Translator's Preface

By Sandra H. Lustig[1]

> *The spirit of a language is most clearly revealed in its untranslatable words.*
> (Marie von Ebner-Eschenbach)

When I began working on this book, I soon realized that translating Carl Schmitt poses greater challenges than translating most legal and political theorists. This is particularly true of his oeuvre from 1933 on and the versions of his older works which he revised during the Nazi period; only a few of his publications from that time are available in English translation. Viewing Schmitt's work within the societal context in which he produced it is essential for comprehending it fully. And as the societal context changed, so did his writing.

As is typical of totalitarian and authoritarian regimes, propaganda was crucial to the Nazis' pervasive efforts to gain and retain the support of broad swaths of the population for the regime itself and all its actions. Nazi propaganda permeated virtually everything written and spoken in Germany during that time, from publishing and the media to teaching at schools to scholarly production, all of which were controlled by the state. Language was key to making all this succeed. The German language was changed in various ways under the Nazis, resulting in what is commonly called Nazi German, as will be explained in more detail below. If readers of Nazi German texts today aim to understand their precise meaning, they must be aware of these linguistic changes.

In this translator's preface, I explain some of the most important features of Nazi German to help English-speaking readers of Schmitt's writing at least from the Nazi period develop such an awareness, to explain how I have dealt with the problems of translating Nazi German in this book, and to encourage scholars to question whether it might be worth rethinking their interpretations of Schmitt's oeuvre against this background. With his masterful command of the German language, there can be no doubt that he

1 I would like to thank Adam Blauhut, Hubertus Buchstein, Susanne Elfferding, and Rebecca Garron for reading drafts of this translator's preface, discussing countless linguistic nuances with me, and helping me tease out exactly what I wanted to say.

used it very deliberately, and at least during the Nazi period, he wrote in Nazi German. Incidentally, Otto Kirchheimer did not write in Nazi German; his writing is clear and comprehensible. If he used untranslatable words on occasion—and German, like every other language, has some, such as *Heimat* and *Weltschmerz*—then it was because they express concepts particular to German culture or law, not to convey Nazi ideology in an obfuscating way.

Nazi German also used specific elements of style and rhetoric,[2] but analyzing them is beyond the scope of this preface; the focus here and in the Glossary is on individual words and terms.

Nazi German

Nazi German has been described as "a manipulative and aggressive language based on a vocabulary of emotionalism, radicalization, deception, defamation, and brutalization. […] [T]he Nazis were able to shape not only the communicative process but also the psychological and sociopolitical thinking of most Germans" (Mieder 2002, xvi). Nazi German worked in various ways. Among a number of linguistic techniques, it gave existing words new meanings, e.g., *gesund* (no longer only: healthy, but now also: corresponding to the norm of the NSDAP; see Glossary). It invented new words and terms, e.g., *Ehrenkreuz der Deutschen Mutter* (literally: Cross of Honor of the German Mother, a medal awarded to "worthy mothers of German *Blut*" (see Glossary) with at least four, later three, children (Schmitz-Berning 2007, 164–165). Nazi German used old Germanic terms to evoke "sentiments of mystical blood ties and emotions to make Germans believe in the transcendental German nation (*Volk*)" (Doerr 2002, 29) and an archaic mythology of Germanness that readers today may have encountered in Wagnerian operas. For instance, *Bund der Rechtswahrer* (Alliance of Preservers/Defenders of the Law; see Glossary) has a more august ring to it than *Vereinigung der Rechtsanwälte* (Association of Lawyers), as it was previously called.

While Nazi German was sometimes unreservedly clear, e.g., *Die Juden sind unser Unglück* (The Jews are our misfortune/ruin), it could also give words "deliberately equivocal meanings" (Paechter et al. 1944, 110). "The ambiguity of this para-logical language serves not only to deceive the enemy but also as an instrument of social control" (Paechter et al. 1944, 8). Kirchheimer wrote of "the brutal, cynical reality of the new legal system behind the fog of Nazi phrases" (see Chapter 8, p. 209)—in reference to Schmitt helping to create and cultivate that fog. The title of the *Gesetz zur Wiederherstellung des Berufsbeamtentums* (literally: Law for the Restoration of the Public Civil Service) illustrates how Nazi German "obscure[d] and sanitize[d] the reality to which it refer[red]" (Morris 2002, xi). It states the need for the civil service to be restored, implying that it had been damaged or destroyed; the solution to that alleged problem was to expel political opponents, Jews, and all others not considered Aryan from the civil service (see Chapter 7). Without even mentioning the words "Jew" or "Jewish"—by design—this law robbed

