

## Résumé des articles

### “Interested beneficence versus altruistic rhetoric: Bentham's idea of social education”

by Marie-Laure Leroy

The object of this paper is to show which method Bentham thought fit to employ to render men more sociable by means of moral discourse, and to determine why he did not consider disinterestedness as a relevant ethical value.

#### *I. The psychological impossibility of disinterestedness*

According to Bentham, action can only be motivated by interest. But this includes such pleasures as those of sympathy. Even if we are self-centered, we are capable of a sort of universal benevolence, which makes us feel spontaneous pity for our fellow-creatures, so that we take other people's interest into account in our decisions.

Even if it is impossible to determine whether our behaviour is exclusively driven by self-interest, Bentham's hypothesis is valuable because of its practical use: as interest seems to be a far more general and powerful spring of action than self-denial, it is relevant to count on it to induce people to beneficence. From the moralist's as well as the legislator's point of view, it seems wise to suppose a minimal amount of personal virtue on the part of the people who are to be governed, or educated to social life.

#### *II. The dangers of disinterestedness rhetoric*

Bentham refuses to view disinterestedness as a possible motivation also because it is used as a rhetorical tool by the enemies of the greatest happiness of the greatest number. Those who claim to act on noble grounds are indeed fooling other people in order to pursue their own sinister goals: echoing Mandeville and Helvétius, Bentham mistrusts the apostles of asceticism and self-sacrifice. Thus, although he deems self-preference legitimate, he considers that some conducts are ethically wrong, and should be discouraged, because they impede the happiness of others.

Moral judgment, then, does not apply to the mental origin of action, but to its social result. On this criterion, a new moral terminology has to be framed, in order to carry correct ideas on the social value of individual behaviours. The old vocabulary of ethics must be altered, so as to get rid of false judgements, which are used as a means of oppression.

#### *III. The inducement to interested beneficence*

For Bentham, to encourage men to be disinterested is dangerous, as it makes way for psychological manipulation. Consequently, the *Deontology* aims at making morality “easy”: duties are to be deduced from interests, and limits are to be put to self-love so as to avoid conflicts. A priority order is thus established between the “three primary virtues”: prudence and probity are to be practised, and beneficence is highly recommended, provided that it be compatible with the two first. Thus, Bentham encourages everyone to cooperate with others. The moralist's task is to modify men's behaviour by showing them what their interest really is. In order to promote the greatest happiness of the greatest number, he has to help discrediting harmful actions, so as to deter them, and he must help framing laws.

#### *IV. Is reference to self-interest a danger or a chance for ethics ?*

By appealing to self-interest to justify the practice of beneficence and probity, is Bentham not liable to induce men to become more selfish, rather than more sociable? He argues that prudence never recommends dishonesty or aggressivity, but if one abstains from being bad only for the sake of one's own profit, this motivation might be too frail to entail a steady benevolent course of action. From an educational point of view, it might be more efficient to preach

disinterestedness. This is not Bentham's view, as he counts on education to sympathy to create strong and lasting bonds between fellow-citizens. We would like to suggest that this means of action is valuable, as moral discourse should be adapted to the frame of mind of the people who receive it.

To conclude, it seems possible to view men as driven by self-interest, without prompting them to be narrowly selfish individualists, as being an unforgiven egoist is but a poor strategy. Accordingly, utilitarian ethics can be used to promote cooperative behaviour, especially when inducements to disinterestedness are nugatory. Bentham's analysis on moral education is then liable to spark off a reflection on the best way to use ethical discourse to strengthen the social bond.

### **“Positivist Jurisprudents Confronted: Jeremy Bentham and John Austin on the Concept of a Legal Power” by Guillaume Tusseau**

Bien que nettement moins influente que la théorie juridique de son disciple John Austin, la pensée de Jeremy Bentham s'avère considérablement plus fructueuse. Pleinement consciente de son propre statut, elle repose sur une théorie complète des formes de discours juridiques (prescriptif ou descriptif, local ou universel, authentique ou non, etc.). Elle présente par ailleurs l'originalité d'avoir emprunté tour à tour ces différentes formes de discours, et de les avoir travaillées avec une minutie peu commune.

Ces deux fondateurs du courant d'*analytical jurisprudence* de la théorie générale du droit sont cependant réunis par leur positivisme. Celui-ci se traduit tout d'abord, à un niveau métalinguistique, par la distinction des discours portant sur le droit tel qu'il est et des discours portant sur le droit tel qu'il devrait être. Ensuite, le positivisme est solidaire de la proposition d'un modèle impérativiste du droit. La règle de droit est avant tout conçue comme une prescription qui impose des conduites au moyen de sanctions. Dans leur totalité, les entités juridiques (droits, obligations, prestations, permissions, libertés, etc.) sont reconduites à l'idée fondamentale de prescription. Mais au-delà de ce point commun, il est possible d'établir que les concepts de droit respectifs de ces deux auteurs diffèrent sensiblement. L'extension considérable du concept de droit de J. Bentham lui impose de soulever la problématique du pouvoir de produire des normes. Comment expliquer en effet l'existence de normes juridiques à la fois générales et individuelles, abstraites et concrètes, produites aussi bien par le souverain qui édicte des lois, que par les juges à travers leurs sentences, par les particuliers au moyen de contrats ou encore par les administrations qui émettent des règlements ? En raison de son concept de droit beaucoup restrictif, issu d'une approche que l'on peut qualifier de « légicentriste », John Austin se prive au contraire d'un tel champ d'investigation. La question est celle de la manière dont une théorie juridique d'inspiration volontariste et impérativiste peut rendre compte des éléments des discours juridiques qui, loin d'imposer des obligations, semblent conférer des pouvoirs. Contraint de s'interroger de la sorte, J. Bentham soulève l'une des problématiques les plus fondamentales et les plus controversées de la théorie contemporaine de la norme juridique au niveau international.

