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DOMENICO FELICE

MONTESQUIEU: AN INTRODUCTION

A Universal Mind for a Universal Science
of Political-Legal Systems

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CHRONOLOGICAL TABLE OF MAJOR EVENTS IN MONTESQUIEU'S LIFE*

Early Years (1689–1721)

1689: Birth of Charles-Louis de Secondat at La Brède.

1696: Death of Montesquieu's mother, Marie Françoise de Pesnel, whose dowry had included the Château de La Brède.

1700–1705: Montesquieu receives his formal education at the Collège de Juilly, an Oratorian institution near Paris.

1705–1708: Montesquieu studies law in Bordeaux, where he receives a bachelor of law degree from the University of Bordeaux (July 29, 1708), is licensed to practice law (August 12, 1708), and is received as an advocate in the Parlement of Bordeaux (August 14, 1708).

1708: Having learned he will one day inherit from his childless uncle the name Montesquieu and the position *président à mortier* of the Parlement of Guyenne, Charles-Louis de Secondat begins to use the title “Seigneur de Montesquieu, Baron de la Brède”.

1709–1713: Montesquieu resides in Paris, where he continues his legal studies, composes an essay maintaining that pagans do not merit eternal damnation (1711), and begins the notebook *Le Spicilège*, first published in 1944.

* Edited by Piero Venturèlli. *OC* = *Œuvres complètes de Montesquieu*, under the direction of J. Ehrard, P. Rétat and C. Volpilhac-Augier, Oxford, Voltaire Foundation 1998–2010; Lyon-Paris, Ens Éditions – Classiques Garnier, 2010–.

1713: Death of Montesquieu's father, Jacques de Secondat, who had pursued a military career. Montesquieu returns to Bordeaux.

1714: Becomes a counsellor in the Parlement of Bordeaux.

1715: Marries Jeanne de Lartigue, a Protestant. Composes *Memoir concerning the State's Debts* (*OC*, VIII, 2003, pp. 55–64), a plan for reducing France's national debt.

1716: Birth of Jean-Baptiste de Secondat, only son of Montesquieu (February 10). Montesquieu is elected to the newly founded Academy of Bordeaux (April 3). At the death of his uncle, he becomes *président à mortier* of the Parlement of Guyenne (July 13). Composes an *Essay concerning Roman Politics in Religion* (*OC*, VIII, 2003, pp. 75–98). Endows a prize for anatomy at the Academy of Bordeaux.

1717: Birth of Marie-Catherine de Secondat, elder daughter of Montesquieu. Drafts the *Discourse on Cicero* (*OC*, VIII, 2003, pp. 125–132). Begins work on *Persian Letters*.

1718–1720: Elected Director of the Academy of Bordeaux. Composes summaries of works submitted on the causes of echo (*OC*, VIII, 2003, pp. 143–155), the functioning of the kidneys (*ibid.*, pp. 159–171), the cause of heaviness of matter (*ibid.*, pp. 221–234) and the cause of transparency of matter (*ibid.*, pp. 233–241).

1719: Continuing to be interested in science, Montesquieu publishes, in the *Journal des sçavans*, a request for information to further his projected *Physical History of the Earth, both Ancient and Modern*.

1721: Publication of *Persian Letters* in Amsterdam. Montesquieu reads to the Academy of Bordeaux his *Observations on Natural History* (*OC*, VIII, 2003, pp. 187–223), the results of the previous two years of his scientific labors.

Paris (1721–1728)

1721: In the wake of the success of the *Persian Letters*, Montesquieu begins to divide his time between Paris and the Southwest.

1724: Publication of *The Temple of Cnidus* (*OC*, VIII, 2003, pp. 323/389–420/428).

1725: Reads part of the *Treatise on Duties* to the Academy of Bordeaux. Composes the *Discourse on the Motives inclining us towards Science*.

1726: 40,000 livres in debt, Montesquieu sells his parliamentary office (July 7). Elected to second term as Director of Academy of Bordeaux.

1727: Birth of Marie-Josephe-Denise de Secondat, younger daughter of Montesquieu. Composes *Considerations on the Wealth of Spain*, begun in 1726 (*OC*, VIII, 2003, pp. 581–610, first version, and pp. 611–623, second version). Reads his *Dialogue of Sulla and Eucrates* (1724) (*ibid.*, pp. 307–322) to the Club de l'Entresol.

1728: Montesquieu is received into the French Academy (elected December, 1727).

Voyages (1728–1731)

Montesquieu leaves Paris on what will become nearly a four-year absence from La Brède and his family. Visits Vienna, Hungary, Venice, Padua, Milan, Turin, Genoa, Pisa, and Florence.

1729: Visits Sienna, Rome, Naples, Bologna, Munich, Augsburg, Frankfort, Mainz, Bonn, Cologne, Düsseldorf, Münster, Osnabrück, Hanover, Utrecht. Arrives Amsterdam October 15. Arrives London November 3.

1730–1731: Resides in England until May 1731. Becomes a member of the Royal Society of London and a Freemason.

The Epoch of The Spirit of the Laws (1731–1748)

1731–1733: Montesquieu returns to Bordeaux via Paris (May-June), where he continues to work on the history of Rome he had begun in England. He also composes *Lysimachus* (OC, IX, 2006, pp. 409–422), *Reports on Mines* (i.e., in Hungary and Hartz) (OC, X, 2012, pp. 605–675), *Reflections on Universal Monarchy in Europe* (portions of which were later transcribed nearly verbatim into *The Spirit of the Laws*) (OC, II, 2000, pp. 319–364), *Reflections on the Character of Some Princes and on Some Events in Their Lives* (OC, IX, 2006, pp. 43–65), and *Reflections on the Sobriety of the Inhabitants of Rome compared with the Intemperance of the Ancient Romans* (*ibid.*, pp. 67–82).

1734: Publishes his history of Rome (*Considerations on the Causes of the Greatness of the Romans and on their Decline*). Commits himself to what eventually becomes *The Spirit of the Laws*. Displays renewed interest in science.

1734–1738: Composes the *Essay on the Causes that May Affect Men's Minds and Characters* (OC, IX, 2006, pp. 203–269).

1735: Elected to third term as Director of Academy of Bordeaux.

1738: Composes *History of France*, portions of which are in *Pensées* 1302 and 1306 (English trans. in Montesquieu, *My Thoughts*, ed. by Henry C. Clark, Indianapolis, Liberty Fund, 2012): 1738–1739.

1739–1740: Composes *History of Louis XI* (non published; manuscript non extant).

1746: Elected, with support of Maupertuis, to the Berlin Academy of Science.

1748: Second sale of office in Parlement of Guyenne (August); publication in Geneva of *The Spirit of the Laws*. Elected to fourth term as Director of Academy of Bordeaux.

Last Years (1749–1755)

1749: Mild censure of *The Spirit of the Laws* in Jesuit periodical, *Mémoires de Trévoux* (April). Vigorous attack by Abbé de La Roche in the Jansenist periodical, the *Nouvelles Ecclésiastiques* (October 9 and 16).

1750: Publishes a *Defense of the Spirit of the Laws* (February). Reply to *Defense* by Abbé de La Roche in *Nouvelles Ecclésiastiques* (April 24, May 1). Faculty of Theology of University of Paris drafts but does not publish a thirteen-point censure of *The Spirit of the Laws* (September).

1751: *The Spirit of the Laws* placed on the *Index Librorum Prohibitorum* (November 29).

1752: Faculty of Theology of the University of Paris drafts but does not publish a seventeen-point censure of *The Spirit of the Laws*.

1752–1754: Montesquieu drafts a response to the objections of the Paris Faculty of Theology: the *Responses and Explanations given to the Faculty of Theology of the University of Paris concerning the 17 Propositions they have extracted from the book entitled The Spirit of the Laws* (OC, VII, 2010, pp. 243–270).

1753–1755: Montesquieu composes for Diderot's *Encyclopédie* an *Essay on Taste*. Turns down invitation to write the articles on "Despotism" and "Democracy".

1755: Stricken by fever on January 29, Montesquieu dies in Paris (February 10).

Posthumous Events

1757: Publication of posthumous edition *The Spirit of the Laws* incorporating important revisions Montesquieu left in manuscript form.

1770: Death of Jeanne de Lartigue, widow of Montesquieu.

1796: Publication of five-volume Plassan edition of *Œuvres de Montesquieu*.

1889: Bicentennial of Montesquieu's birth. His descendants arrange for the publication of the major unpublished manuscripts in cooperation with the Société des Bibliophiles de Guyenne: *Deux Opuscules* (1891); *Mélanges inédits* (1892); *Voyages*, 2 vols. (1894–1896); *Pensées et fragments inédits*, 2 vols. (1899–1901); *Correspondence*, 2 vols. (1914).

1939: Sale of important Montesquieu manuscripts; Bibliothèque Nationale purchases the manuscript of *The Spirit of the Laws* and the manuscript of *Collectio Juris* for 401,000 francs. *Pensées* and much of the *Correspondence* purchased by Bibliothèque Municipale de Bordeaux.

1944: Publication of *Le Spicilège*, edited by André Masson.

1950: Château de la Brède declared a French historical monument. Discovery at la Brède by Professor Robert Shackleton of manuscript copy of catalogue of Montesquieu's library and of *Geographica*, tome II.

1950–1955: Publication, by Nagel in Paris, of three-volume edition of Montesquieu's *Œuvres*. Vol. II, pp. 1–667, provides first complete publication of *Pensées* in the chronological order of the original manuscript.

1998: Start of publication, by Voltaire Foundation in Oxford and Istituto Italiano per gli Studi Filosofici in Naples, and then by Éditions in Lyon and Classiques Garnier in Paris, of Montesquieu's *Œuvres complètes* (22 vols., still in progress).

ACKNOWLEDGEMENTS

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The book is dedicated to my parents, to whom I must above all thank for the most rewarding thing that exists in the world, namely a life dedicated entirely to thinking and thought.

ABBREVIATIONS

- Felice *Montesquieu, Tutte le opere (1721–1754)*, with parallel French text, edited by D. Felice, Milan, Bompiani (“Il pensiero occidentale”), 2014.
- Masson *Œuvres complètes de Montesquieu*, under the direction of A. Masson, 3 vols., Paris, Nagel, 1950–1955.
- OC *Œuvres complètes de Montesquieu*, under the direction of J. Ehrard, P. Réat and C. Volpilhac-Auger, Oxford, Voltaire Foundation, 1998–2010; Lyon-Paris, Ens Éditions – Classiques Garnier, 2010 –.
- ***
- Catalogue* *Catalogue de la bibliothèque de Montesquieu à La Brède*, publié par L. Desgraves et C. Volpilhac-Auger, avec la collaboration de F. Weil, Oxford-Naples, Voltaire Foundation – Liguori, 1998 (< <http://montesquieu.huma-num.fr/editions/brede/theme/1> >).
- Corr.* *Correspondance*, in OC, tt. 18/I (1700–1731) and 19/II (1731–1747).
- Défense* *Défense de l’Esprit des lois* («Defense of the Spirit of the laws») (1750), in Felice, pp. 2282–2365.
- Dictionnaire Montesquieu* *Dictionnaire Montesquieu / Montesquieu Dictionary*, under the direction of C. Volpilhac-Auger with the collaboration of C. Larrère, ENS de Lyon, 2013, 2017: <<http://dictionnaire-montesquieu.ens-lyon.fr/fr/accueil/>>.

- EL / Esprit des lois* *De l'Esprit des lois* («The Spirit of the Laws») (1748), in Felice, pp. 894–2269.
- Essai sur les causes* *Essai sur les causes qui peuvent affecter les esprits et les caractères* («An Essay on the Causes that May Affect Men's Minds and Characters») (1734–1738), in *OC*, t. 9/II, pp. 219–269.
- Geogr.* *Geographica II*, in *OC*, t. 16.
- LP / Lettres persanes* *Lettres persanes* («Persian Letters») (1721), in Felice, pp. 12–453.
- M.* Montesquieu.
- Mémoire de la critique* Montesquieu, *Mémoire de la critique*, textes réunis et présentés par C. Volpilhac-Augier, Paris, Presses Universitaires de la Sorbonne, 2003.
- Monarchie universelle* *Réflexions sur la monarchie universelle en Europe* («Reflections on Universal Monarchy in Europe») (1734), in *OC*, t. 2, pp. 339–364.
- MsEL, I, II* *De l'Esprit des lois. Manuscrits*, in *OC*, tt. 3–4.
- P* *Pensées – Le Spicilège*, éd. établie par L. Desgraves, Paris, Laffont, 1991; *My Thoughts*, translated, edited, and with an Introduction by Henry C. Clark, Liberty Fund Inc., 2012: < <http://oll.libertyfund.org/titles/montesquieu-my-thoughts-mes-pensees-1720-2012> >.
- Romains* *Considérations sur les causes de la grandeur des Romains et de leur décadence* («Considerations on the Causes of the Greatness of the Romans and their Decline») (1734), in Felice, pp. 570–851.
- Spicil.* *Spicilège*, in *OC*, t. 13, pp. 81–654.
- Voyages* *Mes voyages* («My Travels»), in *OC*, t. 10.

MONTESQUIEU:
AN INTRODUCTION

There is hardly an event of any importance
in our recent history that would not fit into
the scheme of Montesquieu's apprehensions.

(Hannah Arendt)

1. TRAVELLING THE WORLD

Our soul is made for thinking, that is to say, for perceiving. It is always seeking new things and never rests; it escapes from bounds, and wishes, so to speak, to widen the sphere of its presence; and derives great pleasure from a distant view.
(Montesquieu)

Being a «many-sided» man, just like Homer's Ulysses¹, Montesquieu *travelled the world* for life. It's mostly a question of an imaginary voyage, aside from a three years *grand tour* around Europe and frequent *aller-retour* from his native land La Brède (a village a few kilometers from Bordeaux) and Paris. It's an ideal voyage, a mind or soul voyage, through books, for which he always felt an unlimited love. One of his teachers at the College of Juilly said that during adolescence «if they let him do, he never left his books»²; during the mature age, he was almost completely blind (also because of the endless readings) and he had recourse to several secretaries and especially to Denise de Secondat's (his favourite daughter)³ *eyes* and *voice* to go on with «travelling the world»⁴.

-
- 1 *Odyssey*, I, 1. The *Odyssey* is «the finest poem in the world» (*EL*, XXI, 6, p. 1608).
 - 2 *Œuvres complètes de Montesquieu*, prés. et notes de D. Oster, préf. de G. Vedel, Paris, Éditions du Seuil, 1964, p. 11.
 - 3 During the years of more intense drafting of the *Spirit of the Laws* (1739–1746), Marie-Josèphe-Denise de Secondat (1727–1800) in particular read him the books: cf. C. Volpilhac-Augier, «Introduction» to *MsEL*, I, pp. lxxvi–lxxix.
 - 4 «I travel the world (*Je parcours la Terre*)» (*LP* CVIII [CXII], p. 304).

Deeply animated by *wonder*, the philosopher's typical passion⁵, Montesquieu was interested in all things and accumulated an incredible quantity of materials opening new 'yards', making 'projects'⁶ and sketching studies and researches⁷. He undertook several disciplines of study: physics, metaphysics, biology, physiology, geology, medicine, economy, law, aesthetics, ethics, history of the Earth, history of humanity, history of sciences, history of nature, history of society, history of politics etc.

Unfortunately, at present so little materials of his 'laboratory' have been conserved resisting the carelessness of people and the strain of time. We can mention in particular the *Pensées* ("My thoughts"), the *Spicilège* ("Gleanings") and the *Geographica II*: these works are just enough to form a precise idea of his «universal curiosity» and his «vast erudition»⁸ that underpin his philosophical-political thought and are the very essence of his three masterpieces: *Lettres persianes* ("Persian Letters", 1721), *Considérations sur les causes de la grandeur des Romains et de leur décadence* ("Considerations on the Causes of the Greatness of the Romans and their Decline", 1734) and *Esprit des lois* ("The Spirit of the Laws", 1748). In the same spirit of Homer's Ulysses, in these works Montesquieu meant to «tell» us all things he saw or «learned» from the «vast world» (*docuit quae maximus Atlas*), so as we read in a famous verse from Virgil's *Aeneid* book⁹.

The objects of this work — proudly writes the author about *The Spirit of Laws* — are the laws, the various customs, and manners, of *all the nations on Earth*. It may be said that *the subject is immense*, since it *embraces all the institutions that are accepted among men*¹⁰.

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- 5 «This sense of wonder is the mark of the philosopher. Philosophy indeed has no other origin» (Plato, *Theaetetus*, 155d).
- 6 He also made up his mind that he would write a history of France and of Louis the Great: see in this respect, P 1111, 1302, 1306, 1183 and 1642.
- 7 Among the studies which were destroyed or lost: *Les prêtres dans le paganisme* (cf. P 2004), *Les dieux animaux* (cf. P 2245), *Histoire physique du Monde* (cf. Masson, III, p. 87), *Réflexions sur la critique* (cf. P 510–513, 1006), *Réflexions sur le bonheur* (cf. P 30–31, 69, 819, 978, 1181, 1661–1662, 1675, 2010), *Réflexions sur la jalousie* (cf. P 483–509, 719, 757, 1622–1630, 1726), *Réflexions sur les premières histoires* (cf. P 1601–1608), *Histoire de Louis XI* (cf. *Lettres familières de Montesquieu*, [Firenze,] 1767, lett. XXIV).
- 8 L. Desgraves, *Montesquieu*, Paris, Mazarine, 1986, p. 30.
- 9 Virgil, *Aeneid*, I, 741. This verse was used as an epigraph to the volume II of the *editio princeps* of the *Spirit of the Laws* (October 1748), matching the one of the volume I: *Prolem sine matre creatam* («An offspring engendered without a mother») (Ovid, *Tristia*, III, 13–14; Id., *Metamorphoses*, II, 553). Cf. *infra*.
- 10 *Défense*, p. 2310 (emphasis added).

It is obvious that the prevailing part of this *immense subject* — on which nobody before him ventured to think¹¹ — concerns the institutions and peoples, the human beings and worlds — the *civilizations* — that have evolved in the course of the history around the Mediterranean basin. Nevertheless, Montesquieu never considers these peoples and civilizations separately, but always comparing one another and comparing them with the ones of the rest of the world. In particular, the comparison between peoples and western and eastern sociopolitical institutions of Mediterranean area and, more generally, the comparison between Europe and Asia, are the center of his philosophical-political reflections, whose aim is to comparatively identify the characteristics of the infinite worlds or sociopolitical universes they investigate. Nonetheless, browsing through the *Table analytique des matières* (“The subject index”) of the *Spirit of the Laws*, we can realize that Montesquieu focuses his *look* on the worlds flourished on the Mediterranean shores, that are indeed the universes he best describes and sets out together with the modern English civilization.

These representations that have been handed on to us, are undoubtedly among the most stimulating and brilliant ones of the history of the philosophical-political thought: on the following pages, we would like to illustrate the most important ones (and their *sense*) far from being thorough and exhaustive and aiming only to underline their general frame of reference and the adopted research methods. Anyway, it goes without saying that we are fully aware of the mostly obsolete character of these images and of their meanings. Nevertheless, during the second half of the XVIIIth century and the first decades of the XIXth century, they enjoyed a great influence¹² and, still today, have a wide attraction, determining the most widespread way of thinking and feeling, though they are softer or transfigured.

11 Cf. L. Althusser, *Montesquieu. La politique et l'histoire*, Paris, Puf, 1992⁷, pp. 8–9 and 14.

12 Cf. S. Rotta, *Montesquieu nel Settecento italiano: note e ricerche* (1971): *Eliohs*©, october 2003 < http://www.eliohs.unifi.it/testi/900/rotta/rotta_montesettit.html >; D. Felice – G. Cristani, *Pour l'histoire de la réception de Montesquieu en Italie (1789–2005)*, Bologna, Clueb, 2006.

2.

OPPRESSION AND LIBERTY: THE IRREDUCIBLE DUALISM OF HUMAN SOCIETIES AND INSTITUTIONS

The opposition between democracy and despotism is a constitutive, vital and essential part of that world view, of that philosophy of history through which the European thought tried to define its identity positively in contrast to what is different and negative. The antithesis between liberty and despotism is one of the most recurring themes of western political thought, the main distinguishing and contrast criterion between West and East.
(Norberto Bobbio)

In an important note included in his *Journal de Voyage* («Travel Diary»)¹, Montesquieu wonderfully determined the way of *looking*, or the way he always *watched* and *undeterstood* the «spectacle of things human»² both in his real travelling through Europe, La Brède and Paris, and still further in the ideal travelling, in his *itinerarium mentis et cordis*:

When I arrive in a city, I always climb up the highest tower or bell tower, so as to have a *view of the whole* (*pour voir le tout ensemble*) before *starting to see the individual parts*; and in leaving the city I do the same, so as to fix my ideas³.

In his early masterpiece *Persian Letters* (and in particular in the letters CXXV [CXXXI] and CXXX [CXXXVI]), Montesquieu bears evidence to a first effective, although concise, *view of the whole* — the first *view from*

1 *Journal de voyage* is the title chosen by Montesquieu for his *recueil* of travel notes he drew up during the European *grand tour*: cf. P 665.

2 *Romains* XV, p. 726.

3 *Voyages*, p. 251 (emphasis added).

above — of the features and history of peoples and Mediterranean, Asian and European socio-political institutions.

Letter CXXV (CXXXI) is focused on the theme of history and origin of the republics and we find out that «most Asians have not the faintest concept of this type of government» and «their imagination has not even enabled them to grasp that any form other than despotism can exist upon the Earth» (p. 352). Republics originated in Greece. It is true that at first in this country (but also in Italy, the «Europe in the past»⁴) there were some monarchies that were introduced by Egypt and Asia, but the «tyranny» of these forms of government became «too burdensome»: the yoke was thrown off and from their debris arose those republics that made it prosperous and «the only civilized among so many Barbarians». The republican system spread from Greece into the other Mediterranean countries influencing them: all colonies founded by the republican *poleis* were indeed ruled in the same way and were animated by the same *esprit de liberté* («spirit of liberty»), so that in those distant times, neither in Italy, nor in Spain, nor in Gaul were there monarchies, but only republics. Also North European and German peoples lived at the time in countries that had republican forms of government and if we find traces of monarchy there it is because «the heads of the armies or of the republics were mistaken for kings».

All this — Montesquieu underlines — took place in Europe, for Asia and Africa «*have always been oppressed by despotism*, with the exception of some cities in Asia Minor [...], and the republic of Carthage» (p. 354).

After a while the Mediterranean area found itself «divided» into two «powerful republics»: that of Rome, and that of Carthage. The latter emerged victorious and went through a phase of extraordinary growth that could have done «a great benefit» to the world, if «it had not been for that unjust inequality between Roman citizens and the vanquished peoples, if the governors of the provinces had been granted less authority, if the allowed laws passed to prevent their tyranny had been observed, and if the governors had not used the very money that they had wrongfully amassed to subvert those laws».

Shortly after, however, Caesar «crushed» the Roman republic and exposed it to an «arbitrary power» that lasted until a multitude of «free» peoples moved out from Northern Europe and brushed off the «cruel oppression» of the Western Roman Empire. The Western Roman Empire was shattered and these tribes founded «kingdoms» everywhere, but their sovereigns had a very restricted authority and they could only be defined as

4 P 639.

«chiefs» or «generals». Therefore, people living in these kingdoms «never once felt the conqueror's yoke». On the contrary, when Asian peoples like the Turks and the Tartars made conquests, they, being themselves subject to the will of one man, «thought only of giving him new subjects, and of establishing his *violent authority* by military force» (p. 356; emphasis added).

However, in the letter CXXX (CXXXVI) completing the brief macrohistory outline proposed in the letter CXXV (CXXXI), Montesquieu remarks that also the new kingdoms emerged after the dissolution of the Western Roman Empire lost their «sweet freedom» when, after several centuries, they changed from limited or moderate monarchies to absolute monarchies. It therefore happened that peoples who had founded them became actually «barbarians» because before, being «free», indeed, they were not⁵.

In the eyes of the young Montesquieu, the characters and history of European political institutions are completely antithetical to the ones of Asia and Africa. Whilst in Asia and Africa (apart from a few exceptions of the past⁶) «governments» have *always* been despotic and history has *only* been a succession of oppressions and illiberty (in another Persian letter, we read for example that in the Asian countries the power governing «always remains the same» regardless of the princes succeeding to the throne⁷), in Europe «mild» and free governments (limited republics or monarchies) were instituted alongside violent and arbitrary governments. In other words, there was an *alternation* of oppression and liberty, of «barbarity» and «civilization» or, as we can read in a contemporary *pensée*, of «an ebb and flow of *empire and liberty*»⁸. One went from the «tyranny» of the ancient Greek monarchies to the liberty of the Greek and Roman republics; from the «brutal military government» of the Roman emperors to the power of rulers of Barbarian Kingdoms that was «limited in a thousand different

5 LP CXXX (CXXXVI), p. 368: «A numberless horde of barbarians, as alien as the countries they inhabited, suddenly spread across the land like floodwater, ravaging and dismembering the empire, and founding all those kingdoms that you see in the Europe of today. Those people were not, strictly speaking, barbarians, since they were free, but that is what they became when, submitting for the most part to absolute power, they lost that sweet freedom which accords so well with reason, with humanity, and with nature».

6 However, in *Romains* VIII, p. 660, Montesquieu will speak about Carthage saying that at the time of its epochal struggle against Rome it was a corrupted republic unable to correct the abuses of power.

7 LP C (CIII), p. 280.

8 P 100.

ways»⁹; to finish at the new eclipse of liberty following the establishment and the strengthening of the modern absolute monarchies, such as *in primis* the French and the Spanish ones¹⁰ (cf. the continuation of the already mentioned letter CXXX [CXXXVI]).

In his following theoretical production, Montesquieu will firmly cling to this dualistic or dichotomous representation of the characters and history of the European, Asian and African political forms that we can infer also from other passages of the *Persian Letters* and he will extend to other aspects of the associated life¹¹. In particular, Montesquieu develops these thoughts in the *Spirit of the Laws* and especially in the XVIIth book, that is the focal point of the work: going beyond the purely descriptive framework resulting from the *Persian Letters*, Montesquieu investigates the causes of this kind of opposition and identifies them primarily in the different climatic and geographic conditions of these continents (and particularly Asia and Europe on which he focuses his attention¹²). To be more precise, the author points out that in Asia, unlike Europe, there are no temperate zones, so the *guerriers, braves et actifs* peoples of the North are in immediate contact with the *effeminés, pareusseux et timides* peoples of the South. In his opinion, this is the «major reason» why the Asian continent has always been the theatre of continuous «invasions» by the nations of the North; on the contrary, the European continent has been undergoing no «great changes», whose protagonists of equal bravery have always experienced particular difficulties in establishing the dominance¹³. Moreover, in Asia, the conquests have never had the effect of a change in the political system, as the peoples of the North live according the same *esprit de servitude* because of their contacts with the peoples of the South¹⁴. These conquests only implied the replacement of a «master» with another «master», of a despot with another despot. On the contrary, in Europe, the conquests led

9 *LP* CXXV (CXXXI), pp. 354–356.

10 See *LP* CXXX (CXXXVI), p. 368.

11 For example, see *LP* LXXVIII (LXXX), p. 224: Europe, characterized by the presence of «a great many governments», contrasts with Asia where «the rules of politics are everywhere the same»; moreover, see also *LP* XXXII (XXXIV), p. 96; on the one hand, the liveliness and the gaiety of the Europeans (represented by the French) are opposed to the «gravity of the Asiatics», on the other hand, the intensity of Western social relationships characterized by friendship is opposed to the isolation of the Asians, who have «little contact with one another».

12 Indeed, the other two continents, Africa and America, taken into consideration at the time of Montesquieu, are quite sidelined by the latter in all his writings.

13 *EL*, XVII, 3–4, pp. 1462–1464. See also *P* 1316.

14 *EL*, XVII, 5, p. 1466.

at times to the *oppression* (and this is the case of the Roman conquests), at times to *liberty* (and this is the case of the Germanic conquests)¹⁵: thus, different and antithetical forms of government or of political regime were interspersed or followed one after another.

Consequently, the important discourse developed by Montesquieu in the VIIIth book of the *Spirit of the Laws* about the modifications or transformations of the States following the «corruption» or the change of their the respective *principles*, namely the *human passions* activating them, doesn't relate indiscriminately to «*all the institutions that are accepted among men*», but rather *only* to the western institutions, and, more precisely, *only* to the European ones, since eighteenth-century America hadn't revealed its «genius» yet¹⁶. Europe, as a continent favoured by nature and history, is the scene of a real transformation of the States, or of their transition from a form of government to another one. On the contrary, nothing like that happens in Asia, where there are only “changes” in the same form of government, namely only in the *degree of ferocity* and *violence* of the despotic alternating regimes¹⁷. Africa is exposed to the same torrid climate as the South of Asia and thus it is in the same situation of slavery as the latter¹⁸. Moreover, in the European continent, the real prospects of a great conquest or of a great empire that would inevitably slide it into the despotism, just as it happened at the time of the conquests of Rome, are now much more difficult to carry out than in the past¹⁹ because of its oro-hydrographic conformation and thanks to the «genius for liberty» that grew up over the centuries and epochs. But, should this happen again, it would also always be possible to shake the yoke off²⁰, to resurrect from the abjection and brutish dejection that would harm the

15 Cf. the opening of the *Spirit of the Laws* XVII, 5, p. 1464, where re-echoing the Persian Letter CXXV (CXXXI), Montesquieu argues: «The peoples of northern Europe have conquered as free men; the peoples of northern Asia have conquered as slaves and have been victorious only for a master».

16 *EL*, XVII, 7, p. 1470.

17 See my *Il dispotismo*, in *Leggere «Lo spirito delle leggi» di Montesquieu*, 2 vols., ed. D. Felice, Milan-Udine, Mimesis, 2010, vol. I, pp. 176–179.

18 Cf. *EL*, XVIII, p. 1740.

19 Cf. *Monarchie universelle* I and VIII, and *EL*, XVII, 6.

20 This is what clearly emerges, for instance, from the *EL*, VIII, 8, p. 1146, stressing the *transitional* character of an eventual new instauration of despotism in Europe, since it would contrast with its ‘natural’ (climate, territory etc.) and ‘cultural’ (genius for liberty, mores, religion etc.) characteristics. See my *Los orígenes de la ciencia política contemporánea. Despotismo y libertad en el «Esprit des lois» de Montesquieu*, Madrid, Biblioteca Nueva, 2012, pp. 105–109, *passim*.

human nature because of the violence and the arbitrary will of despotism. On the other hand, this is absolutely not possible for Asia, where the type of territory and the dominant *esprit de servitude* have never allowed (and never will allow) to create different forms of political organizations which do not base on despotism. Montesquieu points out that here «one will never see [...] anything but the heroism of servitude»²¹.

Such a possibility can arise not even from Europe, for if people wish to have liberty or even «best laws», they must be «prepared» for it²². And it is surely not the case for Asians or Africans who are prone to submission and slavery primarily because of the geoclimatic conditions they live in. In an important passage of the CXXV (CXXXI) Persian letter Montesquieu asserts:

It seems as if liberty is made for the spirit of the peoples of Europe, and servitude for that of the peoples of Asia. In vain did the Romans offer the Cappadocians this precious treasure: the cowardly nation refused it, and welcomed servitude with the same alacrity that other peoples show in welcoming freedom (p. 356).

And in such harsh and disdainful terms, in the 2nd chapter of the XIX book of the *Spirit of the Laws*, Montesquieu speaks about Asians and notes that pure air is sometimes «harmful» to such peoples who have lived in swampy countries and likewise that liberty itself has appeared «intolerable» to those nations who have not been accustomed to enjoy it (p. 1516).

Thus, Asia and Africa are tragically doomed to slavery and despotism or — as Hegel will like to repeat²³ — to an eternal immutability and a total dislocation in Europe of the prospects of liberty and, similarly, of the possibilities of civil-economic development.

21 *EL*, XVII, 6, p. 1468; *Monarchie universelle* VIII. See *infra*.

22 *EL*, XIX, 1 (title).

23 Cf. G.W.F. Hegel, *The Philosophy of History*, New York, Dover Publications, 2012, p. 116. As regards the *EL*, see in particular chapter 4 of the book XIV, entitled «The cause of the immutability of religion, mores, manners and laws in the countries of the East».

THE *PERSIAN LETTERS*: A PHILOSOPHICAL-POLITICAL
TREATISE IN THE FORM OF AN EPISTOLARY NOVEL

I made this reflection: freedom is attacked
from all sides. Those who live in a state of slavery
are the enemies of the freedom of others
as well as people tyrannizing them.
(Montesquieu)

Let's go now into details of the theme under discussion moving from an overall *view* to an increasingly closely targeted one, where the emphasis is put on the individual aspects: in other terms let's move from a *synthetic* to an *analytical* view on peoples of the planet and their cultural and socio-political institutions.

The most spread and deep-rooted commonplace — or rather prejudice — on the first of his three masterpieces, the *Persian Letters*, is the conviction that it is an eminently literary work¹ and that its value is only the originality of the *look* — the famous concept of *regarder en persan*, the admirable *factio*, of the «estrangement effect» that also produced a

1 See, among others, J.-P. Schneider, «Roman», in *Dictionnaire Montesquieu* (<<http://dictionnaire-montesquieu.ens-lyon.fr/fr/article/1377670197/fr> >), and C. Volpilhac-Augier, «Préface» to Montesquieu, *Considérations sur les causes de la grandeur des Romains et de leur décadence*, éd. C. Volpilhac-Augier, Paris, Gallimard (“Folio Classique”), 2008, p. 46. The text that almost always upholds this thesis — «the author [Montesquieu] allows himself the advantage of adding philosophy, politics, and ethics to the novel, and of linking it all together by a secret and, in a sense, unrecognized chain» (Montesquieu, «Quelques réflexions sur les *Lettres persanes*», p. 450) — is in reality a confirmation of our interpretative hypothesis, since it refers only to the ‘essay’ form of the *Persian Letters*: hence the idea of the «chain», or the fact that everything (the novel, the philosophy and ethics) is argumentatively ‘enchained’.

«sociological revolution»². Moreover, its value should also be based on the sheer brilliance of the plots and on its captivating and lively style³.

Without in any way diminishing these valuable connotations, we are nevertheless convinced that the *main* character and the value of this work reside in the fact that it is a proper philosophical-political treatise, namely a philosophical-political treatise in the form of an epistolary novel. From this point of view, the *Persian Letters* do no longer appear as a mechanical ‘juxtaposition’ of different layers of discourse, themes and analyses, but as — in the dense dialogue between his protagonists — a *consistent* and *systematic* work, in which they find their adequate locations both the stories that are narrated in it (first of all, the story of the Troglodytes and that of the young couple Parsi Apheridon and Astarte⁴) and the eleven letters (CVIII [CXII] – CXVIII [CXII]) on the supposed depopulation of the modern world. These letters are usually considered by critics as a kind of ‘excrescence’ or an unjustified addition to the work⁵: on the contrary, they are in fact the first and powerful sketch of that doctrine of double causality (*physical* and *moral*) of human institutions, which is one of the essential pillars of the *Spirit of the Laws*. Anyway, that does not mean (as was sometimes believed⁶) that Montesquieu is a *homo unius libri* (the *Spirit of the Laws*), or that the *Persian Letters* and the *Romains* are only ‘preliminary’ works, ‘steps’ of the major work. Actually, they are *three autonomous and distinct treatises*, each of ones is a complete unit in itself, although they all basically use the same *method* to describe and interpret the same *subject* on which they are focused: «the human civilization brought

2 R. Caillois, «Préface» to *Œuvres complètes de Montesquieu*, 2 vols., éd R. Caillois, Paris, Gallimard (“Bibliothèque de la Pléiade”), 1949–1951, vol. I, p. XIII.

3 Cf. J. Starobinski, *Montesquieu*, Paris, Éditions du Seuil, 1994, p. 33: «L’expression de Montesquieu [...] ne s’applique jamais à lier les propositions, elle va de saillie en saillie, de vue instantanée en vue instantanée. Sur le clavier des idées, il ne joue pas *legato*, mais *staccato*». See also Starobinski’s «Préface» to the Gallimard edition (1973) of the *Persian Letters*, pp. 9–18, where he talks about a kind of aesthetics of the baroque and rococo «variété» and «surprise».