2 See, for example, the chapter "The Spirit and Structure of Nazi Language" (Paechter et al. 1944, 5–15).

all Jewish civil servants of their livelihoods. Nazi German often used code or allusion to hint at what was not expressed explicitly, for example, the word *Sonderbehandlung* (literally: special treatment; in fact: execution or mass killing of Jews or opponents of the regime, Schmitz-Berning 2007, 584–587). At times, the Nazi regime relied "more on the execution of implied policies than on outspoken orders" (Kirchheimer/Herz 1945a, 467, see Chapter 13, p. 335). While a target audience clued in to this form of communication understood the general thrust, this obscurantism created fear and terror because it left people in the dark about the exact details of a message.

Therefore, nobody, and certainly not translators, should take the words in Nazi German texts at face value; depending on the author, target audience, purpose, and general context, the meaning to be conveyed by individual words may be very different. Even scholars whose mother tongue is not German but who have become fluent in it "might have difficulty in understanding the at-times-absurd, impenetrable, and euphemistic language of the Nazis" (Mieder 2002, xvii). As a matter of fact, fully grasping much of Nazi German is difficult even for native German speakers today (although extreme right-wing parties do use some code words and other features of Nazi German, and they resonate with their audience).

The goal of much of Nazi German was not simply to describe things and concepts. It was to conjure up strong emotions such as loyalty to the Nazi system or hatred of certain groups of people. "For what, after all, was the ultimate purpose and eventual success of all these overblown emotions? Emotion was not itself the be-all and end-all, it was only a means to an end, a step in a particular direction. Emotion had to suppress the intellect and itself surrender to a state of numbing dullness without any freedom of will or feeling; how else would one have got hold of the necessary crowd of executioners and torturers?" (Klemperer 1947, 252). Rose, too, argues that such "emotionality […] completely flooded the German listeners' critical defenses and appealed directly to their whole soul and being—a mood of ecstatic joy reinforced by the sense of excitement and dynamism that was conjured up by the host of new modern jargon words that Nazi-Deutsch invented. When it came to words connected to Jews, of course, the emotional resonance was of very long standing in German language and culture, and even today German words such as "Jude" (Jew) bear an intensity of revulsion and reaction that is present in no other European language" (2002, vii). And Nazi German could easily draw on the "long tradition of antisemitic vocabulary and phrases" (Mieder 2002, xv) in the German language.

One of the main and most enduring emotions conjured incessantly by Nazi German was the feeling of "us versus them." Nazi ideology was based on the notion that human beings were *not* all created equal. On the contrary, some groups of people were considered superior to others; some were therefore to rule over others, who were to be subjugated or even exterminated. Every person was born as a member of a particular group, and this determined how a person was seen, what opportunities they should or should not have, and what their "rightful" place in society was to be. All this was immutable: once a member of a group, always a member of that group. (The impacts of this notion extended to criminal law; see Chapter 8, p. 205, regarding *Willensstrafrecht* and *Täterstrafrecht*.)

Such groups were defined according to pseudo-biological notions of *Art*, *Blut*, *Gemeinschaft*, *Rasse*, and *Volk*. Translated as biological terms, their meanings are as follows: *Art* = species; *Blut* = blood; *Gemeinschaft* = biocenosis or community; *Rasse* = race;

Volk = a group of animals of the same species (e.g., *Bienenvolk* = bee colony). Nazi German did not use these terms in a strictly biological sense but shifted them to the sociopolitical sphere. For instance, *Volk* referred to a biologistically defined people: a *Volk* was defined not by citizenship or culture or language, but by an allegedly shared biology. I encourage readers to peruse the Glossary at this point.

