомагає виявити мовні факти, що розкривають маніпулятивні стратегії, реалізовані в сумнозвісній статті 301, за допомогою якої турецькі політичні органи намагаються чинити негативний вплив на громадськість та придушувати інші думки. “Поправки”, внесені в змінений редакції статті 301 Турецького кримінального кодексу 2008 року, не мали нічого спільного з контекстуальними поліпшеннями і, власне, були спробою ввести в оману Європейський Союз, удаючи, що турецька влада охоче прийняла його поради внести зміни до статті. Дослідження встановлює, що переважання політики над законом є згубним, оскільки, очевидно, призводить до

прихованого вдавання до маніпулятивних стратегій у юридичній промові та має на меті задоволення інтересів влади.

**Ключові слова:** мовні маніпуляції, перетин мови і права, порушення прав людини, правові документи, свобода вираження поглядів.

**С. Гаспарян. Реализация манипулятивных стратегий в юридической речи.** Целью статьи является изучение специфических языковых особенностей юридического английского языка – разнообразного тематически ориентированного языка, применяемого в социальной сфере. Основное внимание уделяется взаимодействию языка и права и языкового лавирования, достигаемого с помощью манипулятивных стратегий, применяемых к использованию языка. Данное исследование имеет целью показать, что лингвистические манипуляции могут стимулировать появление неоднозначных выражений и двусмысленности даже в юридических документах, нарушая основную функцию права – передавать правдивые и четко выраженные идеи. Исследование также показывает, что использование манипулятивных инструментов, направленных на достижение практических целей, напрямую связано с доминированием и контролем над восприятием и интерпретацией людьми объективных фактов. Особый интерес представляет анализ турецкости (турецкой нации) в юридических текстах статьи 301 Уголовного кодекса Турции (версии 2005 и 2008 годов), которые, по сути, представляют собой опасную проблему для турецкого общества, реальную угрозу для фундаментального права людей на свободу выражения. Сравнительно-контрастивный подход к источникам помогает выявить лингвистические факты, раскрывающие манипулятивные стратегии, реализованные в печально известной статье 301, с помощью которой турецкие политические власти пытаются оказывать пагубное влияние на общественность и подавлять мнения несогласных. “Поправки”, внесенные в измененную версию 2008 года статьи 301 Уголовного кодекса Турции, не имели ничего общего с контекстными улучшениями и фактически являлись попыткой ввести в заблуждение Европейский союз, делая вид, что власти Турции с готовностью приняли его совет изменить статью. Исследование устанавливает, что преобладание политики над законом является катастрофическим, поскольку оно, очевидно, ведет к скрытому использованию манипулятивных стратегий в юридической речи и предназначено для удовлетворения интересов тех, кто находится у власти.

**Ключевые слова:** лингвистические манипуляции, нарушение прав человека, пересечение языка и права, правовые документы, свобода слова.

## 1. Introduction

In this paper, my intention is to present some of the results of the work accomplished within the scope of the research project focused on the study of anti-Armenian propaganda discourse at large. This particular piece of work aims at exploring the peculiar features of legal English – a variety of thematically oriented language largely used in a social domain of paramount importance (both local and international). Obvious is the fact that any legally significant information requires a language to be recorded in, transmitted and received. In situations relevant to different legislative provisions, it is so important that correct but not uncreative language forms are used appropriately. These applications open new vistas for linguistic investigation of legal English.

The main concern of the paper is to unfold and illuminate the characteristic properties of English which has now established itself as a reliable tool in the domain of legal communication. It is well-known that communication through language is essentially the process of conveying reality from mind to mind. To comprehend the surrounding world is first and foremost to respect the words of language and their ability to convey reality, for the latter becomes comprehensible through words. By naming things and referring to certain entities and processes via language, people expose their minds to others, aiming to convey their own ideas and recreate the objectively existing facts. It is respect towards words that helps to sense and estimate reality.

However, this mediating character of language is often being increasingly corrupted, destroyed and distorted by tyranny and propaganda. Implementing manipulation of words is a dishonest way of controlling human minds, a consistent and cunning strategy to distort truth and choose falsity and illusion instead of reality. Thus, the abuse of political power is very closely connected with the sophisticated accomplishment of the abuse of words where it finds a fertile soil

to hide and grow in, and give the latent potential of the totalitarian poison in words a good chance of gradual realization. The degradation of man through man, displayed in the acts of physical violence committed by dictatorship and tyrannical behaviour, is indeed an alarming phenomenon though, in fact, the onset of it is less alarming, as the moment when the word is deprived of its dignity is very subtle and almost imperceptible. The priority of the word, to be sure, consists in accomplishing what no other means can accomplish through words, i.e. when communication based on reality takes place (Pieper, 1992). Very often, guided by dishonest intentions, instead of communicating truth and reality, or clearly presenting accurate and understandable ideas, political and legal languages are being abused so as to achieve certain practical ends.

Thus, the present paper will be an attempt to study the manipulative strategy implemented in legal documents. The nature and functions of linguistic manipulation in legal English will be revealed with reference to certain elements in Article 301 of the Turkish Penal Code. Before presenting the theoretical account of linguistic manipulation and the analysis of the data, I shall try to clarify the metalinguistic interpretation of legal language at large and legal English in particular, and then make an attempt to offer an insightful account of the legal aspect of the document mentioned. The notion and concept of manipulation will be looked into from the perspective of the intersection of language and law. In the final part of the paper I shall draw the readers' attention to the mechanisms of linguistic manipulation which help to reveal the relations of power and dominance. In the conclusive part of the work the results of the research driving us to more general observations will be presented.