4 Cf. *LP* XI–XIV and LXV (LXVII).

5 See for instance Ph. Stewart, who defines them as a *short treatise* within a «“philosophical” epistolary novel» (cf. his headword «Lettres persanes / Persian Letters», in *Dictionnaire Montesquieu*: < <http://dictionnaire-montesquieu.ens-lyon.fr/fr/article/1377778509/fr> >).

6 P.-L. Moreau de Maupertuis, *Elogio di Montesquieu* (1755), ed. D. Felice and P. Venturelli, Naples, Liguori, 2012, p. 32; and Ch.-A. Sainte-Beuve, *Montesquieu* (1852), in D. Felice - D. Monda, *Montesquieu: intelligenza politica per il mondo contemporaneo*, Naples, Liguori, 2012, p. 164.

back to its typical forms that are studied in their real elements, forms of government, mores, laws, habits, even absurdities, and then compared to human nature, human dignity and human consciences»⁷.

In other words, the *Président* has not left three masterpieces that are connected to three different fields of knowledge (literature, philosophy of history and political science) — as it is repeated in the latest philosophical, political, sociological and literary manuals. On the contrary, Montesquieu has left us three masterpieces (or ‘mosaics’, depiction) that are all focused on the same topic becoming increasingly wide and elaborate, but individually ‘complete’ and ‘perfect’, such as we are used to consider Hobbes’s three major political works: the *Elements* (1640), the *De cive* (1642) and the *Leviathan* (1651).

As Sergio Cotta has persuasively shown in his remarkable study *Il pensiero politico di Montesquieu* (1995), the conceptual categories characterizing and guiding Montesquieu’s research methodology are four in number: the *rapport* («relation»), the *relativity*, the *general spirit of the nation* and the *grandeur/décadence* («greatness»/«decline»)⁸. In fact, all these four gnoseological categories are already to be found in the *Persian Letters*, even if in this work they are obviously not represented in the entirety of their hermeneutic potential, as is the case of the *Spirit of the Laws*.

As far as the concept of relation is concerned, we need only think of the famous letter LXXXI (LXXXIII), where it rises to philosophical dignity as it is required to give an account of the nature of justice in its universality. Here we can read that justice is «a relation of congruity (*convenance*) which really subsists between two things. This relation is always the same, whatever being considers it, whether it be God, or an angel, or lastly a man». It appears clear that the *relation* makes the texture of the whole ‘*tissue*’ of the world (heavenly world, material world and human world) comprehensible in its congruity degree, that makes justice something «eternal» and «independent of human conventions»⁹, as was emphatically stated also in the *Spirit of the Laws* speaking about *rappports d’équité*¹⁰.

7 F. Strowski, *Montesquieu*, Paris, Plon, 1929, p. 22.

8 S. Cotta, *Il pensiero politico di Montesquieu*, Rome-Bari, Laterza, 1995, pp. 10–20.

9 *LP* LXXXI (LXXXIII), pp. 232–234. For the Antiquity, see Cicero, *De legibus*, I, 10, 28; Id., *De re publica*, III, 8, 12; III, 19, 21; and for the Modern Age, N. de Malebranche, *Traité de morale* (1684), I, 1, §§ 5–8; Id., *Entretiens sur la métaphysique et sur la religion* (1688), VIII, 14.

10 *EL*, I, 1, p. 908.

On the notion of *relativity*, we have already explained in the analysis of the contents of the letters CXXXV (CXXXI) and CXXX (CXXXVI) how laws vary in *time* and *space*, and they are *relative* to the «*esprit* [...] of the peoples who observe them»¹¹; more generally, how political institutions differ according to countries and continents: unlike in Europe where an alternation of «mild» and «violent» or «cruel» governments is observed¹², in Persia and in the rest of Asia are always to be found despotic forms of power. And the same is the case for «life and mores», that are as different as peoples of the Earth are.

As far as the concept of *general spirit of the nation*, it is interesting to consider the strange misconception shared by many critics¹³ of the fact that, indeed, it is present in the *Persian Letters*. Yet there are several allusions to this concept: for example, the author talks about the *génie* («spirit») of peoples of Europe and Asia, about the *caractère* («character») or *génie* of Persians and about the *gravité* («gravity») as *caractère dominant* («striking characteristic») of Spaniards¹⁴. Moreover, there is even the use of an expression whose terms and meanings are equivalent to the above *caractère général de la nation*¹⁵, which is to be found in the *Spirit of the Laws*.

Finally, with regard to the category of *grandeur/décadence*, as mentioned above in the letter CXXXVI, we can see how Montesquieu emphasizes the fact that in his eyes continental Europe was sliding towards a new form of *decline*, after the tragic decline of the Western Roman Empire, because of the establishment of the absolute monarchies. As Jean-Marie Goulemot has effectively shown, the whole work is pervaded with a real «black catastrophism»¹⁶, which discredits the common belief, or prejudice, that the *Persian Letters* are a light and pleasant work or a little *divertissement* which is to be included among the «Classici del ridere» (the “Classics

11 LP XCIV (XCVII), p. 266.

12 See LP LXXXVIII (LXXX), XCIX (CII), CXVIII (CXXII), CXXV (CXXXI) and CXXX (CXXXVI).

13 E.g. A. Postigliola, *Forme di razionalità e livelli di legalità in Montesquieu*, «Rivista di storia della filosofia», 49 (1974), pp. 103 *et seqq.*

14 LP CXXV, p. 356; XXII (XXIV), p. 74; LXXV (LXXXVIII), p. 214.

15 LP LI (LXIII), p. 174: «This banter (*badinage*), which is perfectly suited to informal morning visits, seems to have become part of the *general character of the nation*; there is banter at the council, among military leaders, in conversation with an ambassador [...]». In the *Spirit of the Laws*, the *Président* will not talk about *badinage*, but about *gaieté* («gaiety»), *vivacité* («vivacity»), *humour sociable* («sociable humor») of French: cf. *EL*, XIX, 5–6.

16 J.-M. Goulemot, *Vision du devenir historique et formes de la révolution dans les «Lettres persanes», «Dix-Huitième Siècle», 21 (1989), pp. 14 *et seqq.**

of laughter”), just as did the publisher Formiggini by publishing the first complete Italian translation of this work (1922).

On the contrary, a closer analysis of the contents of the work shows that the *Persian Letters* are a «very serious work», a «book filled with anguish»¹⁷ which is dominated by the idea that oppression of man by man is by far the most widespread reality in the Earth and that it profoundly affects Europe, too. In that regard, it should be noted on the one hand that Montesquieu imagines the West (unlike East) both *diachronically* (because of the alternation of free and despotic forms of government) and *synchronically* as ‘double’, or as ‘chiaroscuro’, a ‘light and shade’, a ‘mix’ of goods and evils; on the other hand, it should be noted that in modern Europe shadows and evils, and namely oppression, tend to prevail. This fact, though with some considerable exceptions, takes place at all levels: from the international to the national level, from the political-legal to the socio-economic and cultural one.

At the international level: it is true that Montesquieu states that the international law is more widely known throughout Europe than in Asia, but through the voice of the protagonist, the Persian Usbek, he adds that «the passions of princes, the patience of the people, and the flattery of writers have corrupted all its principles». This form of international law — such as it is at present in Europe — is «a science that teaches princes how far they may contravene justice without running counter to their interests. What a design [...] to wish to harden the conscience by reducing iniquity to a system, by giving it rules, by settling its principles, and drawing inferences from it!».

The unlimited power of Asian sultans, says the *Président* again, «does not produce more monstrosities than does this shameful art, which seeks to bend justice». It appears that there are two entirely different justices: one which regulates the affairs of individuals and rules in civil law; and another one which settles the differences arising between peoples, and tyrannizes over international law: «as if international law were not itself part of civil law, not, indeed, the civil law of a particular country, but of the whole world»¹⁸.

The magistrates ought to administer justice between citizen and citizen, every nation ought to do the same between themselves and another nation; in this second distribution of justice, no other maxims ought to be employed

17 S. Rotta, *Il pensiero francese da Bayle a Montesquieu*, in *Storia delle idee politiche, economiche e sociali*, vol. IV, t. II, Torino, Utet, 1975, pp. 207–208.

18 LP XCI (XCIV), pp. 256–258.

but those in the first. For nation and nation there is seldom need of a third to judge between them, because the subjects of their disputes are for the most part always plain and easy to be determined; the interests of the two nations are generally so separate, that «one need only love of justice to be able to perceive where it lies»¹⁹.

And — going deeper — Montesquieu does not confine himself to condemning Louis XIV's militarist and expansionary policy²⁰, but he also brands as genocide the conquest of the New World by Europeans and especially by Spaniards. Here we can read the accusation that the author makes against Spaniards, and that he will renew it in the *Spirit of the Laws*²¹:

The Spaniards, seeing no hope that the conquered peoples would remain loyal, decided to exterminate them [...]. Never was horrible plan more faithfully executed. We saw a people as numerous as the entire population of Europe vanish from the Earth at the arrival of those barbarians, who seemed to intend, on discovering the Indies, to reveal also to humankind the most extreme degree of cruelty possible²².

At the national level: in that regard, Montesquieu distinguishes between the continental European absolute monarchies (that he basically considered as despotic governments), and the English constitutional monarchy that took shape after the Glorious Revolution and the federal republics in Switzerland and Holland of his day, that he appreciates and praises. With reference to the revolutions of 1640–49 and 1688, Montesquieu argues that in England «we constantly see liberty rekindled by the flames of discord and sedition»²³ and that it is «an impatient nation, wise even in her anger, that, queen of the seas (something unheard of until then), combines commerce with empire»²⁴. With regard to Holland and Switzerland, Montesquieu notes that even if they are the two worst countries in Europe, if we consider the nature of their terrain, nevertheless, for the «mildness» (*douceur*) of their government, «the propagation of mankind is vastly promoted»²⁵. About

19 *LP* XCII (XCV), p. 258.

20 See *LP* XXII (XXIV), XXXV (XXXVII), XCII (XCV), CXVIII (CXXII) e CXXXII (CXXXVIII), pp. 70, 104, 258, 336, 374.

21 Cf. *EL*, VIII, 18 and X, 4, pp. 1160, 1192.

22 *LP* CXVII (CXXI), p. 332. See also *LP* CII (CV), p. 288, and *P* 207, 1268.

23 *LP* CXXX (CXXXVI), pp. 368–370. Cf. *P* 816: «England is agitated by winds that are made not for submerging but for leading to port».

24 *LP* CXXX (CXXXVI), p. 370.

25 *LP* CXVIII (CXXII), p. 334.

Switzerland, he says that it is the «symbol of freedom»²⁶: consequently, we can easily understand how deep the admiration he has for federal republics is²⁷. This appreciation can also be found in other passages of the *Persian Letters* with general reference to the great ancient republics of Antiquity about which we can read the following impassioned lines:

But the sanctuary of honour, reputation, and virtue, seems to be in republics, and in countries where there is a deep sense of patriotism. In Rome, in Athens, in Sparta, honour was the sole reward for the most signal services. A garland of oak or laurel leaves, a statue, or a eulogy were an immense recompense for a battle won, or a city taken.

There, a man who had performed an outstanding feat, considered himself sufficiently rewarded by the action itself. He could not look upon one of his compatriots without feeling pleasure at being his benefactor; he reckoned the number of his services by the by the number of his fellow-citizens. Every man is capable of doing good to another, but to contribute to the happiness of an entire society is to become akin to the gods²⁸.

As was mentioned earlier, the *Président's* judgement about the modern European absolute monarchies is completely opposite. Even though at various points of the work he distinguishes them from the despotic monarchies of Asia saying that European absolute kings do not exercise their power so extensively as the oriental sultans, even though they «scrupulously» observe the proportion between crimes and punishments, even though they rarely perish by violent deaths and they have «a permanent right to pardon criminals», he sees them as *structurally unstable* forms of State, which always degenerate into despotism:

Most European governments are monarchical, or rather bear that label; for I do not know whether such governments have ever actually existed: at any rate, it is impossible that they should last long: such States are unstable, and invariably degenerate into despotism, or into a republic. Power can never be shared equally between the people and the prince; the balance is too difficult to maintain, power necessarily always diminishing on the one side while increasing on the other; as a rule, however, the advantage is to the prince, who heads the armies²⁹.

26 LP CXXX (CXXXVI), p. 370.

27 This admiration will remain unchanged in the *Spirit of the Laws* (IX, 1–3). Cf. *infra*.

28 LP LXXXVII (LXXXIX), p. 248.

29 LP XCIX (CII), p. 278.

Indeed, contrary to prevalent assumption, the accusation of Montesquieu against the prototype of the absolute kings of Europe (that is Louis XIV of France) is far from veiled. He states in fact that: «He has frequently been heard to remark that of all the governments in the world, that of the Turks, or that of our august Sultan, would suit him best, so high is his opinion of the oriental political system»³⁰. Moreover, Montesquieu points out that the Sun King's guards are as strong as those of the Asian despots³¹ and, most of all, that he has destroyed the «essence of monarchy» for the benefit of the courtiers and favourites, or the «intermediate power» of the nobility³², levelling all ranks of society into an amorphous and indistinct mass. From this point of view, the letter LXXXVI (LXXXVIII) is of particular importance; let's read its sinisterly ironic *incipit*:

In Paris, *liberty* and *equality* reign. Birth, virtue, or even a reputation won, no matter how brilliantly, in war, do not exempt a man from being lost in the crowd. Jealousy over rank is unknown here. It is said that the greatest man in Paris is the one with the best horses to draw his carriage.

A great noble is a man who sees the king, speaks to the ministers, and can lay claim to ancestors, debts, and pensions. If, in addition, he is able to conceal his idleness with a busy air, or a simulated appetite for pleasure, he believes himself the happiest of men.

In Persia there are no great men except those to whom the monarch entrusts an office in the government. Here, there are men who are great by birth, but they are without influence. Kings are like those clever workers who, to produce their works, always use the simple machines.

Favour is the great deity of the French; the minister is the high priest, who supplies it with sacrificial offerings in abundance. Those who attend him are not clad in white; by turn sacrificers and sacrificed, they immolate themselves to their idol, as does the entire nation³³.

Furthermore, Montesquieu blames Louis XIV for having demolished also the other «mainstay» of the monarchy³⁴, namely the judiciary Parlements or the sovereign courts: as we can read in fact in another key letter of the *Persian letters*, these great corporate bodies

30 LP XXXV (XXXVII), p. 104.

31 Cf. LP XXXV (XXXVII), p. 104. See also LP XCIX (CII), p. 280, which pointed out that before the establishment of the absolutism in France, monarchs lived however «peacefully among their subjects, like fathers among their children».

32 Cf. *EL*, II, 4, p. 938.

33 LP LXXXVI (LXXXVIII), p. 246 (emphasis added).

34 LP LXXXIX (XCII), p. 254.

resemble those ruins we trample underfoot, but which invariably evoke the memory of some temple celebrated in a religion of ancient times. Today they concern themselves with little other than administering justice, and their authorities always weak, unless some unforeseen conjuncture arises to restore them to vigour and to life. These great corporate bodies have followed the destiny of things human: they have yielded to time, which destroys everything; to social corruption, which weakens everything; to *supreme authority, which overturns everything*³⁵.

Likewise, the accusation of despotism against the Scottish financier John Law is far from veiled but rather stronger: Montesquieu accuses him of the economic-financial experiment — the so-called *ystème* or Mississippi Bubble — undertaken during the Regency (1716–1723) and concluded with the disastrous failure in France. Montesquieu believes that just as Louis XIV, also Law has completely upset the social classes and contributed to the devaluation of the role of the sovereign courts. For instance, in the letter CXXXII (CXXXVIII), he states:

Everyone who was rich six months ago now lives in poverty, and everyone who used to go hungry now overflows with riches. Never have those two extremes touched one another so closely. The foreigner [Law] has turned the state inside out the way an old-clothes dealer turns a coat; he has put on top what used to be underneath, turning what used to be underneath the wrong way up [...]. The consequences of all this are frequently bizarre. Footmen who made their fortune in the last reign are today boasting of their birth; they treat those who have just abandoned their livery in a certain street³⁶ with all the scorn they themselves experienced six months ago; they shout as loudly as: “the upper classes are ruined; our country is in dreadful disorder! What confusion in the ranks! We’re always seeing nobodies making their fortunes!”³⁷.

And, with regard to the sovereign courts, and especially to the exiled Parisian Parlement in Pontoise (in July 1720) in response to the reiterated disagreements on Law’s economic-financial policy, the *Président* writes:

These bodies are invariably hated; they never approach the throne unless it is to impart painful truths; and, while a crowd of courtiers are repeatedly assuring the king that his people are content under his rule, they appear and give the lie to flattery, bearing the sighs and tears entrusted to them to the foot of the throne.

35 LP LXXXIX (XCII), p. 252 (emphasis added).

36 The street, which still exists, is called rue Quincampoix: here during the period of the *ystème*, the financial transactions took place.

37 LP CXXXII (CXXXVIII), pp. 374–376.

Truth [...] is a heavy burden when it must be conveyed to the knowledge of princes; the latter should consider carefully that those bearing this burden are obliged to do so, and that they would never bring themselves to take steps so unfortunate and distressing to themselves, were they not forced to do so by their duty, their respect, and even by their love³⁸.

The Scottish financier was indeed not only a «promoter»³⁹ of political and socio-economic despotism, but also and especially the main guilty party for the corruption of «mores» of France because of his «dishonesty» and habitual lies. In the last (November 11th, 1720) and most significant letter (in my opinion) of the treatise, Usbek-Montesquieu writes:

I have seen a naturally generous nation instantly perverted, from the humblest to the greatest among them, by the bad example of a minister. I have seen an entire people, whose generosity, probity, candour, and good faith have always been thought innate characteristics, suddenly become the least of all nations. I have seen the evil spread, sparing not even the most saintly among them; the most virtuous men committing unworthy acts, and at every opportunity life offered violating the most basic principles of justice, on the vain pretext that their own just rights had been violated [...].

I have seen the good faith of contracts denied, the most hallowed of covenants abolished, the whole of family law turned upside down. I have seen avaricious debtors, proud of their shameless poverty, unworthy instruments of the law's wrath and the harshness of the times, pretend to make a payment instead of actually doing so, and plunge a knife into the bosom of their benefactor.

And again: «I have seen a sudden, insatiable craving for riches be born in every heart. I have seen a detestable conspiracy to acquire wealth suddenly, instantaneously, come into being: wealth acquired not from honest labour or noble industry, but from the ruin of the prince, the State, and fellow-citizens». And finally:

What will posterity say when it finds it must blush for the shame of its forebears? What will the coming generation say when they compare the bravery of their ancestors with the venality of those who fathered them? I have no doubt that the nobility will expunge from their coat of arms an unworthy degree of elevation which dishonours them, nor that they will abandon the present generation to the *hideous nothingness* into which it has cast itself⁴⁰.

38 LP CXXXIV (CXL), p. 378.

39 EL, II, 4, p. 940.

40 LP CXXXVIII (CXLVI), pp. 408–410 (emphasis added).

As we can see, the first important cognitive achievement of Montesquieu's travelling — that is marked by a rapid succession of *I have seen* remembering St. John the Apostle's apocalyptic style⁴¹ — is very bitter and painful⁴², as demonstrated also by his words about *genocides* committed by Spaniards and about the dreadful economic decline that happened in Spain because of the excessive accumulation of precious metals from the New World, which did not correspond to any wealth of the country: «[Spaniards] say that the Sun rises and sets in their kingdom, but one should add that in the course of its journey the Sun encounters only *devastated lands and deserted countryside*»⁴³.

Therefore, opposed to an East, where hold sway — as we read in the letter XLVIII (CLVI) about the seraglio that is its emblem⁴⁴ — «horror, darkness, and dread»⁴⁵ —, we have, even though with significant exceptions⁴⁶, a European modernity «covered» with «darkness and mourning», a «black West»⁴⁷ or a «land of despair», where «wealth vanishes with a breath of wind» and the «false abundance disappears like a phantom»⁴⁸.

In other terms, «barbarism» of Asia corresponds to the new «barbarism» established in Europe since the absolute monarchies and the growing corruption of mores⁴⁹. In brief, everywhere there are «unhappy times» (*temps malheureux*)⁵⁰.

41 See *Apocalypse* IV, 4–5; V, 1–2; VI, 1–2, 9 etc.

42 See letter CXLVII (CLV) where Usbek-Montesquieu defines his stay in Paris as a «dreadful exile» in which he feels an «oppressive melancholy» and a «hideous depression» (pp. 418–420).

43 *LP* LXXV (LXXVIII), p. 220 (emphasis added). For Montesquieu — as better explained in the *Richesses de l'Espagne* (1726–1727) — precious metals are a *fictitious* and not *real* wealth, as would be the cultivation of land and industry.

44 It's the leitmotif of the current interpretations about the *Persian Letters*, which are almost all of them focused on the 'east' part of the treatise, and not without some whimsical complacency and straining (see for instance A. Grosrichard, *La structure du sérail: la fiction du despotisme asiatique dans l'Occident classique*, Paris, Seuil, 1979, pp. 34–67; the critical edition of the *Persian Letters* edited by Ph. Stewart, Paris, Classiques Garnier, 2013; and the collection *Lectures de Montesquieu: «Lettres persanes»*, under the direction of C. Dornier, Rennes, Presses Universitaires de Rennes, 2013, pp. 11–114).

45 *LP* CXLVIII (CLVI), p. 420.

46 England and federal republics of Holland and Switzerland. See above.

47 *P* 1610; *LP* XLVI (XLVIII), p. 136.

48 *P* 1610.

49 On European «Barbarism», see *LP* CXVII (CXXI) and CXLVII (CLV) («I live in a barbarous country, whatever offends me being present, whatever I have a regard for being at a distance from me») (pp. 332, 418). On «Barbarism» in the East, see *LP* XVIII (XIX), XLII (XLIV), XCI (suppl.), CLVII (suppl.) e CLVIII (suppl.). Finally, on the corruption, see *Éloge de sincérité* («In Praise of Sincerity» [1719]), in *OC*, 8/I, p. 139, *LP* XXIV (XXVI), p. 78, and *P* 1272 and 1340.

50 *LP* CXXXVIII (CXLVI), p. 408.

After leaving Persia to avoid «vice» and «corruption»⁵¹, behind the deception of appearances, Usbek-Montesquieu discovers an orientalized Paris («seat of the Empire of Europe»⁵²) that is infested with footmen, actresses, coquettes, fops, blathering people, ‘creative’ financiers, unscrupulous social climbers etc., and namely a reign of appearances made up of disguises, self-deception, lies and duplicity⁵³. In this kind of world, the acquired beliefs are like paper money or shares of the *Banque Royale* without counter value, in which every single person lives «isolated», falling back on its own base and vulgar interests⁵⁴.

Montesquieu’s propensity to «expose the vice» and to «tell the truth» to themselves and to others⁵⁵ tragically shows that «vice» and «corruption» break out everywhere, as much in the East as in the West, and that people, on balance, prefer to live under the yoke of a despotic prince, so that they «may satisfy [their] ambition, amass riches, and languish in slothful luxury» rather to live under the «yoke of virtue», following their «natural inclinations» to equity and justice⁵⁶. In this regard, see the *Président*’s spine-chilling thought: «We should weep for men at their birth, not at their death»⁵⁷.

Nevertheless, in the *Persian Letters*, we can see on the one hand the distress caused by the fact that in France and in Europe things took a turn for the worst: in other terms, the new political and moral *decline* (and the related *corruption*), after that of the Western Roman Empire, triggered by the monarchical absolutism and the perversion of mores. On the other hand, we can also see another level of distress: a more radical and complete distress covering the entire planet and even the whole cosmos⁵⁸.

51 It’s «the true reason for travels», according to what can be read in LP VIII (VIII), pp. 28–30.

52 LP XXI (XXIII), p. 68.

53 See, for example, LP XXII (XXIV), XLVI (XLVIII), CVII (CX), CL (CLXI), pp. 70–72, 128–134, 300, 424.

54 Cf. P 1253 (dating from around 1725): «Today, everything is abolished, right down to paternal power; every man is isolated. It seems that the natural effect of arbitrary power is to particularize all interests [...]. Everything is vulgar [...], remains only a base interest [...], the animal instinct of all men».

55 LP VIII (VIII), p. 28. See also *Éloge de sincérité*.

56 LP X (X), XIV (XIV), LXXXI (LXXXIII), pp. 36, 50, 234.

57 LP XXXVIII (XL), p. 112. At the end of the letter CXXVI (CXXXII) we can find a statement that seems to be dictated by a similar pessimism: «[...] yesterday evening I noticed a spot on the sun which, should it grow larger, might precipitate all of nature into a state of torpor» (p. 360).

58 «The world is not incorruptible, *the heavens themselves are not [...]*» (LP CIX [CXIII]), p. 306). J.-M. Goulemot, *Vision du devenir historique et formes de la*

The 11 letters about the alleged depopulation of the modern world are showcases in this respect: in my opinion, they are the real heart of the work and the completion of this «expansive curiosity» characterizing Montesquieu in the shape of “traveller-philosopher”. It’s a curiosity «interested in all humankind, over the entire surface of the globe and the whole extent of recorded history»⁵⁹. In the first letter about the alleged depopulation, Montesquieu expresses his concern saying that Italy of today offers itself to *man’s eyes* as a heap of ruins: «I’ve spent more than a year in Italy, and I’ve seen only the debris of that ancient Italy which was so famous in the past». And he continues:

The city of Rome alone contained formerly more people than the greatest kingdom in Europe does at this day [...]. Greece is so deserted, that it doth not contain the hundredth part of its ancient inhabitants. Spain, formerly so crowded, now shows us only uninhabited countries; and France is nothing in comparison of that ancient Gaul described by Caesar [...]. Poland and the European part of Turkey are almost denuded of inhabitants. In America, you cannot find one-fiftieth part of the inhabitants who once formed such great empires there. Asia is hardly in a better state [...]. Egypt is not less lacking in population than the other countries. In brief, *I travel the world and everywhere find rack and ruin; it’s as if I am witnessing the aftermath of plague, and of famine.*

And thus he concludes:

We see here [...] *the most terrible catastrophe the world has ever experienced*; but people have barely noticed it, because it has occurred so gradually, and over the course of a great many centuries; this points to an internal defect, a secret, hidden poison, a decline afflicting humankind⁶⁰.

On the *Président’s* opinion, this «terrible catastrophe» was caused by two different orders of things: a *physical* or natural factor (the climate) and a *moral* or historical factor (the forms of government and the religions on which he totally focuses attention)⁶¹. And this is not without cause, because his intention is to «dare [...] to be virtuous there», and namely to speak the «language of truth»⁶². In other words, he lays bare the human or subjective

révolution, pp. 18–19 talks about a «double distress», which is perceivable in the author of the *Persian Letters*.

59 J. Starobinski, «Préface» to *LP*, p. 21.

60 *LP* CVII (CXII), pp. 302–304.

61 Cf. *LP* CIX (CXIII), *in fine*.

62 *LP* VIII (VIII), p. 28.

responsibilities of the progressive depopulation of the globe during the last seventeen or eighteen centuries⁶³. In short, here too, Montesquieu's real and nagging thought is the oppression of man by man at all levels, in particular in political and religious spheres.

As far as the political sphere is concerned, he notes that in the republican countries substantial population increase is recorded, due to their «prosperity» as a consequence of «liberty». In the letter CXVIII he writes: «The very equality of the citizens, which generally produces equality in their fortunes, brings to each part of the body politic abundance and vitality, disseminating these everywhere». On the contrary, in the countries subject to «an arbitrary power» it is not the same, just because «the monarch, the courtiers, and a few private individuals own all the wealth», while everyone else «endures terrible poverty». It follows that a man will not marry, or if he does marry, he will be afraid of begetting too many children, who would complete his financial ruin and live more poorly than their father⁶⁴.

Montesquieu further notes that «humans are like plants, which never prosper if they are not properly cultivated; among the poor our species loses ground, and sometimes actually degenerates». And, immediately afterwards, he gives as an example the absolutist France of his times:

France give us an excellent example of this. In past wars, fear of being enrolled in the militia forced the young men of a family to marry, at too young an age, while they were still very poor. A multitude of children were born of these numerous marriages, children who are now needed in France, but who vanished because of *poverty, famine, and disease*.

And then, clearly alluding both to the other absolute European monarchies and to Asiatic despotisms, he concludes in these terms: «If, in such a beneficent climate, in a kingdom as well organized as France, such things can occur, what must be the situation in other countries?»⁶⁵.

As far as the religious sphere, he especially focuses on the negative influence of Islam and Christianity on the population trends of the States in which they spread. On the one hand, he focuses on Islam because of the polygamy, that weakens and weighs down men who therefore lose their productive virtue and generative power⁶⁶; on the other hand, he focuses on Christianity because of the prohibition of divorce and of the great number

63 Cf. LP CIX (CXIII), *in fine*.

64 LP CXVIII (CXXII), p. 334.

65 LP CXVIII (CXXII), p. 336 (emphasis added).

66 Cf. LP CX (CXIV), pp. 310–312.

of «eunuchs» (and namely of priests and monks bound to continence). This last factor is present only in the Catholic countries, as in the protestant countries everybody enjoys the right to bear children: consequently, they «ought to be, and really are, better peopled than those of the Catholics». It follows,

first, that their public revenues are more considerable, because they are augmented in proportion to the number of those who pay them: secondly, that their lands are better cultivated: lastly, that trade flourishes better there, because there are more people who have their fortunes to make; and where there are more wants, there will be more resources to supply them⁶⁷.

We can therefore understand that in the Protestant countries, as compared to Catholic, in Northern Europe, as compared to Southern, the State is richer and the agriculture and commerce are prosperous and flourishing. This is another important dichotomy or bipartition of the *Persian Letters*, that will be raised again also in the *Essay on the Causes that may affect men's minds and characters* (1734–1738) and in the *Spirit of the Laws*, and that runs parallel with the fundamental dichotomy between East and West of the world.

67 LP CXIII (CXVII), p. 320.

4.
THE TURNING-POINT: THE *TREATISE ON DUTIES*
OR MONTESQUIEU'S STOICISM

If I knew something useful
to me, and harmful to my family,
I would reject it from my mind.
If I knew something useful to my family
and not to my Country,
I would try to forget it.
If I knew of something useful to my Country
and harmful to Europe, or useful to Europe
and harmful to Mankind,
I would look upon it as a crime.
(Montesquieu)

Immediately after the publication of the *Persian Letters*, Montesquieu felt the need to further consider and analyse the question of the oppression and of the evil that it does against human nature *in order to find a possible solution*. The fact of bringing it to light and of revealing its causes, of *knowing it* «telling the truth» is really useful and exciting¹, but, it is not enough. Moreover, he felt that the answers or the reactions to this question which were to be found in the work (the incestuous love between Apheridon and Astarte² and Roxana's suicide, the most cherished of the wives of the

1 There is no «better activity than to tell the truth» (*Éloge de sincérité*, in *OC*, 8/I, p. 142).

2 Indeed, it's an incestuous love between brother (Apheridon) and sister (Astarte), whose marriage union is defined as a «naïve reflection of the union already established by nature» (*LP* LXV [LXVII], p. 184; on the contrary, in *EL*, XXVI, 14, it will be defined as «horror of incest between brother and sister» [p. 1880]). Among the interpreters and experts of Montesquieu, Judith Shklar is in our opinion the only one which has grasped the real meaning of story of these two Parsi — the only people who are happy in the *Persian Letters*. And she writes: «Of all Montesquieu's stories this [of Astarte and Apheridon] is the most subversive [...]. To make incest the condition of happiness is to say that the rules of society do nothing to make us good

«jealous» master-husband Usbek³) were not suited nor adaptable. As we can read in dying Roxana's proclamation⁴ against his oppressor, to enforce the «laws of nature» against the oppressive socio-cultural conventions is a heroic but *individual* and *desperate* act of rebellion, which in no way contributes to reducing the worldwide dominant violence of man by man. And the same goes also for Apheridon and his sister Astarte: after a thousand vicissitudes, they can marry and be happy, but their love is limited to two or a few people (the family and its members). Rather, it is necessary to 'project' beyond itself or to be even more altruistic, the ultimate goal being *every* human being (the whole human race), to take positive action not only for themselves or for a restricted group of persons, but for everyone, for the good of all⁵.

In other terms, when faced with the dominant «horror» in Asia and with the Western «poisoned climes»⁶, and with the «universal unhappiness» attested by human history⁷, it is necessary to "travel down" new paths. These new paths are surely longer and harder than the one that have been 'conceived' or 'imagined' falling prey to distressing feelings because of the dramatic events of that time (the disastrous failure of the so-called *système* or Mississippi Bubble concocted by Law and a «ghastly mourning» dominating the Asian seraglio⁸). We can understand that these paths should be focused on a universal altruism: *in primis*, the practice and exercise of *justice*, which is the *general* and *social* virtue par excellence, the «another's good» (as Cicero said, following Aristotles' lead⁹). And, in fact, as we have

or happy. The moral psychology of individuals and the minimal demands of social conventions are out of joint; they thwart each other» (J.N. Shklar, *Montesquieu*, Oxford-New York, Oxford University Press, 1987, p. 37).

3 Montesquieu repeatedly insists on jealousy of Usbek («violent», «dark»): e.g. *LP* VI (VI), XIX (XX), XX (XXI), XXXII (XXXIV), LX (LXII), CXLVII (CLV) and CL (CLXI).

4 «I have rewritten your laws to conform to those of nature» (*LP* CL [CLXI], p. 424).

5 According to Dante, it is not sufficient to cultivate the «appetite for *learning* and the desire of *knowing*», but also to pursue the *virtue* («Ye were not formed to live the life of brutes, / But virtue to pursue and knowledge high»: Dante, *Inferno*, XXVI, 119–120), as Montesquieu himself seems to suggest in his *Éloge de la sincérité*, as he talks about Ulysses guided by «wisdom» and «virtue» (*Éloge de la sincérité*, in *OC*, 8/I, pp. 140–141).

6 *LP* XXIV (XXVI), pp. 76.

7 Cf. *LP* XXXI (XXXIII), XC (XCII), pp. 94, 254–256; J.N. Shklar, *Montesquieu*, p. 36.

8 *LP* CXLVIII (CLVI), p. 420.

9 Cf. Aristotle, *Nicomachean Ethics*, V, 1129b–1130a: «[...] justice, alone of the virtues, is thought to be "another's good", because it is related to our neighbour; for it does what is advantageous to another, either a ruler or a copartner. Now the

already seen in the *Persian Letters*, Montesquieu concentrates his efforts precisely on this virtue and achieves essential results for his existential and intellectual itinerary. We are now thinking about the *Discourse on the equity that must decide judgments and the execution of the laws*, pronounced during the reopening of the Bordeaux's Parlement on the 11 November 1725 (as *président à mortier*¹⁰), or about the *Treatise on Duties*, of which he read the first chapters before the Bordeaux Academy of Sciences on May 1725 (of which an active and influential member he was).

During the drafting of these key works, Montesquieu allowed himself to be guided by the Ancients¹¹, and in particular by the philosophers of the Middle and New Stoa (*in primis*, Cicero with his *De officiis*, and Marcus Aurelius), as he writes in an important letter to François de Fitz-James, the archbishop of Soissons (October 8th, 1750):

About thirty years ago, I conceived the project of writing a book on duty. Cicero's treatise *On duties* had delighted me, and I took it as my model. As you know, Cicero had, as it were, copied Panaetius, who was a Stoic, and the Stoics had treated this question most successfully. So I read the Stoics' principal works, among them the *Moral Reflections*¹² of Marcus Aurelius, which struck

worst man is he who exercises his wickedness both towards himself and towards his friends, and *the best man is not he who exercises his virtue towards himself but he who exercises it towards another; for this is a difficult task*» (emphasis added); Cicero, *De re publica*, II, 43, 68 «[...] justice looks outward; it is entirely directed abroad and stands out»; III, 8, 12: justice «loves all people more than itself, which is born for others rather than for itself». See Nonius Marcellus, *De compendiosa doctrina*, I: *De proprietate sermonum*: cf. *Catalogue*, n° 1932.

