

Graduate Program in Translation  
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## **At the Crossroads of Law and Literature**

(a translation of the essays “Creación literaria, crimen y ley: Jorge Luis Borges y ‘Emma Zunz’”  
and “El amor y el interés: Derecho patrimonial en *Eugenia Grandet*” by Dr. Pedro J. Cabán  
Vales)

By  
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**“Literary Creation, Crime, and Law: Jorge Luis Borges and ‘Emma Zunz’” and “Love and Interest: Property Law in *Eugenie Grandet*”**

Paula C. Latorre Arroyo, 2023

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## Translator's Preface

### **Introduction: Author, Works, and Merits**

The essays translated in this thesis project are “Creación literaria, crimen y ley: Jorge Luis Borges y ‘Emma Zunz’” and “El amor y el interés: Derecho patrimonial en *Eugenia Grandet*.” The author, Pedro J. Cabán Vales, is an Associate Professor at the Interamerican University of Puerto Rico Law School. He has a Ph.D. in Law from the Complutense University of Madrid and a B.A. and J.D. from the University of Puerto Rico, Río Piedras Campus. Cabán is also currently completing an M.A. degree in Comparative Literature, also from the University of Puerto Rico. He has various published works focusing on law and different jurisdictions such as the United States, Spain, and—of course—Puerto Rico. His expertise in law and his passion for literature are the primary reasons Cabán wrote the two texts chosen for this project.

In August of 2021, I first met the author, Dr. Cabán, in the Property Law course he teaches at the Interamerican University of Puerto Rico Law School, where I am also a student. When introducing ourselves to the class, other than pursuing a Juris Doctor, I also mentioned I was completing a Master's Degree in Translation and had a Bachelor's Degree in English Literature. During that same month, Cabán asked if I was interested in being his research assistant for the semester and working with him to translate one of his many published texts into English. That is when I first came in contact with his work and thought it might make adequate source texts for this translation project. In August 2022, Cabán was—in his own words—happy and honored that I wanted to use his essays “Creación literaria, crimen y ley: Jorge Luis Borges y ‘Emma Zunz’” and “El amor y el interés: Derecho patrimonial en *Eugenia Grandet*” as the source texts for my thesis.

The essay “Creación literaria, crimen y ley: Jorge Luis Borges y ‘Emma Zunz’” was published in the *Revista Jurídica* of the Interamerican University of Puerto Rico School of Law, Vol. LIV (Aug–May 2019-2020). This text analyzes “Emma Zunz,” a short story written and published by the Argentine author Jorge Luis Borges in 1948. Cabán discusses themes such as self-defense, pre-meditation, woman-centered narrative, and literary creation in the article. He also examines Argentine criminal law of the time to determine to what extent legal documents may have influenced Borges’s writing. During the research process, it was found that Borges expressed his distrust of the Law throughout his career. However, as Gonzalo Dobratinich mentions in his article “La literatura de Borges y el despliegue del saber jurídico: Un análisis epistemológico del derecho,” Borges’s father was a lawyer, and in an interview, he acknowledged that his passion for literature came from his favorite childhood pastime, which involved remaining for extended periods in his father’s library (Dobratnich 127). It could be deduced that, even though Borges did not have an academic background in law, he most definitely was exposed to it and was influenced by it from a very young age.

Borges's short story centers around the protagonist, Emma Zunz. Emma's father, falsely accused of a crime, committed suicide in jail. Seeking revenge, Emma fabricates a story of being raped by the man she holds responsible, Aaron Loewenthal. She secures a job at Loewenthal's textile factory to get closer to him. After planning revenge, Emma lures Loewenthal under a false pretext and shoots him, killing the man. With her elaborate plan, she stages the scene and convinces the police of her innocence. The narrative progressively reveals that Emma fabricated her story; she orchestrated the revenge plot to deceive the police purposefully.