## **2. The interaction of language and law**

In this section, it is necessary to explain the main issues of the metalinguistic interpretation of legal language and legal English in particular, and then discuss the origin and means of the manipulative abuse of language in legal documents.

### **2.1. Concepts and methods**

The interaction of language (including the variety of all linguistic elements) and law explains the enormous interest of both linguists and jurists towards the nature of legal English, its specific use, the manipulative strategies applied to the use of language and the results achieved by maneuvering. The study of the intersection of the scientific fields under investigation acquires even more importance nowadays as the expansion of economic and cultural cooperation between countries and within countries requires legal regulation, qualified assistance of lawyers and their participation in negotiations, business meetings and in preparation of documentation. Accordingly, linguistic activities in the sphere of legal relations turn out to be of special significance. Like other functional styles of speech, which are independent systems, the style of official documents, legal documents included, has certain communicative goals as well as its own consistent patterns and language characteristics common to the given style, "legal language" among them.

From a methodological point of view the present research is based on critical discourse analysis, an interdisciplinary approach to the study of discourse that views language as a form of social practice and tries to explain discourse structures in terms of properties of social interaction. In other words, the problem of linguistic manipulation in the legal domain is discussed and analysed in the present paper in terms of social and political domination and control, the struggle for power between those who maintain power through falsification and those who are trying to resist it. The comparative-contrastive method and the semantic and stylistic analysis of the language data have also been applied.

### **2.2. Legal language**

It should be mentioned that the branch of science dealing with issues of language and law can be described by the metalinguistic notion of legal linguistics. In the middle of the last century, this

term meant a set of methods and research results connected with the relationship of language and legal norms, and met the requirements of modern linguistics. The understanding of legal linguistics has significantly expanded due to the developmental changes modern linguistics has undergone, particularly stimulation of interdisciplinary research the productivity and reliability of which is already beyond doubt.

Over the last decades, a number of scholars have tried to define what “legal language” is (Butler, 2013; Butler, 2015; Bhatia, 1993; Wydick, 2005; etc.), however most of their studies have not proven to be systematic, and the definitions offered for the language used in legal processes do not transfer all the properties and functions obtained by this style. Some scholars discuss only the written variety of legal language defining it as legal writing with its three subtypes: academic legal writing, juridical writing and legislative writing (Bhatia, 2010, p. 46). Generally speaking, the presented distinction is quite acceptable; however, obvious is the fact that this style of language is not confined to only its written form. D. Kurzon, going further in offering two terms for specific legal procedures, argues that language of the law is “the language or the style used in documents laying down the law”, whereas legal language refers to the language that is “used to talk about the law”. The latter can appear both in written form (judgments, textbooks, etc.) and the oral (formal speech, witness questioning, etc.). The oral subtype of legal language can also be referred to as law talk (Kurzon, 1989, p. 284). Whatever the case, one thing seems to be clear: professionally oriented language (written or oral) in general and legal English in particular are governed by the specialized use of certain terms and general scientific collocations which, as it were, appear to bear the basic legal message of this or that document. The specially chosen language means in legal discourse may often aim at distorting reality, formulating ambiguous and cloudy meanings and shading facts. In this case we can claim that linguistic manipulation is applied to achieve the results (legal or political) the manipulator is seeking. At first sight, the choice of different linguistic elements for manipulative purposes may seem arbitrary, and it is here that appropriate analysis and interpretation of manipulative language is important to reveal the truth.

### **2.3. Abuse of language as manipulation**

According to Oxford Advanced Learner’s Dictionary of Current English, manipulation is “managing or controlling somebody or something skillfully or craftily, especially by using one’s influence or unfair methods” (1980, p. 517). Unfair methods are used to gain advantage in one’s own dishonest goals, and to achieve social influence that aims, as it were, at changing people’s behaviour or perception, and this is done covertly through abusive and furtive tactics (Braiker, 2004). There can be various motivations when individual or collective manipulation is undertaken. The most important factors among them involve the need to advance one’s own purposes and personal gain at nearly any cost to other individuals or the society, the strong desire to achieve power and superiority in relation to others, to keep their minds under control in an effort to raise their perception of self-esteem (Braiker, 2004). In other words, manipulation is a social phenomenon, and is practiced communicatively and interactionally. In such a practice, the manipulator strives to exercise unjust control over others, usually against the will or against the interests of the manipulated. It is evident that manipulation as a concept gives ground to negative associations, as it violates social norms (Van Dijk, 2006, p. 360).

Means of manipulative techniques, according to George K. Simon, are diverse, and most effective among them are: lying by omission – a very subtle form of lying, widely used in propaganda; a refusal to admit that wrongdoing has occurred; selective attention when anything within the agenda is in the centre of attention whereas anything distracting the listeners’ attention from the speaker’s chosen agenda is ignored; diversion when the conversation is intentionally directed towards another topic; evasion in the case of which the responses given are neither clear nor relevant; covert intimidation when vague or implied threats are used; vilifying by masking aggressive intent, and falsely accusing the victim for defending his/her position (Simon, 1996).

It is evident that manipulation involves power – to be more precise, the abuse of power and domination. The practice of unauthorized influence, with the help of discourse, makes others believe in what the manipulator presents or does in his own interest against the interests of the manipulated (Van Dijk, 2006, p. 360).

Thus, at large, manipulation is getting what an individual or a group wants to achieve by ignoring or harming the desires of the other party or the society, aiming at domination and reproduction in different forms. Manipulation is mainly realized through the use of seemingly objective, persuasive, tricky, misleading and misdirecting language. There are numerous other manipulative techniques that are used in different communicative situations, but we have focused only on those tactics which directly or indirectly refer to verbal manipulation in legal discourse<sup>3</sup>.