- 10 Montesquieu had inherited this position on 20 May 1726 from his uncle Jean-Baptiste de Secondat, died on 24 April of that year. Even if he later sold it (as was the custom at the time), he retained for life his honorific title of *président*.
- 11 «I admit my taste for the Ancients. That Antiquity enchants me, and I am always led to say with Pliny: "It is to Athens that you are going. Respect their gods"» (*P* 110). Obviously, we do not deny the influence on Montesquieu of the modern authors (Grotius, Descartes, Pufendorf, Malebranche, Shaftesbury, Fénelon, etc...), but we think that the insistence exclusively on them is an evident disclaimer of his *real* cult for the ancient ones. On this aspect, see for instance: R. Shackleton, *Montesquieu. A Critical Biography*, Oxford, Oxford University Press, 1961, pp. 72–73; and C. P. Courtney in his «Montesquieu and Natural Law», in *Montesquieu's Science of Politics: Essays on the «Spirit of Laws»*, ed. D.W. Carrithers, M.A. Mosher and P.A. Rahe, Lanham, MD, Rowman & Littlefield, 2001, p. 48.
- 12 *Réflexions morales* («Moral Reflections») was the title of the (annotated) translation Mr. and Mrs. Dacier made of the *Thoughts* of Marcus Aurelius which was in Montesquieu's library in the 1707 and 1714 editions (that is the third and the fourth ones; it was first published in 1691; cf. *Catalogue*, nn° 692–693):

me as the masterpiece of Antiquity. I confess that I was impressed by its morality, and that I should have liked to make a saint of Marcus Aurelius [...]. What impressed me most was to discover that this morality was practical [...].

So it was that in the preface, which is put at the beginning of the *Treatise on duties* I had sketched, a eulogy of the Stoics and their philosophy. I read parts of my treatise at the Academy of Bordeaux; extracts of certain parts of the work appeared in the journals [...]. Later, I found it would be very difficult for me to write a good book on duty, that Cicero's division, which is that of the Stoics, was too vague; above all, I feared such a rival in Cicero; and it seemed to me that my mind was not equal to his. Therefore, I abandoned the project¹³.

The *Discourse on the equity* has come down to us, whereas the manuscript of the draft of the *Treatise on Duties* has unfortunately been lost, but during the first few decades of the nineteenth century was still in circulation¹⁴. Nevertheless, we are in possession of the report of proceedings for the sitting of the Academy, during which it was partially read, drawn up by Jean-Jacques Bel (one of Montesquieu's best friends) and published on a literary magazine of the period. This report, together with a list of the chapter headings¹⁵, a fragment entitled *On politics* and a considerable number of *pensées* («thoughts») related to the *Treatise* (which have reached us in the course of today), is more than enough to form a clear

Réflexions morales de l'empereur Marc Antonin, avec des remarques de Mr. & de Mad. Dacier, 2 tt., Amsterdam, Mortier, 1714⁴).

- 13 Montesquieu to François Fritz-James, in Masson, III, pp. 1327–1328 (emphasis added). In his writings prior to the Persian Letters, such as for instance the *Discours sur Cicéron* ([«Discourse on Cicero»] 1717 ca.), but also in the *Persian Letters* themselves (letter XXXI [XXXIII]), Montesquieu seems on the contrary to undervalue the Stoic thought: see *Discours sur Cicéron*, in *OC*, 8/I, p. 128
- 14 Cf. Sh. Mason, «Introduction» to *Traité des devoirs*, in *OC*, 8/I, p. 431. In 1818 the *Treatise* appeared in a selection of manuscripts sent by Joseph-Cyrille de Montesquieu (the owner of La Brède) to his cousin Charles-Louis (Montesquieu's nephew), who lived in Canterbury. Here the concise description of it we can find in the sent manuscripts catalogue: «Un autre cahier, intitulé: *Traité des devoirs*, mis au net. Il y a un chapitre: *Des devoirs en général*; – 2° de Dieu; – 3° de nos devoirs envers les hommes; – 4° de la Justice; – 5° de quelques principes de philosophie; – 6° des principes des Stoïciens; 7° l'habitude de la Justice; – 8° l'imitation du chapitre précédent; 9° – équivoque grossière du mot de Justice; – 10° des devoirs de l'Homme; – 11° de quelques exemples de la violation des devoirs de l'Homme; – 12° ce que nous devons à la Religion chrétienne, de nous avoir donné l'équité pour tous les hommes; – 13° de la Politique; – 14° du peu d'utilité de la Politique».
- 15 Hence the fact that more than half of the 14 chapters which made up the *Treatise* (chapters 3–9 and 14) specifically concerns the issue of justice: see the previous note and J.-J. Bel's report.

vision of the contents of the work. Obviously, Montesquieu was aware of the doctrine of the «sect of Stoics» — that is the bearer of the «principles more worthy of men»¹⁶, as he writes in the *Spirit of the Laws* — since before the *Persian Letters* (in particular Cicero and Seneca). Nevertheless, during the immediately subsequent years, he studied this doctrine in depth, assimilating its fundamental ideas, which will become the key principles not only as a man but also as a thinker.

As a *man*: it's in the first half of the twenties of the eighteenth century that Montesquieu began drafting his 'zibaldone' of thoughts (*My Thoughts*¹⁷), which is, in most respects, his *manual* of «spiritual exercises»¹⁸. It is important to note that this 'zibaldone' fully echoes Marcus Aurelius' *Thoughts*. Actually, it is not infrequently that in these thoughts Montesquieu, as a man of good will, does not hesitate to criticize himself and to try to find the «thoughts» which can help him to live well and better, just like in Marcus Aurelius' *Thoughts*: «In the morning when thou risest unwillingly, let this thought be present, — I am rising to the work of a human being» (V, 1).

Thus, as alluded to above, the most important «exercise» is that of the virtue of justice. In his *Discourse on the Equity* Montesquieu writes that justice is the «essential quality» of a magistrate: in order to adequately administer the justice, the latter must ensure that justice is *enlightened, prompt, and mild* but, above all, *universal*:

A judge must not be like the old Cato, who was the most correct of the Romans in his court, but not in his family. *Justice must be in us a general conduct*. Therefore, we must be righteous everywhere from all points of view, to all people and in all circumstances.

Those who are righteous only in cases where their profession requires that claim to be fair in the affairs of others while not incorruptible in what touches them, who did not use equity in their daily life, they risk losing quickly the same justice they make in court.

16 *EL*, XXIV, 10, p. 1798.

17 According to Louis Desgraves, Montesquieu started their compilation around the year 1720: cf. L. Desgraves, «Introduction» to Montesquieu, *Pensées – Le Spicilège*, ed. L. Desgraves, Paris, Laffont, 1991, p. 69; Id., *Chronologie critique de la vie et des oeuvres de Montesquieu*, Paris, Champion, 1998, p. 79.

18 We use this expression according to the meaning attributed to it by Pierre Hadot: cf. P. Hadot, *Exercices spirituels et philosophie antique*, Paris, Études Augustiniennes, 1981; by the same author, see also the masterful work *La citadelle intérieure. Introduction aux Pensées de Marc Aurèle*. Paris, Fayard, 1992. About Montesquieu's *Pensées*, see my *Lo 'zibaldone' di Montesquieu*, in *Montesquieu, Riflessioni e pensieri inediti (1716–1755)* (1943), trans. by di L. Ginzburg, Bologna, Clueb, 2010, pp. 7–22.

Judges of this sort look like *monstrous deity* invented by myth, that put a little order in the universe, but that, charged with crimes and imperfections, confused themselves their own laws, and brought the world back to all the excesses that had been banned¹⁹.

Montesquieu further notes that the role of the private person must be comparable to the one of the public person, as the «heart» of a magistrate is disclosed particularly in the questions affecting his person and his family: «It is just in this that people judge us; it is in this that people are afraid of us or put their hope. If our conduct is doomed, if it is suspected, we will be undergoing some kind of public objection; and those who are obliged to take the right to judge, include the latter in the list of their misfortunes»²⁰.

Thus, the «exercise» of the virtue of justice must apply both in public and in private: in other words, as we can read in one of the *pensées* («thoughts») related to the *Treatise on Duties*, it must become «a habit [...] that it is observed even in the smallest things» and «that one bends [...] even in one's manner of thinking»²¹. In other terms, it is necessary that it becomes a *habitus animi*, just like Cicero claimed²², a *modus vivendi*, a *way of life and thinking*. But what exactly is this justice and what are the «means to acquire it to the highest degree»?²³

So let us turn to the second point of the question (Montesquieu as a *thinker*): like most of virtues, justice is a *relation between human beings*. Nevertheless, unlike other virtues, such as friendship, love of one's country or compassion, which are a *particular kind of relation* because they only concern a limited number of people (friends, compatriots or the unfortunates), justice is a *general relation*, because it is addressed to *all men*, without distinction²⁴. To that effect, justice is the highest virtue, the virtue par excellence: an *excellentissima virtus*²⁵, as Cicero wrote, or the

19 *Discours sur l'équité*, in *OC*, 8/I, pp. 481–482 (emphasis added).

20 *Ibid.*, p. 482.

21 *P* 220.

22 Cicero, *De inventione*, II, 53, 16.

23 *Traité des devoirs*, in *OC*, 8/I, p. 438 (J.-J. Bel's report).

24 Cf. *ibidem*: «Most virtues are only *particular relations*, but justice is a *general relation*; it concerns man himself, it concerns him with respect to all men»; and *P* 1008: «Nearly all the virtues are a particular relation of one specific man with another. For example, friendship, love of Country, compassion are particular relations. But justice is a general relation. Now all the virtues *that destroy this general relation are not virtues*» (emphasis added).

25 Cf. Cicero, *De natura deorum*, I, 2: «[...] when piety towards the gods is removed, I am not so sure that good faith, and human fraternity, and justice, the chief of all the virtues (*una excellentissima virtus*), are not also removed»; Id., *De officiis*, III,

mère de toutes les vertus («mother of all the virtues»), as Montesquieu could read in the French translation of Marcus Aurelius' *Thoughts*²⁶.

This «principle» gives rise to the Stoic «general maxim» according to which all «particular duties» cease when the «primary duties» or the «duties of man» come into play. Montesquieu exactly writes:

all particular duties *cease* when they cannot be accomplished without offending *duties of man*. Should one consider, for instance, the *good of the homeland* when *that of humankind* is a stake? No, *the duty of the citizen is a crime when it leads one to forget the duty of man*²⁷. As it was impossible to place the universe within the same society, this has caused men to be foreigners to some, but such a division did not stipulate against *primary duties*, and man, everywhere a creature of reason, is neither a Roman nor a Barbarian²⁸.

In other terms, and as Cicero and Marcus Aurelius²⁹ teach us, there is both a hierarchy of duties (the *particular duties* are less than the *duties of man*) and a hierarchy of goods (the *good of the homeland* is less than the *good of mankind*). In other words, virtues and duties are not all the same, but they are arranged in a hierarchical sequence or on the basis of a framework of concentric and progressive circles: the range spans from the smallest and perfect one to the biggest and perfect one, till to justice, the most perfect and largest of all virtues³⁰.

6, 28: justice «is mistress and queen of all the virtue (*domina et regina virtutum*)». As is widely known, in the *Republic* (IV, 427d–445e) Plato had already talked about justice, defining it as the virtue embracing all the other ones and namely: prudence (or wisdom), courage and temperance.

26 *Réflexions morales*, t. II, p. 214 [Marcus Aurelius, *Thoughts*, XI, 10].

27 Clearly distancing himself both from Hobbes (cf. *infra*) and from Machiavelli, Montesquieu writes elsewhere that «[...] the crime loses nothing of its abomination by the utility derived from it. It is true that actions are always judged by the outcome, but *in morality*, this judgment by men is itself a *deplorable abuse*» (P 207; emphasis added).

28 *Traité des devoirs*, in *OC*, 8/I, p. 438.

29 See for example Cicero, *De officiis*, I, 17, 53–58 e *De finibus*, V, 23, 65; and Marcus Aurelius, *Thoughts*, IV, 44, 6 e VI, 54 (this latest passage is mentioned in two *Thoughts* of Montesquieu): «What is not useful to the swarm is not useful to the bee» (P 1657); «All nations hold together in a chain and communicate their goods and their ills to each other. I am not speechifying, I am stating a truth: the world's prosperity will always constitute our own, and as Marcus Antoninus said, “What is not useful to the swarm is not useful to the bee”» (P 1694). Thus, Montesquieu's thought is clearly the exact opposite of the one of Mandeville, who defends the principle of *private vices/public benefits*, which is the essence of the bourgeois and capitalistic ideology.

30 Cf. C. Larrère, «Montesquieu et le stoïcisme», *Lumières*, 1 (2003), pp. 77–79.

Montesquieu's «thought» which better represents this *Stoic* view of duties and goods (and so of virtues) is the following:

If I knew something useful to me, and harmful to my family, I would reject it from my mind. If I knew something useful to my family and not to my Country, I would try to forget it. If I knew of something useful to my Country and harmful to Europe, or useful to Europe and harmful to Mankind, I would look upon it as a crime³¹.

Thus, the duty of human beings is always put before humankind to Europe, Europe to the homeland, the homeland to the family, the family to themselves. In short, the good of all humanity is always preferable to the personal and limited profit.

Like in the French translation of Marcus Aurelius' *Thoughts*, in his *Discourse on Equity* Montesquieu writes that «human virtue is a general affection for humankind (*affection générale pour le genre humain*)»³²; in other terms, as he will once again stress twenty years later in the *Preface* of the *Spirit of the Laws*, «that general virtue including love of all», whose «exercise» is to try (as the *Président* believes to have done through his *opus magnum*³³), to «instruct men about their nature»: we can thus understand that human nature is not only *egoism* (as Hobbes thought) but also *altruism*, as the Stoics believed³⁴. Egoism separates the human being from the trunk of the *societas humani generis* which belongs and attaches it to one of its branches³⁵, and namely to an 'isolated' or 'detached' part of society. Hereby, as we can see in the conclusion of the apologue of Troglodytes³⁶, the human being is led to self-destruction, whereas altruism holds him

31 P 741 (related to the *Treatise on Duties*). The *thought* is mentioned by Montesquieu also in the *Histoire véritable* («A True Story» [1734–1739]), in *OC*, 9/II, p. 186. See also *LP LXV* (LVII) («The heart is a citizen of every country»: p. 182) e *P 350*, 741, 1253, 1267.

32 *Discours sur l'équité*, *OC*, 8/I, p. 480. «*Affection pour tous les hommes en général*» (*Réflexions morales*, t. II, p. 216 [Marcus Aurelius, *Thoughts*, XI, 13]). Cicero, on turn, talked about *caritas generis humani* («love of the whole human race») (*De finibus*, V, 23, 65).

33 See for instance his letter to the duke of Nivernais (26 January 1750), where he states that in the *Spirit of the Laws* is to be found nothing but «love of the good, of peace and of the happiness of all mankind» (in Masson, III, p. 1280).

34 See *ultra*, where we illustrate in greater detail the relationship between Montesquieu and Hobbes.

35 Cf. *P 1253* (related to the *Treatise on Duties*). Sources: Paul the Apostle, *Romans*, XI, 17–19, and Marcus Aurelius, *Thoughts*, XI, 8.

36 See *LP XI* (XI).

together with this trunk, and namely to all of which he is a part, preserving him. In other terms, the human being *can* save himself if he can see that «is a property of the rational soul love of one's neighbour»³⁷ and act to seek the good of human community³⁸. Montesquieu admirably synthesizes:

Nothing is closer to divine Providence than that general benevolence and that great capacity for love that embraces all men, and nothing more closely approaches animal instinct than those boundaries that the heart gives itself when it is touched only by its own interest, or by what is right near it³⁹.

Nevertheless, in the writings of 1725, we can find more than that. Here we can find another important argument, which is closely connected to the one that is already set out in the *Persian Letters*, and namely the fact that justice is connatural to the human beings and is the very basis of all societies. In the letter X (X), echoing Cicero's doctrine⁴⁰, Montesquieu wrote that «men were born to be virtuous and that justice is a quality as natural to them as their existence»⁴¹; in his *Treatise on Duties* of 1725, he restates that «justice is based on the existence and the sociability (*sociabilité*) of reasonable beings»⁴².

In comparison to the *Persian Letters*, in the *Treatise* (and in the related writings) Grotius' paradox about the possible 'disengagement' of justice

37 Marcus Aurelius, *Thoughts*, XI, 1, 4. See also *ibidem*, VII, 22 («It is the part of man to love those who offend them») and Seneca *De clementia*, II, 3, 3. Cf. P. Hadot, *La citadelle intérieure*, pp. 172–173 and 210–212, where the focus is on the affinity between the Stoic ethics and the Christian one, which Montesquieu already felt («One sees with pleasure that Christian charity scarcely demands more of us than what the Pagans felt humanity and love of the common good demanded of them»: P 924).

38 See again Marcus Aurelius, *Thoughts*, VI, 7: «Let this be thy only joy, and thy only comfort, from one sociable kind action without intermission to pass unto another, God being ever in thy mind»; VIII, 23: «Shall I do it? I will; so the end of my action be to do good unto men». Among the modern authors going strongly back to these topics, we should mention especially Shaftesbury (*Sensus communis: An Essay on the Freedom of the Wit and Humour* [1709], Parte III, sez. II), considered by Montesquieu a «great poet», together with Plato, Malebranche and Montaigne (P 1092).

39 P 938. This thought is directly linked to the already mentioned *Histoire véritable*, in *OC*, 9/II, p. 186. See Seneca, *Epistulae ad Lucilium*, III, 28, 4 («My homeland is the world»).

40 Cf. Cicero, *De legibus* I, 10, 28: *nos ad iustitiam esse natos, neque opinione sed natura constitutum esse ius* («we are born for justice, and right is based, not upon men's opinions, but upon nature»).

41 *LP X (X)*, p. 36.

42 *Traité des devoirs*, in *OC*, 8/I, pp. 437–438 (J.-J. Bel's report).

from God or from the religion ceases to exist. Grotius wrote: «All that we have said [about equity or natural justice], would somehow equally subsist even if we granted [...] that God did not exist (*etiamsi daremus [...] non esse Deum*)». And Montesquieu, in turn, echoes him in the *Persian Letters* as following:

So, even if there were no God (*Quand il n'y auroit pas de Dieu*), we should always love justice, that is, try hard to resemble that being of whom we hold so perfect an idea, and who, if he existed, would necessarily be just. Although we should be free of the yoke of religion, we ought not to be free of the yoke of equity⁴³.

On the contrary, in the *Treatise on Duties*, the philosopher ‘links’ closely and definitively together morals and religion, justice and God, *justice* and *Christianity*. In the first chapter of this *Treatise*, he states that God is both the «universal object» and the «particular object» of duties: on the one hand, «just because he must fulfil all our wishes and occupy our thoughts»; on the other hand, «just because we all owe him a cult». And then in the 12th chapter, Montesquieu «shows that we owe to the Christian religion the fact of giving us equity towards all human beings (*montre que nous devons à la Religion chrétienne de nous avoir donné de l'équité pour tous les hommes*)»⁴⁴. Even if we don't know the details of this «demonstration», as from the first decades of the 19th century the *Treatise on Duties* has become a hard-to-find text, Montesquieu's argument is absolutely clear and it will also be confirmed in the *Spirit of the Laws*⁴⁵: as the title of this chapter in the table of contents of the *Treatise* specifically states⁴⁶, the Christianity (or

43 H. Grotius, *De iure belli ac pacis* (1625), *Prolegomena*, § 11; Montesquieu, *LP* LXXXI (LXXXIII), pp. 232–234. Grotius picks up the long tradition of thought including, among others, Marcus Aurelius (*Thoughts*, II, 11 e VI, 44; *Réflexions morales*, t. I, pp. 47–50; t. II, pp. 31–33). See P. Negro, «A Topos in Hugo Grotius: *Etiamsi daremus non esse Deum*», *Grotiana*, 19 (1998), pp. 3–23.

44 *Traité des devoirs*, in *OC*, 8/I, p. 438 (J.-J. Bel's report).

45 Cf., in this regard the sublime praise of the Christian deity and of his justice illustrated in *EL*, XXIV, 13, p. 1804. See also *EL*, XV, 7, *in fine*, where we can find the thesis that Christianity would have established again «the age of Saturn» in the West, as on earth there were «neither masters nor slaves». This thesis is clearly inconceivable if we don't assume that in the hearts of the human beings is inscribed the idea of justice, and namely that in their *animus* there is this kind of *habitus* which «attributes its proper dignity to everything (*suam cuique tribuens dignitatem*)» (Cicero, *De inventione*, II, 53, 160).

46 *Ce que nous devons à la Religion chrétienne, de nous avoir donné l'équité pour tous les hommes*: see above, note no. 14.

the God of the Christians) gave us *the equity* (*l'équité*) towards the human race, i.e. the idea of *justice tout court*⁴⁷. Thus, both for Marcus Aurelius and Montesquieu, justice comes from God, who, however, is not the *Logos* nor the «universal Reason» (as the emperor-philosopher thought⁴⁸), but the God of the *New Testament*, the Christian God.

In any case, as justice (or equity) comes from God (and also Voltaire will affirm this concept⁴⁹), it is «eternal», and depends not «upon human conventions» (as claimed by Hobbes)⁵⁰. As we can see both in the apologue of Troglodytes⁵¹ and in some *pensées* related to the *Treatise on Duties*, Montesquieu's radical anti-Hobbism emerges clearly. This anti-Hobbism can be considered another structural character of his political-philosophical thought over these years together with his sincere and deep adherence to the ethical principles of the Middle and New Stoa. And as we will find these kinds of thoughts also during the years of his full maturity, it is right to consider Montesquieu's 'moral' writings of 1725 the *primum motum* of the *Spirit of the Laws*. For example, in *My Thought* no. 1266, he writes:

[Hobbes] warns me to mistrust all men in general, and not only all men, but also all beings that are superior to me. For he tells me that justice is nothing in itself, that it is nothing more than what the laws of empires ordain or prohibit [cf. *De cive*, III, 5–6; XII, 1; *Leviathan*, XV and XXVI]. I am upset about this, because, since I am obliged to live with men, I would have been delighted had there been in their hearts an *inner principle* to reassure me about them, and, not being sure that there are not other beings in nature more powerful than me, I would have been glad for them to *have a rule of justice* that prevented them from harming me [...].

47 Montesquieu makes no distinction between *équité* e *justice*, as is made clear both in the *LP* LXXXI (LXXXIII) and LXXVIII (LXXX) (pp. 232–234, 227) and in the *Discours sur l'équité*. And the same goes also for what concerns the *Spirit of the Laws*, as it appears for instance in I, 1 (p. 908).

48 See P. Hadot, *La citadelle intérieure*, pp. 138–154, 211, 285.

49 See for instance his article *Du juste et de l'injuste* («Who has given us the perception of just and unjust? God, who gave us a brain and a heart. [...]. Morality is uniform and invariable: it comes from God»), in Voltaire, *Dizionario filosofico. Tutte le voci del «Dizionario filosofico» e delle «Domande sull'Enciclopedia»*, with parallel French text, ed. D. Felice and R. Campi, Milan, Bompiani («Il pensiero occidentale»), 2013, p. 2116.

50 *LP* LXXXI (LXXXIII), p. 234; Th. Hobbes, *De Cive*, III, 5–6; XII, 1; *Leviathan*, XV and XXVI.

51 It's unanimously clear that through the first stage of the apologue of the Troglodytes (*LP* XI [XI]), Montesquieu aims to demonstrate the groundlessness of the *bellum omnium contra omnes* conceived by Hobbes, and hence of the absence of a natural or absolute justice.

Hobbes says that, since natural right is merely the freedom we have to do everything that serves our preservation, man's natural state is the war of all against all. But aside from the fact that it is false that defense necessarily entails the necessity of attacking, one must not imagine men, as he does, as if fallen from the sky or arising fully armed from the earth, a little like Cadmus's soldiers, to destroy each other; this is not the condition of men [...].

It is only when Society is formed that individuals, in peace and plenty, having occasion at every moment to feel the superiority of their minds or their talents, seek to turn the principal advantages of that society in their favor. Hobbes would have men do what lions themselves. It is only through the establishment of societies that they mistreat each other and become the strongest; before this, they are all equal. *If they establish societies, it is by a principle of justice. Thus, they had it* (emphasis added).

There will of course be an opportunity to return to this question of Montesquieu's clear opposition to the philosopher of Malmesbury. What we are now interested in is another very important aspect of the question, which is nothing else than the other side of his anti-Hobbesism: in other words, we can say that, in comparison to the *Persian Letters*, the *Président's* trust in the human being and in his positive and 'constructive' potentials is now much greater. And this happened not only in the *Treatise on Duties*, but also in other writings of 1725, such as *De la considération et de la réputation* (*On the difference between consideration and reputation*) and the *Discours sur les motifs qui doivent nous encourager aux sciences* (*Discourse on the motives that should encourage us into the sciences*).

For Montesquieu, the human being is a double being, not only because he is made up of soul and body, but also because he has the possibility of egoism and the possibility of virtue, again as highlighted throughout these pages.

This ambivalence of the human nature, reintroduced in modern times first of all by Machiavelli⁵², is the real *fil rouge* of Montesquieu's philosophical research. In the *Persian Letters* the author especially underlines the tendency towards selfishness and utilitarianism — as shown both in Usbek's contradictory personality (in which, ends up prevailing the despot cruel and infatuated with himself over the thoughtful and clever man⁵³) and in the conclusion of the apologue about the Troglodytes, who

52 See in particular *The Prince*, XVIII, where Machiavelli reasons about the figure of the Centaur Chiron, «half beast and half man»; and also, Id., *Discourses on Livy*, I, 2, 14–15; I, 3, 2, 6–7; I, 10, 29; I, 27, 6.

53 See especially *LP* CXL (CXLVIII), where Usbek orders to the seraglio's guard to establish a regime of terror: «may fear, may terror be your companions; hasten

prefer shaking away the «burden» of virtue and living as «subjects» fully committed to enjoy the sensual pleasures and their own selfish interests⁵⁴. On the contrary, in the *Treatise on Duties* appears a greater confidence in the 'bright' and 'angelic' side of the human being, because of his «natural inclination» to virtue. And we feel that this fact comes principally from Montesquieu's deep study of Cicero and Marcus Aurelius. For example, he asserts:

Cicero is, of all the Ancients, to one who had the most personal merit, and whom would prefer to resemble [...]. His virtue, which had nothing unsociable about it, did not prevent him from enjoying the politeness of his age. *One notices, in his moral works, an air of gaiety and a certain contentment of mind that mediocre philosophers do not know. He does not give precepts; but he makes them felt*⁵⁵.

And about Marcus Aurelius, he writes: «No philosopher has ever made men appreciate the *gratifications of virtue* and the *dignity of their being* better than Marcus Aurelius. The heart is touched, the soul enlarged, the mind is elevated»⁵⁶. And moreover: «We cannot read his life without experiencing a kind of tenderness. Such is the effect he produces that we have a *better opinion of ourselves because we have a better opinion of men*»⁵⁷.

Similarly, in *On the difference between consideration and reputation*, Montesquieu puts a «reputation» solidly anchored on «virtue» before the apparent glories and prestige, when this virtue is all one with the «love for their fellow citizens»:

The people who always believe to be unloved and scorned, is never ungrateful to the love they allow themselves. In the republic governments, in which every citizen partakes of the power, the popular spirit makes it odious; on the contrary, in the monarchies, in which the ambition depends on the obedience, and in which, in relation to power, the popular favour leaves nothing if it doesn't leave everything, the latter ensures a safe reputation, just because it is moved only by virtuous causes⁵⁸.

from room to room bearing punishment and retribution; may they all pass their days indeed, may they all weep bitterly in your presence [...]]» (p. 412).

54 *LP XIV (XIV)*, p. 50.

55 Montesquieu, «Discourse on Cicero», *Political Theory*, vol. 30, no. 5 (Oct., 2002), pp. 733–734.

56 *P 576*.

57 *Romains XVI*, p. 738 (emphasis added).

58 *De la considération et de la réputation*, in *OC*, 8/I, p. 452,

In the *Discourse* pronounced during the reopening of the Bordeaux's Academy on 25 November 1725, Montesquieu lists the «motives» that should lead us to studying and he puts first «inner satisfaction of seeing the excellence of one's being develop, and of making an intelligent being more intelligent». Montesquieu also adds that another main motive is the possibility of enjoying happiness that lasts a lifetime:

The love of study is almost the only eternal passion in us; all other passions leave us, as this pitiable machine that gives them to us approaches its ruin [...]. We need a form of happiness that can go with us through all life's stages: life is so short that we ought to reject any felicity that does not last as long as we do.

Finally, a last and even more important motive that «should encourage us» to apply ourselves to study, is the fact of helping others and the world: «Is it not a splendid aim to work to leave behind us men more fortunate than we have been?»⁵⁹.

The *Temple of Cnidus* (1725), too, is very mistreated by critics⁶⁰, because it is not considered good enough for an author like Montesquieu and improper for his *gravitas*: however, in reality, also this text, symbolizes the renewed confidence in the human being and in his natural and 'constructive' inclinations. It is no coincidence, in fact, that with regard to the crucial question (in the 10th Persian letter) «whether man's happiness depends on pleasure and the satisfaction of the senses, or on the practice of virtue» (p. 36), the text says that happiness is to be found in the *feelings of the heart* (*sentiments du coeur*)⁶¹, and namely in that «natural prayer» which both sexes «always address to each other»⁶².

In spite of this greater trust in the 'angelic' side of the human being, Montesquieu's *eye* still focuses on his 'obscure', 'dark' and 'demonic' side. In the piece entitled *On politics* (which is closely linked with the *Treatise on Duties*), the author delivers a violent indictment of the «false politics»⁶³, or politics conceived as «science of ruse and artifice»⁶⁴, as the arrogant

59 *Discours sur les motifs qui doivent nous encourager aux sciences*, in *OC*, 8/I, pp. 498–500.

60 «An insipid love story» is defined for instance by J.N. Shklar, *Montesquieu*, p. 47.

61 And thus not in the carnal «furious», «violent» (such as in the Eastern seraglios) or «brutally impudent» love (such as in the West), which is described in the *LP* VII (VII) and XXIV (XXVI), pp. 28, 78.

62 *Le temple de Gnide*, «Préface du traducteur», p. 510; *EL*, I, 1, p. 914.

63 In opposition to the «true politics», which Montesquieu briefly mentions in a fragment linked to *De la politique*: see *infra*.

64 *Traité des devoirs*, in *OC*, 8/I, p. 439 (J.-J. Bel's report).

presumption of thinking to 'bend' or 'subdue' the events in order to meet its own plans, ambitions and whims. In fact, the *Président* underlines that «most effects come about in such singular ways, or depend on causes so imperceptible and so distant, that one can scarcely foresee them [...]. If one consults history books, it can be seen that they are full of great unforeseen events». Moreover he states that «the prudence of man actually amounts to practically nothing. In most situations, deliberation is useless, because, except where major disadvantages are immediately obvious, all the courses of action one might adopt are equally good»⁶⁵.

So, all «guiles», «artifices», «subtleties» and «circuitous routes»⁶⁶ are banned, because, in reality, the historical events are always regulated by «an infinite chain of causes that multiply and combine from century to century» giving rise to a «common character» in every person, to a «universal soul», namely, to something individual and unique. Once this «character» or «tone» (as Montesquieu says making use of a musical image) is given and received, «it alone rules supreme, and all that sovereigns, magistrates and peoples can do or imagine, whether they appear to conflict with this tone or to follow it, has always reference to it, and it holds sway until total destruction». And again:

If a given tone is lost or destroyed, it is always through means that are unique and cannot be foreseen. They derive from causes so distant that any other might seem as potent as they themselves, or else they are due to a petty effect, which is hidden under a great cause, which produces other great effects which impress all the world, while it [the decisive factor] remains covered up in order to become effective sometimes as much as three centuries later⁶⁷.

If the factual complexity of the «causes» of the human events is so marked, it follows that the «true politics» is exclusively cautious and well-thought conduct, and the exercise of the moral virtues (probity, naturalness, moderation and discretion⁶⁸): «There is nothing so easy for a man in certain positions as to astonish people by a great project: there is something false in this. It is not the means which should be brilliant, but the ends. True politics consists in getting by obscure routes»⁶⁹.

65 *De la politique*, in *OC*, 8/1, pp. 511, 514.

66 *Ibidem*, pp. 513, 516–517.

67 *De la politique*, in *OC*, 8/1, p. 515.

68 See *ibidem*, pp. 516–517, 520.

69 *De la politique*, in *OC*, 8/1, p. 522 (emphasis added).

A good government leader is the one who respects the «tone» or the «common character» of his people, or in other words it is the one who does not «roughly abuse his *spirit (esprit)*»⁷⁰, but he behaves, towards his fellow citizens, in the same way as did Troglodytes towards his sons:

[...] above all, they did them feel that the interest of the individual is always identical with the common interest, and that to attempt to separate oneself from it is fatal; that we should not find virtue arduous, or regard it as a painful exercise, and that justice to another is a charity to oneself⁷¹.

70 *Esprit du peuple* (the future *Volksgeist* of Hegel): Montesquieu, *De la politique*, in *OC*, 8/I, p. 511.

71 *LP XII (XII)*, p. 44.

5. THE REAL VOYAGE

With these his new convictions about the human being and his duties — in other words, with in his pocket, if I may so express, Cicero and Marcus Aurelius — and, after obtaining, with the support of Madame de Lambert, the seat at the French Academy, where he settled in January 1728, Montesquieu embarked on his journey in April of that year, being motivated by the desire to know and to instruct himself (*envie de savoir* and *de s'instruire*) such as Usbek¹. He then returned to his homeland three years later (in May)².

His first stop was Vienna: here he was received by the Emperor and he revealed his ambition to become an ambassador³. After visiting the Hungarian mines, he descended into Italy and arrived in Naples. In our country, he saw some people he knew in France and met, among others, the abbot Antonio Conti, Lodovico Antonio Muratori, Celestino Galiani, Antonio Niccolini, Scipione Maffei and Matteo Ripa, the famous founder of the Chinese College in Naples. He visited several cities, such as: Venice, Milan, Turin, Genoa, Modena, Parma, Mantua, Bologna, Florence, Rome and Naples⁴. In July 1729, Montesquieu left Trento and, passing through Innsbruck, Munich, Hannover, Brunswick (from where he went to the Harz mines), Utrecht, Amsterdam, The Hague, he arrived in London in November of that year.

The English stay is probably his most important life experience, but unfortunately at present we do not know much about it: whereas, in fact, his *Travel Journal* describes in detail the itinerary through continental Europe, his *Notes sur l'Angleterre* («Notes on England») survived only in a small part. Reaching London on board the yacht of Lord Chesterfield

1 *LP* I (I) and VIII (VIII), pp. 15, 50.

2 For more detailed information about this important stage of Montesquieu's life (5 April 1728 – 21 May 1731), see R. Shackleton, *Montesquieu*, pp. 90–145 and L. Desgraves, *Montesquieu*, pp. 175–245.

3 See Montesquieu to Thoulier d'Olivet, May 1728, in Masson, III, p. 892

4 See E. Barria-Poncet, *L'Italie de Montesquieu. Entre lectures et voyage*, Paris, Garnier, 2013.

(1694–1773), Montesquieu was also received by the Queen (Caroline d'Ansbach) and cultivated the friendship with the Dukes of Richmond (1701–1750) and of Montagu (1713–1776). He was thus able to have contact both with the *whig* (as the case of Chesterfield) and the *tory* milieu gravitating around Bolingbroke and his «Craftsman», the journal which was widespread also in France and which is mentioned in the *Spicilège*⁵. From the *Notes on England* we learn that Montesquieu listened to a few debates of the House of Commons. Lastly, thanks to the support of friends and acquaintances, he was accepted to the Royal Society (26 February 1730) and initiated into the Freemasonry (16 May 1730) in the *Horn-Tavern* Lodge of Westminster.

Not unlike the *Persian Letters*, during the *grand tour* through Europe, Montesquieu is interested in everything. Everything impressed him and gave him the possibility to reflect and meditate: geography, climate, economy, trades, art, religion, character (*esprit*) of people and nations, etc. It was a voyage of knowledge ruled by empirical observation. Nevertheless, compared to the youthful masterpiece, his *analytical eye* didn't concentrate on the comparison between the two contemporary realities (Persia-Asia/France-Europe), but on eighteenth-century Europe put in relation with its own past, with its own history, based on a rich and captivating images dialectics (about Rome, he wrote for example: «It seems to me that stones speak. One is never finished seeing»⁶). In particular, he gave close attention to the double *physical* and *moral* causality of events, of the socio-political institutions and of the different characters or *esprits* of the European peoples. Another point worth noting is regard to the double causality, is the group of observations and explications about the «unhealthy air» of the Roman countryside⁷ or about the different eating regimes of the ancient Romans in comparison with the ones of his times: it is interesting to note that Montesquieu (in December 1732) presented a dissertation on this question at the Academy of Bordeaux⁸. Moreover, regarding the different characters, his intriguing definitions of the *esprit* or *ton* of some peoples of the cities he visited are really interesting: he wrote, for example, that «a

5 See *Spicil.*, nos. 525, 525b, 528, 533, 537

6 *Voyages*, p. 277. See also P 339: «I said I wanted to see Hungary, because all European States used to be the way Hungary is at present, and I wanted to see our forefathers' mores».

