THE EFFECTS OF THE BERNE CONVENTION ON TRANSLATIONS IN THE NETHERLANDS

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ABSTRACT. The Berne Convention was the first attempt to recognise the copyright of foreign authors and their translations. I create a unique dataset to analyse the long run effects of the Berne Convention in 1912 in the Netherlands. Using pre–post statistical analysis and regression discontinuity design I find a significant decrease in the number of books translated per capita and an increase in translations per author.

1. INTRODUCTION

The world's first copyright legislation was enacted by the British parliament in 1662 through the Licensing Of The Press Act to prevent the unregulated copying of books. In 1710, Queen Anne extended the act and gave the right of ownership of books for 28 years to authors rather than publishers. Since then numerous countries have followed suit in protecting authors. The Netherlands passed copyright legislation in 1817 which also recognised the ownership of foreign authors. The copyright act, or *Auteurswet*, was revised in 1881 to protect Dutch authors only. This gave rise to a thriving translation industry since foreign authors had no such copyright protection. While other countries signed the Berne Convention in 1886 which would also give foreign authors the same rights to their translated works, the Netherlands deliberately abstained and did not sign the convention despite participating in its drafting.

In 1908 a revised version of the convention was available that gave authors the right of ownership to translations for only 10 years instead of the 50 years granted for the original.[1] This version was designed to accommodate the Dutch, but yet again the country refused to join and the Luxembourg delegate said "Adieu, pays de contrefacteurs!" (Grosheide, 2012). The Dutch claimed that the revised convention was not in full compliance with its existing *Auteurswet* and therefore could not sign it. Likely, the strong publishing industry supported that decision. It was only after much international pressure that the Netherlands joined in 1912 after revising its *Auteurswet* to accommodate translations of foreign works. The Netherlands was not

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[1]For original convention text see https://archive.org/details/internationalco00offigoog

the only European country that did not participate in the convention immediately. Denmark joined in 1903, Portugal in 1911 and Finland only in 1928. Notably, the United States also did not join until post World War II. The Berne Convention was an attempt to harmonise copyright law across countries and is still in effect today in 167 countries, receiving more and more signatories, the most recent of which was Mozambique on August 22, 2013.

The Dutch book publishing industry was powerful and most publishers were part of the influential Dutch book traders association, *Vereeniging ter Bevordering van den Belangen des Boekhandels* (VBBB). The VBBB guaranteed certain standards to its members. In addition to granting Dutch copyright to each translation, the VBBB banned multiple translations of the same book. Thereby translators were given monopoly power over their translation since other VBBB members could not produce competing translations. While it was possible for non-VBBB members to produce competing translations, this was rarely seen as only a small number of publishers of popular print with small dissemination were not part of the VBBB (van der Weel, 2000). As van der Weel has pointed out to me, most book sellers exclusively dealt with VBBB members, thus effectively refusing access to the market for potential competitors.[2]

The Netherlands is unique in that the VBBB annually provides a list of all books published and translated in their newspaper, the *Nieuwsblad Voor Den Boekhandel*. Each translated title is unique due to the non-competition rules of the VBBB. The presence of this newspaper suggests again that the association was well organised. Indeed, its influence had a big role to play in the Dutch refusal to sign the Berne Convention. During the end of the 19th century, the publishing industry grew very fast due to the industrial revolution and increased literacy, but also because of increasing trade with neighbouring countries (Heebels, 2011). Thus, while the sphere of influence was previously restricted to the Dutch elite, now the general population became important too. The refusal to sign the Berne Convention twice can also be attributed to this increase in influence. Once the Netherlands did pass the convention, changes in the composition of translations were expected since then foreign authors' rights needed to be respected. The focus of this paper will be to analyse the effect of the Berne convention on translations in the Netherlands.