Manipulation is a term of awesome inventive potential, typical of the system of linguistic manipulation (Dotsenko, 1997). As a means of communication, language not only serves the purpose of conveying information but also influences interlocutors and regulates their social, interpersonal, mental states and behaviours. From this point of view, linguistic manipulation can be defined as the manipulation of an individual and/or collective conscience and behaviour, realized through various linguistic means of natural language (Grishechko, 2013, p. 2). It is “the conscious use of language in a devious way to control others” (Fairclough, 1994, p. 2360)<sup>4</sup>.

Linguistic manipulation facilitates distortions of objective reality through verbal abuses and misuses, and presents illusionary subjective reality through ambiguous and blurred linguistic data in which intentionality is not quite obvious. Intentionality as one of the basic parameters of linguistic manipulation exercises a destructive effect on an individual, group or society at large. This phenomenon cannot be easily identified, as it is expressed through regular linguistic patterns (lexical elements, grammatical forms and syntactic constructions) which do not trespass the system of customary discourse, also used to realize aims and functions characteristic of non-manipulative communication. On the other hand, it turns out through analysis and interpretation that it is the same linguistic patterns of discourse that help disclose manipulative intentions.

Linguistic signs at various levels help reveal the speaker’s intentions concealed in speech due to his/her manipulative skills (Akopova, 2013, p. 3), disclose cases of abused and misused language and prove the fact that linguistic manipulation has been applied. Thus, a discourse becomes manipulative not because of the application of particular linguistic units, but because of their relationship to the manipulator’s aims and motives. The analysis of manipulative discourse shows that language itself, to a certain extent, encourages the bending of reality, distorting discourse manipulatively, offering linguistic means that make it possible to apply uncertain, vague, obscured categories to express untruth.

Discourse structures that presuppose manipulative attitudes, according to van Dijk, include emphasizing the position, power, authority or moral superiority of the speaker, the inferior position, absence of knowledge, etc. of the recipient, and focusing on the beliefs that the manipulator forces on the recipients as knowledge, through argumentation, proofs, etc., thus making them believe in its veracity while discrediting alternative ideologies, attitudes and emotions of the recipients (Van Dijk, 2006, p. 376). Thus, the manipulative language strategy is to discursively focus on social characteristics of the manipulated in order to make them accept the attitudes imposed by the manipulator.

Linguistic manipulation implies a beginning in smaller or more discrete segments of linguistic forms that connect to larger linguistic entities, which undergoing “some change, transformation, mutilation, mutation”, turn out to be relatively unexpected by the addressee (Danciu, 2014, p. 25). Manipulation via language exploits the fact that listeners or readers first of all perceive and try to understand the primary meaning of words, focusing on specially selected linguistic units and language patterns that present positive information, instead of trying to interpret the negative shades of meaning hidden between the lines.

The character of verbal manipulation preconditions the usage of ambiguous expressions and all sorts of double-speak. In this, the semantic qualities of manipulative discourse are not easy to distinguish. Strategies for control, in their turn, demand the usage of lexical elements depicting manipulative mechanisms (Linguistic Persuasion, 2017). Linguistic manipulation has proven to be: social (in welcomes, vows, petitions, etc.), volitional (in requests, solicitations, refusals, etc.), instructive and estimative (in a kind of discourse which sets interpersonal relations while impugning, acclaiming, warning against danger, etc.) (Tarasov, 1990, p. 123).

Manipulation is directly connected with domination, control and demagogic language. Manipulators (a person or a group) are experts in using these tools. They usually have a great command of language and the rhetoric of persuasion, and play a dominant role in relationships. The manipulator is not concerned with advancing rational values, they are only concerned with achieving their or a certain group's goals, and scrupulously try to present manipulative notions as concepts and ideas which seemingly share the values of those manipulated. The goal of a skilled manipulator is to control what others think. They achieve this by controlling the way information is presented to others – the public at large or certain representatives of the society. They use seemingly rational means to make an impression of being objective and reasonable. An important part of manipulation is the concealment of some information and certain points of view that the manipulator is trying to keep away from being given a fair hearing (Richard, & Elder, 2004, pp. 4-5).

Thus, it becomes clear, that the abuse and misuse of language are the basic components of linguistic manipulation. Undoubtedly, the intelligibility of reality depends on and is accomplished through language. By abusing language, politicians and law-makers often cloak even the most obvious realities in disguised, erroneous assumptions, thus violating the basic function of language to communicate the truth, and giving rise to false associations connected with untruth. It is this strategy of speech that controls their addressees and manipulates them to achieve practical ends. In other words, tyranny and propaganda, the abuse of power lead to the abuse of language (Pieper, 1992) that results in distorting and changing even the most obvious truths. This means language is being abused for the sake of achieving control and power. Inadequacy and distortion of language, i.e. using linguistic units in a confusing and misleading way, are the most marked characteristics of the abuse of language, and this dangerous process can corrupt the human mind and thought through language (Orwell, 2006). When applied, the abuse of language brings about a transformation of an original account, which means that society is presented with a biased view of the problem in question.

Linguistic manipulation involves the grammatical, lexical, syntactic, pragmatic and, most importantly, semantic aspects of language (Van Dijk, 2006, p. 376; Khudhayir, 2013, p. 4)<sup>5</sup>. Using manipulation through different means of language results in the authority or recognition the manipulator is seeking. The right interpretation of manipulation mechanisms and manipulative language is important because it prevents individuals, certain groups of people, and the society at large from being under some form of subjugation.