7 See *Voyages*, pp. 142, 320, 331, 339, 345, 349.

8 *Réflexions sur les habitants de Rome*, in *OC*, 9/II, pp. 77–82.

peculiarity of Rome is that there, it is not women who set the tone (as it happens everywhere), but the priests»⁹; or again:

In Italy we need a higher relaxation because the Italian love more his facilities than French, and he is flabbier. Similarly, the German is tougher than French. Thus, it seems to me that most we approach the North, most one is hardened to toils; more we approach the warm countries and the South, more the body is flabby, and the mind inclined to relaxation. Italians are even more overwhelmed by the warm than French. With equal abstinence, Italians bear more easily fasting, because people eat less in warm countries¹⁰.

More generally, the way in which Montesquieu addresses the problem of politics (and so of history and of the science of society) is always better defined. If his *Mémoires sur les mines* («Memoirs on Mines»)¹¹ show his increasing interest in the production techniques and in the science of society, the *Notes on England* witness to the constant centrality that the question of liberty and of the political organization mostly occupied in his mind. Moreover, it must be noted the painstaking attention with which he observes and describes the «English machine», and namely the steam-powered pump of the Königsberg mines (Nová Baňa) and the organization of the work in the Harz mines.

At present, England — he writes (and these are concepts that will become central in the constitutional doctrine of the *Spirit of the laws*) — is the freest country in the world; I don't except any republic. I say free, because the prince lacks the power to inflict any wrong imaginable upon anybody at all, since his power is controlled and limited by statute (*par un acte*). But, if the lower house were to become master, its power would be unlimited and dangerous, because it would simultaneously possess executive power; instead of which, unlimited power is currently held by parliament and the king, and executive power lies with the king, whose power is restricted. It therefore behoves a good Englishman to try to defend liberty against attacks both by the crown and by the [lower] house¹².

9 *Voyages*, p. 257.

10 *Voyages*, p. 284.

11 Montesquieu got them from his notes made during his travelling throughout Hungary and Germany and he read them to the Academy of Bordeaux both on 25 August and on 2 December 1731 and on 3 February 1732: see *Mémoires sur les mines*, in *Voyages*, pp. 619–651.

12 *Notes sur l'Angleterre*, in *Voyages*, p. 505.

Just as remarkable, in this regard, is the overall negative judgment which can be found in the *Journal de Voyage* about the Italian hereditary aristocracies of the 18th century in Venice, Genoa and Lucca. As we will see, this judgment will be discussed and developed again in the *Spirit of the Laws*: «The Italian republics are not that miserable aristocracies which subsist only by the mercy accorded them and in which the nobles, without any sentiment of greatness or of glory, have no ambition but that of maintaining their idleness and their prerogatives»¹³.

Montesquieu's assessments about the unbridled militarization of the Prussian State which was the wish of the Soldier-King (1688-1740) are really strong and severe. He writes about a «dreadful barbarity» and that:

The King of Prussia exercises over his subjects a dreadful tyranny (*tyrannie effrayable*) [...]; he destroyed everything and increased its troops [...]. It is a misfortune to be his subjects [...]: one is tormented both in his property and in his person. A man may well be rich, may be a magistrate or a merchant, but no less likely to be conscript. This means that many people go out of the country and that fathers should send their children elsewhere [...]. As soon as a child reaches the age of 10 years, the King calls him to arms: he is no longer under the authority of the father, in whose house he is located, but under his authority, so he ends up perpetrating all kinds of arrogance. Many fathers have even crippled their children to keep them with them¹⁴.

Finally, of particular interest is the *Président's* strengthening of his Christian belief (or, to be more accurate, of his Catholic belief): and this reveals that the European trips experience has been extremely fruitful both on the levels of the religious ideas and on the levels of his political, legal, economic and social visions:

Men are greatly sots. I feel like I'm more attached to my religion since I saw Rome and the masterpieces of art which can be found in these churches. I like

13 *Voyages*, p. 296. Similarly, also the judgments on the individual aristocratic Republics are very harsh: for instance, in Venice liberty «is to live privately with wh***s and to marry them» (*Notes sur l'Angleterre*, in *Voyages*, p. 496).

14 *Voyages*, pp. 441, 449, 457. Cf. *Romains XVI*, p. 738, where the *Président* returns again on Frederick William I of Prussia and on his *dessein* of the militarization of the State observing the following: «I have no wish to make odious reflections on this design. I shall only say that, by the nature of things, two hundred guards can give security to the life of a prince, but not eighty thousand; besides which, it is more dangerous to oppress an armed people than one that is not armed».

these heads of Lacedaemon, which would not that Athens perishes because it had produced Sophocles and Euripides and that it was the mother of so many beautiful minds (*beaux esprits*)¹⁵.

15 Montesquieu, *Voyages*, p. 475. On the catholicism of the *Président*, see my *Religione e politica in Montesquieu*, in *Introduzione a Montesquieu*, pp. 167–202.

6.
CIVILIZATIONS «ARE MORTAL»¹: DECLINE AND FALL
OF THE «WISEST PEOPLE UPON EARTH»²

*Tolluntur in altum
Ut lapsu graviore ruant.*
(Claudian)

After returning to France in May 1731, Montesquieu further developed his thoughts about the causes of human events and institutions, driven by a renewed passion and vigour. Within a short space of time he achieved three original scientific results which can be considered the third phase of his extraordinary human and intellectual route after the *Persian Letters* and the ‘moral writings’ of 1725. Here are these three precious works: *Reflections on Universal Monarchy in Europe* (1734), *Considerations on the Causes of the Greatness of the Romans and their Decline* (May 1734) and *Essay on the Causes that May Affect Men’s Minds and Characters* (1734–1738: this work was never completed and was firstly published only in 1892³). Moreover, it must be pointed out that the copies of the *Reflections on Universal Monarchy in Europe* were immediately withdrawn from circulation and destroyed probably because of fear of censorship due to Montesquieu’s criticism of Louis the Great.

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- 1 P. Valéry, *La crise de l’esprit* («The Crisis of the Mind») (1919), *incipit*: *Nous autres, civilisations, nous savons maintenant que nous sommes mortelles* («we are mortal»). Cf. *Romains* XXIII, *in fine*: «[...] under the last emperors, the Empire — reduced to the suburbs of Constantinople — ended like the Rhine, which is no more than a brook when it loses itself in the Ocean».
 - 2 *Défense*, p. 2328: «[...] it is thought that the Romans were the wisest people upon Earth». See also *EL*, XXII, 12, p. 1708, note 43: «Study the Romans: their superiority will never be more evident than in the choice of the circumstances in which they did good and evil things».
 - 3 In the *Mélanges inédits de Montesquieu*, publiés par le baron de Montesquieu, Bordeaux-Paris, Gounouilhou-Rouam et Cie, 1892, pp. 109–148.

In the *Reflections*, embodied, for the most part, in the *Spirit of the Laws*, the *Président* examines the general and particular reasons (*raisons générales* and *raisons particulières*) for the failure of the attempts to establish a new and durable empire in Europe after the fall of the Western Roman Empire. These attempts were made by kings like Charlemagne and Louis the Great, by popes and emperors like Charles V and also by non-European peoples such as Turks and Tartars. Montesquieu also examines the reasons for the fact that such an undertaking was considered as being more difficult to be realized in his time than in the past⁴. This was also the opportunity for him to return to and go into the red thread of his philosophical and political thought, and namely the unyielding dualism between Asia and Europe and between oppression and liberty. Anticipating the doctrine of proportionality between form of State and extent of the territory and the theory of interdependence between geophysical factors and political systems, which will be illustrated in the *opus magnum*, Montesquieu writes this basic passage of his *Reflections* that we will have to return to again later on:

In Asia one has always seen great empires; in Europe they were never able to continue to exist. This is because the Asia we know has broader plains; it is cut out into much more extensive divisions by mountains and seas; and as it lies more to the south, the mountains are less covered with snow; and the rivers being not so large, form smaller barriers.

A large empire supposes a despotic authority in the person who governs. It is necessary that the quickness of the prince's resolutions should supply the distance of the places they are sent to; that fear should prevent the remissness of the remote governor or magistrate; that the law should be derived from a single person, and should change continually according to the accidents which incessantly multiply in a State in proportion to its bigness.

If this did not happen, it would occur a dismemberment of the parts of the monarchy, and the various peoples, tired of a domain that they would consider as a foreigner, would begin to live under their own laws. Therefore, power should always be despotic in Asia. For if servitude were not extreme, there would immediately be a division that the nature of the country cannot endure.

In Europe, the natural division forms many medium-sized States in which the government of laws is not incompatible with the maintenance of the State: on the contrary, it is so favorable to it, that without this the State falls into decadence and becomes inferior to all the others.

It is this which has formed, from age to age and in perpetuity of centuries, a genius for liberty that renders every part extremely difficult to be subdued and subjected to a foreign power, otherwise than by the laws and the advantage of its commerce.

4 «I believe that such a thing has become more difficult than ever before» (*Monarchie universelle* I, in *OC*, 2, p. 339).

On the contrary there reigns in Asia a spirit of servitude that has never left it, and in all the histories of this country it is not possible to find a single trait marking a free soul⁵.

Nevertheless, Montesquieu focuses his intellectual energies especially on the *Romains* (recalling Sallust's and Tacitus' style) which is another unequalled and immortal treatise thanks to its conceptual density and depth. Within the framework of modern and contemporary thought, this work had a decisive influence (one only has to think of Gibbon, Ferguson, Herder, Taine e Meinecke⁶) on the following historical-political reflection. And that is where Montesquieu's pantheon is enriched by other great authors of Antiquity, such as Sallust, Tacitus, Polybius, Dionysius of Halicarnassus, Suetonius, Plutarch, Florus, Cassius Dio and (among the modern authors) Machiavelli, a «great republican»⁷.

Misunderstanding the style and the contents of the work, Voltaire considered it as an «ingenious table of contents (*ingénieuse table des matières*)»⁸: on the contrary, it's actually a brilliant «table of concepts» (*table de concepts*) which are related to one another, thus forming a kind of «book of reasoning (*livre de raisonnement*)»⁹. In this «reasoning book» all themes (human beings and institutions, peoples and civilizations, history and reflection about history) are 'organically linked together'.

Moreover, unlike what has been recently once again repeated, the *Romains* are not at all a «political reflection on liberty (*une réflexion politique sur la liberté*)»¹⁰, but rather a political meditation upon *oppression*, as it results

5 *Monarchie universelle* VIII, in *OC*, 2, pp. 346–348.

6 See S. Sebastiani, *L'«Esprit des lois» nel discorso storico dell' Illuminismo scozzese*; J. Thornton, *Sulle orme di Montesquieu: la formazione di Edward Gibbon dal primo soggiorno a Losanna al «Decline and Fall on the Roman Empire»*; P. Bernardini, «Una metafisica per un morto codice». *Considerazioni su Herder e Montesquieu*; R. Pozzi, *Alle origini della scienza dell'uomo: il Montesquieu di Hippolyte Taine*; U. Roberto, *Montesquieu tra illuminismo e storicismo nella riflessione di F. Meinecke*: in *Montesquieu e i suoi interpreti*, ed. D. Felice, 2 vols., Pisa, Ets, 2005, pp. 233–240, 277–306, 307–323, 611–626, 713–736.

7 *Spicil.*, no. 529. Somewhere else Montesquieu defines him as a *grand esprit* (*De l'esprit des lois*, *Manuscrits*, I, p. 37).

8 Voltaire to N.-C. Thiériot, november 1734: «an ingenious table of contents writ in an odd style» (Voltaire, *Correspondance*, ed. by Th. Besterman, 13 vols., Paris, Gallimard [«Bibliothèque de la Pléiade»], 1977–1987, vol. I, p. 555).

9 *Défense*, p. 2352.

10 Thus C. Volpilhac-Auger at the beginning of his entry *Considérations sur les causes de la grandeur des Romains et de leur décadence*, in *Dictionnaire Montesquieu* (<<http://dictionnaire-montesquieu.ens-lyon.fr/en/article/1376399421/en>>),

from what Montesquieu declares in a draft preface of the work. In this text he says that initially he had thought to write only «a few pages on the establishment of the monarchy (*quelques pages sur l'établissement de la monarchie*)», or of the «arbitrary power (*pouvoir arbitraire*)» by Caesar and then by Augustus¹¹:

At first I had thought only of writing a few pages on the establishment of the monarchy among the Romans, but the size of the subject absorbed me and I went back imperceptibly to the very beginnings of the republic and came down to the decadence of the empire¹².

Moreover, one can readily understand that the title and the content of the work, in this sense, are explicit. As far as the title, take for example the disposition of the words of which it is composed. Indeed, it is noted that it is not a *coincidence* that Montesquieu wrote the word *décadence* last: it is an invitation to *focus the attention* on it during the reading or the pronunciation of this title, because this word must stay firmly ‘impressed’ in the minds of people. This is also confirmed by his choice to select Claudian’s famous *sententia* «*Tolluntur in altum / ut lapsu graviore ruant*»¹³ as the possible epigraph for his book¹⁴, for his second ‘piece’: «*ut lapsu graviore ruant*». It is important to note that this *sententia* refers to those who do evil, to the *nocentes*. With regard to the contents, fifteen of twenty-three chapters (from the IX chapter to the end) focus on the *decline*, and namely on the «military and violent government (*gouvernement militaire et violent*)»¹⁵

where he repeats almost literally what J. Ehrard had already written in his «Préface» to the *Considérations* [...], Paris, Garnier-Flammarion, 1968, p. 20.

- 11 About the *pouvoir arbitraire* of Caesar, see the already mentioned LP CXXV (CXXXI) and *Romains* XI (this chapter is almost all focused on the *oppression totale de Rome* by the famous dictator); about the one of Augustus, see *Romains* XIII (he «established order — that is, a durable servitude [...], an unlimited authority»: p. 705). It’s only in the *Spirit of the Laws* that Montesquieu will completely separate the idea of monarchy from the one of arbitrary power or despotism: see *infra*.
- 12 Montesquieu, [*Projet de préface*,] in *Considérations sur les causes de la grandeur des Romains et de leur décadence*, éd. C. Volpilhac-Augier, Paris, Gallimard (“Folio Classique”), 2008, p. 341.
- 13 «He is raised aloft that he may be hurled down in more headlong ruin» (Claudian, *In Rufinum*, I, 22–23). The *sententia* is translated by Montesquieu in *Romains* XV as follows: *On n’élève donc sa puissance, que pour la voir mieux renversée* («We build up our power only to see it the better overturned») (p. 726).
- 14 «[Epigraphs.] [...] *La décadence des Romains: Ut lapsu graviore ruant*» (P 1519). However, the epigraph was never produced.
- 15 LP CXXV (CXXXI): cf. *supra*. See also *Romains* XV–XVI, pp. 730, 740, 750.

of the emperors of the West and of the East (albeit with some exceptions, such as the reigns from Nerva to Marcus Aurelius and Julian's two-year government). Overall, also in the *Romains* as in the *Persian Letters*, Montesquieu observes as a traveler — *intus et in cute* — the «spectacle of things human» essentially from the point of view of oppression¹⁶. It is not a 'consideration' about the history as the history of liberty, but rather a lucid and realistic philosophical reflection on the *evolution-involution*¹⁷ of peoples and races, in which the involution turns out to be the decidedly prevailing reality¹⁸, as witnessed by the long agony of the Western and Eastern Roman Empire.

In other terms, the *Romains* are nothing more than the close exploration on a *particular*, concrete (but also 'symptomatic') case, that could thus become a *universal* one¹⁹; it is the exploration of the validity of the outline of the macrohistory illustrated in the *Persian Letters* (letters CXXV [CXXXI] e CXXX [CXXXVI]), of the cycle of *greatness* and *decline*, of liberty and oppression, of the predominance of decline-oppression, which characterizes the 'European continent' and witnesses to the emergence of a tragic conception of human civilizations.

Nevertheless, in the *Romains*, Montesquieu 'tests' and 'checks out' also the general theory of the historical causality, which is described in the fragment *On politics* of 1725.

16 «This is the place to set before ourselves the spectacle of things human»: indeed, this is what Montesquieu writes immediately after the emphasis put on the absence of *humanitas* («humanity») of the ancient Romans and the «frightful tyranny» of Roman emperor Caligula, «a true sophist in his cruelty» (*Romains* XV, pp. 722, 726).

17 In *Romains* I, p. 580, surely reminiscent of the vaticination of Florus, «*Opulentia paritura mox egestatem*» (*Epitomae*, I, 47, 12; cf. *EL*, VII, 5, nota b, p. 1113), Montesquieu writes as follows: «[...] the fate of nearly all the States in the world is to pass too quickly from poverty to riches, and from riches to corruption»; and in *P* 1917: «Virtually all the nations of the world go around in this circle: at first, they are barbarous; they conquer, and they become civilized nations; this civilization makes them bigger, and they become polite nations; politeness weakens them; they are conquered and become barbarous again. Witness the Greeks and Romans».

18 The great ancient theorists of the cyclical pattern of the forms of government (and especially Plato, who wrote that «everything which has a beginning has also an end» [or «a dissolution»]: cf. *The Republic*, VIII, 546a, about which see G. Cambiano, *Platone e il governo misto*, in *Governo misto. Ricostruzione di un'idea*, ed. D. Felice, Naples, Liguori, 2011, pp. 8 *et seqq.*) had a decisive influence on this Montesquieu's 'catastrophic' vision of the history of peoples and of their socio-political institutions.

19 See S. Cotta, *Il pensiero politico di Montesquieu*, p. 148.

In this text, on the one hand, Montesquieu underlined the substantial impotence of the human interventionism as regards mandatory causality of the «tone» (or «common character») of a people and of an epoch: «once the tone is given [...], it alone governs [...] and it dominates until it is totally destroyed»²⁰. On the other hand, he reasserts and confirms the same point of view on the basis of other concrete cases and of the assumption of the constancy of human passions²¹. So, for example, in the fragment *On politics*, as regards to the government of Philippe II Duke of Orléans, he wrote the following words:

if, one after the other, fifty other princes had taken on the government and had each behaved in his own way, they would, all the same, have brought that Regency to a happy conclusion [...]; the minds, things, conditions and interests were such that this end result had to emerge, any cause, any authority had acted²²;

now, in the *Romains*, he writes: «If Caesar and Pompey had thought like Cato, others would have thought like Caesar and Pompey; and the republic, destined to perish, would have been dragged to the precipice by another hand»²³. And moreover: «The mistakes of statesmen are not always voluntary. Often they are the necessary consequences of the situation in which they find themselves, with difficulties giving rise to still more difficulties»²⁴.

Anyway, it's in the XVIIIth chapter of the treatise that Montesquieu illustrates sharply and rigorously his theory of the historical development:

20 *De la politique*, in *OC*, 8/1, p. 515: «In all societies that are merely a unity of minds, a common character is formed. This universal soul adopts a manner of thinking which is the effect of an endless chain of causes, which multiply and combine from one century to the next. Once the tone is given and received, it alone governs, and everything that sovereigns, magistrates, and peoples can do or imagine, whether it appears to collide with or follow this tone, is always connected with it, and it dominates until it is totally destroyed».

21 «For the occasions which produce great changes are different, but, *since men have had the same passions at all times*, the causes are always the same» (*Romains* I, p. 575). This assumption is taken both from ancient (Thucydides, *Histories*, I, 22, 4; Polybius, *The Histories*, I, 1, 35; VI, 3; Plutarch, *The Life of Sertorius*, I; etc...) and modern authors (firstly N. Machiavelli, *Discourses on Livy*, I, 39, 1–3).

22 *De la politique*, in *OC*, 8/1, p. 514.

23 *Romains* XI, p. 688.

24 *Romains* XVIII, p. 768.

It is not fortune that dominates the world. Ask the Romans, who had a continuous sequence of successes when they were guided by a certain plan, and an uninterrupted sequence of reverses when they followed another. There are *general causes*, *moral* and *physical*, which act in every monarchy, elevating it, maintaining it, or hurling it to the ground. All accidents are controlled by these causes. And if the chance of one battle — that is, a *particular cause* — has brought a State to ruin, some general cause made it necessary for that State to perish from a single battle. In a word, *the main trend draws with it all particular accidents* (p. 770; emphasis added).

As we can see, Montesquieu illustrates here a theory of evolution of political forms and, more generally, a *philosophy of the history of mankind* which has nothing in common with the providentialistic conceptions of it (such as the one of Bossuet²⁵) or with its vision as «eternal universal history» (cf. Vico), or as epiphany of metaphysical primary and occasional causes (cf. Malebranche)²⁶. Montesquieu's theory of evolution is founded on *general* 'lay' causes which are both *physical* and *moral*: in other words, it is founded on a main 'trend' *drawing with it all particular accidents* and is at one with the historical developing, on the basis of the canon of 'greatness/decline' (*grandeur/décandence*), of that one which is the 'backbone' of *Romains* and that Montesquieu here for the first time called — as afterwards in the *Spirit of the Laws* — *esprit général*.

From the beginning, the work is under the sign of this category designated as 'republican spirit' (*esprit républicain*) or 'citizen spirit' (*esprit de citoyens*)²⁷, and namely as the sense of 'civic co-belonging'. The Roman republic gained its *greatness* thanks to the unity of the people and to the dedication to the homeland as a *whole*. The first inhabitant was a kind of a 'man-citizen-soldier', living within the walls of a little and poor town which however benefited from the vital energy and the ambition of the community glory of its members. Actually, it was just this symbiosis of material poverty and spiritual ambition that defined the constancy of the objective of expansion; moreover the original virtues (and in particular «love of liberty» and «love of equality»²⁸) strengthened and encouraged the

25 As Cotta writes referring to Bossuet's *Discourse on Universal History* (1681), «he deliberately sought God's ways in the lives of peoples» (S. Cotta, *Montesquieu e la scienza della società*, Torino, Ramella, 1953, p. 324).

26 Cf. S. Cotta, *Montesquieu e la scienza della società*, pp. 310–330. As regards G.B. Vico, see in particular *Scienza nuova*, I, 3; by Malebranche, *De la recherche de la vérité*, VI, 3, 8.

27 Cf. *Romains* IX and XIII, pp. 662, 708.

28 Cf. *Romains* IX, pp. 664, 666.

expansionist impetus of the little *civitas*. Montesquieu describes its ascent to world domination illustrating the different constituents of the «mores» of the Romans: the citizen-soldier as the origin of the military capacity (chap. I-III), the continuity of foreign policy (chap. VI), the civic control of the censors (chap. VIII) and most of all the capacity of its constitution to *remedy abuses of power*²⁹ thanks to «the spirit of the people, the strength of the senate, or the authority of certain magistrates»³⁰, and namely thanks to checks and balances between the main «powers (*puissances*)» of the State³¹. Continuing on this path, Rome became «the head of a body formed by all the peoples of the world»³². The Urbe so reached the height of its greatness thanks to the severe way of life of the original town (which quickly became a republic) and to its «virtues» and «mores»³³. Nevertheless, after achieving the level of the universal domination, Rome was forced to

29 Carthage, the greatest rival that Romans ever faced, lacked this important ability: «Carthage perished because it could not even endure the hand of its own Hannibal when abuses had to be cut away» (*Romains* VIII, p. 660).

30 *Romains* VIII, p. 658. With “certain magistrates” Montesquieu means to refer to the consuls. See *infra*.

31 On this point, cf. this world-famous passage from *Romains* XI, in which Montesquieu takes up again the Polybius principle of the distribution and mutual control of the powers: «The laws of Rome had wisely divided public power among a large number of magistracies, which *supported, checked and tempered each other*» (p. 678; emphasis added). But see also *Romains* IX, where in step with N. Machiavelli (*Discourses on Livy*, I, 4), the author extols the struggles between patrician and plebeians as a factor of liberty during the time of the Roman republic: «There had to be dissensions in Rome, for warriors who were so proud, so audacious, so terrible abroad could not be very moderate at home. To ask for men in a free state who are bold in war and timid in peace is to wish the impossible. And, as a general rule, whenever we see everyone tranquil in a state that calls itself a republic, we can be sure that liberty does not exist there» (p. 666). About Polybius, see, J. Thornton, *La costituzione mista in Polibio*, in *Governo misto*, pp. 67–118; on Machiavelli, G.E.M. Scichilone, *Niccolò Machiavelli e la «monarchia del Turco»*, in *Dispotismo. Genesi e sviluppi di un concetto filosofico-politico*, 2 vols., ed. D. Felice, Naples, Liguori, 2004², vol. I, pp. 95–125; About Montesquieu and Polybius, see M.-R. Guelfucci, «Polybe et Montesquieu: aspects d’une réflexion sur le pouvoir», *Anabases*, 4 (2006), pp. 125–139; and about Montesquieu and Machiavelli, see my *Oppressione e libertà. Filosofia e anatomia del dispotismo nel pensiero di Montesquieu*, Pisa, Ets, 2000, pp. 23, 26, 32, 50, 52, 71–72, 80, 82, 91, 102, 106, 108, 111, 154, 175, 189, 191, 208.

32 *Romains* VI, p. 644.

33 Together with the political constitution suited to prevent the abuses of power, *virtues* and *mores* were the main causes of the victory against Carthage: in fact, the latter, fighting «against Roman poverty with its opulence», was at a disadvantage because «gold and silver are exhausted, but virtue, constancy, strength and poverty never are». Romans were «ambitious from pride, the Carthaginians from avarice; the Romans

change its course, because the «republican spirit» and the « citizen spirit» are able to exist only within the context of a political community which is relatively small and homogenous. So the phase of *decline* was begun. This is confirmed by Montesquieu in the chain and concatenation of the events: if, generally speaking, «it was the greatness of the republic that caused all the trouble»³⁴, this trouble, caused by the expansion of the republic, was the middle ring between the initial damage caused by the «greatness of the City» (no longer a real community because of the excessive extension of the *ius civitatis*) and the definitive damage generated by the «greatness of the Empire»³⁵. The love of one's homeland, the religious feeling, the civic and military virtues were replaced with the greed of power and riches, the opulence and luxury and inappropriate and uncoordinated laws.

In short, the «maxims» on which the Roman Republic was based and which were the cause of its triumph on «all peoples», were replaced with opposite «maxims» signifying the decline of the *grandeur*³⁶. It was a slow but inexorable process of decline, given the cruel and inhuman *general spirit* of the Romans. The constant view of the gladiator fights and being accustomed to tyrannize over human nature, in the person of their children and their slaves, «they could scarcely know the virtue we call humanity (*humanité*)» and we owe to «gentler manners» and Christianity³⁷. This substantial lack of knowledge occurred both before and after the establishment of the Empire:

This frightful tyranny of the emperors derived from the general spirit of the Romans. Since the Romans fell under an arbitrary government suddenly, with almost no interval between their commanding and their serving, they were not at all prepared for the change by a moderation of their manners. Their fierce humor (*humeur féroce*) remained; the citizens were treated as they themselves had treated conquered enemies, and were governed according to the same plan³⁸.

The only exceptions were the reigns from Nerva to Marcus Aurelius, and namely the period where the Empire saw the flourishing of the «sect»

wanted to command, the Carthaginians to acquire. Constantly calculating receipts and expenses, the latter always made war without loving it» (*Romains* IV, p. 604).

34 *Romains* IX, p. 666.

35 *Romains* IX, p. 664: «If the greatness of the Empire ruined the republic, the greatness of the City ruined it no less».

36 *Romains* XVIII, p. 770.

37 *Romains* XV, p. 724.

38 *Romains* XV, p. 722.

of the Stoics: «It seemed that human nature – Montesquieu writes – had made an effort to produce this admirable sect out of itself — like those plants the earth brings forth in places the heavens have never seen»³⁹.

Except the years of emperors influenced by Stoicism⁴⁰, from the reign of Augustus onwards, the Roman State was in the hand of «tyrants» which in some cases were veritable «monsters». Such were Tiberius, Caligula, Claudius, Nero, Domitian, and after Marcus Aurelius' death, Commodus and Caracalla. In particular, Caracalla was «the destroyer of men» rather than a tyrant because «Caligula, Nero, and Domitian limited their cruelties to Rome, but this monster proceeded to extend his frenzy to the whole world»⁴¹.

The beginning of the end of the Western Roman Empire was irretrievably marked by the transfer of the capital to Constantinople, and namely the *asiatization* of Roman State and society. Shortly after the radical legal-political reforms promoted by Diocletian (such as the creation of two emperors and of two Caesars), a new «change in the State» took place:

[...] *another kind of tyranny* appeared, but one that was more muted. It expressed itself not in massacres but in iniquitous judgments, in forms of justice that seemed to set aside death only to dishonor life. The court was governed, and itself governed, with more artifice, with more exquisite arts, and amid greater silence. Finally, boldness in conceiving an evil action and impetuosity in committing it disappeared, and only the vices of feeble souls, and calculated crimes, prevailed in their place.

A new kind of corruption set in. The early emperors loved pleasures; these, indolence. They made fewer appearances before the military; they were idler, more under the sway of their personal entourage, more attached to their palaces, and more isolated from the empire.

As the court became more isolated, its poisonous influence became more powerful. Nothing was said, everything insinuated. All great reputations were attacked, and the ministers and military officers were constantly placed at the mercy of the sort of person who can neither serve the State nor endure others serving it with glory [...].

The sojourn of several emperors in Asia, and their perpetual rivalry with the kings of Persia, imbued them with the desire to be worshiped like the latter; and Diocletian — others say Galerius — ordered it by an edict.

As this *Asiatic ostentation and pomp* was being established, people quickly grew accustomed to it. And when Julian wanted to invest his manners with

39 *Romains*, XVI, *incipit*.

40 «The Romans owed their best emperors to it» (*ibidem*).

41 *Romains* XVI, p. 744.

simplicity and modesty, what was only reminiscent of the old morals was called neglect of his dignity⁴².

The «military art» allowed the Empire to survive for still some time; nevertheless, when the «corruption» penetrated also the army, Romans fell prey to all peoples and nations:

It was not a particular invasion that destroyed the Empire, but all of them together. Since the invasion that was all but universal under Gallus, the Empire seemed reestablished because it had not lost any territory. But it went by slow degrees from decline to fall, until it suddenly collapsed under Arcadius and Honorius [...].

Such was the end of the Western empire. Rome had extended its power because its wars came only one at a time; by unbelievable good luck, each nation had attacked it only after the previous one had been ruined, Rome was destroyed because all nations attacked it at once and penetrated everywhere⁴³.

The latest attempt, by Justinian I (482–565), to completely restore the Empire, recovering North Africa and Italy, is seen by Montesquieu as its most *brutal* and *inhumane* manifestation.

General Belisarius, this «great man [...] who followed all the maxims of the early Romans», took Carthage, Rome and Ravenna, but his victories were all «corrupted» by Justinian and by his wife Theodora, who «governed him with an authority that has no parallel in history»⁴⁴.

Not unlike the other big cities of the Empire, Constantinople was divided into two factions: the *blues* and the *greens*. Justinian «who favored the *blues* and refused all justice to the *greens*, embittered relations between the two factions and consequently strengthened both». These factions went so far as to destroy the authority of the magistrates:

The *blues* did not fear the laws, because the emperor protected them against the laws; the *greens* stopped respecting the laws, because the laws could no longer protect them.

All the bonds of friendship, kinship, duty, and gratitude were stripped away. Families destroyed themselves; every scoundrel who wanted to commit a crime belonged to the faction of the blues, and every man who was robbed or murdered belonged to the greens.

This government was even more cruel than it was unintelligent. Not content with doing a general injustice to his subjects by overwhelming them with

42 *Romains* XVII, pp. 756–758 (emphasis added).

43 *Romains* XIX, pp. 782, 788.

44 *Romains* XX, pp. 794–796.

excessive taxes, the emperor desolated them in their private affairs by all sorts of tyrannical acts⁴⁵.

But what most of all harmed the government of Justinian and nullified his efforts to recover the territories that fell into the hands of the Barbarians, was his «scheme for reducing all men to the same opinion in matters of religion», and namely his «indiscreet zeal» in spreading Christianity everywhere «with sword or the laws»⁴⁶.

This brought to the destruction of whole populations and to the desertification of large areas of the Empire. He «exterminated» the Samaritans, the Jews, the Montanists, the Manicheans, the Sabbatarians, the Aryans: «he believed he had increased the number of the faithful; he had only diminished the number of men»⁴⁷.

When Justinian died, he left the State in an «amazing weakness»⁴⁸, which then became the predominant character of the Byzantine Empire.

The history of this Empire was nothing less than «a tissue of revolts, seditions and perfidies»⁴⁹ and the *general spirit* degraded to a *small-mindedness*, causing long-term damages:

Once small-mindedness succeeded in forming the nation's character, wisdom took leave of [...] enterprises, and disorders without cause, as well as revolutions without motive, appeared.

A universal bigotry numbed the spirit and enervated the whole Empire [...]; *the faintheartedness, laziness, and indolence of the nations of Asia blended into religious devotion itself* [...];

A crude superstition, which degrades the mind as much as religion elevates it, made all virtue consist in an ignorant and stupid passion for icons, and caused men to place their entire confidence in them. And generals were known to lift a siege and lose a city in order to get a relic⁵⁰.

Montesquieu adds that the most deleterious consequence was indeed the enormous power of the «monks». They not only plunged the laity into a profound ignorance, but they also engaged in the affairs of the State. They corrupted the imperial Court and were themselves corrupted by the

45 *Romains* XX, p. 798.

46 *Romains* XX, pp. 798–800.

47 *Romains* XX, p. 800.

48 *Étonnante faiblesse: Romains* XX, p. 798. According to Montesquieu, especially this fact would make Procopius *Secret History* credible and 'objective'.

49 *Romains* XXI, p. 806.

50 *Romains* XXII, pp. 814–816.

Court. They stirred up furious and endless disputes. Not unlike the laity, they didn't understand «the nature or limits of ecclesiastical and secular power»: hence it occurred «continual aberrations». On the contrary, the «tranquillity of peoples» is only ensured by the «great distinction» between these two powers and this distinction «is founded not only on religion but also on reason and nature, which ordain that really separate things — things that can endure only by being separate — should never be confounded»⁵¹.

Despite its *small-mindedness* and its *misfortunes*, the Byzantine Empire «survived» for many centuries; this happened for various «reasons»: notably the «civil conflicts» between the Muslim peoples, which curbed their expanding growth, the Byzantine use of the *Greek fire* and, finally, the role of Constantinople as crucial *commercial junction* between East and West⁵². But in the end, the Crusades and the emergence of the Ottoman Empire drastically reduced both its economic importance and, above all, its territories.

«I do not have the courage to speak of the calamities which followed», Montesquieu cuts short, concluding his treatise with this «sepulchral metaphor»⁵³, in which we can see — in contrast with the ideology of the general progress of mankind and with the optimism towards the future prevailing during the Enlightenment — his «pessimistic wisdom»⁵⁴: «I will only say that, under the last emperors, the Empire — reduced to the suburbs of Constantinople — *ended like the Rhine, which is no more than a brook when it loses itself in the Ocean*»⁵⁵.

51 *Romains*, XXII, pp. 826–828.

52 Cf. *Romains* XXIII, pp. 830–832.

53 S. Cotta, *Il pensiero politico di Montesquieu*, p. 18.

54 S. Landucci, *Montesquieu e l'origine della scienza sociale*, Firenze, Sansoni, 1973, p. 21.

55 *Romains* XXIII, *in fine* (emphasis added).

7.
IT CONCERNS AND AFFECTS US ALL:
*ESSAY ON THE CAUSES THAT MAY AFFECT
MEN'S MINDS AND CHARACTERS*

The soul in our body
is like a spider in the web.
(Montesquieu)

Let's now turn to another important writing of this phase of the *Président's* lifetime, and namely the *Essay on the Causes that May Affect Men's Minds and Characters*. This writing was probably composed between 1734 and 1738, and namely during the same years, in which he starts drafting the *Spirit of the Laws*¹ and it is undoubtedly his most important text among those he left unpublished and unfinished.