Meanwhile, French author Honoré de Balzac, before becoming successful as a novelist, was a lawyer’s clerk for three years while he began to work on his writing. Interestingly, in 1828,

just a few years before his novel *Eugenie Grandet* was originally published in 1833, Balzac was on the verge of bankruptcy and struggled with debt for a long time. These details of the French author's life provide background and context for the novelist's recurring themes. In *Eugenie Grandet*, civil and property law concepts, such as matrimonial property regime, inheritance, mortgage, and bankruptcy, are at the plot's core. For this reason, in the article "El amor y el interés: Derecho patrimonial en *Eugenia Grandet*," Cabán analyzes these legal concepts in order to understand the novel more comprehensively. This other text was published by the Complutense University of Madrid Law School in the *Revista de Ciencias Jurídicas y Sociales Foro*, Vol. 24 (2021).

Balzac's novel *Eugenie Grandet* revolves around Eugenie, the daughter of a wealthy but miserly father named Felix Grandet. Eugenie falls deeply in love with Charles, her cousin, unaware that he is primarily interested in her wealth. Despite her isolated existence, Eugenie maintains her kind-heartedness, virtue, and intelligence. As time passes, Eugenie becomes the sole focus of her father's attention and manages the family's wealth wisely, accumulating a substantial fortune. Despite her growing riches, Eugenie remains humble and rejects suitors who are after her money alone. As Felix Grandet's health deteriorates, his true character, defined by greed, is exposed. Eugenie is, therefore, forced to confront the depths of her father's avarice. The novel also delves into themes of love, greed, and the corrupting influence of wealth while presenting a vivid portrayal of a young woman's journey toward self-discovery and fulfillment within the constraints of society.

Both translated essays discuss and analyze the particular role of the law within the works of prominent authors who have revolutionized literature as an artistic expression and field of study. Cabán connects law and literature in a way that makes the reader ponder the possible limits of

societal codes and the use of creativity to explore those limits. Although one might consider literature and law to exist in different realms, when combined, they create a written space in which social norms, as depicted in fiction, become brilliantly exposed. For this last reason, a relevant observation that should be addressed concerns the disparate writing styles yet similar approaches of the authors analyzed in the source texts: Jorge Luis Borges and Honoré de Balzac.

On the one hand, Borges's works frequently explore the relationship between the author, the reader, and the text itself, blurring the line between what is reality and what is fiction. In contrast, Balzac's style reflects the concerns of Realism, focusing on social commentary on French culture and social norms. Even though these two renowned writers belong to different periods and literary genres, they appear to have a similar analytical approach to the law in their writing. Both develop elaborate and accurate works that portray the law seamlessly, making it one of the leading forces driving their plots.

The merits of translating these works are mainly academic but also personal. As someone with a bachelor's degree in English Literature and a third-year law student, I consider these essays the ideal combination of two fields of study that offer interesting and significant content. The law can be extremely rigid, but when integrated into a good narrative, it can transform into a character, a setting, a plot, or anything. When one reads Borges or Balzac from a legal perspective, the narratives extend beyond purely literary concerns; they become interpretations of a reality that could be considered cruel or eerily plausible. These works blur the lines between reality and fiction because of how the plots unravel through legal systems that once existed. That is why choosing these texts for this thesis project was perfectly fitting.



The purpose of creatively titling this thesis project originates from the desire to unite both source texts under one title. Considering that the source texts were independent publications, it made sense to couple them under one title that summarizes the essence of said texts. “At the Crossroads of Law and Literature ‘Literary Creation, Crime, and Law: Jorge Luis Borges and ‘Emma Zunz’ and ‘Love and Interest: Property Law in *Eugenie Grandet*’” accurately captures the space where “Creación literaria, crimen y ley: Jorge Luis Borges y’ Emma Zunz” and “El amor y el interés: Derecho patrimonial en *Eugenia Grandet*” exist; a space where literature intersects with the law. Although it is not common practice to creatively title a translation project, I believe that when there are more than one independent texts that fall under the same category, it can be appropriate to conjoin them with a suitable title.

### **The Translation Process**

There are many reasons why I chose these two essays for my thesis project. Aside from the various themes analyzed, commented on, and dissected, one of the primary purposes was for this project to be a challenge and a learning experience centered around law and literature.