Although the possible choices of different linguistic elements (morphological, semantic and syntactic) for manipulative purposes in legal as well as political discourses may seem arbitrary, actually they are not, for choices are usually made in accordance with the speaker's consideration of different purposes. Thus, B. Johnstone is quite right to think that there cannot be truly synonymous words or truly synonymous surface structures, and if these alternative structures exist, if the grammatical set of conventions allows their existence, it must mean that they serve different functions (Johnstone, 2002). Moreover, the linguistic manipulation of people and society at large through grammar, wording or style choices can indicate a certain mode of thinking or ideology, which will, in their turn, help the manipulator realize them. It is the adequate interpretation of these linguistic choices that reveals the speaker's intentions, his way of thinking and worldview (Berariu, & Peterlicean, 2016, p. 189).

The choices aimed at linguistic manipulation, at the usage of language as a means of conveying legal and political agendas that are far from the truth are high frequency phenomena with an immense impact on the consciousness of people in the political arena in general and in the political struggle for power in particular. One of the main tasks of such discourse is influencing and managing public opinion, and this linguistic manipulation serves as a tool for inducing the public to do something (to give information, to make an act, to change behaviour) unconsciously, contrary to one's own desires, opinions and intentions (Troshina, 1990). Influencing and managing are realized through propaganda, demagogical discourse and persuasion, frequently with the help of alliterations, rhyming, rhythmization, nominalization, converse terms, neologisms, deictic units, euphemisms, dysphemisms, sophisticated lexis, barbarisms, elliptic language and inversion of essentially contested concepts; deep and shallow processing; presupposition (Kenzhekanova et al., 2015, p. 325).

The essentially contested concepts, seemingly logical, actually contrast against rational argumentation or evidence, though it is not an easy task to prove this as there is always room to support these concepts through different kinds of seemingly valid (although false) arguments put forward by the manipulator (Gallie, 1956, p. 169). Only a close linguistic analysis can reveal that such concepts are false and have been used to veil reality and truth.

Deep and shallow processing refers to the notion that a certain term is chosen deliberately considering either its semantic precision or its semantic vagueness. In other words, of relevance are the variations of semantic meaning – the clarity, precision or vagueness with which a certain piece of information or assumption is communicated (Chilton, 2008, p. 227). This approach to the question of lexis carries interesting implications for not only understanding the nature of political and legal terms, but also for clarifying the mechanism implemented in their exploitation or manipulation in the course of communication.

As far as presupposition is concerned, it is in fact one of the most important properties of discourse, for very often what is not said and asserted can be presupposed. Hence, “most shared knowledge is presupposed and not asserted, and the public can merely process some terms used in political [*or legal – S.G.*] discourse just as positive or negative” (Khudhayir, 2013, p. 9). Thus, lexical units are used in different contexts of discourse to serve certain agendas, certain aims of manipulating people through language.

### **3. Abuse of language in the legal domain: results and discussion**

The study of mechanisms of linguistic manipulation in legal discourse will help avoid sociopsychological effects of the manipulation of discourse, demagoguery, mind-control, aggression and even violence in speech.

As legal language is formalized and logical, it is varied in its linguistic characteristic features, such as lexical, morphological, syntactic and semantic, as compared to ordinary natural language (Wydick, 2005. p. 10). These features provide consistency, validity, completeness, conciseness, clarity, precision and soundness to legal language. The study of legally specialized vocabulary, phrases and syntax should help people comprehend and communicate legal information. The general assumption is that legal writing must be Clear, Correct, Concise, and Complete (the four Cs) (Wydick, 2005. pp. 3, 10). However, the deliberately manipulated (abused or misused) legal discourse frequently hampers the comprehension and communication at large via ambiguous, indirect and masked language<sup>6</sup>.

The linguistic field of legal discourse is not only connected with the manipulation of discourse from a linguistic perspective, but also with certain legal, psychological, historical and cultural elements present in a legal text. The linguistic strategies are totally dependent on contextual factors or context models, and it is important to consider a certain place and time in history. Manipulation in legal discourse is the usage of a very measured technique, and in any piece of it not only the technique but also the authors' intentions and the linguistic expression of those intentions should be

scrupulously studied and interpreted by specialists and the public. Thus, any legal piece has to fit in the present and past socio-historical context.

The legal definition of manipulation gives the following meanings to the noun: “change, control, domination, employment, execution, exercise, exploitation, finagling, governance, handling, influence, machination, manoeuvring, plotting, ploy, scheming, taking advantage of, contrivance” (Legal Dictionary 2018). As evident from the synonymous explanations, many of the nouns deal with not only manipulation as an act or process in general, but with linguistic manipulation in legal discourse in particular. Change, redefinition and even contrivance of certain linguistic units in a legal document seem to trick people into reading and interpreting them in favour of the authors.

Thus, linguistic manipulation is the use of language in a way that tries to present certain strategies and objectives covertly, exerting a shrewd and devious influence especially to the advantage of the author or certain political and legal circles.

If, for an example we try to analyse the manipulative tactics exerted in Article 301 of the Turkish Penal Code referring to the practical data in the versions of 2005 and 2008 of Article 301, the investigation will reveal that the basic function of law to communicate truth and express clearcut, accurate and understandable ideas has been violated in the mentioned documents through the abuse of language meant to control people and manipulate their perception and interpretation in order to achieve pragmatic goals.

Abuse and manipulation of words, vagueness and ambiguity of meaning turn out to be marked characteristics of the first (2005) version of Article 301 referring to *Denigration of Turkishness, the Republic or the Grand National Assembly of Turkey*<sup>7</sup> as well as the reason why Turkish authorities were urged to make certain amendments in the wording of the document in the second (2008) version<sup>8</sup>.

Thus, we concentrate on the organization of linguistic units in the two specific legal documents and provide theoretical and practical linguistic interpretation of some of the language data under question.