The *Nieuwsblad* was first published in 1834 and digitized recently by the National Library of the Netherlands allowing for the study of the effects of copyright legislation on book publications. Using this literary archive, I created a unique dataset comprising the number of books and authors translated into Dutch. I perform statistical pre–post analysis to show that there is a lasting effect of the Berne

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[2]I thank Adriaan van der Weel for providing useful comments regarding the structure and history of the VBBB.
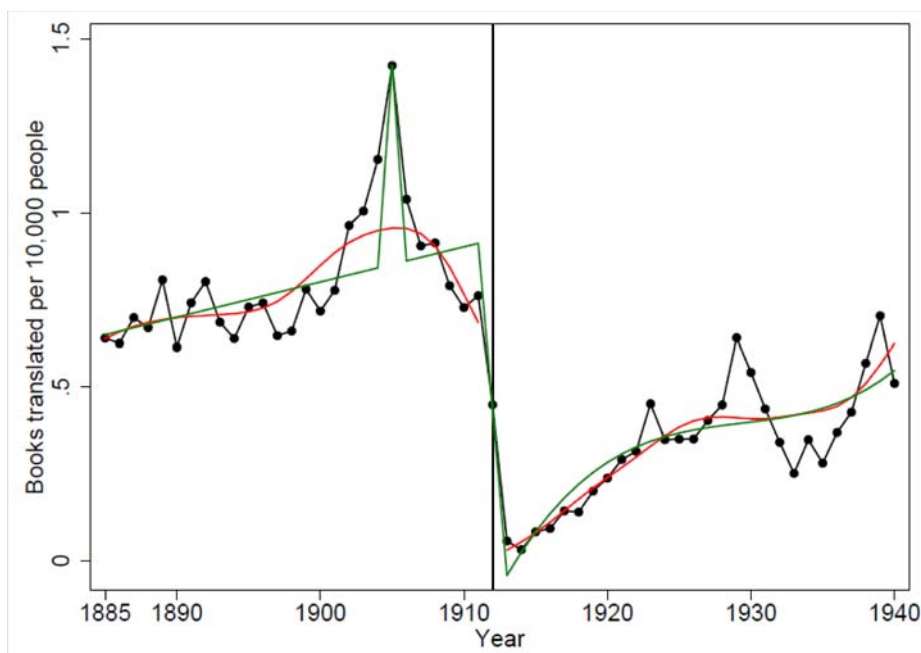
FIGURE 1. Translations published per capita (Notes: Black = actual number of translations per 10,000 people; red = Lowess smoothing lines; green = predicted values from specification (3) in Table 2).

Convention on translations. I implement both the Mann Whitney test and a discontinuity regression. I conclude in section 4 and provide an outline of topics future research might pursue.

2. DATA

I created a unique dataset of translation and author counts for the years 1885 until 1940 by meticulously counting the corresponding entries in the the *Nieuwsblad*.[3]

Figure 1 shows the number of book titles translated into Dutch per capita in black. I use the population counts published by Statistics Netherlands to compute the per capita ratio and then multiply it by 10,000. The red lines are two Lowess smoothing curves, representing the general trends in translations pre and post Berne Convention. The green curve is the fitted model from Section 3. The Figure has several interesting attributes. First, signing the convention reduces the number of translated titles per capita immediately and dramatically. However, after only 3 years, the ratio begins to increase again slightly. The third observation one can

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[3]The data will be available at http://leo.fankhanel.de.

make is that there are only two outlier observations where the translation ratio reached pre-convention levels, in 1929 and in 1939.

With the introduction of the Berne Convention, publishers were obliged to compensate the original authors. An increase in costs likely lead to a decrease in the total amount of books translated, explaining the drop after 1912. It is possible that as publishers developed networks with authors and created royalty contracts, the number of translations gradually increased. Nonetheless, a positive royalty cost implies that translations never reach pre-Convention levels, as is evident from the Figure.

The Figure also shows that there is a sharp increase in translations per capita between 1904 and 1906 which could be attributable to a fear by translators that the Dutch government signs the revised Convention as it began participating in a new draft resolution. Any books that would be translated before ratification would be exempt from future royalties, thus providing an incentive to translate. When it became clear the the Dutch would abstain from signing the revised convention, translations per capita reached lower levels again. The signing of the 1912 Convention happened unexpectedly and fast, providing publishers with little lead time to spike translations in prior years (Grosheide, 2012). A sudden drop in translations in 1912 is thus not preceded by a spike as prior to 1906.

Lastly, there is a drop in translations between 1929 and 1933, likely due to the global recession. Since books are normal goods where demand falls with income, the slump in the economy has a negative effect on publishers. The onset of the war in 1939 triggered another fall in translations and once the Netherlands was captured by Germany in mid 1941, translations were outlawed. 350 books were translated in 1941, only 4 in 1942 and 3 in 1943 compared to an average of 447 books in the five pre occupation years. I therefore exclude these years from my evaluation.