Apparaît ainsi l'une des raisons de la supériorité du positivisme benthamien sur le positivisme austinen. Celle-ci concerne la dimension épistémologique du positivisme juridique, et a trait à la manière dont sont construits les concepts juridiques. Du point de vue du progrès de la science juridique contemporaine, une théorie s'avère préférable si elle est en mesure de soulever davantage de questionnements nouveaux qu'une autre. Par les concepts dont elle se dote pour appréhender son objet, elle doit pouvoir conduire à des investigations nouvelles, plus nombreuses, plus raffinées et plus fructueuses. Tel est précisément le cas de la théorie juridique benthamienne.

## Recherche interactive

### “How to translate *Sinister Interest*” by Rosalind Greenstein

Translation, as everyone knows, is not a linear process but a constant moving back and forth within the text, as the meaning of words becomes clearer and earlier solutions turn out to be unsatisfactory. If, in addition, the text is part of a larger corpus of work, the author's ideas may well evolve and this must be reflected, too, without introducing anachronisms. Research into the author's writings, in a non-translation context, can also shed new light on the meaning of the text. But meaning, or content, is not the only problem. Major stylistic differences between English and French add to the difficulties, one of which is the almost systematic use of synonyms in French whereas repetition is more common in English. Repetition is not, however, merely a convention but may correspond to a term that expresses a concept. The first problem, therefore, is to identify the concept, then to translate it, a difficult task when there is no equivalent in the target language and culture. To compound the problems, even if the denotation of a possible translation is correct, the connotation may not be.

The example examined here is that of 'sinister interest', a concept developed by Jeremy Bentham and which underpins the ideas of Edwin Chadwick, his disciple. In his paper in 1859, Chadwick also uses the expressions 'sinister opposition' and 'sinister exercise of power', and the adjectives 'interested' and 'disinterested'. In order to understand the concept and translate the term, two complementary corpora, *in vivo* and *in vitro*, were necessary. The first contains documents in English and French about the concept: those in English include excerpts from Bentham, his contemporaries and modern scholars working on his philosophy; those in French come from modern scholars specialising in the writings of Bentham. The second corpus contains dictionary definitions of the words used in the first corpus, the dictionaries covering two periods, that of Bentham and that of today's reader.

From the two English-language corpora it is clear that the adjective 'sinister' is used either to describe something that is evil, harmful, prejudicial, dishonest, corrupt, wicked, base, perverse, bad, or to announce it: suggestive of evil or malice, portending or suggestive of misfortune or disaster, ill-omened, unlucky, inauspicious.

The French *in vivo* corpus contains various expressions: *l'intérêt sinistre*, *l'intérêt dévoyé*, *le sinister interest*, *l'intérêt suspect*. The French *in vitro* corpus, starting with the definitions of the adjective *sinistre*, offered more alternatives: *méchant*, *pernicieux*, *funeste*, *contraire*, *défavorable*, *qui est à gauche*, *mauvais*, *malfaisant*, *sombre*... To this, other words from the French-language documents were added and checked in turn in the different dictionaries: *biaisé*, *déviant*, *néfaste*, *nuisible*... Each one covers part of the denotation of 'sinister', but none is entirely satisfactory and in some cases the connotation is incorrect. Although the last two, *néfaste* and *nuisible*, seemed reasonable, they had already been used elsewhere in the translation of Chadwick's paper, in expressions that were not terms, and so had to be eliminated since the aim is both to convey a concept and to make it visible.

This brings us back to the question of what to do when a concept exists in the original text but with no equivalent in the target language. Several options are open to the translator. One would be to invent a combination of words based on existing language patterns so that the result would seem natural, but with the risk that the reader would not identify it as a term corresponding to a concept. Another would be to choose an unexpected combination of words which would draw the reader's attention to something strange that needs thinking about. It is the second solution that has been adopted and though it may not be entirely felicitous, it offers the

advantage of troubling today's reader in the same way that the philosophers probably surprised their contemporaries 200 years ago. Both the denotation and the connotation of the adjective in French have evolved over the last 150 years and modern French usage now reflects much of the negative content of the English 'sinister', in a not dissimilar context. The proposed term was tested on French native speakers who know little, if anything, about Bentham or Chadwick and are not translators. Some rejected it as 'bad' French but finally agreed that it was the 'least bad' choice and that it conjured up a negative image comparable to the English. Others were startled into thinking about the meaning immediately, without asking themselves whether or not it was 'good' French.

Returning to the dichotomies a translator is faced with, should the translation be a faithful rendering of the original and in what way? Should priority be given to the letter of the text or the spirit? Should style prevail over content or the reverse, if both are not possible? The translation of 'sinister interest' is a good illustration of such choices. Similarly, should a translation reflect the source language or the target language, not forgetting that when translating a text written in 1859 for a reader in 2007 the question of modernising the language is also posed. Specialists or translators of the works of Bentham may not agree with the choice presented and analysed here. But it was made in the context of the translation of a forty-page paper – and not the complete works – of a disciple of Bentham, not the philosopher himself. Moreover, it is the backdrop to his text, not his central argument.

In a word, when confronted with the problem of a concept which does not exist in the target language, the translator may hesitate between a 'natural' combination of words which may well go unnoticed and an unusual combination which will disconcert the reader and provoke a reaction. On this point, opinions differ.