Now let's look into the texts of both versions of Article 301 and make an attempt of analysing at least some of the linguistic elements which have been “amended”.

#### **Article 301 (June 1, 2005)**

1. *Public denigration of Turkishness, the Republic or the Grand National Assembly of Turkey shall be punishable by imprisonment of between six months and three years.*
2. *Public denigration of the Government of the Republic of Turkey, the judicial institutions of the State, the military or security structures shall be punishable by imprisonment of between six months and two years.*
3. *In cases where denigration of Turkishness is committed by a Turkish citizen in another country, the punishment shall be increased by one third.*
4. *Expressions of thought intended to criticize shall not constitute a **crime**.*

(Turkey: Article 301 2006:1)

Compare the text of this version with the Turkish text of the Article:

- (1) *Türklüğü, Cumhuriyeti veya Türkiye Büyük Millet Meclisini alenen aşağılayan kişi, altı aydan üç yıla kadar hapis cezası ile cezalandırılır.*
- (2) *Türkiye Cumhuriyeti Hükümetini, 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.*

(İşte 301'in Yeni ve Eski Hali, Hürriyet, 08.01.2008)



**Article 301 (April 30, 2008, by Article 1 of the Law no. 5759)**

*Degrading Turkish Nation, State of Turkish Republic,  
the Organs and Institutions of the State*

1. A person who publicly **degrades Turkish Nation, State of the Turkish Republic, Turkish Grand National Assembly, the Government of the Republic of Turkey and the judicial bodies of the State shall be sentenced a penalty of imprisonment for a term of six months to two years.**
2. A person who publicly **degrades the military or security organisations shall be sentenced according to the provision set out in paragraph one.**
3. The expression of an **opinion** for the purpose of criticism does not constitute an **offence.**
4. The conduct of an investigation into such an offence shall be subject to the permission of the Minister of Justice.

(Penal Code of Turkey 2016:99)

*Madde 301- (Değişik: 30/4/2008-5759/1 md.):*

- (1) *Türk Milletini, Türkiye Cumhuriyeti Devletini, Türkiye Büyük Millet Meclisini, Türkiye Cumhuriyeti Hükümetini ve Devletin yargı organlarını alenen aşağılayan kişi, altı aydan iki yıla kadar hapis cezası ile cezalandırılır.*
- (2) *Devletin askerî veya emniyet teşkilatını alenen aşağılayan kişi, birinci fıkra hükmüne göre cezalandırılır.*
- (3) *Eleştiri amacıyla yapılan düşünce açıklamaları suç oluşturmaz.*
- (4) *Bu suçtan dolayı soruşturma yapılması, Adalet Bakanının iznine bağlıdır.*

*(8965, Türk Ceza Kanunu, Kabul Tarihi, 26/9/2004, Birinci Kitap,  
Genel Hükümler Birinci Kısım, Temel İlkeler,  
Tanımlar ve Uygulama Alanı,  
Birinci Bölüm, Temel İlkeler ve Tanımlar)*

The comparative examination of language abuse in reference to certain linguistic units of the lexical level reveals the possibility of determining the viability of the amendments carried out in Article 301 (2008) as compared to Article 301 (2005).

The close reading of the two texts of the Article reveals obvious cases of language abuse in quite a number of linguistic units of the lexical level, let alone implementation of manipulative strategies in accomplishing the changes meant to amend the document: *denigration to degrade, Turkishness to Turkish Nation, The Republic to State of the Turkish Republic or State of the Republic of Turkey, thought to opinion, crime to offence*<sup>9</sup>. A focus on even one or two units that have undergone changes will suffice to show that the two versions of the Article are the same from the contextual point of view as the superfluity of the “amendments” proves not to have changed anything seriously in the 2008 version of the document. If we try to refer to the change of *Turkishness* to *Turkish Nation* we can see that albeit the change is visibly there, in fact, it has not introduced any contextually serious amendment into the new, 2008 version of the Article, for the basic idea expressed by the controversial and semantically ambiguous abstract noun **Turkishness** which by OSCE is rendered as “being a Turk” (*OSCE Representative on Freedom of the Media – Review of the Turkish Penal Code. 2005, p. 10*) is almost identically displayed in the lexical combination of **Turkish nation**. While the term **Turkishness** indicates a common entity sharing a common culture, peculiar to the Turks in and outside Turkey, the attributive combination *Turkish nation*, as mentioned by Algan (2008, p. 2242), narrows the meaning of the term without directly mentioning the participants of the same culture. And we would hasten to agree with E. Tamvaki who believes that this argument reflects the ideal of pan-Turkism and demonstrates the prurience of the founders of modern Turkey to the values adopted by Atatürk a century earlier, but adhered to up until today” (Tamvaki, 2009, p. 24).

Thus, due to the manipulation implemented in the change of *Turkishness* to *Turkish nation* makes it rather problematic to interpret *denigration of Turkishness* (*degrading Turkish nation* in the version of 2008) and decide how and under which circumstances the article could be applied. The wording in both the cases is politically incorrect as it violates the human right of freedom of expression. This has been borne out by the vivid case of the bestselling Turkish novelist Elif Shafak who faced unjust trial in 2006 albeit she could not be accused directly for either physical or verbal action against the state. However, she was acknowledged responsible and tried for the remarks of her fictional character in the novel *'The Bastard of Istanbul'* where one of the personages says: *"I am the grandchild of genocide survivors who lost all their relatives to the hands of Turkish butchers in 1915, but I myself have been brainwashed to deny the genocide because I was raised by some Turk named Mustafa"*. The case against Shafak did not surprise either the publishers or the readers of her book as they had no doubts that this kind of attitude awaited any good writer the asperity of whose voice could be raised and heard in Turkey. Elif Shafak herself was sure that the underlying reason for the charges she had to face was that she had been very active on taboo topics and the Armenian Genocide in particular. She had no doubt that the Turkish authorities would never understand her position of supporting an open and democratic society in Turkey particularly that the intolerance and aggression against freedom of expression was officially documented in Article 301 of the Penal Code of her country.