Figure 2 shows the number of books that were translated per author. Again, a very clear pre–post relationship emerges. In this case, there exists a short run adjustment period of 4 years before the ratio exceeds pre-convention levels. After this period, there is not a single observation that is as low as the largest pre-convention level. The adjustment period could arise as publishers begin making more efficient contracts that allow translations of multiple books per author.

Prior to the Berne Convention, publishers faced no expense for the translation of foreign books except the cost of production. Hence publishers would choose to translate those books for which they expected a profit, potentially based on the success of the original title abroad or some other factors. Post Convention, publishers had to compensate the original author for translating a title. This might involve a royalty to be paid to the author per title translated. Publishers face some
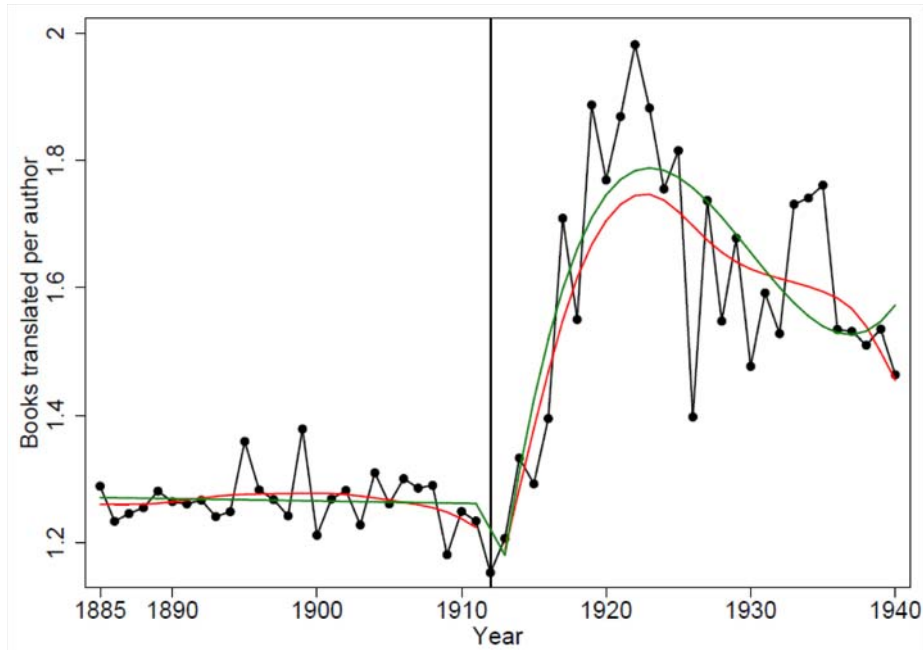
FIGURE 2. Translations per author (Notes: Black = actual number of translations per author; red = Lowess smoothing lines; green = predicted values from specification (6) in Table 2).

transaction cost of negotiating a contract with foreign authors that would set out the royalty terms for translating. Further, there might be a reduction in the royalty fee if multiple books were translated from the same author. Thus Dutch publishers were provided with an incentive to translate multiple works from the same author, as evidenced in Figure 2.

Prior to 1912, the number of titles translated per author is very constant at just under 1.3 suggesting a selection effect by publishers to only translate popular books, irrespective of author. Later, the average is about 1.6, but with considerable variation. The increase in translated books per author can be attributed to an increase in multi-title authors rather than a decrease of authors who only produced one title. The spike in the early 1920s might be due to many translations of existing popular authors, while later, after the most popular authors have been translated, the numbers levels off.

3. An econometric pre–post analysis

Using the data outlined in the previous section, I perform econometric testing of the pre–post relationship of translations and authors per capita. I first implement the Mann Whitney rank sum test which is a non-parametric difference test. The

treatment is the signing of the Berne Convention in 1912. Unfortunately, I do not have a counterfactual as there is no other country that produces a reliable or useful list of translations for this time period. While it is possible to obtain the approximate count of translations into Icelandic for this period, this data is recorded in five year intervals only and the very small population size imply only few translations with a high variance. The remoteness of the country makes this data even more problematic so I abstain from using a counterfactual.