Its importance (which unfortunately is often neglected by commentators) lies in the fact that it contains the most complete formulation of the category of the «general character of a nation» (*caractère/esprit général d'une nation*) before the definitive explanation in the third part (books XIV–XIX) of the *opus magnum*.

As well as with regard to the legal-political institutions, and also with regard to the «spirits» and «characters» of the nations (or peoples), with those must interact to be «most conformable» to nature², Montesquieu's starting point of the philosophical reflection is the observation of their «infinite diversity (*infinie diversité*)» and the Enlightenment conviction that this diversity is not the result of chance or the product «solely» of

1 In fact, the first version of the famous chapter XI, 6 of the *Spirit of the Laws* about the division and mutual control of the fundamental powers of the State dates back to these years: cf. J.-B. de Secondat, *Mémoire pour servir à l'histoire de M. de Montesquieu* (1755), in *Montesquieu. Mémoire de la critique*, textes réunis et présentés par C. Volpilhac-Auger, Paris, Presses Universitaires de la Sorbonne, 2003, pp. 253–254. About the date of the composition of the *Essay*, see C. Volpilhac-Auger, *Quelques sources du livre XIV*, in *MsEL*, II, pp. 906–916.

2 Cf. *EL*, I, 3, p. 918.

human «fancies», but that it has specific and *intelligible* reasons or causes³. In agreement with a long and well-known tradition of thinking going back to Hippocrates' *De aeribus aquis locis* (second half of the fifth century BC), Montesquieu in the *Essay* groups carefully these causes in two different orders or classes: the class of «physical causes» (or 'material', 'objective') and that of «moral causes» (or 'spiritual', 'subjective')⁴. The combined action of these two groups of causes generates the «spirits» and «characters» of nations or peoples — their *identities*, as we would say today — which reflect more or less significantly the ones of the individuals composing them:

There is in every people — Montesquieu writes in the key passage of the *Essay* — a general character (*caractère général*) that more or less leaves its stamp on the character of each individual. It is produced in two ways: by physical causes (*causes physiques*) depending on climate [...]; and by moral causes (*causes morales*), which are the combined result of laws, religion, customs and manners [...]⁵.

In the line of Locke's empiristic gnoseology, Montesquieu asserts that all «operations» of the «soul» (ideas, perception, memory, etc...) are related to «sensations» stemming from the external objects to the soul through «an animal spirit or a fluid» which is contained in the nerves: thus, as a consequence, the *state* or *condition* of the latter (namely their greater or lesser «flexibility», their quality and their consistency) is crucial for their greater or lesser conducting capacity of this «nerve fluid» or sensory stimulus⁶. These

3 Cf. «Préface» of *EL*, p. 896.

4 Cf. in particular chapter 16 of this treatise, in which the author talks about the causes of the (presumed) military weakness of Asians compared to Europeans. These causes are to be found not only in the influence of the climate (and more specifically of the «seasons», that «do not undergo any great changes either to heat or cold, or the like»), but also in the «political institutions» and especially in the despotic monarchy to which they are subjected: «For these reasons, it appears to me, the Asiatic race is feeble, and further, owing to their laws (διά τούς νόμους); for monarchy prevails (βασιλεύεται) in the greater part of Asia, and where men are not their own masters nor independent (αὐτόνομοι), but are the slaves of others (δεσπόζονται), it is not a matter of consideration with them how they may acquire military discipline» (Hippocrates, *On Airs, Waters and Places*, 16). Both these causal factors (climate and political institutions) are efficaciously resumed in the first of two Montesquieu's excerpts (written between 1738 and 1741 [see R. Shackleton, *Montesquieu*, p. 307]) of Hippocrates *De aeribus*: cf. *Extraits de lecture annotés*, in Masson, III, pp. 712–713.

5 *Essai sur les causes*, in Masson, III, p. 419.

6 *Essai sur les causes*, in Masson, III, p. 401.

ideas derive from Descartes' thought of «animal spirits». Montesquieu accepted this theory from his youth and in the *Essay* combined it with the contemporary theories about the vibration and the nervous tension⁷. In turn, the *state* or *condition* of the nerve fibres (that are responsible for the general sensibility and thus for the greater or lesser ideas 'quantity' received by the soul) is highly dependent on the external or natural environment, but also on the «physical constitution» of the bodily machine. Also in this case, the *Président* takes this theory from a long thinking tradition going back to Hippocrates and Galen and 'updated' by the Spanish physician and psychologist Juan Huarte during the Renaissance: and not by chance, in the *Essay* Montesquieu defines him as his direct precursor⁸. Therefore, the external environment and the *constitution physique de la machine* have a decisive function in the 'determination' of «infinite diversity» of the «spirits» or national «characters» of the Earth through the «ideas» received by the soul through the «sensations». These spirits and characters are mainly dependent on these «ideas» or they are their direct product.

Among the cause factors of the external or natural environment that act on the state of the fibres (tissues, blood vessels, nerves) of the human body and thus on the spirit (through the ideas) or character of peoples and individuals, Montesquieu attributes a key role — as he is going to do in the *Spirit of the Laws* too⁹ — to the *action of the air*, and namely to the

7 As is reflected in Montesquieu's allusion to the foundation of the most recent hypothesis (or doctrines) about the nervous conduction, and namely the analogy comparing nerves to the vibrant strings of musical instruments, cf. *Essai sur les causes*, in Masson, III, pp. 401–402, and about this point, R. Mazzolini, *Dallo 'spirito nerveo' allo 'spirito delle leggi': un commento alle osservazioni di Montesquieu su una lingua di pecora*, in *Enlightenment Essays in Memory of Robert Shackleton*, ed. G. Barber and C.P. Courtney, Oxford, Voltaire Foundation, 1988, pp. 214–215. About the concept of «animal spirits», it is well known that Descartes (who takes it from a long thought tradition dating back to Erasistratus and Galen) indicates the «smallest and most agitated parts» of blood, having the double function to bring to the soul the body influences and to determine the movements established by the soul: cf. R. Descartes, *Les passions de l'âme* (1649), Part I, art. 10 and 34.

8 Montesquieu, *Essai sur les causes*, in Masson, III, p. 413. The work of Juan Huarte de San Juan (1529–1588) which Montesquieu has in mind is *Examen de ingenios para las ciencias* (1575): Montesquieu was in possession of the French translation published in Lyon (1668): cf. *Catalogue*, n° 1474. In this work — which had a very wide spread — the Spanish physician and psychologist gives a renovated version of the Hippocratic-Aristotelian and Galenic theories of the four humours, insisting on the conditionings of the environment, and in particular on the ones of climate and nutrition.

9 Here Montesquieu will reproduce, with some minor changes, several paragraphs of the *Essay*, and in particular in *EL*, XIV, 2 («How much men differ in the various

*atmospheric temperature changes*¹⁰. On the basis, among other things, of a personal experiment on a tongue of a sheep whose results can be found both in the *Essay* and integrally in the *opus magnum*¹¹, Montesquieu argues that the *cold air* contracts the fibres, speeds up the blood circulation and diminishes the nerves sensitivity. On the contrary, the *hot air* relaxes the fibres, slows down the blood circulation and expands the extremities of the nerves and makes them more sensitive. In the opinion of the author, this is the cause of the radical diversity in the *physical constitution*, in the *temperaments* and *characters* of peoples who live in cold countries with respect to those who live in hot countries.

European peoples, who live toward the North, have a robust build and need for nutritious food and alcoholic beverages; on the contrary, Asian peoples, who live toward the South (according to the vague and approximate geography adopted by Montesquieu in the *Essay* and in the *Spirit of the Laws*¹²), have a slender build, eat little and drink plenty of water and abstain from alcohol, because it may cause the clumping of blood cells remaining in their blood as a consequence of the abundant perspiration due to the hot temperatures. Peoples in cold climates are constant and self-confident, but they have little vivacity and imagination

climates») and 10 («On laws related to sobriety of peoples»).

- 10 Also this idea comes from Hippocrates: it is variously repropounded (and often through direct references to the Greek physician) from travel literature and the literary or medical-philosophical writings, which are immediately preceding or cotemporary to Montesquieu. The author appears to be familiar with this kind of literature and writings. In particular, we refer to these following works: J. Chardin, *Voyages en Perse & autres lieux de l'Orient*, 10 vols., Amsterdam, de Lorme, 1711; J.-B. Dubos, *Réflexions critiques sur la poésie et sur la peinture* (1719; repr.: Genève, Slatkine, 1967); F.-I. Espiard de la Borde, *Essai sur le génie et le caractère des nations*, 3 vols., Bruxelles, Léonard, 1743; J. Arbuthnot, *An Essay Concerning the Effects of Air on Human Body*, London, Tonson, 1733 (tr. fr., *Essai des effets de l'air sur le corps humain*, Paris, Barois, 1742); J.-B. Sénac, *Traité de la structure du coeur, de son action et de ses maladies*, Paris, Vincent, 1749; H. Boerhaave, *Institutiones medicae*, Lugduni Batavorum, Linden, 1708.
- 11 In all likelihood, this experiment — which is perhaps inspired by the *De lingua* of Marcello Malpighi whose *Opera omnia* are present in the library of La Brède (cf. *Catalogue*, n° 1254) — has been conducted during 1737: this is what is suggested by R. Shackleton (*Montesquieu*, pp. 201, 305–306), on the basis of a letter sent by Montesquieu (27th June 1737) to the physicist Dortous de Mairan, who was his colleague at the Academy of Bordeaux. In this letter, he asks him to give him *quelque éclaircissement* about *une manière plus exacte de donner combien chaque microscope agrandit les objets* (*Corr.*, in *OC*, 19/2, p. 151).
- 12 See S. Rotta, *Quattro temi dell'«Esprit des lois»*, I. *Il clima* (1988), in *Eliohs*©, 2002 (< http://www.eliohs.unifi.it/testi/900/rotta/quattro_temi.html >).

and are not sensitive to pleasures; on the contrary, peoples in hot climates are inconstant and irresolute, but they are lively and sensitive to pleasures, especially sexual. Moreover, northern peoples are brave, bellicose, they love freedom and the moderate forms of government; on the contrary, southern peoples are cowardly, unwarlike and prone to slavery and despotism¹³.

According to Montesquieu, there are also many other elements acting on the body fibres and thus on the spirits and characters: on the one hand, an element linked to the 'air' factor, and namely the *winds*; on the other hand (based on a not unintentional Hippocratic association), an element linked to the 'earth' factor, and more precisely the *physical-chemical composition* of the territories¹⁴. The first ones affect our body and thus our spirit through the changes in the quality and in the air pressure (drier / more humid air, heavier / thinner air, waver / still air, etc...) ¹⁵. On the contrary, the second ones, through the mineral particles, which, with the plants and animals which we feed on, penetrate into our blood and modify the consistency and the structure of our solids and liquids.

As a consequence, peoples living on one side or beyond a mountain chain have very different moods and personalities, depending on whether or not they are exposed to winds. Mindful of his stay in Italy, Montesquieu argues that the inhabitants of Lombardy have a different mentality and a different character with respect to Italians living in the South, because the Apennines protect them against the sirocco, which lashes the South peoples, provoking in them «sluggishness» and «general uneasiness»¹⁶. According to Montesquieu, likewise, peoples living in territories characterized by a

13 This opposition, elevated by Aristotle to the dignity of a 'scientific fact' (cf. *Politics*, III, 14, 1285a 20–22 e VII, 7, 1327b 23–33) can also be seen in the *De aeribus* of Hippocrates, where the author says that in comparison to Asian peoples, the European ones «differ from one another, both as to stature and shape» and that it depends on the «seasons, which are very great and frequent», and on the fact that «the heat is strong, the winters severe, and there are frequent rains, and [...] protracted droughts, and winds». He adds that this situation brings about «frequent changes [...]. On this account the inhabitants of Europe are more courageous than those of Asia [...], and also owing to their institutions, because they are not governed by kings like the latter, for where men are governed by kings there they must be very cowardly [...].» (Hippocrates, *On Airs, Waters and Places*, 23).

14 Cf. Hippocrates, *On Airs, Waters and Places*, 24.

15 This topic was already treated also by Malebranche: cf. chap. III («Que l'air qu'on respire cause aussi quelque changement dans les esprits») of Part I («De l'imagination») of Book II of his *Recherche de la vérité* (1674–1675).

16 *Essai sur les causes*, in Masson, III, p. 405.

different physical-chemical composition, have various tempers, each quite different from one another¹⁷.

In addition to these physical-geographical (or *external* to the human being) factors, whose action on the human body and soul is described by Montesquieu through Descartes's neurophysiology in combination with the contemporary theories about vibration and nerve tension, there are also some other factors diversifying spirits and characters. These additional factors are related to the most individual components of the organism and temperament, and namely *internal* or *inherent* factors to the bodily machine, such as for instance the anatomical differences or the differences related to the variety and to the force of passions:

Life is but a series of passions, sometimes stronger, sometimes weaker, now of one kind, now of another. [...]. There are some passions that give elasticity to the fibres and others that slacken them. This is proved, on the one hand, by the strenght and power of anger, and, on the other, by the effects of fear [...]. Thus a life lived timidly or courageously over a long period of time will be that way always¹⁸.

In summary, everything that may modify the 'state' (*état*) of the 'machine' (*machine*) or, in other words, of the infinite «fibres»¹⁹ composing it (and these are *external* factors or factors *inherent* to the body machine), modifies the 'state' (*état*) of our *mind* or is reflected on the latter. Montesquieu effectively illustrates this idea through the Stoic and Heraclitean evocative metaphor of the soul as «a spider in the center of its web»²⁰:

The soul in our body — he writes — is like a spider in its web. The spider cannot move without disturbing one of the threads which stretch out from it, and, similarly, none of these threads can be moved without disturbing the spider.

17 See, concerning this, *P* 2265, including a fragment of an academic dissertation of the young Montesquieu significantly headed *De la différence des génies* (1717), that is perhaps the primary nucleus of the work which we are dealing here.

18 *Essai sur les causes*, in Masson, III, p. 410.

19 In line with the doctrine that was dominant among the physicians and the scientists of his time (Malpighi, Borelli, Glisson, Willis, Boerhaave and Winslow), whose works are part of his library (cf. *Catalogue*, nn° 1151, 1254, 1381; 1411, 1762; 1105–1106, 1245–1247, 1467; 1101, 1226–1227; 1048–1051, 1326, 3247, 3282; 1275), by the term «fibres» Montesquieu means the minor parts of the organized structures of the animal and vegetal world. As is widely known, this doctrine passed away definitely with the affirmation of the cellular theory towards the end of the Thirties of the XIX century.

20 Heraclitus, *frag.* 67a; *SVF*, II, 879 (Chrysippus of Soli).

Nor can any of the threads be touched without making another connected to it move as well. The more taut the threads, the better informed the spider. If some of the threads are slack, there will be less communication from the thread to the spider, or from one thread to another, and the fate of the spider will be almost hanging in the balance in its web²¹.

Thus, if the threads of the web (and namely the nerve fibres) are put tight, the spider-soul is quickly alerted; on the contrary, if the threads of the body-web are totally or partly loose, the reflex is inhibited and the capacity of reaction of the spider-soul is reduced or even interrupted.

Consequently, in the final words of the first part of *Essay* about the «physical causes», Montesquieu invites us to have regard for the *state* of our fibres, carefully avoiding anything that might alter or damage them (so that we would be weak, faint-hearted or stolid): the narcotics and drugs use, the abuse of sexual pleasures, the abuse of wine, of sleep, of wakefulness, of fasting or, furthermore, the continuous yells and shouts, songs and wild dancing, but also solitude: «The brain fibres are left in a state of repose, and they become almost incapable of movement [...]. There is no portion of our body whose functions can be preserved without exercise. Teeth not used for chewing decay, and were one to use only one eye, the other would become blind»²².

Nevertheless, as mentioned above and as is evident from the metaphor of the spider, which is both the receptor of all movements of his web threads and the manufacturer and the restorer, also the «moral» (or spiritual, subjective) causes shape and differentiate the spirits and the characters of nations and individuals through their action on the fibers of the bodily machine.

Indeed, these latter moral causes have an enhanced role in respect of the physical ones, as Montesquieu will reassert with force in the *Spirit of the Laws* and in the reactions to the censorships of the Theological Faculty of the University of Paris (Sorbonne): «Moral causes — he writes in another key passage of *Essay* — shape the general character of a nation and determine the quality of its mind *more* than do physical causes»²³.

21 *Essai sur les causes*, in Masson, III, p. 409.

22 *Essai sur les causes*, in Masson, III, p. 413.

23 *Essai sur les causes*, in Masson, III, p. 421. With respect to the *EL*, see XIV, 5, p. 1372, where Montesquieu uses as yardstick for evaluation of the good legislator his capacity to set himself against the bad effects of the climate: («[...] bad legislators are those who have favored the vices of the climate and good ones are those who have opposed them») and he concludes that «the more the physical causes incline mankind to inaction, the more the moral causes should estrange from it»; with respect to the answers to the censures. formulated between 1751

However, from the start of the second part of this treatise focused on the «moral causes», the *Président* states that this is true only at an advanced stage of the development of human societies, and namely only of «civilized peoples» and «nations» (in contrast to «barbarous» and «savage» peoples). The «barbarous» and «savage» peoples do not know any form of education and it is precisely for this reason that the physical-geographical factors such as «nature and the climate» rule almost alone over the savages, as we can see in the *Spirit of the Laws*²⁴. Thus, these peoples have nearly all the same spirit and the same character and individuals living among them are «rough», have «a few ways of conceiving ideas and of feeling»²⁵.

The opposite occurs obviously in the peoples and in the «civilized nations (*nations policées*)»: in this case education — which is the most important source of ideas and the most important cause of the formation and the differentiation of the characters — plays a decisive role. According to Montesquieu (who is thinking about the big European monarchies of his time), there are two essential kinds of education: on the one hand, a «particular» education received by family and school, and on the other hand, a «general» education received by the society where one lives. A good «particular» education enables one to acquire ideas: only if we have an «appropriate» number of ideas, we are able to make sensible or correct judgments and to exercise the soul's faculty of «making comparisons»; moreover, a good «particular» education enables us to enhance our ways to perceive things and events, to show us the right relationship between ideas and things, which occurs not automatically because of the «physical constitution of our machine» or of the «specific disposition» of our brain²⁶. On the contrary, a good «general» education is the result of the influence of the *general character* of the national community within which we live.

Nevertheless, in the final pages of *Essay*, Montesquieu underlines that once we have received a certain kind of education through family, school and society, another series of moral «causes» is set in motion and they may further differentiate and modify our minds and characters. For example: the kind of people we frequent, so that moderate people may educate us

and 1752, by the theologians of the University of Paris (Sorbonne), see the answer to the first one about the (assumed) dominant role that the *EL* would attribute to the climate, where Montesquieu points out on the contrary that his work 'decrees' «a perpetual triumph of morality over climate, or rather, in general, over physical causes» (*Explications données à la Faculté de Théologie*, in Masson, III, p. 651).

24 *EL*, XIX, 4, p. 1520.

25 *Essai sur les causes*, in Masson, III, p. 414.

26 *Essai sur les causes*, in Masson, III, pp. 415, 417–418.

to «mildness», whilst an «impetuous» temperament leads us to harshness. The books we read are another important element: the reading of «good» books is the same as living in good company, whilst the reading of «bad» books is the same as living in bad company and wasting our time²⁷. And, moreover, our level of education and the more or less adequate use of our knowledge or our journeys throughout the world «greatly expand our mind» and emancipate us from the prejudices of our country and of the countries we have chosen to visit²⁸.

Finally, our mind is «greatly affected» not only by the kind of reputation earned in the society we live in, but also by the stubborn or enthusiastic attachment to our opinions and the books we write and by our problematic or resolute way of life and, last but not least, by the profession we practice. Our profession may even «destroy» the «harmonious balance» of our ideas, because it leads us to believe that only the things we do are important and that only the things that allow us to gain recognition in the society are worthy of real attention²⁹.

However, as far as moral (or subjective) causes may be important and decisive, they cannot totally nullify the action of physical (or objective) causes. Nevertheless, according to Montesquieu, the action of moral (or subjective) causes may «betray» nature itself, as shown by the fact that Catholic people of Southern Europe have not only ‘sunder’ ideas about the great truths, but also a better spirit, nonetheless they are disadvantaged because of their religion: this form of religion has a visible chief and thus it requires the submission of its followers. In this sense, in comparison with the Protestant people of Northern Europe whose religion requires independence, these people are disadvantaged with regard to everything relating to the perfect knowledge of events concerning earthly life³⁰.

In accordance with his dualistic view of the human being, Montesquieu constantly preserves and confirms both causal classes (or series). Thus, he is not inclined to favour either the *climatic* (or physical or naturalistic)

27 *Essai sur les causes*, in Masson, III, pp. 423–424.

28 *Essai sur les causes*, in Masson, III, p. 424.

29 *Essai sur les causes*, in Masson, III, p. 427.

30 *Essai sur les causes*, in Masson, III, p. 423. About this (assumed) difference and superiority of European protestant peoples in comparison with the catholic ones, Montesquieu already wrote in the *LP* and in the *EL* he points it out again and with full particulars: in these pages he also reasserts the view that a religion like the protestant one, which «has no visible leader», is proper to the «spirit of independence and liberty» of the northern nations than a religion, like the catholic one, which on the contrary has a leader (XXIV, 5, pp. 1792–1794).

*determinism*³¹ or a spiritualistic approach (or *moral determinism*), as we may think after a cursory and partial reading of the *Essay* or after the extrapolation of some single statements and sentences from the *Spirit of the Laws*. In this work the theory of the ‘double causality’ will be enhanced and systematically expanded to the economic and legal fields and also included within the great and original project for a *universal science of the political-social systems*. Here Montesquieu describes the continuous ‘simultaneous presence’ of the two different levels of causality *also* in the most «developed» and «civilized» societies such as 18th century England, in respect of which Montesquieu writes these words: «I do not say that the *climate* has not in large part (*en grande partie*) produced the laws, the mores, and the manners of this nation, but I say that the *mores* and the *manners* of this nation should be *closely related* to its laws»³².

It would be a huge mistake to judge the arguments or the demonstrative hypothesis Montesquieu develops in the *Essay* in the light of the subsequent medical and physio-psychological theories. But it would also be a huge mistake to evaluate the category of the general character (or of the identity) of a people in the light of the subsequent racist and nationalist ‘encrustations’ that ‘cover’ it and that fall totally outside Montesquieu’s philosophical mentality³³. Finally, as is unfortunately so often the case, it would be certainly a mistake to underestimate the centrality of this category — in whose long and complex elaboration the *Essay* plays a crucial role — of his thought system, and the fact that it is indissolubly linked to the theory of the double *physical* and *moral* causality, and that the «spirit of the laws» itself is fully incomprehensible in its radical novelty if we don’t

31 As, for instance, Francesco Algarotti asserted in the XVIII century in his *Saggio sopra la questione se le qualità varie de’ popoli originate siano dallo influxo del clima, ovvero dalla virtù della legislazione* [1764], in *Opere del conte Algarotti*, t. III, Livorno, Coltellini, 1764, pp. 239–240.

32 *EL*, XIX, 27, p. 1550 (emphasis added). See also P 854.

33 See *Essai sur les causes* (Masson, III, p. 220) and *EL*, XIV, 2, p. 1365: «If we turn our attention to the recent wars [e.g. the War of the Spanish Succession], which are to ones we can best observe and in which we can better see certain slight effects that are imperceptible from a distance, we shall certainly feel that the actions of the northern peoples who were sent to southern countries were not as fine as the actions of their compatriots who, fighting in their own climate, enjoyed the whole of their courage». A similar idea that northern peoples, after having been transplanted in the southern ones, regardless of the assumed race to which they belong, acquire the same features (weakness, cowardice, etc...) as the southern ones, is expressed in *Romains* XX (p. 792) and in *EL*, XIV, 14 (p. 1390) with regard to the Vandals and the Visigoths, who during their invasions settled on the North African coast and in Spain respectively.

start also from ‘nerves spirit’ and from its different reactions according to the different climates³⁴. On the other hand, his fundamental thesis of the *continuity* between *physical* and *moral* aspects, between ‘material world’ and ‘human world’ and of the explanation of the *variety* of the latter *also* according to the relationships of the first one (and, more generally, between collective and individual identities and physical-geographical and historical-cultural environment) remains undoubtedly valid. And this is true especially in the present day, today more than yesterday, given the ongoing significant changes (caused by the human being) in the climate and in the hydro-geological structure of the planet and given the continuous discoveries and applications in many areas of knowledge, such as genetic engineering and biotechnology.

In the end, the ultimate meaning or the more lasting message of the *Essay* and of all aspects which will be resumed and definitively systematized in the *Spirit of the Laws*, is the fact that *everything*, in some way, *concerns* and *affects* us: the variations of the atmospheric temperature and the kind of people with whom we interact; the wind regime and the (good or bad) books we read; the air we breathe and the travels we undertake; the chemical-physical properties of the places we live in and the adopted or self-imposed way of life; the food quality and our profession... in short, all that pertains (or is related) to the natural and historical-cultural world where fate has put us or that we have chosen as our home.

34 Cf. R. Mazzolini, *Dallo 'spirito nerveo' allo 'spirito delle leggi'*, p. 221. About the success of the category of the *esprit général*, see R. Romani, *National Character and Public Spirit in Britain and France, 1750–1914*, Cambridge, Cambridge University Press, 2004, cap. I («All Montesquieu's Sons: The Place of *esprit général*, *caractère national*, and *mœurs* in French Political Philosophy, 1748–1789»), pp. 19–62.

8.
THE *SPIRIT OF THE LAWS*: THE FOUNDATION
OF A UNIVERSAL SCIENCE
OF THE POLITICAL-SOCIAL SYSTEMS

The fundamental idea of the *Spirit of the Laws*,
and of Montesquieu's whole thought of,
is human dignity.
(P. Barrière)

Bacon, Galileo and Newton had appeared;
ten years before or later,
would be the turn of Montesquieu.
(Pellegrino Rossi)

8.1. *Montesquieu against Hobbes*

And now it's time to examine closely to the *Spirit of the Laws*: this work is not only the last and most important phase in Montesquieu's *itinerarium mentis et cordis*, but also the *sum* and the *improvement* of the results achieved in the previous writings and the crowning moment of a life 'shaped by thoughts'. In fact, during the elaboration of the work, the author expands the documentation, integrating travel literature, the reading of the contemporary political works, the preparation of some various excerpts (about finances, confederations, population, history of law, etc...), the rereading of the ancient historians and the critique of modern historians about the origins of the French monarchy¹. But looking closer, the thoughts

1 First of all Henri de Boulainvilliers and Jean-Baptiste Dubos: in the book XXX of the *EL*, Montesquieu argues with their historical works (respectively, *l'Histoire de l'ancien gouvernement de la France* [La Haye, 1727] and *l'Histoire critique de l'établissement de la monarchie française dans les Gaules* [Paris, 1734]) and stigmatizes them as mere ideological writings: «The Count of Boulainvilliers and the Abbot Dubos have each made a system, the one seeming to be a conspiracy

and the ideas are enriched, become more accurate and fit better into a coherent and organic framework.

Moreover the style of the treatise is *magic*², always vivid and captivating, completely free from verbal ‘contortionisms’ and ‘icy’ deductionisms of much prior or contemporary ethical-political and legal literature. This style is also free from intellectualisms and sterile formalisms of much subsequent philosophical reflection. In short, this is an «immense work»³ characterized by an unparalleled style and written by a universal investigator.

Even today, a large part of Montesquieu’s scholars and researchers criticizes the first book of the treatise and especially the first chapter⁴, pointing out the same ‘lacks’ and the same ‘faults’ that Voltaire had already noted: this treatise would be a kind of «labyrinth» of general and abstract ideas, a book of «metaphysics» (in the worst meaning of the word) which is *incompatible* with the rest of the work and thus which may be easily *ignored* or *skipped*⁵.

On the contrary, it’s the most important book of the treatise, the *fundamentum* of all its ideas and theories, the *metaphysics* (in the best meaning of the word) on which is based the *universal science of the political-social systems* that is described here.

The most problematic aspect of the work is and has always been the definition of the «laws» as the «necessary relations deriving from the nature of things» that we can find in the first sentence of the *Spirit of the Laws*. But, most of all, the problem which besets critics and researchers is the question of the ‘sources’ on which is based the above definition of «laws»: in fact, it has not yet been possible for them to demonstrate convincingly and definitively that Montesquieu has taken it from some other author or particular text. Hence, they only make some ‘assumptions’ about this question aiming to deny the absolute originality of this definition and

against the third estate, and the other a conspiracy against the nobility» (*EL*, XXX, 10, p. 2096).

2 See G.D. Romagnosi, *Opere*, rearranged and illustrated by A. De Giorgi, 8 vols., Milan, Perelli e Mariani, 1841–1852, vol. III, 1, p. 818.

3 *P* 1868.

4 We refer especially to the always too numerous followers of Louis Althusser: in his opinion, in the book I of the *EL*, Montesquieu, after the «revolutionary» definition of the «law» as a «relationship», would plunge back «in the palest (*plus fade*) tradition» with his «eternal values» («human nature», «*relations of equity* prior to the positive law that establishes them», gratitude, belief in God etc.) (L. Althusser, *Montesquieu. La politique et l’histoire*, pp. 39–40).

5 Cf. Voltaire, *Commentario sullo «Spirito delle leggi»*, with parallel French text, ed. D. Felice, Pisa, Ets, 2011, p. 60: «Ne nous jouons point dans les subtilités de cette métaphysique [i.e. *EL*, I, 1]; gardons-nous d’entrer dans ce labyrinthe».

thus to deny the merit of the author of laying the foundations for such an idea of *law* (and of *power*) as *non-violence*, as *relation*, as something that ‘relates’ (or *binds*) human beings to one another⁶. Furthermore, with regard to the expression «necessary relations (*rappports nécessaires*)», the focus is always on the adjective *necessary* and in the way it could fall into the trap, which has been engineered by the Jansenists⁷: just after the publication of the *Spirit of the Laws*, they address some violent words of criticism to Montesquieu and they used this term as a jemmy to stigmatize the author of *Spinozism* and thus of *atheism*. As we have already seen speaking about the *Treatise on Duties*, the *Président* is anything but a follower of Spinoza or an atheist, and thus an Antichristian. And this will be irrefutably confirmed both in the *Spirit of the Laws* and in the *Defence* of this work (1750)⁸. In reality, with all due respect to the adjective *necessary*, in this context, attention needs to be paid most of all to the term *relation*, and namely to the idea of law as «what relates the human beings to God» (*religious law*) and «human beings to each other» (*human law*)⁹. In our opinion, dealing with the matter in those terms, we can also definitely solve the problem of the ‘source’ of the notion of law-relation: this ‘source’ can’t be anything other than Stoic philosophy (or rather, «religion», as proposed by Montesquieu¹⁰) according to which all human beings and events of the cosmos are *related*

6 Cf. H. Arendt, *On Revolution*, New York, Viking, 1963, pp. 150–151, 188–189, 302. The most widespread ‘assumption’ is still of Hume (D. Hume, *An Inquiry Concerning the Principles of Morals*, London, Millar, 1751, pp. 54–55): according to this assumption, the definition of *law-relationship* would come from Malebranche (*Méditations chrétiennes et métaphysiques*, IV, 8). Even assuming that this is the case, it is curious that commentators and scholars have never remember that in a *Dissertation* read at the Academy of Bordeaux (16 November 1716) and unfortunately now lost, Montesquieu thinks he «proved» that Malebranche’s «system of ideas» is «very old (*très ancien*)» (L. Desgraves, *Chronologie critique*, cit., p. 53). This confirms in some way my interpretative hypothesis of a classical derivation (and namely stoic) of this definition (cf. *infra*).

7 This is the case, for instance, of the editor of the recent edition of the *Défense de l’Esprit des lois* (1750), published in the new collection of the *OC* (t. 7, Lyon-Paris, ENS Éditions – Éditions Classiques Garnier, 2010), who, discussing about «spinozism» of Montesquieu, agrees with his commentators and he claims that in the *EL*, I, 1 the *Président* «esquisse», moreover between «incertitudes du vocabulaire» and different «difficultés», a «philosophie de la nécessité»; in other words he tends to «sacrifier la liberté à la nécessité» (P. Rétat, *Spinoza entre déisme et athéisme. Le «spinozisme» de Montesquieu*, *ibid*, pp. 142–143; emphasis added). Cf. D. Felice, *Montesquieu e i suoi lettori*, Milan-Udine, Mimesis, 2015, pp. 161–178.

8 Cf. my *Montesquieu e i suoi lettori*, pp. 83–118.

9 Cf. H. Arendt, *On Revolution*, p. 302.

10 Cf. *EL*, XXIV, 10, *incipit*.

to one another and *linked* together, since the *Logos* itself can be found in the nature, in the human community and in the individual reason¹¹. And it is not by chance that Montesquieu, as a *Stoic* and *Christian* philosopher, loved to repeat that «everything is linked, everything holds together (*tout est lié, tout se tient*)» or «everything is closely linked together (*tout est extrêmement lié*)»¹².

Nevertheless, Montesquieu takes from Stoicism also the most important ideas of the Stoic-Ciceronian *Treatise on Duties*, and most of all the idea of an «eternal justice which in no way depends on human conventions». In the *Spirit of the Laws* I, 1, the author talks in fact about *rappports de justice et d'équité* (or *rappports d'équité*) «prior to the positive law that establishes them» and speaks out against Hobbes, his *bête-noire*: «To say — as Hobbes makes — that there is nothing just or unjust but what positive laws ordain or prohibit is to say that before a circle was drawn, all its radii were not equal»¹³. On the contrary:

Particular intelligent beings can have laws that they have made, but they also have *some that they have not made*. Before there were intelligent beings, they were possible; therefore, they had possible relations and consequently possible laws. Before laws were made, there were *possible relations of justice*¹⁴.

However, Montesquieu's critical remarks to Hobbes are even more radical, because they also concern Hobbes's conception of human nature: and just because of this aspect, the English in the middle of the 18th century, will see him as the author who had best fought the philosopher of Malmesbury¹⁵.

Speaking briefly about the «state of nature» in the 2nd chapter of the 1st book of the *Spirit of the Laws*, the *Président* 'divides' it into two different 'steps' or 'moments', aiming to confute Hobbes' anthropological doctrine:

11 See P. Hadot, *La citadelle intérieure*, in particular pp. 75–98 («Le stoïcisme d'Épictète»).

12 *P* 1006, *in fine*, and *EL*, XIX, 15, p. 1334.

13 *EL*, I, 1, p. 908. Cf. *P* 460: «A thing is not just because it is the law, but it should be the law because it is just». Against Hobbes, the *Président* sings the praises of the great founders of the modern natural law: «I give thanks to Messrs Grotius and Pufendorf for having so well executed what a part of this work [*EL*] demanded of me, with that loftiness of genius which I would not have been able to attain» (*P* 1537 e 1863).

14 *Ibidem* (emphasis added).

15 *Tout le monde convient en Angleterre que personne n'a plus ni mieux combattu Hobbes que moi* (Montesquieu to Fitz-James, 8 october 1750, in Masson, III, p. 1328).

(a) the *state of nature in itself*, which is merely hypothetical¹⁶ and considers man as such, before the constitution of society and exclusively from the point of view of his needs and natural inclinations; and (b) the *society of nature* or '*natural*' *state of society*, historically existed (or historically possible), which examines man as a human being in the society together with his fellows and also from the point of view of his 'rational' faculties and his 'artificial' passions that have been acquired through society and thanks to the advancement of civilization¹⁷.

According to Montesquieu, in the *state of nature in itself*, the human being hasn't any actual knowledge, but only the faculty to know something and is only worried about «his own preservation» as a priority. Moreover, he experiences the «fear», but, despite everything, he is not led to attack his fellows, but to avoid them first and then to approach and come closer to them. Finally, he feels equal to his fellows what concerns the «weakness» (and not the «strength»): thus, unlike Hobbes believes, the aim is to live in peace and not to attack or fight them¹⁸. The *fear of death* and the *natural equality* don't lead the human beings to the war of everyone against everyone, but to live in peace with one another. In fact, according to Montesquieu, in this state peace is primarily the first natural law¹⁹: in any case, however, it's a law which is not dictated to man by reason (as Hobbes states²⁰), but which only derives from his *physical nature* (or *constitution*)²¹, like other

16 This hypothetical character is proved among other things by Montesquieu's use of the conditional verb forms in *EL*, I, 2 and is confirmed by the *Défense* in which affirms he has «supposed» the presocial human being as if it was «dropped from the clouds» (p. 2300).