Elif Shafak's case was not a single one. There were numerous other court cases and prosecutions (more than a thousand). In 2006 five journalists were charged with insulting the judicial institutions of the State; they had criticized a court order to shut down a conference on the Ottoman Armenian casualties in the Ottoman Empire during WWI. The charges potentially presupposed up to a 10-year term of imprisonment. As the statute of limitation had run out, exceeded, the charges against four of them were dropped by the court on April 11, 2006, while the fifth, Murat Belge, was acquitted only on June 8, 2006.

These and many other cases show that the use of the terms *Turkishness* and *denigrating Turkishness* is intended to be against dissenting opinion, against people who try to find the historical truth about Turkey. As far as the conceptual meanings of the terms *Turkishness* and *Turkish Nation* are concerned, they both emphasize nationality conditioned by race, religion, language, culture, aims and purposes. In the same way, they both refer to people, tribe, kin in a group or collective of people with common characteristics such as language, tradition, customs, habits and ethnicity, in fact a cultural-political community that has become conscious of its autonomy, unity, and particular interests<sup>11</sup>.

Thus, being the same from the point of view of their semantic meaning and content *Turkishness* and *Turkish Nation* do not represent different distinct notions (Tamvaki, 2009, p. 26), and although the drafters claimed that *Turkishness* is abstract and its replacement with the concrete wording *Turkish Nation* would *broaden the frontiers of freedom of expression* (Algan, 2008, p. 2242), it actually did not.

The change of the word *denigration* (in the version of 2005) to *degrade* (in the version of 2008) didn't improve the contextual situation in Article 301 either, for both these elements have been chosen to stand for one and the same Turkish word-combination *aşağılayan kişi* (*with the non-finite form aşağılayan used attributively*) which appears in the Turkish texts of both the versions. The part of speech transformation in both the translation variants is obvious: the non-finite form + noun construction has been substituted for a noun (*denigration*) in the 2005 version and for a verb (*to degrade*) in the 2008 version. However obvious is also the fact that this kind of changes the necessity of which occurs in the process of translation are quite acceptable unless they violate the idea conveyed by that very content. In *denigration* the presence of the prefix *de-* which is usually used to signify the opposite, in this word plays the role of an intensifier which enhances the meaning expressed by the root (*nigrare* – to blacken), while in *degrade* it stands to express the reverse of the meaning *grade*. These elements are different not only from the point of view of their

part of speech reference but also their semantic structure, let alone the racial implications the word *denigration* has. However stylistically both are negatively charged, and the pragmatic goal the law-makers pursue is in both cases the same – to prevent people make use of their right to express their thoughts freely.

Thus, it is not difficult to see that the use of *Turkish Nation* in *degrade Turkish Nation* (the 2008 version) instead of *Turkishness* in *denigrating Turkishness* (the 2005 version) has not introduced any essential amendment into Article 301 which still remains to be an invincible obstacle for the Turkish society on its way to freedom of expression.

#### 4. Conclusion

The investigation of the political implications of the legal domain shows that language is a very important tool in the realization of legal processes aimed at serving the regulation of social behaviour. The performance of legal services should necessarily be based not only on skills for resolving disputable questions and controversies but also professional knowledge to prevent eventual cases.

Politics tends to comprehend and interpret law as a means through which to fulfill certain political interests and achieve certain political goals, as in the case of Article 301 of the Turkish Penal Code. This means that law prevents a political solution to a problem and serves as an obstacle on the way to justice, while politics effectuates the solutions at the expense of law. However, the rule of the independence of law requires that neither law-makers, nor those who apply it, can be guided by the principle of their political preferences when judging opponents. Differentiation of them can by no means be based on the radical opposition of friends *vs* enemies, for this is sure to lead to strict separation of “ours” and “yours”<sup>12</sup> in public.

When politics prevails over law, legal documents tend to resort to a manipulation of language in order to meet unjust political needs, to be in the best interests of the dominating group over the interests of the one dominated. Linguistic manipulation does not reveal its viewpoints about the distortion of reality or injustice, and its efficiency depends on concealing the truth. Respectively, the revelation of manipulative linguistic means and tools will eventually help to avoid incorrect interpretation of legal documents, demagogy, unjust court decisions and even aggression and violence.

Albeit the Turkish judicial branch tries hard to interpret Article 301 in favour of the public and society, those changes seem to have only been meant to *throw dust* in the eyes of the European Union and veil the law-makers’ actual intention of keeping free human thought in check. The use of unacceptably broad and vague words leaves room for ambiguity and double standards. The strategic enforcement of manipulation of one of the basic human rights in and through language in both versions of Article 301 is quite obvious.

As far as the right to freedom of expression is concerned, the changes introduced in the amended version of the Article are absolutely inadequate to meet the requirements of the Court’s settled case-law. The solution to the problem seems to be not only a change in the law in general and in the Article in particular but first of all – a change in mentality.

Today, ten years after the article was “amended”, it is evident that this version has not affected or has affected to a very little extent the decrease of the number of charges against those who are accused of the breach of the Article, and the reason for that is the implementation of linguistic manipulation in the document, which creates very serious obstacles on the way to full practice of freedom of expression in Turkey.

In more plain words, the state bodies in Turkey remain to be politically partial, and their understanding of freedom of expression is not in line with that of the European Court of Human Rights. The Article is still a nationalist tool in the hands of Turkish authorities to stifle dissenting opinion.