As explained in the Glossary, *Art*, *Blut*, *Gemeinschaft*, *Rasse*, and *Volk* were defined in reference to each other: *Art*, *Gemeinschaft*, and *Volk* were defined by *Blut* and *Rasse*; *Rasse* and *Volk* were based on the notion of *Gemeinschaft*; *Blut* was defined by *Rasse*, or the two terms were considered synonymous; and each term had its own nuances. Since their definitions overlap, it is often difficult, if not impossible, to discern precise differences in meaning.

Nazi German used *Art*, *Blut*, *Rasse*, or *Volk* to form more than one hundred compound words, many of which also included terms such as *fremd* (foreign, alien), *gleich* (same, similar), or *eigen* (own, one's own), which themselves indicated belonging or non-belonging. Dozens more words were formed by adding a prefix or suffix. Some examples: "*Aufartung*: enhancement of the *Art* by means of measures of *Rassehygiene*" (Schmitz-Berning 2007, 73); "*artfremd*: … alien, foreign (to the essential nature of German culture)" (Neuburger 1944, 8); "*volksbewusst* … conscious of national entity [used by the Nazis as synonym of rassenbewusst (race-conscious)]" (ibid., 117); "*volksfremd* … alien to the spirit of the German people" (ibid., 117); "*Volksschädling*, … people's parasite [used in connection with persons violating measures of national urgency]" (ibid., 118). Referring to the use of *Volk* as a prefix to countless words, which intensified their emotional charge by connecting them to the people included in the *Volk* while implicitly excluding the others—think *Volkswagen*—Victor Klemperer commented: "The term '*Volk*' … is now as customary in spoken and written language as salt at table, everything is spiced with a soupçon of *Volk*" (1947, 30).

Alone or in compounds, these words were laden with emotion; those referring to the groups favored by the Nazis were intended to convey positive feelings (belonging, superiority, pride, beauty, flawlessness, etc.); those referring to the others negative ones (othering, exclusion, inferiority, disgust, ugliness, etc.). These terms express belonging versus non-belonging, inclusion versus exclusion, us versus them, and they imply domination versus subjugation, persecution, and extermination—even without explicitly stating as much. They are inherently antisemitic code words as they exclude Jews, most without mentioning "Jew" or "Jewish."

Translating Nazi German

Translation is a process of decoding and encoding. Translators must begin with the words on the page, but translation is not simply a mechanical process of transposing sequences of words from one language to another. The translator has to understand (decode) the meaning intended by the author in detail within the societal context of the text in general, reading between the lines where necessary, and then express (encode) that meaning in a way that is both accurate and comprehensible to the target audience.

Throughout the process, translators must be aware of their own biases to avoid distorting the meaning of the text.

Translating works written during the Nazi period for a twenty-first-century audience means transferring a text across time, space, and sociocultural contexts. It entails bridging the linguistic gap between Nazi German and English; the political, legal, and cultural gaps between the dictatorship of Nazi Germany and present-day democratic societies; and a leap in time of more than three-quarters of a century.

Much of Schmitt's writing is on legal and political theory, which by definition both rely heavily on specific, specialized language. Any legal translation has to deal with the challenge of transposing terms, concepts, institutions, laws, procedures, etc. in all their intricacies from the language of one legal system to the language of another; in the case of German to English, this also involves taking the step from a system based on Roman law to one based on common law. In many cases, there is no legal concept in the target language that corresponds exactly to that in the source language, so no corresponding term exists, either. Similar problems arise in political theory translations. A few examples: the functions of political parties and the role of the president during the Weimar Republic do not correspond precisely to those of the US, and the meaning of terms such as state, parliamentarism, political representation, and political leadership differs to a certain degree in the traditions of German and American political language. Kirchheimer's difficulties in finding proper translations for *Rechtsstaat* and *politische Justiz* exemplify this general problem. Concerning texts on legal and political theory of the Nazi period in particular, it should be borne in mind that the system of Nazi rule employed the Nazi linguistic project—which was designed to obfuscate its violence and brutality, as explained above—to express that ideology in laws and other legal measures. Understanding such texts requires readers to be familiar with Nazi German.