17 About these two 'steps' or 'moments' of Montesquieu's «state of nature» — which are followed by the «*political* and *civil* state» (cf. *EL*, I, 3) — see J. Ehrard, *L'idée de nature en France dans la première moitié du XVIII^e siècle* (1963), Paris, Albin Michel, 1994, pp. 476, 479 and note 1; and on his line, see in particular Goldschmidt, *Anthropologie et politique. Les principes du système de Rousseau* (1974), Paris, Vrin, 1983, pp. 209 *et seq.*, and J.-P. Courtois, *Inflexions de la rationalité dans «L'Esprit des lois»*, Paris, Puf, 1999, pp. 202–204, 225, 243–247. The expression *society of nature* (*société de nature*), with reference to Montesquieu, is used by J. Ehrard, *L'idée de nature en France*, p. 479; on the contrary, the expression '*natural*' *state of society* (*état de société de nature*), is used by J.-P. Courtois, *Inflexions de la rationalité*, pp. 204, 225 e 246, note 1.

18 Cf. *EL*, I, 2, pp. 913–915; Th. Hobbes, *De Cive*, I, 2–5.

19 *EL*, I, 2, p. 912.

20 Cf. *De Cive*, II, 1: [...] the natural law is a dictate of right reason (*dictamen rectae rationis*) about what should be done or not done for the longest possible preservation of life or limb».

21 *EL*, I, 2, p. 912: «[...] laws of nature, so named because they derive uniquely from the constitution of our being».

natural laws that are listed in the *Spirit of the Laws* I, 2, such as in particular the instinct of preservation, the sexual attraction and «the desire to live in society»²².

On the contrary, in the *society of nature* or ('natural' state of society), the human beings acquire the feeling of their own «strength»; inequality is established among them and then commences the state of war, as we can read at the beginning of the 3rd chapter of the Ist book of the *Spirit of the Laws*: «As soon as men are in society, they lose their feeling of weakness; the equality that was among them ceases, and the state of war begins» (p. 916). In the abovementioned *pensée* 1266, Montesquieu further explains his thoughts:

It is only when Society is formed that individuals, in peace and plenty, having occasion at every moment *to feel the superiority* of their minds or their talents, seek to turn the principal advantages of that society in their favor. Hobbes would have men do what lions themselves do not do. *It is only through the establishment of societies that they mistreat each other and become the strongest; before this, they are all equal.*

Thus, the state of war, of which Hobbes speaks, is the condition of human beings *before* the raising of the political society and *before* the constitution of the «positive laws»: nevertheless, it's connatural *not* to the state of nature in itself (*to the human being as such*), *but rather* to the 'natural' state of society (*to the human being-in-the-society*). In other words, it's not an original state, but rather the result of changes in the constitution of the human being following the establishment of society and the development of his cognitive faculties. Thus, Hobbes is wrong in thinking that the primitive impulses of the human being are for the «commodities of domination» instead of for the «true needs»²³, such as for example the need for food or the need for satisfying sexual desires. More specifically, Hobbes is wrong in postulating as 'original', 'simple' and 'inherent' to man the idea of «empire» and «domination»: on the contrary, this idea is «complex» and it develops in the human being only together with other ideas and only when he already lives in a society with his fellows. In other words, Hobbes

22 *EL*, I, 2, p. 914. On the sources and the peculiarities of this Montesquieu conception of natural laws — identified with the natural needs and natural inclinations of man — see, in particular, S. Cotta, *Montesquieu e la scienza della società*, cit., pp. 270 *et seq.*; M.H. Waddicor, *Montesquieu and the Philosophy of Natural Law*, The Hague, Nijhoff, 1970, pp. 48 *et seq.*; J.-P. Courtois, *Inflexions de la rationalité*, cit., pp. 207–223.

23 *P* 1266.

is mistaken about the *true nature* of the *lust for power*, of the *instinct to dominate the other human beings* that possesses each of them:

Hobbes gives men first the desire to subjugate one another, but this is not reasonable. The idea of empire and domination is so complex and depends on so many other ideas, that it would not be the one they would first have. Hobbes ask, *If men are not naturally in a state of war, why to they always carry arms and why to they have keys to lock their doors?* But one feels that what can happen to men only after the establishment of societies, which induced them to find motives for attacking others and for defending themselves, is attributed to them before that establishment²⁴.

As we can see, Montesquieu blames Hobbes for an error in methodology and the same blame will be put against him by Rousseau²⁵: the mistake lies in ascribing to natural man the passions that are typical of man living in society, in confusing the natural feelings with ‘fictitious’, ‘artificial’ or ‘secondary’ impulses stemming from the reflection and the life in society — as products of history and society.

So, Montesquieu doesn’t deny war: he accepts that the *pre-political* and *pre-civil* state is a state of war, but he argues that, *originally*, it was not so. In other words, as already mentioned, he argues that war is not linked to the essence of the *human being*, but rather to the essence of the *society*. The *state of peace* or the *sociability* (and not the state of war or the unsociability) is inherent to human being. However, the state of war, which is a *social* (and not *human*) phenomenon, is the essential prerequisite to explain the genesis of «positive laws» and of the State based on them.

24 *EL*, I, 2, pp. 912–914; Th. Hobbes, *De Cive*, «Preface to the Reader»: «We see even in well-governed States, where there are laws and punishments for offenders, yet particular men travel not without their sword by their sides, for their defences, neither sleep they without shutting not only their doors against their fellow subjects, but also their trunks and coffers for fear of domestics».

25 Cf. for instance his *Discours sur l’origine et les fondements de l’inégalité parmi les hommes* (1755), in J.-J. Rousseau, *Œuvres complètes*, vol. III, éd. publiée sous la direction de B. Gagnebin et M. Raymond, Paris, Gallimard (“Bibliothèque de la Pléiade”), 1964, pp. 136, 153. Nevertheless, before Montesquieu, a similar critique to Hobbes had been formulated by Leibniz on the lines of Jakob Thomasius in his *Essais de théodicée* (1710) (that could be counted among the books of the library in La Brède: cf. *Catalogue*, n° 405 and 410): «Feu M. Jacques Thomasius disoit [...] que le principe des erreurs de ce livre [*De Cive*] de M. Hobbes étoit qu’il prenoit *statum legalem pro naturali*, c’est à dire que l’état corrompu luy servoit de mesure et de regle» (G.W. Leibniz, *Essais de théodicée*, Amsterdam, Troyel, 1710, II, § 220).

According to Montesquieu, in the *society of nature* (or in other words ‘*natural*’ *state of society*) there are two different kinds of states of war: a) the war between nation and nation (or in other words *external war*); b) the war between individuals within the social community (or in other words *civil war*)²⁶.

According to Kantian thinking, ‘sociability’ is ‘unsociable’: it is unsociable between the individuals of the same community because each of them «feels» its *strength* and tries to secure the advantages of the social union; it is unsociable between nations or sovereign States because their relationship is the *analogon* of the interindividual relations. According to Montesquieu, these two kinds of states of war «bring about the establishment» of «positive laws» (which are the expression of human *rationality*²⁷) and in particular of: «law of nations» or *international law*, to settle conflicts between nations at a global level; «political law» or *public law* but also «civil» or *private law*, to settle conflicts and relationships between rulers and ruled and private citizens within each particular political society²⁸.

Subdividing accurately the «state of nature» into two different steps or moments (a peaceful one and a warlike one), Montesquieu *revives* the point of view of Aristotle’s and Grotius’ (or of Pufendorf’s and Locke’s²⁹) political tradition, according to which *peace* (and not *war*) and *sociability* (and not *unsociability*) are inherent to the human nature³⁰ and are the

26 Cf. *EL*, I, 3, p. 916.

27 In fact, unlike natural laws, which for the *Président* come all from natural *inclinations* or *instincts*, the positive ones are grounded on reason: «Law in general is human reason insofar as it governs all the peoples of the Earth; and the political and civil laws of each nation should be only the particular cases to which human reason is applied» (*EL*, I, 3, p. 918).

28 *Ibidem*.

29 About S. Pufendorf, see his *De iure naturae et gentium* (1672), book II, chap. II, § 9 and chap. III, § 15; about J. Locke, cf. his *Second Treatise of Government*, in *Two Treatises of Government* (1690), ed. P. Laslett, Cambridge, Cambridge University Press, 1967, § 19, p. 280. About Montesquieu and the tradition of Pufendorf and Locke, see in particular S. Goyard-Fabre, *Montesquieu: la nature, les lois, la liberté*, Paris, Puf, 1993, pp. 89–91.

30 Cf. *LP XCI* (XCIV), p. 256: «I have never heard a discussion of public law which did not begin with a careful examination of the origin of societies; this seems to me ridiculous. If men did not form societies, if they sought solitude and shunned one another, one would want to discover the reason for this and find out why they lived in isolation; but they are all born connected to one another; a son is born close to his father, and remains with him: there we have a society, and also its origin».

«ontological substance of human life»³¹. Nevertheless, on the other hand, in opposition to this tradition, he *takes* Hobbes' point of view, according to which the origin of positive laws (and so of the *political and civil society*) can only be explained by supposing a state of war. In other words, we can say that he accepts Hobbes' assumption about the war conflict, but 'moved' from the human being as such to the human being within the society.

The most important consequences of the 'restauration' of the *ontological priority* of peace instead of war or, in other words, of the 'displacement' of the idea of *war* from 'nature' to 'society', from the idea of human phenomenon ('primordial') to social phenomenon ('derivative') are two in number.

The first consequence is the foundation-justification of a *moderate* or *limited* State instead of an absolute or unlimited State. Actually, starting from Hobbes' assumption of the *natural* hostility between human beings, inevitably one comes to postulate and justify the State-Leviathan or *despotic* State³², and namely a State which is the radical antithesis (negation), the 'abolition' of the state of nature as the reign of *libertas*³³. On the other hand, starting from Montesquieu's assumption of the 'unsociable sociability' or from the idea of war as *social* phenomenon, one comes to theorize the moderate or limited State, and namely a State having as its goal (as by

31 S. Cotta, «La questione della pace. Elementi di un'analisi teoretica», *Diritto e società*, 13 (1985), p. 233. Cotta specifies that since to be a human being means to be in a relationship of coexistence, peace is «the condition of the permanence of human beings in this coexistential relationship» (*ibidem*).

32 Cf., among others, J.-J. Rousseau, *Écrits sur l'abbé de Saint-Pierre*, in *Œuvres complètes*, vol. III, cit., p. 611: «Imagine-t-on jamais de justice plus absurde que celui qui peut avoir imaginé sans frémir *le système insensé de la guerre naturelle de chacun contre tous*? Quel étrange animal que celui qui croirait son bien-être attaché à la destruction de toute son espèce et comment concevoir que cette espèce aussi monstrueuse et aussi détestable pût durer seulement deux générations? Voilà pourtant jusqu'où le désir ou plutôt *la fureur d'établir le despotisme* et l'obéissance passive ont conduit un des plus beaux génies qui aient existé!» (emphasis added). About this intuition of Rousseau with regard to the functional relationship between pessimistic anthropology and despotism in Hobbes, see R. Derathé, *Jean-Jacques Rousseau et la science politique de son temps* (1950), Paris, Vrin, 1995, pp. 105–108.

33 In this respect, cf. N. Bobbio, *Diritto e Stato in Kant*, Torino, Giappichelli, 1968, pp. 68–69: in Hobbes the passage from the state of nature to the civil state is a passage from a state of «liberty» to a state of «slavery»; Id., *Teoria generale della politica*, Torino, Einaudi, 1999, p. 240: Hobbes thinks that «liberty belongs only to the state of nature, whereas the complete subjection belongs the civil state»; the latter is «the more perfect, the more it deletes the traces of the natural state», and namely the more it «eliminates» the natural liberty.

Locke) the ‘improvement’ (and not the ‘abolition’ nor the ‘destruction’) of the state of nature, ensuring human beings an authentic *liberty* and a true *peace*³⁴. To put it schematically: if the natural man is nothing but selfish passion (as *Leviathan*’s author believes), the civil society cannot make other than violence to human nature; the political power established by the «pact of union» can only be absolute or despotic. On the contrary, if the human being is by nature pacific or sociable (so as Locke and Montesquieu both believe), the civil law is ‘preformed’ in the natural law and limits itself to imposing a sanction on it. Thus, the new political authority is aware of its limits, which are to be found in its function: the fact of facilitating the free expression of human nature³⁵, which (as we shall now see) the despotism will continuously violate.

According to Hobbes, the aim of politics is the abolition of war and, thus, of human nature to which it is connatural. On the contrary, according to Montesquieu, the aim of politics is only to *mitigate* or to *moderate* war, as war (such as passions on which it is frequently based) is inseparable from collective life. As Raymond Aron says: «If war is a *human phenomenon*, we can dream of *absolute peace*. If war is a *social phenomenon*, we simply arrive at *the ideal of moderation*»³⁶.

Thus, according to Hobbes and Montesquieu, the starting point to formulate the concept of ‘politics’ is always human nature. Nevertheless, Hobbes’ nature is naturally warlike, whereas Montesquieu’s nature is only socially warlike: in the first case, nature is ‘crushed’ in the gears of the great machine that is the unlimited or absolute State (in a *Leviathan*-State the free and passionate ‘human nature’ may no longer exist). On the contrary, in the other case, human nature is intrinsically peaceful and so it must be ‘protected’ and ‘enhanced’ (both in its *liberty* and in its *conflicting passions*³⁷) through the complex and sophisticated system of ‘partition’

34 Cf. *Romains* IX, p. 668.

35 Cf. S. Cotta, *Il pensiero politico di Montesquieu*, cit., pp. 22–23, 27–33. About the *conformity* of the civil authority with the natural law, see for instance *P* 883: «The authority of princes and magistrates is not only founded on civil law, it is also founded on natural law. Since anarchy is contrary to natural law (because the human race is unable to survive it), the magistrates’ authority, which is opposed to anarchy, must be *in conformity* with it» (emphasis added).

36 R. Aron, *Main currents in sociological thought*, vol. I, *Montesquieu, Comte, Marx, Tocqueville. The Sociologists and the Revolution of 1848* (1965), New York, Anchor Books-Doubleday, 1968, p. 57.

37 Unlike Hobbes, Montesquieu praises passions for example when he talks about society and the *whig* and *tory* parties of England of his time: «As [in this nation] all the passions are free there, hatred, envy, jealousy, and the ardor for enriching

and mutual control of powers, and namely through a moderate or limited government. As a consequence, Hobbes and Montesquieu are exemplary two fundamental models of the modern and contemporary political and legal thought: on the one hand, the absolutist and despotic thought, aiming to strengthen the power of State (its *authority*) at the expense of the individual (of his *liberty* and *passions*), and, on the other hand, the liberal and moderate thought, aiming to concretely defend the individual and his human essence (*in primis*, his liberty as the competitive but not destructive acting) from the interference of power (or of *authority*)³⁸.

The second important consequence concerns the idea of war and peace (and specifically of *social peace*) not as absolute values (one negative, the other one positive), but as *relative and instrumental* values. As regards to *war*, this form of ‘relativization’ allows Montesquieu to take back and to relaunch the classical and medieval theory of the ‘just war’ (the so-called ‘defensive war’, but also the *insurrection* as a «remedy» for the abuse of power³⁹ and the Spartacus’ war, which the author describes only in private notes⁴⁰). Moreover, this form of ‘relativization’ also allows Montesquieu to theorize international law assuming as overriding his idea the first law of nature postulating peace; on the contrary, Hobbes cannot speak about the international law because of his principle of *inter arma silent leges*, or, similarly, of the war as the *absolute evil*⁴¹. In this context, we may think to

and distinguishing oneself would appear to their full extent, and *if this were otherwise*, the state would be like a man who, laid low by disease, has no passions *because he has no strength*. The hatred between the two parties would endure because it would always be powerless. As these parties are made up of free men, if one party gained too much, the *effect of liberty* would be to lower it while the citizens would come and raise the other party like hands rescuing the body» (*EL*, XIX, 27, p. 1550; emphasis added). About this topic, see S. Cotta, *Separazione dei poteri e libertà politica*, in *Leggere «Lo spirito delle leggi» di Montesquieu*, vol. I, pp. 227–233.

- 38 Thus, opposite to Hobbes, who fights for the «authority» against «liberty», Montesquieu sides with «liberty» against «authority», or, better, against the irresistible inclination of men to abuse the power. See, concerning this, my *Los orígenes de la ciencia política contemporánea. Despotismo y libertad en el «Esprit des lois» de Montesquieu*, Madrid, Biblioteca Nueva, 2012, pp. 208–209.
- 39 Cf. *EL*, VIII, 11, p. 1148. In *Romains XI*, Montesquieu claims that the assassination of Julius Caesar was a «divine action» (p. 692).
- 40 *P* 174: «Spartacus’s war was the most legitimate ever waged»; *P* 2194: «Servile war! The most just that has ever been undertaken, because it meant to prevent the most violent abuse of human nature ever engaged in».
- 41 *De cive*, V, 2. See S. Goyard-Fabre, «Le silence de Hobbes et de Rousseau devant le droit international», *Archives de philosophie du droit*, 32 (1987), pp. 59–69.

Montesquieu's condemnation of the right to enslave the populations who have been conquered⁴² or the general principle that should inform the *ius gentium*, namely that «various nations should do to one another in time of peace the most good possible, and in times of war the least ill possible»⁴³. With regard to *social peace*, its relativization allows him to illustrate it (in opposition to Hobbes) not as a suppression of any conflict and dissension, also at the level of ideas, or in other words, not as an absolute order and quiet⁴⁴ (comparable, in his opinion, to the *cemetery peace* dominating in the despotic nations⁴⁵), but rather as a kind of *harmony deriving from the dissonances*⁴⁶, as a *dynamic and conflictual balance* among different forces and interests, finally as the product of the political, social and cultural pluralism.

8.2. Despotism and liberty

It is well known that the *Spirit of the Laws* introduce many innovations in the field of the legal-political and social-philosophical studies. One of the most important and prominent innovation is the idea of despotism as an autonomous form of State. For Aristotle and Machiavelli, despotism is a *species* of monarchy⁴⁷, whereas Montesquieu in the *Spirit of the Laws*

42 Cf. *EL*, X, 3 and XV, 2, pp. 1190, 1396–1398.

43 *EL*, I, 3, p. 916.

44 The supreme good that Hobbesian State has the task of realizing is «not progress attained through conflict [...] but order pure and simple [...]. Hobbes saw in every conflict, even at the level of ideals, a cause of dissolution and death. He saw in the smallest dissension a seed of discord which ruined the State» (N. Bobbio, *Thomas Hobbes*, pp. 66, 71; emphasis added)

45 See *Romains* IX, p. 668: in the Asiatic despotism «the worker, the soldier, the lawyer, the magistrate, the noble are joined only inasmuch as some oppress the others without resistance. And, if we see any union there, it is not citizens who are united but dead bodies buried one next to the other» (emphasis added).

46 Cf. *ibidem*, pp. 668–670: «What is called union in a body politic is a very equivocal thing. The true kind is a union of harmony, whereby all the parts, however opposed they may appear, cooperate for the general good of society — as dissonances in music cooperate in producing overall concord [...]. It is as with the parts of the universe, eternally linked together by the action of some and the reaction of others» (emphasis added). See S. Cotta, *La nascita dell'idea di partito nel secolo XVIII* (1956), in Id., *I limiti della politica*, Bologna, il Mulino, 2002, pp. 51–63.

47 See Aristotle's *Politics*, III, 14, 1285a-b, where it is possible to distinguish five different kinds of monarchy, among which that «of many barbarians», who are inclined to it by nature; see Machiavelli's *The Prince*, IV, where he claims that

describes it as a separate and specific *kind* of government, like the republic and the monarchy. Aristotle and Machiavelli ‘lower’ and ‘degrade’, so to speak, despotism to a *subspecies* or a *subcategory* of the monarchy; on the contrary, Montesquieu ‘raises’ or ‘promotes’ it to the dignity of a *primary and fundamental* form of government; and this, above all in order to have — once he was given the audacious goal to account for *all societies* and *States* of the history — a political category for interpreting or explaining *also* the ancient and modern extra-European social and political systems, and in particular the Asian ones, having been only partially included in the studies of political sciences until then. The three forms of government that are theorized in the *Spirit of the Laws* (republic, monarchy and despotism) are based on two elements: their «nature» and their «principle». The «nature» of a government is «that which makes it what it is», its «particular structure», and namely its constitutional structure; on the contrary, the «principle» is «that which makes in act», «the human passions that set it in motion»⁴⁸, and namely the psychological motives which lead the members of a State to do their duty, and first of all to obey the laws, and consequently to ensure the subsistence and the durability of the State itself.

Principle — or *ressort* («spring»), as well Montesquieu often calls it with a mechanistic metaphor⁴⁹ — of the republic is the *political virtue*, the monarchy is the *honor* (or *sense of honor*), the despotism *crainte/terreur*⁵⁰, or the *sense of anxiety* or *insecurity* that pervades all those living in a despotic State.

On the contrary, with regard to *nature*, the republican government is «that in which the people as a body, or only a part of the people, have sovereign power»; the monarchical government, «that in which one alone governs,

there are two different kinds of «principalities»: the first one, where only one person is the «prince» and the others are only «servants» (such as for example the «monarchy of the Turk», and namely the Ottoman Empire), and the second one, where the prince rules with the intermediation of the aristocracy, such as for example the French monarchy of the XVI century. See M.P. Mittica – S. Vida, *Dispotismo e politica in Aristotele*, and G.E.M. Scichilone, *Niccolò Machiavelli e la «monarchia del Turco»*, in *Dispotismo*, t. I, respectively pp. 1–31 and 95–125.

48 *EL*, III, 1, p. 946.

49 E.g. *EL*, *Avertissement de l’Auteur* e III, 3, 5–6, 9–10, pp. 896, 948, 956, 960, 966.

50 Although very rarely, Montesquieu uses also the term *terreur*, such as for instance in *EL*, VI, 9, where indeed he writes: «Severity in penalties suits despotic government, whose principe is *terror* [...]» (p. 1075). As we know, with references to Montesquieu, H. Arendt will consider *terror* as the basis of the totalitarian State: cf. the last chapter («Ideology and terror») of his *The Origins of Totalitarianism* (1951, 1958), San Diego-New York-London, A Harvest Book, 1976, pp. 460–479.

but by fixed and established laws»; and finally despotic government that in which «one alone, without law and without rule, draws everything along by his will and his caprice»⁵¹.

We can see that Montesquieu uses simultaneously two different criteria to define the «nature» of the three forms of government he describes and these criteria are found in the Aristotelian and Platonic descriptions of the various forms of government⁵². These two criteria are the following: the descriptive and non-evaluative criterion describing *who* the rulers are (that is the *number* of people being in power) and the axiological criterion describing *how* the rulers *exercise* the power. According to the first criterion, the author distinguishes between the governments having only one ruler (monarchy and despotism) and the governments (republic) where power is in the hands of more than one person. In this second case, the republic may be aristocratic (where power is in the hands of a part of the people) or democratic (where power is in the hands of all people)⁵³. According to the second and most important criterion, the author opposes Hobbes⁵⁴ and radically distinguishes between the two monocratic forms of government: on the one hand, the monarchy, where the sole holder of power *exercises* it according to *lois fixes et établies*, and on the other hand the despotic government, where a single person rules according to *ses volontés et ses caprices*. The monarchy and the despotism are set against each other not according to the *title*, but only according to the *way the power is exercised*. More specifically, it must be distinguished between the government where the supreme power is exercised according to the laws and the government where the power is exercised according to the will of the ruler being in power. We can also speak about *legal* and *illegal* or *arbitrary* exercising of power.

In the *Spirit of the Laws*, Montesquieu describes the characteristics of the laws and in particular he illustrates the idea of *fixity*: laws are ‘constant’, ‘stable’ and ‘permanent’. In the monarchy, laws are precisely ‘established’ and ‘fixed’; on the contrary in the despotic government laws

51 *EL*, II, 1, p. 922.

52 Cf. Platone, *Statesman*, 291d–292a, 302c–303c; Aristotele, *Politics*, III, 7, 1279a 23–b 11.

53 Cf. *EL*, II, 2, p. 922.

54 For Hobbes the only objectively valid criterion to distinguish or to classify the different forms of state is the *quantitative* or *numerical* one and whence the pernicious *separation* between *knowledge* and *judgment*: cf. *De Cive*, VII, 1–2, and *Leviathan*, XIX.

are «only the momentary and capricious will of the sovereign»⁵⁵. Thus, in this case, laws are rather momentary and temporary decrees deriving from the mere capricious will of the despot. As a consequence, it is correct to say that despotism and monarchy are opposed: on the one hand, we have an *arbitrary form of government*, and on the other hand we have the *government of laws*.

Nevertheless, in his analysis of the different forms of State, Montesquieu's point of view is not so much legal as political and sociological and aims to investigate the concrete political and social forces characterizing and embodying the State institutions. In this context, also the notion of the *nature* of a government must be seen according to a social point of view.

In the pages describing the «fundamental laws» of monarchy, indeed, Montesquieu defines them as «intermediate, subordinate, and dependent powers»: more precisely, the first great model of modern monarchy he describes in the *Spirit of the Laws* (and namely the continental or French monarchy⁵⁶) is characterized by the privileged classes of aristocracy, of clergy and *noblesse de robe* of judiciary Parlements, or in other word by a group of concrete social and political forces whose function is to 'hold back' or to 'slacken' the power of the monarch in order to prevent him from ruling at his own whim⁵⁷. These laws and thus also these social and political forces don't characterize the despotism at all: the despotism is characterized by the mere subjective caprice and it's a form of government where the exercise of power is arbitrary just because it is not limited by fundamental laws, and namely by some concrete social and political forces or by some countervailing powers.

However, this does not mean that this exercise of power is arbitrary or absolute in all respects as commonly believed.

According to Montesquieu, like all societies, the despotic form of government should have «something fixed (*quelque chose de fixe*)»⁵⁸, something stable or permanent on which to build its subsistence. And it is religion that has this stability, as there is only the constantly changing will

55 *EL*, II, 4; V, 16; XXVI, 2: pp. 942, 1044, 1858.

56 In the *EL*, the French monarchy is not associated to despotism, as is the case in the *LP*, but to a monarchy tending to despotism (*qui va au despotisme*: *EL*, II, 4, p. 940). See my *Los orígenes de la ciencia política contemporánea. Despotismo y libertad*, chap. II («Las formas del absolutismo europeo»), pp. 93–114.

57 Cf. *ibidem*, where he defines these forces as the «mediate channels (*canaux moyens*)» through which the «power» of the monarch «flows; and *EL*, V, 10, pp. 1022–1024, where he points out the «slowness» and the «reflection» that is introduced especially by the judiciary Parlements in the exercise of the governing activity.

58 *EL*, XXVI, 2, p. 1858.

of the despot⁵⁹. Instead of laws, the religion takes on great importance in the despotic form of government, just because its laws compensate for the lack of the fundamental or constitutional laws and form a kind of «permanent depositary»⁶⁰, and namely just something «fixed» that is indispensable to the existence of any government⁶¹.

Here Montesquieu states one of the most important theories about despotism. This theory stresses the prominent role of religion in the *nature* of this form of government: through the ‘substitution’ of the fundamental laws, religion ‘fixes’ it, moderates his arbitrariness or, in other terms, regulates it by means of ‘fixed’ and ‘established’ laws (even if in a limited way). Montesquieu insists on this ‘moderating’ function of religion in several places of his work and in particular in the 10th chapter of the IIIrd book of the *Spirit of the Laws*, which is dedicated to the analysis of the concept of obedience in the different forms of government. Here the author states that only the religious laws may oppose the orders of the despot, just because they «are of a superior nature», they are divine laws and they «bind the prince as well as the subjects»⁶².

As is widely known, in addition to the revolutionary tripartition of governments, from the first books of his masterpiece Montesquieu re-proposes the bipartition of these last ones and distinguishes between moderate and despotic governments (cf. *Persian Letters*). In the tripartite classification he analyzes the different forms of governments especially according to their *nature* and to their fundamental *principles*; on the contrary, in the bipartite classification, he investigates them in relation to the *quantum* of political liberty that each government may produce according to its peculiar organization of the powers.

In relation to the citizen, the political liberty is the «security» or rather, the «opinion» each one has of his «security (*sûreté*)»⁶³. According to

59 «There are States in which the laws are nothing, or nothing but a capricious and transitory will of the sovereign. If, in these States, the laws of religion were of the same nature as human laws, the laws of religion would also be nothing; *however, it is necessary in society for something to be fixed, and religion is that fixed thing*» (*EL*, XXVI, 2, p. 1858; emphasis added).

60 *EL*, II, 4, p. 942.

61 According to Montesquieu, if it is not religion that is something «fixed» that is indispensable to the existence of the despotism to substitute the fundamental laws, this fixed thing are «customs (*coutumes*)», or «mores (*mœurs*)», or «manners (*manières*)»: e.g. *EL*, II, 4; XIX, 12, pp. 942, 1528.

62 *EL*, III, 10, pp. 964–966. Cf. also *EL*, XII, 29, p. 1326; XXIV, 2, p. 1856; and XXIV, 14, p. 1806, where Montesquieu defines religion as «the greatest spring there is among men».

63 *EL*, XI, 6; XII, 1–2: pp. 1218, 1278.

Montesquieu, such a liberty (conceived as a psychological security) may be accorded only if it is not an *abuse of power*: in other words, this may be possible only in a State whose political constitution establishes the distribution of powers among the different political and social forces, so that the one force limits the power of the other one⁶⁴. This kind of distribution and reciprocal limitation of the power may be realized in the European continental monarchies (in particular the French monarchy, taken as their model), but not in the Ottoman Empire, which is described by Montesquieu as the prototype of the Asian States, based on the *abuse of power (despotism)*.

In the famous 6th chapter of the XIth book dedicated to the «constitution of England», Montesquieu writes:

In most kingdoms in Europe, the government is moderate (*modéré*) because the prince, who has the first two powers [the legislative and the executive power], leaves the exercise of third [the judiciary power] to his subjects. In Turkey, where the three powers are united in the person of the sultan, an atrocious despotism (*affreux despotism*) reigns (p. 1220).

In those cases where also the judiciary power is united in a single person, there is no moderation of the power and thus no *quantum* of political liberty. As a consequence, in relation to its «nature», despotism is a *not moderate nor free* State: it's *structurally* or *constitutionally* unable to produce even the minimum degree of political liberty, and namely liberty conceived as legality or formal security. On the contrary, this minimum degree is guaranteed in the French monarchy through the judiciary function of parliaments given to the *noblesse de robe*, when different social forces are put in charge of the elaboration and application of the law.

It is obvious that the distance of the despotic constitution from other types of monarchic constitution increases as increases the separation of the three fundamental State powers (i.e., when it is separated not only the judiciary, but also the legislative and the executive powers). This is the case for example of the great model of the modern monarchy Montesquieu describes in the *Spirit of the Laws*: more specifically, this is the English or insular monarchy, where through a complex and sophisticated system of checks and balances, may be guaranteed not only liberty as formal security but also liberty as substantial security (and namely an «extreme political liberty [*liberté politique extreme*]»), as we can read in XI, 6, p. 1236) by

64 Cf. *EL*, XI, 4, p. 1216.

virtue of the contribution to the formulation of the law of all politically prominent social forces.

The different monocratic forms of State, despotism and monarchy in all its species, the immoderate or unlimited government (which is structurally unable to ensure liberty as legality) and moderate or limitate governments (which are able to ensure a quantum more or less ample of political liberty) have a solving criterion that distinguishes them. This criterion is the «form of the constitution» or in other words the *concentration/separation of powers*, and not «accidental things», as the moral qualities of the ruler (his vices and virtues), nor «extrinsic things», as the lawfulness or unlawfulness through which he gains power⁶⁵.

It is clear that Montesquieu appreciates and approves limited or moderate forms of governments and censures and blames the unlimited and immoderate ones because they are *constitutionally* and *naturally* unable to produce the fundamental political value: liberty⁶⁶. Being clearly the exact opposite of Hobbes's thought, he describes the second ones as «monstrous»⁶⁷, namely, he describes as «monstrous» the *concentration* of powers (and not its *distribution*), that concerns not only the three fundamental powers of State (legislative, executive and judiciary), but also the spiritual or ecclesiastical one.

65 See *EL*, XI, 9, pp. 1240–1242: «An awkwardness is clearly seen in Aristotle's treatment of monarchy [*Politics*, III, 14, 1285a-b]. He establishes five kinds: *he does not distinguish among them by the form of the constitution but by accidental things*, like the virtues or the vices of the prince, or by *extrinsic things*, like the usurpation of the tyranny or succession to it. Aristotle includes in the list of monarchies both the empire of the Persians and the kingdom of Lacedaemonia. But who does not see that the one was despotic State and the other a republic? The Ancients, who did not know of the distribution of the three powers in the government of one alone, could not achieve a correct idea of monarchy» (emphasis added).

66 «Liberty, that good which makes for the enjoyment of other goods» (*P* 1574).

67 *EL*, III, 9, p. 962. Cf. Th. Hobbes, *Leviathan*, II, 29: «In the kingdom of God there may be three persons independent, without breach of unity in God that reigneth; but where men reign, that be subject to diversity of opinions, it cannot be so. And therefore, if the king bears the person of the people, and the general assembly bear also the person of the people, and another assembly bear the person of a part of the people, they are not one person, nor one sovereign, but three persons, and three sovereigns. To what disease in the natural body of man, I may exactly compare this irregularity of a commonwealth, I know not. But I *have seen a man, that had another man growing out of his side, with an head, arms, breast, and stomach, of his own: if he had had another man growing on his other side, the comparison might then have been exact*» (*Leviathan*, ed. M. Oakeshott, New York, Simon and Schuster, 2008, p. 244; emphasis added)

In the *Spirit of the Laws*, in the 8nd chapter of the XXVth book dedicated the “pontificate” (the supreme religious institution) we can read:

In monarchy, where one cannot separate too much the orders of the State and where one should not bring together all the powers in the same head, it is good for the pontificate to be separated from the empire [i.e. *summum imperium, summa potestas*]. The same necessity is not encountered in despotic government, whose *nature is to unite all powers in the same person* (p. 1840; emphasis added).

Unlike the monarch, the despot (as the sovereign described by Hobbes⁶⁸) has both the supreme political power and the supreme ecclesiastic power, is both the supreme civil authority and the supreme religious authority, both the supreme political leader and the supreme religious leader. However, this does not mean that the despot may consider religious laws as his own laws and as the «effects of his will»; if that were to happen, they would ‘decay’ to the level of human laws and no longer constitute a limit to his own will. To prevent this «inconveniency», there needs to be some «monuments of religion», such as some sacred books (*Koran, Vedam, Chinese Classics*, etc.) «which fix and establish it» and «to which [the despot] himself must conform»⁶⁹.

In this aspect of the total concentration of powers emerges the «structural core», the «most effective connotation» of despotism: «totality»⁷⁰. The despot is himself all State power, the ‘totality’ of the State («he is the laws, the State, and the prince»⁷¹): it’s all concentrated and identified in his person (he «direct[s] everything entirely to himself, [...] to his own person»)⁷². From the point of view of power, there is nothing but him, the rest is the nothingness, the vacuum, the *multitudo*, the politically inert mass of the subjects, which is ‘depowered’ or ‘impotent’.

To sum up, we can say that against a complex monarchic constitution (with a prince at the summit of the State and under him a plurality of political and social forces whose function is to ‘mediate’ and moderate his power),

68 We can think to the famous engraved title-page of the original edition of the *Leviathan* (London, Crooke, 1651), where the supreme power is represented as a monarch composed by little men and having the sword (as the symbol of the temporal power) in the right hand and the pastoral (as the symbol of the spiritual power) in the left one.

69 *EL*, XXV, 8, pp. 1840–1842.

70 S. Cotta, *Il pensiero politico di Montesquieu*, cit., p. 70.

71 *EL*, V, 14, p. 1030.