Interesting is the fact, that among the members of the United Nations, practically no other country finds it appropriate to maintain legislation equivalent to Article 301; does this reveal the constructed nature of the national identity within the Republic of Turkey and that it is impregnated with unsustainable anomalies? If so, action to extricate such a broad state-sponsored derogation is imperative.

## NOTES

1. The language characteristics of legal English have been discussed in (Gasparyan, & Kharatyan, 2018)
2. The currently distinguished contact areas of language and law are: communication in court, legal reasoning seen through the prism of language properties, investigations in legal practice with the help of linguistics, the impact of language on legal processes, linguistic requirements for legal formulations, etc.
3. Illegitimate manipulative influence may also be exercised through non-verbal means, such as pictures, photos, cartoons, videos which are more typical of mass media manipulation – the next domain most accused of using manipulative techniques (besides political and legal discourses).
4. N. Fairclough explains that using language in a devious way means using it in a way which hides one's strategies and objectives.
5. Van Dijk T. A. states that “general strategies of manipulative discourse appear to be largely semantic, i.e. focused on manipulating the content of text and talk” (Van Dijk, 2006).
6. This is the reason why legal style has been labelled as “reader-unfriendly” by B. Butler in *Strategies for Clarity in Legal Writing* (2013, p. 32).
7. This version of Article 301 of the Turkish Penal Code was adopted on June 1, 2005. Cf. (Leicht, 2006)
8. The second version was adopted on April 30, 2008. Cf. (Algan, 2008).
9. For the details of the changes in the document see (Gasparyan, 2018, pp. 333-353).
10. It was the first Turkish novel (first written in English and translated into Turkish in 2006) that directly presented details of the Armenian Genocide. At the first hearing Shafak was acquitted, and the case was dropped as the prosecutor could see no elements of the crime envisaged in Article 301. Cf. (Algan, 2008, p. 2239). However, later it was taken to a higher court and aggressive authorities managed to overturn the decision.
11. By comparison, a nation is more impersonal, abstract, and overtly political than an ethnic group. Cf. (James, 1996; Hroch, 1996, pp. 35-44).
12. The terminological use of the pronouns has been borrowed from (Cerar, 2009).
13. The detailed analysis of all the changes of Article 301 of the Turkish Penal Code has been summed up in: Gasparyan S., Paronyan Sh., & Muradian G. (2019) *The Use and Abuse of Language in the Legal Domain*. Montreal: Arod Books.

## REFERENCES

- Akopova, A. (2013) Linguistic Manipulation: Definition and Types. *IJCRSEE*, 1(2), 78-82.
- Algan, B. (2008). The Brand New Version of Article 301 of the Turkish Penal Code and the Future Freedom of Expression Cases in Turkey. *German Law Journal*, 09(12), 2237-2252. Retrieved December 12, 2018 from <https://scholar.google.com/citations?user=fmWMKxkAAAAJ&hl=da>
- Berariu, E. C., & Peterlicean, A. (2016). The Power of Language in Political Discourse. *Multicultural Representations. Literature and Discourse as Forms of Dialogue*, 4, 188-194. Retrieved October 10, 2018 from <https://old.upm.ro/ldmd/LDMD-04/Lds/Lds%2004%2027.pdf>
- Bhatia, V. K. (1993). *Analyzing Genre: Language Use in Professional Settings*. London: Longman.
- Bhatia, K. L. (2010). *Textbook on Legal Language and Legal Writing*. Universal Law Publishing. Retrieved September 12, 2018 from <https://www.amazon.com/Textbook-Legal-Language-Writing/dp/8175348941>
- Braiker, H. B. (2004). *Who is Pulling your Strings? How to Break the Cycle of Manipulation?* NY: McGraw-Hill.
- Butler, B. D. (2013). Strategies for Clarity in Legal Writing. *Clarity. Journal of the International Association Promoting Plain Legal Language*, 70, 31-37. Retrieved November 12, 2017 from <http://www.clarity-international.net/wp-content/uploads/2014/10/Clarity-no-70-web-bookmarked.pdf>