Ambiguous language is notoriously difficult to translate. Translators may attempt to use equally ambiguous words and figures of speech in the target language, but they often do not exist. Another option is for the translator to interpret the ambiguous language, decide which meaning was intended, and then render that meaning in the target language. Since multiple interpretations are possible, however, translators may legitimately be accused of incorrectly translating the passage in question, or of bias, irrespective of which interpretation they decide on. This is all the more true when it comes to translating language that relies on readers grasping the author's intended connotations.

When translating antisemitic language in particular, one is faced with the challenge that several features of Nazi German come together: code words, emotional charge, exclusion of Jews, "the constant fluctuation in German antisemitic language between the metaphorical and the physical meaning of words that in English are concrete" (Rose 2002, viii), and language that is ambiguous at times, enabling plausible deniability and perhaps chosen for precisely that reason. "If anti-Semitic sentiment is uttered overtly, one can discuss it by simply pointing to explicitly anti-Semitic passages. But if it is uttered in code and by allusion […], one must first interpret the statements to uncover their meaning before arguing against their anti-Semitic content, and whoever made such statements can deny that that interpretation is correct" (Lustig 2006, 208).

Translating Nazi German makes both parts of the process of decoding and encoding more difficult than usual. The first step is to identify the many code words and terms

whose meanings had been changed. If the translator fails to do so and instead translates the meaning usually given to a particular word today, then the translation will be inaccurate and the specific meaning intended by the Nazis will be lost. After identifying a word as code, the translator must crack the code to understand the precise meaning of the term, both its denotation and its connotations, at its particular place in the text. Simply referring to standard German dictionaries will not help here as they do not include Nazi German code, for example for *Art* and *Gemeinschaft* (see Glossary). Once the translator has ascertained the meaning in Nazi German, the final step is to express that meaning in a way that is accurate, comprehensible to an English-speaking readership, and if possible, readable. The main challenge here is that, in many cases, no words exist in English that correspond to the Nazi German terms, as explained above. Many words that might appear to be translations are in fact not quite accurate or even plain wrong. For instance, the Nazi concept of *Volk* encompassed emotionally charged and exclusionary notions of nation, *Rasse*, purity, bonds to the soil, not being cosmopolitan (itself a code word), and so on (see Glossary). Yet a US reader encountering its common translation "people" today may well associate concepts such as "people's republic"—which are entirely different. As Rose has argued, direct translations of terms used in Nazi propaganda, such as "'patriotism,' 'rebirth,' 'mobilization,' 'order,' 'dignity,' 'national community,' [fail to] convey [their] powerful emotional resonance—almost religious in its intensity" (2002, vii) and leave English-speaking audiences to wonder why Nazi propaganda films such as Leni Riefenstahl's *Triumph of the Will* had such an overpowering impact on the German audience of the day.

Now, Schmitt not only wrote in Nazi German at times, he also had his own way of using words, as discussed in Chapter 6: He considered them devices to be employed when struggling for the authority to interpret terms and concepts. The body of terms he defined in his own way became a Schmittian lexicon, as it were, for instance, his concepts of dictatorship and democracy in his *Constitutional Theory*. Schmitt scholar Reinhard Mehring even chose *Kriegstechniker des Begriffs* [Military technologist of terms and concepts] (2014b) as the title of his biographical studies on Schmitt. This practice of Schmitt's in fact predated the Nazi period: in an analysis published in 1931 of Schmitt's *Constitutional Theory*, political philosopher Eric Voegelin correctly pointed out that Schmitt's political intentions were behind his unconventional definitions and that he did not express these explicitly (see Chapter 6, p. 149). Translators are therefore confronted with the additional task of teasing out exactly which meaning Schmitt intended with each of his terms within the context of his argument in a particular text written at a particular point in time and in a particular political situation—and then rendering that meaning in the translation. It would be incorrect to simply translate such terms as they are usually used today; the reader must be able to discern that the term as used by Schmitt has a different meaning than usual, and that Schmitt changed its meaning with a specific purpose in mind.