72 *EL*, VIII, 6, p. 1144.

there is a simple and ‘inarticulate’ despotic constitution, where power is concentrated in the State and in particular in the hands of the person having the power (between the despot and his subjects there is nothing: no social intermediate class or group through which his power may be slackened). Once again, more briefly, against a pluralist political form of government (a *mixed government*), there is a monocratic political government, a ‘monistic’ form of government; against pluralism (Hobbes’ idea of *monstrum*⁷³), there is the monism (Montesquieu’s idea of *monstrum*).

It’s surely true that the pluralism of the French monarchy described in the *Spirit of the Laws*, is a feudal and corporate one. However, it is important for our discussion specially to point out not the concrete political and social forces to which he gives the different powers of the State, but rather the proposed constitutional models, and namely on the one hand a ‘pluralistic’ and ‘liberal’ constitution, and on the other hand a ‘monistic’ and ‘totalitarian’ constitution. The first one produces liberty, while the latter not.

Nevertheless, despotism is not only characterized by the absence of *political liberty*, but also by the lack of *civil liberty*, because the despot is the holder both of the *imperium* and of the *dominium*, because he is the owner of all his subjects’ goods, so that these subjects are politically and socially slaves⁷⁴. Through this theme, Montesquieu takes up and develops another key subject that is present from the beginning⁷⁵ in the history of the concept of despotism or in its substitutes and equivalents, that the argument of the relationship between rulers and subjects as a relationship similar to the one between master (*despotes*) and slaves. The opponents to Sun King’s absolutism emphasize the political element of the notion of despotism; on the contrary, in his «great work synthesizing the political wisdom of the past ages»⁷⁶, Montesquieu restores also the other element associated to this notion since ancient times and namely its economic and social aspect. Despotism is a form of government based not only on the political arbitrariness, but also on the absence of any civil guarantee for the subjects’ goods. Franco Venturi says that despotism is the negation (or the violation) both of the «political law» and of the «social law»⁷⁷. To sum

73 See note 67.

74 Cf. *EL*, V, 14 and VI, 1, pp. 1032, 1058.

75 See Plato, *Laws*, III, 697c–698a, and Aristotele, *Politics*, I, 6–7, 1255b 5–20; III, 14, 1285a 17–22; III, 17, 1287b 36–40; VII, 7, 1327b 26–29.

76 F. Venturi, *Despotismo orientale*, «Rivista storica italiana», 72 (1960), p. 119 (trans. in *Journal of the history of ideas*, vol. 24, no. 1 [Jan.-Mar., 1963], p. 134).

77 *Ibidem*, pp. 134–135.

up, we can say that despotism is the transformation of human beings into economic instruments of the despot's will. In the first chapter of the XVth book, Montesquieu writes that in «despotic countries, where one is already in *political slavery*, *civil slavery* is more bearable than elsewhere. Each one there should be satisfied to have his sustenance and his life. Thus, the condition of the slave is scarcely more burdensome than the condition of the subject» (p. 1395; emphasis added).

Political slavery and civil slavery, political despotism and social despotism give a *precarious spirit*⁷⁸, whose effects are the tendential *destruction* of all economic activities, and namely the *desertification* of the territories where they put their roots. In the 13nd chapter of the Vth book, Montesquieu writes: «When the savages of Louisiana are desirous of fruit, they cut the tree to the root, and gather the fruit. In this we behold an emblem of despotic government» (p. 1028). Here he is referring to the self-destructive tendency (and particularly economic) of this form of government, which is in fact a *deadly* government, aiming to turn into a desert the natural environment where it reigns. A few pages on, Montesquieu portrays another famous image of this form of government: «Under this sort of government nothing is repaired or improved. Houses are built only for a lifetime, one digs no ditches, plants no trees; one draws all from the land, and returns nothing to it; *all is fallow, all is deserted (tout est en friche, tout est désert)*»⁷⁹.

As a consequence, the *harshness* of the government and the precariousness of private fortunes are the fundamental cause of the economic misery and backwardness which characterize nations ruled by a despot⁸⁰; conversely, the *goodness* of government and the security of the ownership of properties are the fundamental cause of the prosperity and of the economic development which characterize the populations of moderate nations⁸¹.

One of the recurring motives in Montesquieu's writings is the positivity he attributes to human acts and works, as against «rest», «inaction» and «laziness»⁸².

78 *EL*, XXIV, 11, p. 1802.

79 *EL*, V, 14, p. 1034 (emphasis added).

80 Cf. *EL*, XX, 3, p. 1574, and *P* 1839.

81 Cf. *LP* CXVIII (CXXII), p. 334; *EL*, XVIII, 3, p. 1474 («Countries are not cultivated in proportion to their fertility, but in proportion to their liberty»); *EL*, XXI, 16, p. 1660 («[...] experience itself has made known that only goodness of government brings prosperity»). See N. Machiavelli, *Discourses on Livy*, II, 2, where «living in freedom» / economic development are opposed to «living in servitude» / economic stagnation, and eastern monarchs are defined as the «destroyer[s] of countries and dissipator[s] of all human civilization».

82 E.g. *EL*, XIV, 2, 4–7, 9; XV, 11: pp. 1364, 1372–1378, 1410.

Acts and works are the result of a moderate or free form of government; on the contrary, rest, inaction and idleness are the result of despotism. These two famous and clear images illustrating the tendency to the destruction of all economic activities in the despotic forms of government (because of the predomination of political arbitrariness and uncertainty of properties) are not isolated cases. There are, in fact, many other passages in the *Spirit of the Laws* that may confirm this point of view. In the 2nd chapter of the XIIIth book the author writes that «if an arbitrary power removes nature's rewards, the [...] *inaction* appears to be the only good»⁸³; and in another passage of this work, he states that an «absolute government produces *idleness*»⁸⁴.

To sum up, it seems to us that Montesquieu clearly points out the following connections: on the one hand, *political liberty – property – activity – economic dynamism* and on the other hand *despotism (or political slavery or absence of political liberty) – absence of property (or civil slavery or absence of civil liberty) – passivity – economic stagnation*. It is hardly necessary to emphasize that the first connection is one of the most typical elements of the liberal thought⁸⁵. As a consequence, albeit with a great deal of caution⁸⁶, we may say that Montesquieu describes despotism as the opposite of Bourgeois world, as an antithetical government which is incompatible with the capitalist socio-economic formation.

However, *slavery* and *passivity* (as well as *liberty* and *activity*) are the product not only of the political system and of the system of property ownership, but also of geographic and environmental factors, such as climate. And, as we have already highlighted in relation to the *Essay on the Causes*, Montesquieu comes back to the illustration of the theme of climate in four books of his *opus magnum*⁸⁷ in an organic and systematic way and reconnecting also here to the Greek thought.

83 *EL*, XIII, 2, p. 1332 (emphasis added).

84 *EL*, XIX, 27, p. 1562 (emphasis added).

85 Among the liberal precursors of Montesquieu, it should be sufficient to recall J. Locke and his obstinate emphasizing of the connection between liberty (property) and economic development (e.g. *Second Treatise of Government*, § 42, pp. 315–316); among his followers we can mention for instance A. de Tocqueville (*Démocratie en Amérique*, in Id., *Œuvres, papiers et correspondance*, 2 vols., éd. J.-P. Mayer, Paris, Gallimard, 1951, vol. II, p. 146).

86 At economic level, Montesquieu's reflection does not reveal an adequate awareness of the modern processes of accumulation of wealth: cf. S. Rotta, *Demografia, economia e società*, in *Leggere «Lo spirito delle leggi» di Montesquieu*, vol. II, pp. 499–513.

87 Precisely books XIV–XVII. However, in various other parts of the *EL*, we can see several more or less wide and explicit references about the matter of the influence of the climate factors on the character of the peoples and on their political-legal

In brief, we can affirm that the first connections are the effect of hot climates (Asia, Africa and American regions close to the equator); on the contrary, the second connections are the effect of temperate climates which are typically those of Europe. Temperate climates favour physical and moral strength and make human beings more enterprising and reactive and prone to liberty. On the contrary, there are countries where the excess of heat enervates the body, and renders men so slothful and dispirited that «nothing but the fear of chastisement can oblige them to perform any laborious duty: slavery is there more reconcilable to reason; and the master being as lazy, with respect to his sovereign, as his slave is to him, this adds a political to a civil slavery»⁸⁸.

Slavery and liberty (and hence the political regimes based upon them) are geographically bounded and limited; they occupy specific areas or portions of the planet which must be kept distinct from each other: «[...] as all men are born equal, slavery must be accounted unnatural, *though, in some countries, it be founded on natural reason* [i.e. the climate]»⁸⁹; in this case Montesquieu is speaking about all non-European and Asian countries and he underlines that Asia is the «part of the world where absolute power is in some measure naturalized (*naturalisé*)»⁹⁰.

Through his theory of climates, Montesquieu reopens and relaunches the third and last argument of the doctrine of despotism, which has been present since ancient times⁹¹ and has been re-proposed especially by

institutions. About the theory of climates in the *opus magnum*, see C. Borghero, *Lo spirito generale delle nazioni*, in *Leggere «Lo spirito delle leggi» di Montesquieu*, vol. I, pp. 356 *et seqq.*

88 *EL*, XV, 7, p. 1406. Montesquieu also adds: «Aristotle endeavours to prove [*Politics*, I, 1, 1254a–1255b], that there are natural slaves, but what he says, is far from proving it. If there be any such, I believe they are those of whom I have been speaking» (*ibidem*).

89 *EL*, XV, 7, p. 1407.

90 *EL*, V, 14, p. 1038.

91 See especially Aristotle, *Politics*, III, 14, 1285a and VII, 7, 1327b: «[...] there is another sort of monarchy, examples of which are kingships existing among some of the barbarians. The power possessed by all of these resembles that of tyrannies, but they govern according to law and are hereditary; *for because the barbarians are more servile in their nature than the Greeks, and the Asiatics than the Europeans, they endure despotic rule without any resentment*»; «The nations inhabiting the cold places and those of Europe are full of spirit but somewhat deficient in intelligence and skill, so that they continue comparatively free, but lacking in political organization and capacity to rule their neighbors. *The peoples of Asia on the other hand are intelligent and skillful in temperament, but lack spirit, so that they are in continuous subjection and slavery*» (emphasis added).

Machiavelli⁹²: the geographical delimitation of despotism, and namely the identification between despotism and Oriental monarchies and between despotism and «Asiatic despotism»⁹³.

An identification, already largely present — as we have seen — in the *Persian Letters*, but of which only in the *Essay on the Causes* and above all in the *Spirit of the Laws* (books VIII, 15–20; XIV–XIX⁹⁴), Montesquieu illustrates and explains the reasons, with an amplitude and a wealth of detail which had never been seen until then, so we can rightly say that with the *Président* one has the «consecration» of the category of Oriental despotism and that, since the publication of his *opus magnum*, the opposition between Asia and Europe respectively as chosen land for slavery and chosen land for liberty, as despotism and liberty, stagnation and economic growth, becomes both a real «cliché» of Western culture and the «seat par excellence» of his consciousness (more or less false)⁹⁵.

Among the Eastern States of his time, Montesquieu considers the Japanese Empire «the most despotic that has ever existed (*le plus despotique qui ait jamais été*)»⁹⁶, while he qualifies the Chinese Empire as «the best» of all Asiatic despotisms⁹⁷.

Cf. C. Fiocchi – S. Simonetta, *Il «principatus despoticus» nell'aristotelismo bassomedievale*, in *Dispotismo*, t. I, pp. 71–94.

92 Cf. the already mentioned passages from the chapter IV of the *Prince* and also the book II of the *Art of War*, in which the Florentine secretary opposes a Europe «full of republics and principalities» to an Asia «entirely subject to one kingdom» (in *Opere*, 3 vol., ed. by C. Vivanti, Torino, Einaudi-Gallimard, 1997–2005, vol. I, p. 585). See G.E.M. Scichilone, *Niccolò Machiavelli e la «monarchia del Turco»*, pp. 110–114.

93 *Despotisme asiatique* (*Romains IX*, p. 668).

94 The last chapters of the VIIIth book are dedicated to the relationship between the different form of State and the dimension of their territory, whereas the third part of the work contains an analysis of physical and moral causes of human institutions.

95 See N. Bobbio, *Grandezza e decadenza dell'ideologia europea* (1986), in D. Felice (ed. by), *Lo spirito della politica*, Milan-Udine, Mimesis, 2012, pp. 119–129.

96 *MsEL*, I, p. 116. Cf. *EL*, VI, 13, pp. 1084–1086, where Montesquieu points out the «atrociousness» of its «laws» and the fact that here the despotism «has become more cruel than itself», an «abuse», a «corruption»; or, *EL*, XII, 17, p. 1308, where he claims that «laws» from which it is «tyrannized» (*EL*, XIX, 4, p. 1520) «upset all ideas of human reason».

97 *P* 1880. The reason in this 'best' of the Chinese despotism is essentially that, more than any other Asian political regime, Montesquieu sees not only some typical aspects of despotic governments (the big territorial extension [*EL*, VIII, 21, p. 1168], the servile obedience [XVIII, 6, p. 1478], the absolute «separation» of women from men [XIX, 13, p. 1530], the concentration of powers [XXV, 8, p.

In any case, the States that come closest to his ideal form of despotic government are the three great Muslim Empires: the Persian, Moghul and Ottoman Empires. In these three historical examples of governments, he finds the materials to outline the essential elements of the despotic model itself that are the following: the unitariness and the indivisibility of the power, the absence of the private property and above all the moderating and stabilizing function of religion.

On the one hand, Montesquieu conceives Islam as a religious system which is structurally organic to Oriental despotism; on the contrary, Christianity stands radically to the opposite⁹⁸. The former, in contrast to the latter, doesn't mitigate human mores; it's rather a *cruel* and *destructive* religion: it «speaks only with a sword» and «continues to act on men with the destructive spirit (*esprit destructeur*) that founded it»⁹⁹. Moreover, unlike other Asian religious beliefs (e.g. Zoroastrianism), it 'indulges' the negative effects (especially economic) caused by the despotic government: as a consequence, its ritual practices lead people professing it to the contemplative life and inspire in them the «detachment» and the «indifference towards all thing» through the doctrine of predestination¹⁰⁰.

On the other hand, however, Montesquieu mentions Islam very often in many crucial points of his work in order to illustrate the moderating function of religion in the despotic forms of government against the arbitrariness of the prince and the violence of fear. In the 10th chapter of the IIIrd book, he argues that nothing but religious laws may oppose the absurd and irrational wishes of the despot; moreover, he expressly mentions it where he writes of the «astonishing respect» of Muslim people for their sovereigns thanks

184]), but also some characteristic elements of the moderate regimes, and namely «the spirit of work and economy» (VII, 6; XIX, 20: p. 1542), the continuous demographic growth (VIII, 21, pp. 1166–1168), a religion, a philosophy and laws «all practical» (XIV, 5, p. 1374), «emulation, flight from laziness, and high esteem for knowledge» (XIX, 17, p. 1536, note *b*), and even a «relation of love between the prince and his subjects» (XIX, 19, p. 1540).

98 Cf. *EL*, XXIV, 3, p. 1791. We have seen the crucial role (both in the *Treatise on Duties* and in the *Romains*) that Montesquieu gives to Christianity, as the religion giving human beings the equity and the sense of humanity. In the *Spirit of the Laws*, he restates his arguments, talking more precisely about the Christian morality as a morality of love (XXIV, 1, p. 1787), celebrating the «gentleness» in the relationship between human beings and «humaniz[ing] their mores» (XXIV, 3–4, pp. 1790–1792). See S. Cotta, *Le role politique de la religion selon Montesquieu*, in *Mélanges offerts à Jean Brethe de La Gressaye*, Bordeaux, Bière, 1967, pp. 123–140; Id., *Il pensiero politico di Montesquieu*, pp. 55–60.

99 *EL*, XXIV, 4, p. 1792.

100 *EL*, XXIV, 11, p. 1802. See also *LP CXV* (CXIX), p. 326; *EL*, XXIV, 14, p. 1806.

to their religion and about their «attachment» to the glory and greatness of their State¹⁰¹.

Reasoning about the *corruption* of the *principles*¹⁰² of the various forms of government, Montesquieu argues that the former depends on the change of their extension¹⁰³. Each State has its own territorial dimension. If this dimension is preserved unchanged, then also its principle remains intact; otherwise, its *ressort* undergoes substantial modifications and so it also modifies its constitutional form¹⁰⁴.

It is in the nature of a republic to only have a small territory; otherwise, it cannot subsist for long. In a large republic, enormous riches are always formed, the interests are «particularized» and the common good is sacrificed «to a thousand considerations»¹⁰⁵, so it becomes inevitable that it transforms into another different form of government (e.g. the ancient Roman republic following its continuous conquests).

On the contrary, a monarchical State must be of a medium size (if it was small, it would form itself into a republic). Because of its natural inclination to war and expansion¹⁰⁶, it may increase its territory: in this case, governors of the most distant provinces could stop obeying the orders of the monarch, they could become independent and bring about the dissolution of the empire. According to Montesquieu, in these circumstances, the only remedy is the «quick establishment of unlimited power», so that — as he points out at the end of the 17th chapter of the VIIIth book which is dedicated to the analysis of the ideal territorial extent of a monarchy — as «the rivers hasten to mingle their waters with the sea», so monarchies «lose themselves in despotic power» (p. 1160).

Thus, the dissolution in the sea of despotism is fatal, if you want to rule a large empire; in other words, despotism is the inevitable, *natural*, outcome of a militaristic and imperialistic policy¹⁰⁷ and this just because the government with the concentration of powers is the only one able to keep a wide State *united*. In that way, through the personal militias of the despot, any attempted rebellion or any aspiration towards autonomy of the

101 *EL*, III, 10; V, 14: pp. 966, 1032. See above.

102 For a specific and exhaustive explanation of this theme, see my *Los orígenes de la ciencia política contemporánea. Despotismo y libertad*, pp. 61–79.

103 Cf. *EL*, VIII, 15–20.

104 Cf. *EL*, VIII, 20, p. 1162.

105 *EL*, VIII, 16, pp. 1156–1158. See also *P* 968: «In republics, a general spirit must always be dominating. As luxury becomes established in a republic, the spirit of particularism (*esprit de particularisme*) becomes established as well [...]».

106 *EL*, VIII, 16; IX, 2: pp. 1158, 1178.

107 Cf. *EL*, VIII, 19, p. 1162, and *P* 1746.

troop commanders of the territory or of the civil administrators of the new provinces may be surly nipped in the bud¹⁰⁸.

In the pages of the *Reflections on Universal Monarchy* and then in the XVIIth book of the *Spirit of the Laws* about the «political servitude», Montesquieu reasserts another important thesis about despotism, saying that the large empires (or the vast conquests) are possible only in Asia. In Europe, they wouldn't have been able to subsist because of two fundamental physical-geographical reasons: the climate and the conformation of the territory.

With specific regard to the climate, Montesquieu argues that in Asia (unlike in Europe) there are no temperate zones, so that the places situated in a very cold climate there are immediately adjacent to those that are in a very warm climate. On the contrary, in Europe you cross imperceptibly through the climate of Spain and Italy to the one of Sweden and Norway; the temperate zone is very extensive and each nation has a climate similar to the one of the neighboring nations¹⁰⁹. This different climatic-geographical situation implies that in Asia Northern combative and courageous people are in close contact with the Southern effeminate and timorous ones: and it's inevitable that the Northern must conquer, and the Southern ones be conquered. In Europe, on the contrary, strong nations are opposed to the strong, and those who join to each other have nearly the same courage: therefore, in this part of the world great empires were seldom born, and in those cases they faced with the resistance of peoples, so that they have not had a long history¹¹⁰. In the West as in the East when the conquests came from the North, there have been radically different consequences (cf. *Persian Letters*, CXXV [CXXXI]). In Asia they have brought political slavery and always generated despotic empires as, paradoxically, the Northern free and courageous Tartars (its natural conquerors) have in their turn become slaves (especially because of their continuous contact with the Southern *servile* nations)¹¹¹. The ancient Germans were the conquerors of Europe, they came from the North and they were free in their countries of origin¹¹²: they seized the provinces of the Roman Empire where abuse,

108 Cf. *EL*, X, 16, pp. 1210–1212.

109 Cf. *EL*, XVII, 3, p. 1460.

110 Cf. *EL*, XVII, 3–4, pp. 1462–1464.

111 Cf. *EL*, XVII, 5 e XVIII, 19, pp. 1464, 1466 («The genius [*génie*] of the Tartar or Getae nation has always been similar to that of the empires of Asia»), 1492.

112 Montesquieu dates to Tacitus's *Germania* his thesis about the presumed liberty of the ancient Germans: cf. *EL*, XI, 6, 8 e XVIII, 29, pp. 1236, 1240, 1512, in the text and in the notes.

poverty and corruption reigned¹¹³ and then they «founded monarchy and liberty everywhere»¹¹⁴.

With specific regard to the conformation of the territory, Montesquieu, always on the basis of imperfect geographical knowledges, argues that Asia is made up mainly of large plains, with few natural barriers, rivers or mountains, so that it naturally consists of a small number of great empires, which can be only despotically ruled. Otherwise they would fragment into many small independent States which could not survive because of the absence of natural obstacles. Consequently, power in Asia «*should always be despotic*: for if slavery there were not extreme, there would immediately be a division that *the nature of the country cannot endure*»¹¹⁵. On the contrary, Europe is formed by several rivers and mountains which are the natural borders of «many medium-sized States in which the government of the laws is not incompatible with the maintenance of the State»: on the other hand, «they are so favorable to it, that without laws this State falls into decadence and becomes inferior to all the others». In the passing of the centuries and ages, this has formed a «genius for liberty» that renders every part «extremely difficult to be subdued and subjected to a foreign power, otherwise than by the laws and the advantage of commerce»¹¹⁶.

It is clear that Montesquieu uses the theme of the great empires or vast conquests in order to strengthen his argument about the Asiatic ‘dislocation’ of despotism and the radical heterogeneity between Asia and Europe, all to the benefit of the latter. This dislocation and this heterogeneity (and this European superiority¹¹⁷) are due not only to historical and cultural causes, but also and especially to some factors concerning their physical geography: the climate, the reliefs and also the fertility or the infertility of

113 About Montesquieu’s dark description of Romans government in the provinces of their Empire, see my *Oppressione e libertà*, pp. 191–198, and U. Roberto, *L’evoluzione storica del diritto: il caso di Roma antica*, in *Leggere «Lo spirito delle leggi» di Montesquieu*, vol. II, pp. 601–642.

114 *EL*, XVII, 5, p. 1466.

115 *Monarchie universelle* VIII, and *EL*, XVII, 6, 1468 (emphasis added).

116 *Ibidem*.

117 E.g. *EL*, XXI, 17, p. 1664, and *P* 1006, where, *inter alia*, we read as follows: «[...] if we want to take a look at what is presently happening in the world, we will see that, for the same reason that Europe is flourishing and is dominating the other three parts of the world while everyone else groans under slavery and misery, Europe is likewise more enlightened, relatively speaking, than the other parts of the world, which are buried in the depths of darkness».

the soils¹¹⁸. These factors destine the one to slavery and despotism and the other one to liberty and moderate governments, to uniformity of the great empires and to the variety of small and medium States, to ‘monism’ and to ‘pluralism’ of the political and legal systems¹¹⁹.

It’s impossible to fully understand Montesquieu’s doctrine of despotism without taking into account one of the most important aspects of the *Spirit of the Laws*, and namely the twofold evaluations order used during the analysis of the legal-political institutions: on the one hand, the congruity evaluations or the evaluations of convenience and political functionality based on the sociological laws; on the other hand, the ethical-political value judgments based on «human nature»¹²⁰, and especially on the conception of the latter which is illustrated in the *Persian Letters* LXXXI (LXXXIII) and in the *Spirit of the Laws* I, 1, and whose essential features are liberty, activity and equity or justice¹²¹.

The non-ideological congruity evaluations enable to judge the appropriateness of a form of government (or of a particular law or legal institution) for a given historical-geographical context and its suitability to achieve some specific objectives; on the contrary, the ethical-political value judgments enable to judge its suitability to human nature.

In the *Spirit of the Laws*, on the basis of the first kind of evaluations and starting from Montesquieu’s fundamental relativistic principle saying that the government «most conformable to nature» is that which best agrees with the humour and disposition of the people in whose favour it is established¹²², despotism is illustrated as a *natural* form of government. The adjective *natural* describes a form of government which is *adequate*

118 Cf. *EL*, XVIII, 2, 4, pp. 1474, 1476. See Th. Casadei – D. Felice, *Modi di sussistenza, leggi, costumi*, in *Leggere «Lo spirito delle leggi» di Montesquieu*, pp. 313–352.

119 «Since coming to Europe [...], I have seen a *great many governments*; it’s not like in Asia, *where the rules of politics are everywhere the same*» (*LP* LXXXVIII [LXXX], p. 224; emphasis added).

120 See S. Cotta, *Il pensiero politico di Montesquieu*, pp. 21–23, 47–60, 69–72.

121 About justice, cf. above, § 4; about liberty, see – and also *LP* CXXX (CXXXVI), p. 368, where the author writes: «that sweet freedom which accords so well with reason, with humanity, and with nature» – *EL*, I, 1, p. 908: «[...] particular intelligent beings are limited by their nature and are consequently subject to error; furthermore, it is in their nature to act by themselves»; and about the activity, *EL*, XXIV, 11, p. 1800: «Men being made to preserve, to nourish, to clothe themselves, and to do all the actions of society».

122 *EL*, I, 3, p. 918.

to the physical (warm climates, broad plains, etc...) and cultural (spirit of servitude, religious fatalism, etc...) conditions of Non-European peoples (and in particular the Asian ones). In other words, this government complies with their *esprit général* or *caractère* as the result of these factors and conditions; on the contrary, moderate governments comply with the *esprits généraux* or *caractères* of European peoples. On the basis of the second order of evaluations, despotism is always and everywhere a very bad government, and namely an *innatural* government because it is against human nature, or more exactly, against Montesquieu's conception of it. In other words, what concerns the *descriptive level* or of the *judgments of fact*, the despotic State (just like republic and monarchy) is a *legitimate* one because it is suitable for some specific geographical zones and for some specific nations¹²³; what concerns the *axiological level* or of the *judgments of value*, the despotic State is the perfect antithesis, because (unlike the other forms of government) it is contrary to «human nature». Hence, it is made clear that there is another important difference between Montesquieu's tripartite classification and the classical or traditional one (monarchy, aristocracy and democracy), and namely the fact that in the first one the three forms of government are not axiologically the same.

There are endless passages of Montesquieu's work which outline this 'opposition' of despotism to «human nature» and the *inhuman* and *dehumanizing* character of this form of government. It is important to specify that the author always expresses these ideas with strong force and a surge of horror¹²⁴, and that this character may be mitigated by some non-institutional factors like religion. For example, he writes that «a despotic government is productive of the most frightful calamities to human nature». It violates «natural feelings» and treats men like animals demanding they act as such. In despotic States human nature suffers «insults», «affronts» and princes mock it¹²⁵. More generally, as it is illegal and arbitrary by its very nature, it always violates the first equity relation (*rapport d'équité*) that prescribes the laws compliance¹²⁶. Moreover, despotism constantly undermines natural laws, and namely the elementary physico-

123 As Aristotle said: see M.P. Mittica – S. Vida, *Dispotismo e politica in Aristotele*, pp. 1–21.

124 «One cannot speak of these *monstrous governments* without *shuddering*» (*EL*, III, 9, p. 962; emphasis added).

125 *EL*, II, 4; III, 10; V, 14; VII, 9; VIII, 8, 21; XV, 11, P 1898, pp. 940, 964, 1028, 1118, 1146, 1164, 1412.

126 *EL*, I, 1, p. 908. See T. Todorov, «Droit naturel et formes de gouvernement dans *L'Esprit des lois*», *Esprit*, 62 (1983), pp. 45–48.

psychological impulses of human being, such as the self-preservation instinct, the sexual instinct or sociability and is based upon the «most violent abuse» perpetrated on human nature, which is slavery¹²⁷. To sum up, as we noticed in the previous pages, despotism is a *monstrous, bestial, destructive and self-destroying* form of State that structurally denies the fundamental values of human beings, in particular liberty and justice. On the contrary, Montesquieu appreciates the moderate forms of government which are opposed to despotism.

Given these abuses and damages, it would therefore be logical for human nature to react and rebel against such a scourge in order to eradicate or at least to circumscribe it. On the contrary, in the *Spirit of the Laws* V, 14, Montesquieu states that nothing of the kind happens (and thus we can understand that also the *Spirit of the Laws*, like the *Persian Letters* and the *Romains*, is a deep meditation upon oppression). But, notwithstanding men's love of liberty, notwithstanding their innate detestation of force and violence, most nations are subject to despotism: as a consequence, it reveals itself to be the *most spread* political organization of the world. In a series of four *Thoughts* (1735–1736)¹²⁸ we can easily find the explanation of these conclusions:

In order to form a moderate government, one must combine power, regulate them, temper them, make them act; one must give one power a ballast, so to speak, to put it in a position to resist another: this is a masterpiece of legislation that chance rarely produces and prudence is rarely allowed to produce. *By contrast, a despotic government leaps to view, so to speak; it is uniform throughout; as only passions are needed to establish it, everyone is good enough for that*¹²⁹.

As it results from a comparative analysis of this paragraph and of the similar wordings which can be found in the four thoughts preceding it¹³⁰, the fundamental reason of the *wide spread* of despotism is the fact that it is a simple, uniform and feasible form of government. On the contrary, the

127 *EL*, XV, 12; XVI, 6: pp. 1402, 1436; P 2194.

128 There are the *pensées* 831, 892, 918 e 935. About their date, see J.J. Granpré Molière (*La théorie de la constitution anglaise chez Montesquieu*, Leyde, Presses de l'Université de Leyde, 1972, pp. 123–124, 126–127, 131–132, 134–135), who rightly interprets them as answer to the *pensée* 769, dating back to the first half of 1734, in which Montesquieu writes: «It is surprising that the people so strongly cherish republican government, but that so few nations have it; that men so strongly hate violence, but that so many nations are governed by violence».

129 *EL*, V, 14, p. 1038 (emphasis added).

130 Like the just mentioned paragraph of *EL*, V, 14, these *pensées* all focus on the opposition between the despotic government and the moderate one.

moderate form of government is a «masterpiece of legislation». Despotism is *simple* and *uniform* because there are no powers (*poussances*) to be combined, regulated, tempered, so that these possible powers can oppose to each other, as the public power is totally concentrated in the person of the despot. Unlike the moderate government, despotism is *doable* because it can be established and preserved without either «prudence» or «much wisdom»¹³¹: it is sufficient to follow «passions», and first of all the passion for the unlimited accumulation of power, which is «always easier» than to control and check them¹³². In other words, despotic governments are by far the most spread in the world because they are *rough*, *coarse* and *easy* to be established; these are their essential features because the immoderation or the abuse in exercising power are firmly embedded in human nature¹³³. On the contrary, moderation is such a rare quality in the human being¹³⁴ that it must be replaced with the political institutions, and namely it must be *artificially* produced through a complex and sophisticated constitutional machine.

Moreover, there is also another reason of the vitality of despotism, which is not explicitly to be found in the paragraph of V, 14, but rather in the third part of *The Spirit of the Laws*, and that is the ease with which men submit to the will of a master, and namely their tendency to passivity and inaction. This tendency can mostly be found where the physico-environmental context favours it (the fertile and flat areas of the planet characterized by warm climates).

The reasons for the breadth and strength of the despotic form of government are that it is in accordance both with the thirst for power or the incurable tendency of the human being to dominate the other human beings

131 «Every moderate government — that is, where one power is limited by another power — needs much wisdom to be established, and much wisdom to be preserved» (*P* 918).

132 *EL*, XXVIII, 41, p. 2038. See also *P* 1987: «[...] nothing is so easy [...] as to let themselves be led by [...] passions»

133 Both in the *EL* and in other writings, Montesquieu points out this natural tendency to the abuse or to the unexhausted lust for power of human beings: e.g. *EL*, XI, 4, p. 1217 («[...] it has eternally been observed that any man who has power is led to abuse it; he continues until he finds limits»); XXVIII, 41, p. 2039 («The soul takes such delight in dominating others souls»); *Romains* XI, pp. 686–688 («Finally, the republic was crushed. And we must not blame it on the ambition of certain individuals; we must blame it on man — a being whose greed for power keeps increasing the more he has of it, and who desires all only because he already possesses much»).

134 E.g. *EL*, XXVIII, 41, p. 2038, and *P* 1987.

(his «eternal malady»¹³⁵) and the inclination to bear the terrible yoke, which is common to the majority of the peoples of the world, especially because of the physico-geographical features of the territories they live in. As a consequence, in the countries ruled by a despotic form of government (almost all non-European countries) people are all overwhelmed by their passion for abuse and arbitrariness or by what leads them to an absolute and a blind obedience: and these passions constantly alternate because of the total instability characterizing this kind of government which obliging them to act both as the master or as the slave and as the despot or as the least of the servants¹³⁶. However, in both cases, these kinds of passions or inclinations (abuse, illiberty, passivity and servility) are strongly hated by Montesquieu, who blames them and urges peoples to fight against them. On the one hand, one thinks to his different proposals of constitutional systems aiming to ‘bridle’ the desire for the unlimited power of people; on the other hand, one thinks to the different passages of his masterpiece where he praises the legislators who react on the social determinisms and the negative effects of climate¹³⁷.

These brief considerations which have been developed so far show the richness and the complexity of the category of despotism or of the model of the despotic State illustrated in the *Spirit of the Laws*, so that Montesquieu appears to be the best theorist for this political form after Aristotle and before Hegel.

For the first time in the history of philosophy, this category or model of State is described in all its aspects (natural, economic, legal, social and religious aspects...) and the author ‘uses’ it especially to carry out the innovative project of the creation of *a universal science of the socio-political systems* including «all the institutions that are accepted among men»¹³⁸.

Moreover, this model of State is conceived through a process which is similar to the one used to describe the other forms of government. Montesquieu is strongly convinced of the historical and factual reality

135 *Maladie éternelle* (*Romains* VIII, p. 654). Cf., among others, Tacitus, *Histories*, II, 38 (the «passion for power [...] has been ever innate in man»), and N. Machiavelli, *Discourses on Livy*, I, 37: «For whenever men are not obliged to fight from necessity, they fight from ambition; which is so powerful in human breasts, that it never leaves them no matter to what rank they rise».

136 Cf. *EL*, V, 19, p. 1048.

137 E.g. *EL*, XIV, 5, 8–9; XVI, 12; XVIII, 6: pp. 1372, 1376–1378, 1446, 1478. See G. Cristani, *L’«esprit du législateur»*, in *Leggere «Lo spirito delle leggi» di Montesquieu*, vol. II, pp. 681–691.

138 *Défense*, p. 2310.

of this model of State. In this regard, we should mention the important letter to François Risteanu (1751) where the author writes that his despotic government is not «illusory (*chimérique*)» but «very real (*très réel*)» and «portrayed as it is (*peint d'après la vérité*)»¹³⁹.

It is undeniable that non-pluralist political forms of government that are based on the concentration of powers and in which there is an identity between the «State» and the «prince» and between the State and the sovereign existed and exist¹⁴⁰. However, it is not so undeniable that these forms of government have no private property¹⁴¹ and that they are 'relegated' especially in the Asian and Eastern countries.

In this regard, Montesquieu differs from some of its famous contemporaries (such as Voltaire¹⁴²) who tend to emphasize the essential positive and negative similarities and analogies between Asia and Europe. On the contrary, following the most important ancient (Aristotle) and modern (*in primis*, Machiavelli) political writers, the *Président* revives and develops the *topos* of the radical antithesis and of the superiority of Europe on Asia¹⁴³. We should not forget that this *topos* is still quite common in the Western culture and mentality.

Montesquieu is aware that in the XVIIIth century the European continent is economically and militarily the dominant power in the world¹⁴⁴ and that

139 Montesquieu to F. Risteanu, 19 May 1751, in Masson, III, p. 1382. It thus seems unfounded the thesis about Montesquieu's despotism reintroduced with force by L. Althusser, *Montesquieu*, pp. 82–83, 91–97, more than fifty years ago and acquired by the great part of Montesquieu's scholars and commentators. According to this thesis, Montesquieu's despotism would however basically a *polemic* or *ideological* concept, and namely a «caricature» of the modern absolutism (and especially Louis the Great's one), whose main function was to warn European and firstly French monarchs of the eighteenth-century against the risks embedded in their despotic 'inclinations' and 'temptations'.

