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Remarks on the present translation

- The Spirit of Law - Foreword -

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A revision with respect to the rendering of *mœurs* into English.

Originally I argued that *mœurs* is essentially a synonym of *manières* or *coutumes*, with which it is often associated in *The Spirit of Law*, particularly insofar as these and similar terms often appear together in the same passages. It seemed to follow that they could be used flexibly and often interchangeably. I was deferring thus to the definition of *mœurs* in the *Dictionnaire de Trévoux*, which is carefully written and very broad, encompassing both individual and social applications :

> mœurs, s. f. plur. Façon de vivre, ou d'agir, bonne ou mauvaise ; habitudes naturelles, ou acquises, pour le bien, ou pour le mal, & suivant lesquelles les peuples, ou les particuliers, conduisent les actions de leur vie.

> [mœurs, feminine substantive. Good or bad manner of living or acting ; natural or acquired habits for good or evil, according to which peoples or individuals conduct the acts of their lives.]

Trévoux, being a French and Latin dictionary, gives *mores* as the Latin equivalent. Not much favoring *mores* (a term introduced into English only in late nineteenth century), I often used *ethos* instead (Greek, but somewhat of a modern neologism anyway).

But I had not sufficiently taken note of the way Montesquieu in Book XIX had distinguished between *mœurs* and *manières*. First he begins chapter 21 with this note :

> *Il n'y a que des institutions singulières qui confondent ainsi des choses naturellement séparées, les lois, les mœurs et les manieres ; mais quoiqu'elles soient séparées, elles ne laissent pas d'avoir entre elles de grands rapports.* (XIX, 21)

> [Only singular institutions thus conflate things that are naturally separated : laws, ethos, and manners ; but even separated, they nevertheless have considerable relationships between them.]

In this instance I translated *mœurs* as "ethos," though there were other contexts in which I translated *mœurs* as "manners" or something similar.

Earlier, he had earlier drawn an explicit distinction between the terms *mœurs* and *manières* :

Il y a cette différence entre les lois et les mœurs, que les lois règlent plus les actions du citoyen, et que les mœurs règlent plus les actions de l'homme. Il y a cette différence entre les mœurs et les manieres, que les premières regardent plus la conduite intérieure, les autres l'extérieure. [XIX, 16]

– where again I translated [mœurs] as "ethos" :

> One difference between the laws and the ethos is that the laws more determine the acts of the citizen, and the ethos more determines the acts of the man. One difference between the ethos and manners is that the first has more to do with inner conduct, the latter with exterior.

Now, however, given the very distinction Montesquieu pointedly made, it obvious that "ethos" will not do – indeed "ethos" would appear to be closer to the "exterior" meaning incorporated in manières. Inasmuch as there are some 225 occurrences of *mœurs* in *The Spirit of Law*, and 100 of *manières*, many of which are in immediate juxtaposition (essentially synonymic or contrasting) with each other, it was clear to me that this question had to be revisited.

One way to gloss this occasional contrast is to attribute to the "inner" self matters of values and morality, and to the "outer" being modest or polite social conduct, the self as it wants to appear to others. The dictionaries of the time do not exactly recognize this division, but the *Dictionnaire de l'Académie* in 1762 does, after defining *mœurs* exactly as does the Trévoux entry quoted above, also offers the following helpful example : "We say proverbially : Honors alter *les mœurs*, meaning that a person usually becomes someone else in prosperity (*On dit proverbialement, Les honneurs changent les moeurs, pour dire qu'on s'oublie d'ordinaire dans la prospérité*), which again points to the individual moral being. (The same dictionary defines the reflexive verb *s'oublier* as "to fail in one's duty" (*manquer à son devoir*.)

There are indeed some contexts where *mœurs* seems rather clearly to denote personal moral qualities or practices, as when *mœurs* are assimilated to continence (VII.8) ; *pureté de mœurs* with respect to women (VII.13) quite unambiguously designates chastity and little else. Other contexts are too political to suggest a focus on the individual, as when Montesquieu speaks of *une république fondée sur les mœurs* (V.19) ; and expressions such as gouvernés par les mœurs (VIII.9) will still require an effort at interpretation. For example, can *donner des mœurs* (an expression which appears quite a few times) be defined with any degree of precision (is it tyrannical or exemplary) ? Though it is clear enough that in various contexts *mœurs* may support a variety of related meanings, the inner as opposed to outer manifestation needs to be recognized when it is contrasted with manières. It is therefore only too clear that mores, which was the solution adhered to by the Choler group in their Cambridge translation of 1989, will not do.

Nor, at times, will my earlier solution, so at this point a number of amendments have been introduced, and morals (or morality) is often inserted when the inner sense is to be distinguished from manners, the "outer" or collective sense. Nevertheless, there are quite numerous passages in which the term *mœurs* is not in any way contextualized by manières, and then it can very appropriately be taken as as synonym of manners, practices, habits – in general ways of life ; these call for no revision.