- Butler, B. D. (2015). *Developing International EFL/ESL Scholarly Writers*. Berlin: De Gruyter Mouton. Retrieved November 15, 2018 from <https://www.oreilly.com/library/view/developing-international-efles/9781501500855>
- Cerar, M. (2009). The Relationship between Law and Politics. *Annual Survey of International & Comparative Law*, 15(1), Article 3. Retrieved November 10 from <https://digitalcommons.law.ggu.edu/annlsurvey/vol15/iss1/3/>
- Chilton, P. (2008). Political Terminology. In R. Wodak, & V. Koller (Eds.). Series: *Handbooks of Applied Linguistics [HAL]: Handbook of Communication in the Public Sphere*. Vol.: 4 (p. 225-242). Berlin: Walter de Gruyter Mouton. DOI: <https://doi.org/10.1515/9783110198980>. Retrieved April 1 from <https://www.degruyter.com/view/books/9783110198980/9783110198980.3.225/9783110198980.3.225.xml>.
- Danciu, V. (2014). Manipulative Marketing: Persuasion and Manipulation of the Customer through Advertising. *Theoretical and Applied Economics*, 2(591), 129-34.
- Dotsenko, E. (1997). *Psihologija manipuljacii: fenomeny, mehanizmy i zashhita* [Psychology of Manipulation: Phenomena, Mechanisms and Protection]. Moscow: CheRo, MGU Publ.
- Fairclough, N. (1994). Manipulation. In *Encyclopedia of Language and Linguistics* (p. 2360). Kidlington: Pergamon Press.
- Gallie, W. B. (1956). Essentially Contested Concepts. *Proceedings of the Aristotelian Society. New Series*, 56, 167-198. Retrieved November 12, 2017 from <https://www.scribd.com/document/233573988/Gallie-W-B-1956a-Essentially-Contested-Concepts-Proceedings-of-the-Aristotelian-Society-Vol-56-1956-Pp-167-198>
- Gasparyan, S., & Kharatyan, L. (2018). Legal English. The UN Convention on Genocide as a Domain-Specific Text. *Armenian Folia Anglistika. International Journal of English Studies*, 1-2(18), 72-85.
- Gasparyan, S. (2018). Manipulation of Ideas in and through Language. In B. Krivokapic, D. Covic, & N. Danilovic (Eds.). *Law 2018: Current Problems of Law and Legal Science* (pp. 333-353). Belgrade: ICIM Publishing. Retrieved from [http://www.meste.org/L2018\\_files/Zbornik.pdf](http://www.meste.org/L2018_files/Zbornik.pdf)
- Gasparyan, S., Paronyan, Sh., & Muradian G. (2019). *The Use and Abuse of Language in the Legal Domain*. Montreal: Arod Books.
- Grishechko, O. (2013). Communicative Effect Achieved through Speech Acts of Manipulation. *IJCRSEE*, 1(2), 144-151.
- Haraszti, M. (2005). Review of the Draft Turkish Penal Code: Freedom of Media Concerns. Retrieved April 1, 2020 from: <https://www.osce.org/fom/14672?download=true>
- Hroch, M. (1996). Nationalism and National Movements: Comparing the Past and the Present of Central and Eastern Europe. *Nations and Nationalism*, 2(1), 35-44.
- James, P. (1996). *Nation Formation: Towards a Theory of Abstract Community*. London: Sage.
- Johnstone, B. (2002). *Discourse Analysis*. Oxford: Blackwell Publishing.
- Kenzhekanova, K., Zhanabekova, M., & Konyrbekova, T. (2015). Manipulation in Political Discourse of Mass Media. *Mediterranean Journal of Social Sciences*, 4(6), 325-332.
- Khudhayir, S. (2013). *Manipulation of Meaning in Political Discourse*. Retrieved September 13, 2017 from [https://www.researchgate.net/publication/309419661\\_Manipulation\\_of\\_Meaning\\_in\\_Political\\_Discourse](https://www.researchgate.net/publication/309419661_Manipulation_of_Meaning_in_Political_Discourse)
- Kurzon, D. (1989) Language of the Law and Legal Language. In C. Lauren and N. Marianne (Eds.). *Special Language: From Humans Thinking to Thinking Machines* (p. 283-290). Clevedon-Philadelphia: Multilingual Matters.
- Leicht, J. (2006). World Socialist web site. *ICFI*. Archived from the original on July 25, 2008
- Linguistic Persuasion (2017) // Wikibooks. *Open Book for an Open World*. Retrieved November 15 from [https://en.wikibooks.org/wiki/Linguistic\\_Persuasion](https://en.wikibooks.org/wiki/Linguistic_Persuasion)

- SCF. (February 15, 2018). Murat Belge, a Renowned Turkish Academic, Leaving Turkey as ‘Scholar at Risk. Retrieved from <https://stockholmcf.org/murat-belge-a-renowned-turkish-academic-leaving-turkey-as-scholar-at-risk/>
- Orwell, G. (2006) *Politics and the English Language*. Peterborough: Broadview Press.
- Pieper, J. (1992) *Abuse of Language. Abuse of Power*. San Francisco: Ignatius Press.
- Richard, P., & Elder, L. (2004). *The Thinker’s Guide to Fallacies: The Art of Mental Trickery and Manipulation*. Foundation for Critical Thinking. Retrieved December 14, 2017 from [www.criticalthinking.org](http://www.criticalthinking.org)
- Simon, G. K. (1996). *In Sheep's Clothing: Understanding and Dealing with Manipulative People*. Michigan: Parkhurst Brothers Publishers Inc.
- Tamvaki, E. (2009). *A Law and Literature Approach to Oppression of Identity in Turkey*. Retrieved December 12, 2017 from [https://www.academia.edu/969531/A\\_law\\_and\\_literature\\_approach\\_to\\_oppression\\_of\\_expressing\\_identity\\_in\\_Turkey](https://www.academia.edu/969531/A_law_and_literature_approach_to_oppression_of_expressing_identity_in_Turkey)
- Tarasov, E. (1990). *Linguistic Manipulation: Methodology and Theory*. Moscow: Moscow University Press.
- Troshina, N. N. (1990). Stilisticheskiye parametry tekstov massovoy kommunikatsii i realizatsiya kommunikativnoy strategii subyekta rechevogo vozdeystviya [Stylistic Parameters of Mass Communication Texts and Realization of the Communication Strategy of the Subject of Speech Manipulation]. In *Rechevyye vozdeystviye v sfere massovoy kommunikatsii* [Speech Manipulation in Mass Communication]. Moscow: Nauka Publ. Pp. 62–68. (In Russian)
- Van Dijk, T. A. (2006). Discourse and manipulation. *Discourse and Society*, 17(2), 352-371. Retrieved May 10, 2018 from <https://lg411.files.wordpress.com/2013/08/discourse-analysis-full.pdf>
- Wydick, R. C. (2005). *Plain English for Lawyers*. Durham, NC: Carolina Academic Press.

## SOURCES FOR ILLUSTRATIONS

*Legal Dictionary* (2018) The Free Dictionary by Farlex.

< <https://legal-dictionary.thefreedictionary.com/> >

*Oxford Advanced Learner’s Dictionary of Current English* (1980) Oxford: OUP.

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