Indeed, some difficulties did arise during the translation process. Only two were clearly foreseen: the extensive length of the original texts and research of the many cited sources. Between the two original texts, the number of words—including footnotes—totaled almost 14,000. This issue was resolved by cutting out the abstracts already presented in bilingual format and the footnoted information about the author included here in the preface. The finalized translation now has a reduced word count of 12,786.

While researching for this project, various difficulties were encountered. Initially, when working on the text that discusses “Emma Zunz” and Borges’s writing, one of the main concerns was the number of cited sources used within the analysis that did not have an official translation,

and then I worked on the second text and realized it had even more cited sources without existing English translations. There were no published translations for most cited sources. The only texts that had official English translations were: “Emma Zunz,” “Chess,” *Eugenie Grandet*, the French Civil Code of 1804 (Napoleonic Code), *Madame Bovary*, *Rise and Fall of Cesar Birotteau*, and *The Count of Monte Cristo*. Approximately twentythree sources, between both source texts, had to be translated. For these cited works, very little creativity was applied, the wording of the translation is not literal, but it is similar as possible to the original quote. That said, all sources throughout the project that did not have an official or already published English translation are identified with “[**Translation Latorre-Arroyo**]” at the end of the citation in the corresponding footnote.

One of the translation challenges, that arose from cited texts without existing official or published English translations, was the struggle to render those quotes in a way that felt effortless and flowed well with Cabán’s writing style. Cabán, in his texts, paraphrased some sources and directly quoted others. For instance, in the source text discussing Borges and “Emma Zunz,” Cabán directly quotes in this sentence: “La defensa propia, también conocida como legítima defensa, fue definida por Sebastián Soler, para la época en que se publicó *Emma Zunz*, como ‘una reacción necesaria contra una agresión injusta, actual y no provocada’ con el propósito de evitar la agresión o repelerla.” With my translation, the goal was to echo the essence of Cabán’s sentence whilst rendering the direct quote accurately in a seamless way: “Self-defense, also known as a legitimate defense, was defined by Sebastián Soler, at the time “Emma Zunz” was published, as “a necessary reaction against an unjust, actual, and unprovoked aggression” with the sole purpose of preventing or repelling the aggression.” I also had the same objective with indirect or paraphrased citations within the source texts. In Cabán's essay analyzing Balzac and *Eugenie Grandet* he paraphrases a

source in the following sentence: "Esta obligación se traduce patrimonialmente en el deber conyugal recíproco de utilizar los bienes respectivos para el levantamiento de las cargas del matrimonio, es decir, satisfacer las necesidades de los cónyuges y de los hijos menores de edad comunes o legítimos de cada uno." Some creativity could be implemented into the rendition for this type of citation because there is no direct quote to worry about or workaround. My translation of the paraphrased example reads: "This obligation is translated materially in the spouse's reciprocal conjugal duty to use their respective assets for the upkeep of the financial burdens of marriage to satisfy the needs of the spouses and the common or legitimate minor children." For the translation mentioned above, I employed more creativity than in the direct quote example because I gave myself flexibility with these types of sentences.

It is necessary to indicate that I reformatted, to the best of my abilities, to MLA standards, the entire thesis. Given the format of the original texts, all bibliographies and resources used for context or quotes are footnoted. For this reason, 134 footnotes had to be reformatted, researched, and translated if needed. The footnote dilemma was another challenge to tackle but not resolve because the main difficulty with the footnotes was due to the quantity and reformatting, not the individual passages themselves. The additional research and translation sources are mentioned or cited in this Preface or listed in the Bibliography and Online Sources below.

Another challenge during the translation process was choosing the correct legal terminology. This issue occurred predominantly in the text examining Balzac's novel and the French Civil Code (the Napoleonic Code) when translating concepts that emerged from French civil law such as: "régimen económico matrimonial" and "régimen de comunidad legal." When choosing the most suitable rendition of a legal concept, the phrase in English had to be used at least in five different documents; in most cases, it was used in more, but this was the minimum established requirement.

Since most of the legal lexicon used comes from Common Law in the United States and England, some of these concepts simply do not exist within these jurisdictions. Therefore, when translating legal concepts, such as the ones mentioned, extensive research had to be conducted on the following platforms: Westlaw, LexisNexis, and JSTOR.