Table 1: Pre-post analysis

| | Summary statistics | | | | Mann Whitney | |
	Mean (pre)	N (pre)	Mean (post)	N (post)	U	Z-stat
Translations per 1000 people	0.08	27	0.03	28	13	-6.145^a
Translations per author	1.27	27	1.62	28	33	5.813^a

Notes: Significance levels are c: p <0.10, b: p <0.05, a: p <0.01

Table 1 shows the Mann Whitney test results. Clearly, there is a significant difference between pre and post Berne Convention levels for both translations per capita and per author. The Z-statistics are significant at the 99% level in both cases suggesting that a strong difference after the treatment exists. The Mann Whitney U is very small in both cases compared to the critical value of 261 confirming the significant finding.

In a second econometric exercise, I implement a regression discontinuity design which is appropriate since I do not have a counterfactual and therefore cannot perform a difference-in-differences approach.[4] I specify the discontinuity model as

$$T_t = \alpha + \beta_1 \text{POST}_t + \beta_2 Y_t + \sum_{i=1}^{3} \gamma_i Y_t^i \times \text{POST}_t + \epsilon_t, \tag{1}$$

where T_t is the number of translations per capita or per author in year t, standardized to reflect the change to the first year of observation, 1885. The dependent variable is further multiplied by 100. This transformation allows for easy interpretation of the explanatory variables as simple percentage changes. Y_t is the Year since 1912 and POST_t equals one for years after 1912. I include a dummy for 1905 in the case of translations per capita as this observation is an outlier as described in section 2.[5] The error term ϵ_t is assumed to be normally distributed. I exclude

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[4]In a different context, a similar approach was followed by Boardman (2013) in a difference-in-differences model.

[5]In addition, I used DFFITS to verify that the year is indeed an outlier.

the year during which the convention was signed as it was ratified in the middle of the year thus not fitting either the pattern in either the pre or the post period.

Table 2: Discontinuity of regression results

	Translations per capita			Translations per author		
	(1)	(2)	(3)	(4)	(5)	(6)
Y_t	1.581^c	1.581^c	1.581^c	-0.028	-0.028	-0.028
	(0.457)	(0.462)	(0.467)	(0.067)	(0.068)	(0.069)
$POST_t$	-129.287^c	-145.139^c	-162.394^c	25.441^c	2.596	-18.008^c
	(10.392)	(10.900)	(14.394)	(7.936)	(6.909)	(5.984)
$POST_t \times Y_t$	1.002^a	4.173^c	10.744^c	0.161	4.730^c	12.575^c
	(0.585)	(1.408)	(3.453)	(0.404)	(1.138)	(2.158)
$POST_t \times Y_t{}^2$		-0.109^b	-0.666^b		-0.158^c	-0.822^c
		(0.050)	(0.298)		(0.037)	(0.182)
$POST_t \times Y_t{}^3$			0.013^a			0.015^c
			(0.007)			(0.004)
R^2	0.863	0.873	0.880	0.607	0.750	0.816
N	55	55	55	55	55	55

Notes: The dependent variable is standardised to the first year of observation and multiplied by 100. A dummy for the outlier year 1905 is included in (1) through (3). Robust standard errors in parentheses. c $p < 0.10$, b $p < 0.05$, a $p < 0.01$

I present the regression results in Table 2. Of particular interest are the the coefficients on $POST_t$ and on the interaction terms. The Figures in the previous section already suggest that the quadratic and cubic terms are particularly important for the regression on translations per author as there seems to be a non-linear relationship in the post period. It is clear that there is a significantly better fit for specifications (5) and (6) than for (4) while the fit only marginally improves in (2) and (3) from (1). The negative coefficient on the post-period dummy in (1) through (3) reflects the decrease in overall translations. The results imply that translations per capita first decrease following 1912 by between 128% and 151% but that the number grows in the post period by about 3% to 12% annually. Translations per author increase by between 4.5% and 12% per year. The results confirm the previous test in that the Berne Convention significantly affects the number and composition of translations.

4. Conclusion

In this paper I presented a unique dataset of translations into Dutch. Using long run pre–post analysis I showed that there is a significant drop in translations per capita and that publishers translate more books from the same author as before. It might be that publishers translating more than one book from a single author receive lower royalty premiums due to some contract between author and publisher. This would explain a drop in books translated per author.

Future research might consider coding the books translated based on their quality. While prior to the convention, any book could be translated, the additional royalty fee might trigger a further selection effect of only the most successful authors, thus implying an increase in the quality of books translated post 1912. On the other hand the structure of contracts that incentivise the translation of multiple works by the same author could also lead to the publication of lower quality works. The results of such a study could have potential policy implications regarding the quality of translated literary works since works of higher quality could be welfare improving.

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