There are various ways to deal with these translation issues. Some publications simply use the Nazi German words, often in italics, in the English text without further explanation, for example, *völkisch*. In my view, this does not do justice to the needs of English-speaking readers who likely do not understand the Nazi German terms, let alone the intricacies of meaning. Another option is to use direct English translations in quotation marks, for example, "Aryan," again without explanation. English-speaking readers un-

familiar with Nazi German terminology and ideology may wonder what the quotation marks are supposed to signify and what the words actually mean.

Another alternative is to use common English terms as supposed equivalents of Nazi German ones. This approach often does not put across the proper meaning of the terms and instead yields an incorrect translation that may be skewed, sanitized, and/or trivialized. For instance, translating *Gleichschaltung* as "coordination" or "synchronization" sanitizes the term by eliminating the brutality and the severe consequences of the process of forcibly aligning organizations with the Nazi system and dismissing Jews, leftists, and others from their jobs (see Glossary). Some authors forge English terms as translations of neologisms which the Nazis coined to denote things and concepts that were particular to the Nazi system. For example, they use "people's unit, national storm,"[3] or "People's Assault"[4] for *Volkssturm*—a militia of poorly equipped civilian boys and men drafted by the Nazi regime in a last-ditch effort to defend the fatherland—but such coinages mean nothing in themselves without further explanation and certainly do not convey the proper meaning.

As a matter of principle, I hesitate to critique translations without knowing the conditions under which the translator worked. Translation is often piecework, making translators work against the clock, which may result in inadvertent errors. In addition, every translation involves an interpretation of the source text, even if it is not particularly ambiguous, and various translators may legitimately interpret the source text differently and select different words to express different meanings in the target language.

Translators of Schmitt in particular who lack knowledge of Nazi German and the Schmittian lexicon may tone down these features inherent to his thinking and writing. As a result, scholars working with such erroneous—and possibly biased and sanitized—translations of Schmitt's work may well misunderstand or fail to understand exactly what he wrote, construct flawed or misguided theories about Schmitt and his oeuvre, or even put words in his mouth. Reviewing published translations of Schmitt's writings for accuracy and biases would be an interesting task, albeit one far beyond the scope of this book.

Another issue relating to potentially biased and sanitized receptions of Schmitt is the fact that many of his works, scholarly and otherwise, from the Nazi period have not been translated into English. Since scholars unable to read German and Nazi German texts cannot access this part of Schmitt's oeuvre, they may not be aware of the depth of Schmitt's own antisemitism and of his support of the Nazi regime and its ideology.

Some mistranslations of terms coined by Schmitt seem to have wended their way into usage in the literature. Jeffrey Seitzer translated *dilatorischer Formelkompromiß* as "dilatory formal compromise" in *Constitutional Theory* (Schmitt 1928b, 85). However, the *Formel* in *Formelkompromiss* has nothing to do with whether the compromise is formal or informal. (That would be *formaler Kompromiss* or *informeller Kompromiss*.) A *Formelkompromiss* is a formulaic compromise, *Formel* being the formula used in this type of compromise: the wording that the parties can agree on, even if the policy problem remains unresolved.

3 Robert Michael and Karin Doerr (2002, 426).

4 United States Holocaust Memorial Museum, Holocaust Encyclopedia, accessed 5 March 2024, https://encyclopedia.ushmm.org/content/en/article/indoctrinating-youth.

German grammar permits two interpretations of the term: the adjective *dilatorisch* may refer either to *Formel* or to *Kompromiss*, so it could be correctly translated either as "compromise on a dilatory formula" or as "dilatory formulaic compromise." Kirchheimer in "Weimar—and What Then? An Analysis of a Constitution" (1930e) refers to Schmitt's *dilatorischer Formelkompromiss*, and the translation by Arnold H. Heidenheimer, reviewed by John H. Herz, uses the first option; following discussions with Hubertus Buchstein, I decided on the second.

In his translator's note to *Land and Sea* (2015), Samuel Garrett Zeitlin explains that Schmitt "explicitly contrasted his notion of *Völkerrecht* with prevailing notions of 'international law,' offering the latter term in quotation marks in English in his German-language texts" (ix) from 1937 to 1943, and that he used "law of peoples" for Schmitt's writing from that period "to allow readers to interpret Schmitt's notion of this term as something potentially quite different from the notions of international law prevalent in the 1940s or those notions of international law prevalent today" (ibid., ix–x). Yet such a clear demarcation may be debatable because there were also continuities in Schmitt's thinking on international law over time; in any case, this differentiation is not relevant in the context of this book, so Hubertus Buchstein and I opted for the common translation "international law."