For example, the translation chosen for “régimen económico matrimonial” is “marital property regime.” During the research, Westlaw and JSTOR offered various documents in which the concept appeared in the same context as in Spanish and French. “Marital property regime” was found to be used primarily in International Law documents, as well as in German and Dutch legal documents translated into English. Nonetheless, the concept was found to be also used in many law journal articles and cases from the United States, even if it is not a standard concept there. With “régimen de comunidad legal,” the initial chosen translation was “regime of common property;” the sources were minimal compared to the first example for this rendition. “Regime of common property” was found to be used in documents discussing International Law. Only in five articles from Michigan Law Review, University of Chicago Law Review, Nevada Law Journal, Stanford Environmental Law Journal, and Seton Hall Law Review, though, it is worth mentioning that the context of the concept in some of these sources was not accurate. Louisiana, being the only state with a Civil Law jurisdiction, was thought to be more useful when it came to the use of Civil Law concepts such as the ones mentioned. Law platforms have stated the concept “marital property regime,” mainly in Tulane Law Review articles and in one case from the Court of Appeals. Other than “regime of common property,” “common property regime” is also used. Apart from Louisiana, I found that “common property regime” is used more in other jurisdictions around the United States as well as in International legal documents. The Google tool, Ngram Viewer, also displays that “common property regime” is the most used. When researching further, this term

was found to be consistently used in the same context as the Spanish concept. LexisNexis has 105 uses in law reviews, journals, and treatises within the United States. Meanwhile, in Westlaw, the phrase also has 305 uses within secondary sources. A comparable amount to the uses of “regime of common property” that, even though it has been used in the same context, is not as accurate. For these reasons “common property regime” was the form chosen for the translation.

For more commonly used legal terms, another crucial tool and indispensable resource used in the translating process of this project was the *Glosario Internacional para el Traductor* by Marina Orellana. Throughout the entire translation, certain terms had more than one possible rendering; the Spanish terms “bienes,” “patrimonio,” and “propiedad” are good examples. To resolve this predicament, the most important aspect considered was context. Said terms appear in multiple instances within Cabán’s “El Amor y el interés: Derecho patrimonial en *Eugenia Grandet*.” At times “propiedad” and “bienes” were referred to as different terms; in others, given the context, they could be referring to the same subject. To explain this further, two direct quotes from the original text read as follows: “El Código Civil francés [...] establece que la propiedad o los bienes se adquieren por sucesión[...],” “tus bienes quizá no son tan considerables como para *soportar una hipoteca de tres millones*.” The last quote is taken from the Spanish translation of Balzac’s novel that Cabán cites. The published English translation of the novel utilized for this project rendered it as: “your property may not be large enough to *carry a mortgage of three million*.” On the other hand, for the first quote, the chosen rendition for “la propiedad” is “property” and for “los bienes” “assets.” In Orellana’s glossary, for “property,” she has listed both “propiedad” and “bienes,” for “assets,” she lists “bienes,” and under both terms, “propiedad” and “bienes” listed “property.” Evidently, all these terms can be interchangeable given the context,

but in some cases, they cannot; this is why some confusion emerged from during the translation process.

Moreover, when incorporating the published English translations of Borges's short story and Balzac's novels (*Eugenie Grandet* and *Rise and Fall of Cesar Birotteau*), various issues arose with the word choices, especially with legal terms in Balzac's novels. It is significant to point out that this project cites English translations of Balzac's novels by the same person, Katherine Prescott-Wormeley. Prescott-Wormeley was a well-known translator during the 1800s. Nonetheless, her translations of various legal concepts or terms were not as accurate or uniform as expected. From a literary standpoint, the works are beautifully translated. However, from a legal perspective, different words or phrases would have been chosen to reference the original legal concepts and terms better. Prescott-Wormeley's translation is of its time. Even though it might be faithful to Balzac's writing style, when it comes to rendering legal concepts such as "bankruptcy" and other phrases like "hampered with mortgages"—for example—instead of "encumbered by mortgages," the translation falls short; this affects the register, and the consistency since throughout this translation project the present legal jargon and an academic register is what is implemented.