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Original remarks (2018)

1. Why replace the Cohler translation ?

Any translator owes at least something to anyone who has previously taken on the same work. While Thomas Nugent's freewheeling translation (often in fact a paraphrase) is altogether unacceptable by today's standards, it is still sometimes useful if only because it is contemporary with Montesquieu and has a good chance of reflecting period

vocabulary with reasonable accuracy (at least insofar as Nugent understands Montesquieu's meaning). This makes it, like period dictionaries such as the *Dictionnaire de Trévoux*, an important resource because the meaning of words has often shifted in the interim ; in the case of technical (especially legal) terminology, a meaning may have disappeared altogether in 270 years, and sometimes the word as well.

The Cambridge translation of 1989 [1] also has many qualities, including a careful and controlled use of terminology that contrasts with Nugent more nonchalant approach. It solves, or at least tries to solve, not a few knotty problems which Nugent had adroitly dodged, and comes up with a number of quite elegant formulations, some of which are worth imitating.

It nevertheless harbors many mistakes, often bound up with systematic vocabulary choices. Some are just awkward, such as "soften" for *adoucir* (*e.g.*, XII.30), some are more than slightly off, and some are quite wrong, for example "disgrace" for *disgrâce* (*e.g.*, XII.30) and "empire" for *empire* (*passim*). Many of these problems arise from misplaced confidence in cognates, which, goodness knows, is a familiar devil in translation. *Argent* does sometimes mean silver, as the Cambridge translation usually has it, but by no means always. *Empire* does not mean "empire" except when it is a formal designation for a type of political structure, and certainly not in *Quand la beauté demande l'empire, la raison le fait refuser* (XVI.2). *Droit* does not always mean "right", it even sometimes means "law". *Univers* does not mean "universe" but "the entire world ; all created creatures, the totality of all beings" [2] (*Trévoux*). And so forth.

Though any attempt at an exhaustive catalogue would be fastidious and needless, I will give just a few examples to illustrate misconstrual of particular terms in specific contexts.

> *C'est la vexation qui se surmonte elle-même, et se voit contrainte à une certaine douceur* (XIII.11). > "This harassement defeats itself and one sees it constrained to be somewhat gentle."

Se surmonter often has a positive meaning, here something like "surpasses itself". The resulting sentence is all but incomprehensible (frankly, on occasion, the fate of any translation).

> *Les hommes s'y soumettent à des maux incroyables* (XIV.3). > "Men there suffer unbelievable evils".

Mal (plural *maux*) has many uses, and here, in the context of fakirs in India, means pain, not evil.

> *Les fibres qui n'ont qu'une action très faible et peu de ressort, ne s'usent guère* (XIV.10). > "The fibers, which have only a very weak action and little spring, are scarcely used […]".

To translate *user* as "use" is a serious oversight. This is a mechanical comparison, where *s'user* means to wear down or wear out.

[…] il faut que l’esclavage soit pour l’utilité, et non pas pour la volupté (XV.ll). > "[…] slavery must be for utility and not for voluptuousness" [also *passim*].

Volupté is an annoying word for translators because (like *pudeur*) it has no very accurate English equivalent. But though it always related to sensuousness, "voluptuousness" is a desperate choice and will not do.

> *Il en fallut même de terribles pour établir la sûreté de ces maîtres cruels* (XV.16). > "There had even to be terrible laws in order to establish security for these cruel masters".

This passage is not about "terrible" laws but about ferocious laws. *Terrible*/"terrible" is a tempting but often misleading cognate.

> *[…] on vit sans cesse le frère, l'oncle, le neveu, que dis-je, le fils, le père, conspirer contre toute sa famille* (XVIII.29). > "[…] the brother, the uncle, the nephew (what can I say ?), the son, the father, were seen constantly conspiring against the rest of the family."

Hard to handle stylistically, but it must first be understood that *que dis-je ?* does not mean "what can I say ?" or anything close to that ; it raises the rhetorical level by signifying an intensification in the level of allusion.

> *[…] tout citoyen y aurait sa volonté propre, et ferait valoir à son gré son indépendance* (XIX.27). > "[…] each citizen would have his own will and would value his independence according to his taste".

Faire valoir simply does not mean "to value" ; here, as in too many other passages, the translators were dealing with an idiom they clearly did not understand. Here it means to stand up for, to argue, to assert. But as I said, this sort of accident also befalls Nugent, and without any doubt the present translator as well, at least sometimes.