In *Behemoth* (1944), Franz L. Neumann used translations of Nazi terms that I would avoid: blood for *Blut*, community for *Gemeinschaft*, folk for *Volk*, Leader for *Führer*, large space for *Großraum*, and leadership principle for *Führerprinzip*. Leadership principle (which has no particular meaning in English; after all, some form of leadership is practiced in virtually every organization and institution) would be a translation of *Führungsprinzip*, not of *Führerprinzip*. I am reluctant to criticize Neumann for this. After all, he wrote this massive and seminal book in a very short time to analyze and explain the Nazi system while it was in power and World War II was raging; the first edition was published in 1942, predating what were probably the first works explaining Nazi terms in English (Paechter et al. 1944 and Neuburger 1944) by two years; he wrote in a language that was not his native tongue; it is unclear how familiar the book's copy editors were with Nazi German terminology; and expecting Neumann and his colleagues to solve these complex translation problems under the given circumstances would be unrealistic. I would apply the same considerations to Kirchheimer's translation of *gesundes Volksempfinden* as "sound feelings of the people" (1940b, 448) and his use of "leadership principle" as the translation of *Führerprinzip* in the title of "Leadership Principle and Criminal Responsibility" (Kirchheimer/Herz 1945).

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Aiming for this book translation to be accurate, comprehensible, and readable, I have taken the following approach. Some Nazi German terms simply require a brief explanation, so I retain them in the text and provide a gloss, sometimes in a footnote, for readability. I have also compiled a Glossary with definitions and explanations of key Nazi German terms that occur in this book. Particularly enlightening sources either present the Nazis' own definitions (Schmitz-Berning 2007) or were prepared at the time to explain Nazi German terms in English (Paechter et al. 1944 and Neuburger 1944); in

some cases, I added a few words of my own. The purpose of the Glossary is to explain the meaning or meanings of these terms, including their connotations and emotional charge. The Glossary shows that these terms cannot simply be translated into individual English words, but rather require considerable explanation.[5] Incorporating such explanations in the body of the text would make it unreadable and would distract from the argument being made, so I retain the Nazi German terms there and provide a brief gloss as well as a reference to the Glossary where appropriate. I encourage readers to study the Glossary with a view to fathoming the Nazi mindset and ideology as a backdrop for understanding Schmitt's writing from that time.

Some terms are explained, a few specific translation problems are discussed, and critiques of published translations are offered in various places in the book, for example *Lage* in Chapter 1; *Artgleichheit*, *Gleichartigkeit*, and *Homogenität* in Chapters 4 and 10; *Mißgeschick* and *das Elementare* in Chapter 9; mistranslations and omissions in Schwab's translations in Chapter 10; and *Raum*, *Großraum*, and other compounds of *Raum* in Chapter 12.

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Readers and translators of Schmitt should be aware of the intricacies of the German language, the purposes and linguistic techniques of Nazi German, and Schmitt's practice of creating his own specific definitions of terms, in short: they should understand that one cannot take his writing at face value. The fact that terms in his writing may be untranslatable because no corresponding terms exist in English does not mean that their meanings are opaque or even incomprehensible; rather, it means that the process of translation—decoding the precise meaning in (Nazi) German and then rendering that meaning in English—is more complex than usual. Much work remains to be done on reexamining Schmitt's works at least from the Nazi period for his use of Nazi German, translating more of them into English, reviewing existing translations for accuracy in this respect, and potentially reassessing the meaning and implications of his oeuvre. To conclude with just a single example: what does it mean for receptions of Schmitt if we know that he wrote not only of *konkretes Ordnungsdenken*, but sometimes of *gesundes, konkretes Ordnungsdenken*, that is, not only of concrete-order thinking, but also of concrete-order thinking corresponding to the norm of the NSDAP? I leave this for scholars to ponder.

5 Indeed, there is an entire monograph devoted to a single term: *Sonderbehandlung*, see Wulf (1963).