In the original French versions, Balzac used the word "*faillite*" throughout both *Eugenie Grandet* and *Grandeur et décadence de César Birotteau*, which, according to the *Dictionnaire juridique de Serge Braudo* and other French sources, is the word used to name the legal proceedings initiated against a merchant or company that cannot meet their financial obligations and have exhausted all other legal resources in the attempt to rectify the situation. When researching the French word "*faillite*" in a legal context, the legal terms that appear to be frequently used to translate it into Spanish are "quiebra" or "bancarrota," and in English, "bankruptcy" or

“insolvency.” In fact, in the Spanish translations of Balzac’s novels that Cabán used for his text, as well as other Spanish translations that were accessed and consulted through the Internet Archive (archive.org), the terms “quiebra,” “quebrado,” “quebrar,” and “bancarrota” were all used to translate the same concept: “*faillite*.” Two quotes from another English translation of *Eugenie Grandet*, published in 1992 by Ellen Marriage, read: “‘What is a bankrupt, father?’ asked Eugenie. ‘A bankrupt,’ replied her father, ‘is guilty of the most dishonorable action that can dishonour a man.’” [...] “Liquidation is not the same as bankruptcy, do you understand?” The reason for these examples mentioned is that in Prescott-Wormeley’s translations, for “*faillite*” or variations of “quiebra,” she uses “fail” or “failure” in parts, and for others, she uses “bankrupt” and “bankruptcy,” which causes an apparent uniformity issue when citing her work. Nonetheless, the inconsistencies were kept because, according to Powerthesaurus.org, the first synonym listed for “bankruptcy” is “failure,” and Thelawdictionary.org defines the term as:

In a general sense, deficiency, want, or lack; ineffectualness; inefficiency as measured by some legal standard; an unsuccessful attempt. *White v. Pettijohn*, 23N. C. 55; *State v. Butler*, 81 Minn. 103, 83 N. W. 4S3; *Andrews v. Keep*, 3S Ala. 317. In commercial law, the suspension or abandonment of business by a merchant, manufacturer, bank, etc., in consequence of insolvency. *American Credit Indemnity Co.v. Carrolton Furniture Mfg. Co.*, 95 Fed. 115, 36 C. C. A. 671; *Terry v. Caiman*. 13 S. C.220; *State v. Lewis*, 42 La. Ann. 847. 8 South. 602.

These reasons lead to the conclusion that even though “failure” is not commonly used to translate “bankruptcy” in a legal context, they are still more generalized synonyms.

Another example of inconsistencies within Prescott-Wormeley’s translation is observed in the following sentence: “The hotel *d’Aubrion* was *hampered with mortgages*; *Charles* was

*destined to free it.*” In Balzac’s original work, the sentence reads: “L'h'tel d'Aubrion était criblé d'hypothèques, Charles devait le libérer.” The word in dispute is “criblé,” Prescott-Wormeley renders as “hampered.” According to a few dictionary sources, the French word roughly translates to “riddled with.” In a legal context, the word that would have been chosen instead of “hampered” is “encumbered by” since it refers to mortgages. Often, when the concept of a mortgage is put into context, it acts as a burden or encumbrance. According to OxfordLanguage, encumbrance is a “mortgage or other charge on property or assets,” demonstrating how accurate the term “encumbered” is when referring to the mortgage. The issue that arises from literary renditions is that when put into a particular context, such as the law, it is inevitable to encounter inaccurate phrasing or even inaccurate use of specific concepts; nonetheless, it does not mean that it is incorrect. It is worth mentioning that Balzac used both figurative and legal language throughout the novel, particularly in the sentence aforesaid, which is why it is thought that is the reason for the inconsistencies within Prescott-Wormeley’s translation.

Even though many issues emerged throughout the translation of the texts, they were all resolved. It is my hope that the final rendering resulted in a well-researched, respectful, ethical, and valuable translation. The challenge was accepted, and the goal was met to the best of my ability; and thus, this translation intends to do justice to the expertise and passion Cabán and I share for law and literature in these compelling and informative essays.



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