2. Approach to some general problems

Certain endemic grammatical traits of French are all too familiar to every translator. Among them is the very fluid and multiple use of the pronouns/prepositions/adverbs *y* and *en*. Any attempt to retain each and every occurrence in a translation betrays an inexperienced (or machine) translator. Less often noticed is *on*, an all-purpose pronoun which is exceedingly prevalent in *L'Esprit des lois*, with close to 7000 occurrences. We may as well concede that this is a text constructed to a substantial extent on the very liberal and flexible use of the pronoun *on*.

"One" is, of course, an approximate equivalent in English ; the problem is that it cannot sustain prolonged use without appearing stilted, and when overdone it becomes unbearable. A whole repertory of work-arounds is needed which to a word-for-word purist will seem a deviation from the original. But really they are necessary if the text is to sound anything like natural in its target language.

In practice, what translators do, of necessity, is to find other ways – and certainly more than one is needed – to avoid excessive repetition of "one". Inasmuch as *on* often in fact means "we", the first-person plural is then a more than acceptable substitute. Sometimes we can say "a person" or "someone" to translate *on*, or even "people" when, as *on* often does, it seems to be a broad generalization. Another useful device, but one not suited to all situations, is the

passive voice : instead of *on dit que…*, we can opt for "it is said that…"

Reasonable consistency of terminology is of course important in any text as complex as *L'Esprit des lois* – especially, perhaps, an historical or philosophical text – but it is not the only consideration. Montesquieu has many passages constructed on rather strict parallels, very often further reinforced by parallel syntax : in such instances, it is obviously important to adhere to that intention – even when it seems quite rigid – insofar as possible. On the other hand, attempts to apply one English word, and only one, throughout for a given French word inevitably force the translator to distort, or frankly mistake, the meaning in particular instances. I have striven for a reasonable compromise which will unquestionably displease some, particularly when they are thoroughly accustomed to one of the translations already available. But the idea that one can preserve the purity of Montesquieu's meaning, or anyone else's, by sticking to the same English equivalent at all times seems to me linguistically misguided, and can induce what might be called category mistakes. Does Montesquieu mean the "same" thing every time he uses a multifunction word (like, say, *mœurs*) ? Of course not. It is an illusion to thing that any word in one language can occupy the same identical semantic space as any given word in another.

The most obvious change I am incorporating in my translation is in the title, where for a number of reasons it seems to me that the singular Spirit of Law may be a better reflection of Montesquieu's overall meaning than its traditional rendition. For an initial discussion of this and some of the other problems identified, I refer the reader to my article "On the Nugent translation of *L'Esprit des lois*" in *History of Political Thought*, vol. XXXIX, no. 1 (2018), p. 83–106.

I am also breaking in other ways with past translators, even with respect to some terms that appear central or any cas appear frequently in Montesquieu's arguments. One of these is to substitute something for the "spring" (for *ressort*) of the various types of governments : this, to me, is a good example of a category mistake. The major objection to "spring" is simply that, while Montesquieu does in a few instances use *ressort* in a mechanical sense (especially in the 1757 Avertissement), the English word "spring" unlike *ressort* has no recognized metaphorical value that can "naturalize" such a supposedly literal translation [3] The use of *ressort* by Montesquieu is in no way a neologism, but it is in English when it comes out as "spring". After experimenting with various substitutions I have adopted various solutions related to notions of impetus, incentive, and energy.

Peuple is an exceedingly complicated and ambiguous term in French because it can mean either the body of the people (*populus* in Latin), in which case it can also take the plural ; or to commoners (*plebs*) as opposed to upper classes ; or again it can, as "people" often does in English, refer to a polity or aggregate of citizens. "People" is ambiguous also in English, but not in analogous ways. *Populaire*, as in *gouvernement populaire*, is closely linked to this latter meaning. To use "people" many times in succession in the singular begins to sound odd. Like previous translators, I have usually in such cases shifted into the plural, despite some slippage of meaning that seems to me sometimes unavoidable. The idea of *plebs*, also much used by Montesquieu, refers to those who are not noble or rich, and is often best rendered by "commoners" or "common people". Indeed some other words such as *gems* and *on* also are on occasion best translated as "people".

Pouvoir and *puissance* have a similar kind of overlapping usage. Sometimes, but by no means always, Montesquieu keeps them separate, even in opposition, and at other times he seems to substitute them indiscriminately (XI.6). I have generally rendered *pouvoir* as "power" and *puissance* as "authority". There are also, of course, occurrences of *autorité* that also seem to call for "authority" – but not always.

In all, what works best seems to depend a great deal on the immediate context, including the syntax of a given occurrence.

[1] By Anne Cohler, Basia Miller, and Harold Stone.

[2] *le monde entier ; toutes les créatures créées, l'assemblage de tous les êtres*

[3] *Ressort se dit figurément en choses spirituelles et morales, et signifie cause, moyen* (*Dictionnaire de Trévoux*).