140 Montesquieu to F. Risteanu, 19 May 1751, in Masson, III, p. 1382.

141 In the already mentioned letter to Risteanu, Montesquieu seems to be doubtful in this regard: «I do not know if the subjects of a despot possess goods that are their exclusive property» (*ibidem*).

142 See, in this regard, my «Introduzione» to Voltaire, *Commentario sullo «Spirito delle leggi»*, pp. 31–33.

143 Cf. F. Chabod, *La nascita dell'idea d'Europa* (1961) and N. Bobbio, *Grandezza e decadenza dell'ideologia europea* (1986), in *Lo spirito della politica*, pp. 93–118, 119–130.

144 «Europe has reached such a high degree of power that nothing in history is comparable to it, if one considers the immensity of expenditures, the size of military engagements, the number of troops, and their continuous upkeep, even when they are the most useless and are only for ostentation» (*EL*, XXI, 17, p. 1664).

Europe was the cradle of the Industrial Revolution which radically changed the face of the globe starting from England, which the author proposes as the model of the free State¹⁴⁵.

However, it is questionable whether the diversity between the Western Europe and Asia, whether the predominance of Europe are as radical and total as Montesquieu wants to demonstrate and whether they are the product not only of social and cultural factors (such as the pluralism or the limitation of the power through power) but also of physic-geographical ones. Although it is not unlikely that the latter may have played some role, it must be ruled out, however, that this role was as preponderant as the author seems to believe in the XVIIth book of the *Spirit of the Laws*, which is the real 'joint' of the ideas of the whole work and the *summa* of his Eurocentric conception of human history¹⁴⁶.

Furthermore, the incomprehension of the essential aspects of the Eastern historical realities, such as the correspondence between the religious and the civil code and between theology and law in the Islamic countries, or the fact that the thesis of predestination in the Koranic ideology doesn't exclude the spurs to action¹⁴⁷, are undoubted. Critics illustrate different reasons of this condition of incomprehension, such as for instance the deficiencies of his documentation, even if monumental, the partial and tendentious use of travel literature, inaccurate analysis of the historical facts, the recourse to unreliable sources, or personal prejudices and biases¹⁴⁸. Also, his reductive

145 Cf. *EL*, XI, 6 and XIX, 27. See C.P. Courtney, *Montesquieu and English Liberty*, in *Montesquieu's Science of Politics. Essays on «The Spirit of Laws»*, eds. David W. Carrithers, Michael Mosher and Paul A. Rahe, Lanham-Boulder-New York-Oxford, Rowman & Littlefield, 2001, pp. 273–290.

146 About the centrality of the book XVII and about Montesquieu's eurocentrism, see F. Chabod, *La nascita dell'idea d'Europa* (1961), in *Lo spirito della politica*, pp. 116–117; G. Benrekassa, *La politique et sa mémoire. Le politique et l'historique dans la pensée des Lumières*, Paris, Payot, 1983, pp. 205–256; Id., *Montesquieu. La liberté et l'histoire*, pp. 121, 157–158; S. Rotta, *Quattro temi dell'«Esprit des lois»*, II. *Il primato dell'Europa*; M. Richter, *Montesquieu's Comparative Analysis of Europe and Asia: Intended and Unintended Consequences*, in A. Postigliola – M.G. Bottaro Palumbo (ed. by), *L'Europe de Montesquieu*, Naples, Liguori, 1995, pp. 332 *et seqq.*

147 See M. Rodinson, *Islam and Capitalism*, Austin, University of Texas Press, 1978, pp. 114 *et seqq.*

148 Cf. M. Dodds, *Les récits de voyages sources de «L'Esprit des lois»*, Paris, Champion, 1929, pp. 136 *et seqq.*; P. Vernière, *Montesquieu et le monde musulman*, in *Actes du Congrès Montesquieu*, Bordeaux, Delmas, 1956, pp. 175–190; S. Stelling-Michaud, *Le mythe du despotisme oriental*, «Schweizer Beiträge zur Allgemeinen Geschichte», 18–19 (1960–1961), pp. 339 *et seqq.*; B. Binoche,

vision of the internal and external politics of the Asiatic States and Empires is undoubted: in the *Spirit of the Laws* we can read that they don't fight amongst them, but they only do «devastating invasions» and all is decided within the harem walls¹⁴⁹. Finally, also his radical disregard of the role and the value of the great protagonists¹⁵⁰ of the events characterizing these States and Empires and of the essential contribution of the civilizations of the Near and Middle East to the development of human history, is equally undoubted. For example, except in some rare private notes¹⁵¹, Montesquieu appreciates neither the great Asian sovereigns nor the extraordinary artistic and cultural flowering that took place in the Arab-Muslim world during the five centuries of the Abbasid Khalifat.

At any rate, the category of despotism in the *Spirit of the Laws* is a grandiose and original synthesis of everything founded or unfounded that had been written about it in the West: in particular, the reference is to the theories and conceptions of the Classics of political thought, which have been reposed and taken up by the majority of Western orientalists of the XVIIth and XVIIIth centuries. The leading themes of these studies and of travel literature¹⁵² were the following: the arbitrariness and the brutishness in the way to exercise the power, the servile relationship between rulers and ruled and the Eastern or Asiatic localization of this atrocious form of government.

Introduction à «De l'esprit des lois» de Montesquieu, Paris, Publications de la Sorbonne, 2015, pp. 245–258.

149 *EL*, V, 14 and IX, 5, pp. 1038, 1180.

150 For example, in the *EL*, about Genghis Khan and Timur, Montesquieu points out the cruelty and namely the fact that they «ravaged Asia» (XXIV, 3, p. 1788).

151 *P* 1006 and 1453 («The despotic monarch must be religious, rigid, just. If he is courageous as well, he will be a hero: Shah Abbas, Mohammed II, Shambi, Aureng-Zeb»).

152 We refer in particular to some important texts about eastern countries, with which Montesquieu seems to be familiar and that he expressly or implicitly uses on several occasions in the *EL*, and especially to the *Voyages [...] contenant la description des États du Grand Mogol [...]* (1699), by F. Bernier (1625–1688); *Voyages en Perse & autres lieux de l'Orient* (1711), by J. Chardin (1643–1713); *Histoire de l'état présent de l'Empire ottoman* (1670), by P. Rycaut (1628–1700); *Description [...] de l'Empire de la Chine & de la Tartarie chinoise* (1735), by J.-B. Du Halde (1674–1743); *Histoire [...] de l'Empire du Japon* (1729), by E. Kämpfer (1651–1716); *Relation d'un voyage du Levant* (1717), by J. Pitton de Tournafort (1656–1708); and *Six voyages [...] en Turquie, en Perse, & aux Indes* (1679), by J.-B. Tavernier (1605–1689).

8.3. *Independence of justice and human dignity*

A second fundamental innovation introduced in Montesquieu's *opus magnum* in the field of the legal-political studies concerns the foundation of all present democratic constitutions, and namely the principle of the autonomy and independence of the judicial power from the other fundamental powers of the State.

We have already mentioned the fact that, for the *Président*, the *separation* of this power is the *sine qua non* of moderation and liberty, the factor which *alone* radically distinguishes the Ottoman Empire from the European monarchies and Asia from Europe. But that does not necessarily mean that during their long political and constitutional history the European continent and more generally the West, have been or are immune from despotism (in consideration of the lust for power afflicting the human beings), and namely from the concentration of powers or from the abuse of power. Although the despotic political form is *typical* for Asia, it has been introduced (or it has been on the verge of) both in Antiquity and in the Modern Age even «in this fine part of the world»¹⁵³.

With regard to the Antiquity, Montesquieu argues that both Greek monarchies of the heroic times¹⁵⁴ and the government of the seven legendary kings of Rome were lost because the three powers were «badly distributed» and, in particular, the judicial power was concentrated in the hands of the kings together with the executive one¹⁵⁵.

According to Montesquieu, the same thing happened also to the ancient Greek republics¹⁵⁶ and in particular to the Roman one. With regard to the latter and introducing some important innovations as compared with the *Romains*, the author points out that the process of its decadence was initiated and caused not only by its enormous territorial extension, but also by the judicial reform promoted by Gaius Gracchus in 123 BC, through which the judicial function was transferred from the senatorial class to the equestrian one. In that way, the political balance created after the expulsion of the Decemvirs (449 BC) between the fundamental *puissances* of the State (and namely between patricians and plebeians, between the senate and the people) broke up:

153 *EL*, VIII, 8, p. 1146.

154 Cf. Aristotele, *Politics*, III, 14, 1285b.

155 *EL*, XI, 11–12, pp. 1242–1244.

156 Cf. *EL*, VIII, 2, 3 and 6, pp. 1136, 1138, 1142.

It must be observed that the three powers may well be distributed in relation to the liberty of the constitution, though they are not so well distributed in their relation with the liberty of the citizen. In Rome, as the *people* had the greater part of the legislative power, part of the executive power, and part of the judiciary power, they were a great power that had to be counter-balanced by another. The *senate* certainly had part of the executive power; it had some branch of the legislative power, but this was not enough to counter-balance the people. It had to have part of the judiciary power, and it had a part when judges were chosen from among the senators. When the Gracchi deprived the senators of the judiciary power, the senate could no longer stand up to the people. Therefore, they ran counter to the *liberty of the constitution* in order to favor the *liberty of the citizen*, but the latter was lost along with the former¹⁵⁷.

In fact, it happened that the knights who had received the power, «ceased to be that middle order (*ordre moyen*) which united the people to the senate; and the chain of the constitution was broken»: «infinite were the mischiefs that from thence arose»¹⁵⁸; in particular, with Sulla and then with Caesar, they brought about the ‘collapse’ of the «perfect republic»¹⁵⁹ and the introduction of the *military and violent government* of emperors. In the *Romains*, Montesquieu pointed out that this kind of government was often «spoiled» by the concentration of the judicial power in the hands of the prince¹⁶⁰ and now, speaking about some emperors like Claudius, Arcadius and Justinian who were engulfed in this «craze for judging (*fureur de juger*)», he reasserts that «no reigns ever so surprised the universe with oppression and injustice»¹⁶¹.

As we can see, according to the *Président*, all the most important phases of the long political-constitutional history of Ancient Rome led into the overlapping of powers (first of all of the judiciary) and so into despotism. This despotism touched not only the Urbe, but also all regions of the Roman Empire, so that the latter became an Asian form of despotism, as we can read in the *Spirit of the Laws* XI, 19, where the author writes that

157 *EL*, XI, 18, p. 1268. This is the most important passage of Montesquieu’s whole reflection about the political-constitutional history of the ancient Roman republic.

158 *Ibidem*.

159 This is the definition that Montesquieu, in the line of N. Machiavelli (*Discourses on Livy*, I, 2, *in fine*), proposes in the manuscript of the *Spirit of the Laws* which has been preserved to this day, of the period of the Roman republic from the epilogue of the tyranny of the Decemvirs to the Gracchi: cf. *MsEL*, I, p. 253.

160 *Romains* XVI, p. 740. For a more detailed reconstruction and an analysis of Montesquieu’s description of the political institutions of ancient Greece and Rome, see my *Oppressione e libertà*, pp. 182–198.

161 *EL*, VI, 5, p. 1070.

the governors of the provinces «exercised the three powers» such as the «Turkish pashas» (p. 1272).

This effective identity between the Roman imperial despotism and the *despotisme asiatique* was broken, in the West, by the ancient German *gentes*, who, free in their countries of origin, seizing the Roman provinces, founded «kingdoms» everywhere whose kings had a «very limited» or «moderated» authority¹⁶², and where the judicial power was exercised differently from the way it was administered in the Ottoman Empire, as exemplarily shown in the case of the monarchy of the Franks. In the *Spirit of the Laws* XXX, 18, we can exactly read:

It will be imagined perhaps that the government of the Franks must have been very severe at that time, since the same officers were invested with a military and civil power, nay, even with a fiscal authority, over the subjects; which in the preceding books I have observed to be distinguishing marks of despotism. *But we must not believe that the counts pronounced judgment by themselves, and administered justice in the same manner as the pashas in Turkey; in order to judge affairs, they assembled a kind of assizes, where the principal men appeared.* To the end we may thoroughly understand what relates to the judicial proceedings in the formulas, in the laws of the barbarians, and in the Capitularies, it is proper to observe that the functions of the count, of the grafio or fiscal judge, and the centenarius, were the same; that the judges, the rathimburgers, and the sheriffs, were the same persons under different names. These were the counts assistants, and were generally seven in number; and as he was obliged to have twelve persons to judge, he filled up the number with the principal men. *But whoever had the jurisdiction, the king, the count, the grafio, the centenarius, the lords, or the clergy, they never judged alone; and this usage, which derived its origin from the forests of Germany, was still continued even after the fiefs had assumed a new form*¹⁶³.

According to Montesquieu, the «limitation» or the «moderation» of the power and the non-monocratic but collective administration of justice were hence the basic and distinguishing elements which restarted the cycle of liberty in the European history. However, after centuries, this cycle risked being once again interrupted, as the author highlighted in the *Persian letters* and as he now strongly points out in the pages of the *Spirit of the*

162 *EL*, XVII, 5 and XVIII, 29, pp. 1466, 1512, where Montesquieu explains the reasons why — in his opinion — the Romano-Barbaric monarchies of which he already speaks in *LP* CXXV (CXXXI), would be moderate, and namely why powers were ‘distributed’ between the *rex* and the *populus*. See Th. Casadei – D. Felice, *Modi di sussistenza, leggi, costumi*, pp. 338–34.

163 *EL*, XXX, 18, p. 2128 (emphasis added).

Laws. On the one hand, this cycle risked being interrupted by the modern absolute monarchs because of their repeated attempts to eliminate any socio-political pluralism and to exercise the judicial power (threatening the autonomy and the independence of the jurisdiction), in person, and this is for example the case of Louis XIII of France who wanted to be the judge in the case against the duke of La Valette¹⁶⁴, or by their ministers and special commissioners¹⁶⁵. It was essentially because of their repeated tactics designed to concentrate in their hands all the great posts of the State like the Oriental despots¹⁶⁶. On the other hand, this cycle risked being interrupted by the eighteenth-century hereditary aristocracies because of their proneness to maintain the totality of the public power in the hands of the noble class only and within the same patrician families. And just because of these circumstances these forms of State in Europe of the time are closer to the «Asiatic despotism» and in particular to the despotism of the Ottoman Empire, such as for example the Republic of Venice. This government «is obliged to have recourse to *as violent methods, for its support, as even that of the Turks*; witness the state-inquisitors, and the lion's mouth into which every informer may at all hours throw his written accusations»¹⁶⁷. Moreover, the fact that aristocrats have a monopoly of the political power allow them to commit abuses of power and any kind of violence against the State and citizens:

Observe the possible situation of a citizen in these [aristocratic] republics. The body of the magistracy, as executor of the laws, retains all the power it has given itself as a legislator. It can plunder the State by using its general wills; and, as it also has the judiciary power, it can destroy each citizen by using its particular wills. There all power is one; and, although there is none of the external pomp that reveals a despotic prince, it is felt at every moment¹⁶⁸.

164 Cf. *EL*, VI, 5, p. 1068.

165 «It is also a great drawback in a monarchy for the ministers of the prince themselves to judge contested suits. Today we still see states in which there are innumerable judges to decide suits concerning the fisc and the ministers (who would believe it!) still want to judge them» (*EL*, VI, 6, p. 1072). See also *EL*, XII, 22, p. 1316: «Under Henry VIII, when a peer was tried, he was to be judged by commissioners drawn from the House of Lords; with this method, one put to death all the peers one wanted».

166 Cf. *EL*, XI, 6, p. 1220: «[...] princes who have wanted to make themselves despotic have always begun by uniting in their person all the magistracies, and many kings of Europe have begun by uniting all the great posts of their State».

167 *EL*, XI, 6, p. 1221 (emphasis added). Cf. also *EL*, V, 8 and XI, 6, pp. 1018, 1224. See my *Oppressione e libertà*, pp. 160–167.

168 *EL*, XI, 6, p.1220.

As we can see, both in the *Persian letters* and in the *Spirit of the Laws* and on the basis of very precise and detailed reasonings such as the bad ‘allocation’ and management of the «terrible»¹⁶⁹ judicial power, Montesquieu’s view of the world of his day is far from being calm and calming. After the endless journey of knowledge among the Eastern and Western, modern and ancient peoples and civilizations of the Earth which is cleverly described in the *Spirit of the Laws*, his point of arrival is bitter and fraught with disquiet again. In fact, the Ottoman Empire, the prototype of Asian autocratic empires, is oppressed by a terrible despotism and the sultan «knows not how to be just without committing an outrage on justice»¹⁷⁰. The eighteenth-century European aristocratic republics (such as the Republic of Venice) are closer to the government of the Turks; the European continental absolute monarchies (such as France) are no longer a despotic regime (cf. *Persian letters*), but they are headed for despotism unless they put an end to their abuses and their corruption¹⁷¹.

Nevertheless, Montesquieu is deeply troubled not only by the centralization and the concentration of powers, but also by other harmful facts related to the ‘functioning’ judicial system, such as for example: the non-observance of the principle of proportionality between offences and penalties¹⁷², the excessive severity of penalties¹⁷³, the persistent criminalization of verbal insults (perjuries, swearwords etc...) against God¹⁷⁴; the chronic consideration of witchcraft and heresy as divine lese-majesty crimes; the fact that homosexuality was still condemned to the

169 *EL*, XI, 6, p. 1222.

170 *EL*, XXVI, 24, *in fine*.

171 About the abuses, see *EL*, VIII, 6, pp. 1142–1144, where, more explicitly than elsewhere, Montesquieu exposes the repeated attempts of centralization and concentration of powers put in place by Louis the Great; and about the corruption, see *EL*, III, 5, p. 955, where he describes the courts as following: «Read what the historians of all times have said about the courts of monarchs; recall the conversations of men from every country about the wretched character of courtiers: these are not matters of speculation but of sad experience. Ambition in idleness, meanness in arrogance, the desire to enrich oneself without work, aversion to truth, flattery, treachery, perfidy, the abandonment of all one’s engagements, the scorn of the duties of citizens, the fear of the prince’s virtue, the expectation of his weaknesses, and more than all that, the perpetual ridicule cast upon virtue, these form, I believe, the character of the greater number of courtiers, as observed in all places and at all times».

172 Cf. *EL*, VI, 16, p. 1094.

173 Cf. *EL*, VI, 9, 12, pp. 1076, 1080.

174 Cf. *EL*, XII, 4, p. 1284.

stake just as in case of witchcraft and heresy¹⁷⁵; the repeated dispositions against freedom of thought and expression; in short, the continuing cases of violation of the principles — which will be reaffirmed by Cesare Beccaria — of *nullum crimen sine actione* and *nulla poena sine necessitate*¹⁷⁶.

However, the experiences that mostly outrage and trouble Montesquieu are the ones related to the judicial torture and violation, in punishing crimes, of the natural law of modesty¹⁷⁷. These phenomena reveal, at the same time, perfectly in phase with Cicero's and Marcus Aurelius' Stoicism, the extraordinary *sense of humanity* of *Président*. In the *Spirit of the Laws* VI, 17, he writes about torture:

So many clever people and so many men of genius have written against this practice that I dare not speak after them. I was going to say that it might be suitable for despotic government, where everything inspiring fear enters more into the springs of the government; I was going to say that slaves among the Greeks and Romans... *But I hear the voice of nature crying out against me* (p. 1096; emphasis added).

And in relation to the violation of the «rules» of modesty (and so, as in the case of torture, of the *moral principle of respect for human being*), the author writes: «An old usage of the Romans forbade putting to death girls who were not nubile». Tiberius, who was a «crafty and cruel tyrant», «hit upon the expedient of having them raped by the executioner before sending them to their punishment». Feeling a surge of disgust, shortly after, Montesquieu effectively adds:

When the Japanese magistracy had naked women exposed in public squares and forced them to walk like beasts, *it made modesty tremble*; but when it wanted to compel a mother..., when it wanted to compel a son..., I cannot go on, *it made even nature tremble*¹⁷⁸.

As Mario A. Cattaneo sharply observed, what here speaks through «nature» and its «voice»¹⁷⁹ — a «nature» interpreted as «delicate respect of

175 Cf. *EL*, XII, 6, p. 1292.

176 «Every penalty that does not derive from necessity is tyrannical» (*EL*, XIX, p. 1534). About Beccaria and Montesquieu, see M.A. Cattaneo, *L'umanizzazione del diritto penale tra Montesquieu e Beccaria*, in *Montesquieu e i suoi interpreti*, t. I, pp. 131–158.

177 «The laws of modesty are a part of natural right and should be felt by all the nations in the world» (*EL*, XV, 11, p. 1412).

178 *EL*, XII, 14, p. 1304 (emphasis added). About the inviolability of the rules of decency, see also *EL*, XV, 12, XVI, 12, XXIV, 15 e XXVI, 3: pp. 1412, 1546, 1808, 1858.

179 Defined by Montesquieu as «the sweetest of all voices» (*EL*, XXVI, 4, *in fine*).

human dignity» — is not only «the most important Montesquieu's message and teaching», but it also witnesses «the presence and the force of the *feeling* within the Enlightenment, which is a movement of thinking based, from a general point of view, on *reason*»¹⁸⁰.

8.4. *The character of nations and the decline of States and civilizations*

The third and last essential innovation introduced by the *Spirit of the Laws*, which was epoch-making in the history of Western thought, is the category of the *spirit* or of the *general character of a nation* (or of a *century* or an *age*¹⁸¹). Present but not thematized in the *Persian letters*, this category was firstly outlined in *On politics*, secondly perfected in the *Romains* and finally focused in the *Essay on the Causes*: it is the pivot around which the third part of the *Spirit of the Laws* (books XIV–XIX) turns on. This third part is centred on the double *physical* and *moral* causality of human institutions and of the character of peoples and of individuals. Its more significant aspects, which are resumed and systematized in the *Spirit of the Laws*, have already been delineated in the description of the contents of the *Essay on the Causes*. We need only to say something about the last definition of the *general spirit* that we find in the 4th chapter of the XIXth book of the *opus magnum*: this chapter, dating in the manuscript from 1740–1743, is perhaps the most important one of the whole work¹⁸². The last definition is made up of two remarkable paragraphs, the first of which affirms:

Many things govern men: climate, religion, laws, the maxims of the government, examples of past things, mores (*mœurs*), and manners (*manières*); a general spirit is formed as a result (p. 1520).

In these words, the key data are two. Firstly, the fact that here we have the most detailed list of the factors representing or conditioning the general

180 M.A. Cattaneo, *Il liberalismo penale di Montesquieu*, Naples, Esi, 2000, pp. 49–50 e 80 (emphasis added). See also P. Barrière, *L'humanisme de «L'Esprit des lois»*, in *La pensée politique et constitutionnelle de Montesquieu* (1952), Aalen, Scientia, 1988, p. 105.

181 Cf. *EL*, XXXI, 13, p. 2216, e *P* 810: «Each age has its particular character: a spirit of disorderly independence was created in Europe with Gothic government; the monastic spirit infected the times of Charlemagne's successors; then reigned that of chivalry; that of conquest appeared with orderly troops; and it is the spirit of commerce that dominates today. This spirit of commerce makes everything a matter of calculation».

182 Cf. R. Shackleton, *Montesquieu*, pp. 316–317.

spirit; here the factors are seven, contrary to the six ones described in the *Essay on the Causes*, and namely the «climate», the «laws», the «religion», the «mores», the «manners» and «that sort of emanation of the way of thinking and of the mannerisms and foolishness of the court and of the capital that spreads far afield»¹⁸³. Secondly, the fact that this increase concerns the moral factors and not the physical ones. Among the physical factors, we can find only the «climate», as in the *Essay on the Causes*. Nevertheless, we have to say that Montesquieu understands this term (or concept) in its broadest meaning including not only the causal factors related to the element ‘air’, but also the ones related to the element ‘earth’. The element ‘earth’ is largely repropounded in the *Spirit of the Laws*, although with different and original meanings respect to the ones illustrated in the *Essay on the Causes*. Indeed, the book XVIII is totally concerning the study of «nature» or «qualities of the soil»¹⁸⁴ (understood not as physico-chemical composition, but on the one hand as fertility/barrenness of the earth and as its flat or mountainous configuration, and, on the other hand (from the point of view of *human* [and not *physical*] geography) as the way peoples act in relation to the «nature» of the territory they live in to procure their «subsistence (*subsistance*)»¹⁸⁵. Through the themes relating to fertility/barrenness and to the orographic characteristics of the soil (or terrain) Montesquieu can strengthen his thesis about the radical diversity between Asia (mostly made up of fertile terrains and plains) and Europe (mostly made up of barren and mountainous grounds). Through the theme relating to *the modes of subsistence or of food production*, the author introduces in his theory a very new element, which has only recently been studied by interpreters¹⁸⁶ and which will affect some of the most famous exponents of

183 *Essai sur les causes*, in Masson, III, p. 419. As we can see, among the seven factors listed in the first paragraph of *EL*, XIX, 4, the «way of thinking (*façon de penser*)», the «mannerisms (*air*)» and the «foolishness (*sottises*) of the court and of the capital» disappear: they clearly refer to the huge influence exercised in France of the seventeenth and eighteenth century by the Palace of Versailles and the city of Paris — and moreover the «maxims of the government», and namely the principles which inspire and manage the action of those who rule the States and the «examples of past things (*exemples des choses passées*)». In some definitions, which are previous or contemporary to the *Essay on the Causes*, the factors listed by Montesquieu are five: see, in this regard, *P* 542 and 854.

184 *EL*, I, 3; XVIII (title) and XVIII, 1 (title), pp. 920, 1472.

185 *EL*, XVIII, 8, p. 1480.

186 We particularly have in mind here S. Landucci, *I filosofi e i selvaggi, 1580–1780*, Bari, Laterza, 1972 (new edition, Torino, Einaudi, 2014), pp. 409–428, 437 *et seqq.*; and Th. Casadei – D. Felice, *Modi di sussistenza, leggi, costumi*, pp. 320 *et seqq.*

the Scottish Enlightenment (Smith, Robertson, Ferguson, Millar, etc.)¹⁸⁷. This originality consists in the fact that among the different factors on which laws depend, there are also the *modes of subsistence* or *of food production* and more specifically that the «code» of laws varies during the course of these modes. In other words, it is necessary a «more extensive» *corpus* of laws for a people devoted to *commerce* than for a people devoted to *agriculture*, much greater for a people devoted to *agriculture* than for a people living mainly through *livestock farming*, and much greater for this last than for a people living by hunting. In the *Spirit of the Laws* XVIII, 8, Montesquieu exactly writes:

The laws are very closely related to the way that various peoples procure their subsistence. There must be a more extensive code of laws for a people attached to commerce and the sea than for a people satisfied to cultivate their lands. There must be a greater one for the latter than for a people who live by their herds. There must be a greater one for these last than for a people who live by hunting¹⁸⁸.

The criticisms often levelled at Montesquieu regarding the fact that he had left out the economic factor in his list of the causal elements of the *esprit général*¹⁸⁹, are thus absolutely unfounded. In addition, if we consider that the four books making up the part IV of the *Spirit of the Laws* and dedicated to commerce (books XX–XXI), monetary policy (book XXII) and

187 See S. Landucci, *Montesquieu e l'origine della scienza sociale*, pp. 28–31; and S. Sebastiani, *L'«Esprit des lois» nel discorso storico dell'Illuminismo scozzese, passim*.

188 *EL*, XVIII, 8, p. 1480. Without going into details of the scheme sketched here by Montesquieu and developed in the successive chapters of the book XVIII, we just indicate that, for the French philosopher, in the economically less advanced societies — and namely among the «hunting peoples» (or «savages peoples») and the «pastoral peoples» (or «barbarian peoples») — especially the law of nations is developed, whereas among the ones economically more advanced — and namely among the peoples devoted to the agriculture and to commerce, where there are the private property and the use of money, which bring about large social imbalance and increase «the various ways of being wicked» of human beings (*EL*, XVIII, 16, p. 1488) —, also the «civil» and «political law» one are widely developed. Through the complication (or the evolution) of the mode of subsistence or modes of production of material life, increases also the *code des lois*, the 'volume' of legislation.

189 See L. Althusser, *Montesquieu*, p. 63. An opposed interpretation is proposed by C. Spector, who openly forces Montesquieu's texts: *Montesquieu et l'émergence de l'économie politique*, Paris, Champion, 2006, pp. 67–69, on which see Th. Casadei – D. Felice, *Modi di sussistenza, leggi, costumi*, pp. 346–348.

demography (book XXIII), represent a real treatise of political economy¹⁹⁰, John M. Keynes' considerations about Montesquieu appear not altogether disproportionate nor excessive. Keynes asserts that Montesquieu is «the real French equivalent of Adam Smith, the greatest of your economists, head and shoulders above the Physiocrats in penetration, clear-headedness and good sense (which are the qualities an economist should have)»¹⁹¹.

We now turn to the second paragraph of book XIX, 4. It states as following:

To the extent that, in each nation, one of these causes acts more forcefully, the others yield to it. Nature and climate almost alone dominate savages; manners govern the Chinese; laws tyrannize Japan; in former times mores set the tone in Lacedaemonia; in Rome it was set by the maxims of government and the ancient mores.

Once again, there are essentially two important elements to be mentioned. The first is that not all factors making up the general spirit act with the same force in the different situations. Each nation is unequally conditioned by geoclimatic mutations and historical and cultural aspects, so in each one of them there is a factor (or «cause») predominating («acting more forcefully») and characterizing the whole spirit of the nation. Hence, it originates the characteristic of *dynamic and hierarchical totality* of this category (as one of its components predominates — or «sets the tone» —, the other ones harmonize with it)¹⁹².

The second element to be mentioned (already widely described in the *Essay on the Causes*) is the fact that the influence of physical factors decreases with the advancement of society. In other words, moral factors prevail as human beings stray from the primitive condition of humanity, from Montesquieu's «savages» peoples living by hunting and picking fruits, which are the most elementary ways of procuring the subsistence¹⁹³.

190 See the exhaustive study by E. Pii, «*Esprit de conquête*» ed «*esprit de commerce*», in *Leggere «Lo spirito delle leggi» di Montesquieu*, vol. II, pp. 409–440.

191 J.M. Keynes, «Préface pour l'édition française», in *Théorie générale de l'emploi, de l'intérêt, et de la monnaie* (1939), traduit de l'anglais par J. de Largentaye, Paris, Payot, 1955, p. 12.

192 This is the outlook that emerges from the already mentioned *pensée* n° 542, where we can read: «States are governed by five different things: religion, general government maxims, individual laws, mores, and manners. These things all have a mutual relationship with each other. *If you change one, the others follow [...]* slowly [...]» (emphasis added).

193 Cf. *EL*, XVIII, 9–14.

However, this does not mean that the action of physical factors loses its effectiveness or completely vanishes. In accordance with his dualistic view of human being, the *Président* points out the constant ‘contemporary presence’ (even if in different proportions) of both causal factors *also* among *nations policées* or, to put it another way, among peoples who are the furthest removed from those so-called ‘primitive’. It is therefore not possible to find in the writings of Montesquieu any sketch or scheme of an indefinite and irreversible progress¹⁹⁴. On the contrary, in these writings the argument that both the *esprit général* and the legal-political systems are bound to wane is to be found. This is what is affirmed by Montesquieu in the fragment *On politics*, where he writes that an «endless chain of causes» gives rise to this *esprit* and, at the same time, produces its decline *jusques à la totale destruction*¹⁹⁵. We also find this argument in the *Romains*, where it is described through the hermeneutical category of the *grandeur* and *décadence*. Hence it appears that in Western history we can have a developing path from «barbarism» of despotism to «civilization» of moderate or free government, from oppression to liberty, but even the opposite may happen... On the contrary, this kind of situation cannot be found in the East, just because it is condemned to the eternal immutability. In this respect, Montesquieu gives two examples: on the one hand, during Antiquity, the long political-constitutional history of Rome, which moved from the «tyranny» of Tarquin the Proud to the liberty of the democratic republic and from the republican liberty to the «military despotism» of emperors¹⁹⁶; on the other hand, Montesquieu mentions, in the modern age, England in the eighteenth-century, whose admirable political system will lose its liberty, in the same manner as the other principal States of history: «As all human things have an end (*Comme toutes les choses humaines ont une fin*), the State we are speaking of will lose its liberty, will perish (*perdra sa liberté, il périra*). Have not Rome, Sparta, and Carthage, perished? It will perish when the legislative power shall be more corrupt than the executive»¹⁹⁷. In other words, it will perish when the devotion to

194 As is widely known, such a scheme is however well present in the stadial theory developed by the Scottish Enlightenment thinkers such as Smith, Millar, Stewart, Lord Kames etc., starting from Montesquieu’s ideas. In this regard, see S. Sebastiani, *L’«Esprit des lois» nel discorso storico dell’Illuminismo scozzese*, pp. 221 *et seqq.*; and Th. Casadei – D. Felice, *Modi di sussistenza, leggi, costumi*, pp. 344–351 (here it is also strongly emphasized Montesquieu’s radical anti-evolutionism).

195 *De la politique*, in Masson, III, p. 169. See above.

196 *EL*, VI, 15, p. 1092. See my *Oppressione e libertà*, pp. 187–198.

197 *EL*, XI, 6, p. 1236. Even if in a more nuanced way, Montesquieu reasserts these convictions about the inevitable end of the English political system also in his

the collective good of the «middling sort (*état moyen*)» will decay¹⁹⁸, and namely when the whole electorate will be corrupted¹⁹⁹.

Thus, so profound was the sense of finitude of human things (*choses humaines*) in Montesquieu. Differently from the historic «recurrences» of Vico, the ultimate destiny of the political forms and civilizations is not for him their renewal on the basis of the *cyclicality*, but — as Sergio Cotta has keenly observed — «the tragic destiny of the definitive disappearing of their historical concretizations»²⁰⁰. Nevertheless, other States and other civilizations — but also other *esprits généraux* — will rise and flourish again, and in Europe, or more generally in the West, liberty will re-prevail over the oppression. It will be, however, the case of *other* States and of *other* civilizations (or of other *esprits généraux*), which one day shall wind up just as all *human things* and they will be themselves replaced by *other* States and *other* civilizations.

letter replying to the one of William Domville (June 4th, 1749), where the latter complained about the degeneration of the English liberty into license («our freedom has degenerated into license») and foretold an imminent and rapid decadence of his country (*Corr.*, in Masson, III, p. 1235): «I think, however, that in Europe the last sigh of liberty will be heaved by a Englishman; I think even you will slow the speed with which other nations collapse entirely» (Montesquieu to Domville, 22 July 1749, in Masson, III, p. 1245).

198 P 1960.

199 As in Machiavelli (cf. G. Inglese, *Niccolò Machiavelli*, in *Dizionario biografico degli Italiani*, Rome, Istituto della Enciclopedia italiana, vol. 67 [2007], p. 15), we see here the emergence of a tragic conception of politics: the latter cannot prevent the States, the societies and the civilizations from the decline to which they are destined, but can and must prolong their life as much as possible. Politics is like medical art, which tries to prolong life of the bodies without being able to save them from certain death.

200 S. Cotta, *Il pensiero politico di Montesquieu*, p. 21. Cf. P 1794: «Peoples, like each individual, have a sequence of ideas, and their total manner of thinking, like that of each individual, has a beginning, a middle, and an end».

9. CONCLUSIONS

Montesquieu always thinks and makes others think.
He has been the most moderate and the finest *philosophe*.
(Voltaire)

9.1. «*Servitude always begins with drowsiness*»¹

Italiam, Italiam..., cried out Aeneas' companions when they reached the coasts of Salento². *Italiam, Italiam...*, re-echoes Montesquieu at the end of the *Spirit of the Laws*, and namely at the end of his long voyage through time and space in order to see and know the legal-political, economic-social and cultural institutions of *all* the peoples of the Earth.

It's a cry full of tiredness (this book «nearly killed me»³) but also of great pride to have accomplished an uncommon mission, which had never been attempted before: similarly to Aeneas and his companions, Montesquieu discovered a new world (*les terres nouvelles de l'histoire*, as Althusser writes⁴) and like Ovid with his odes, he created something completely original (*prolem sine matre creatam* [«an offspring engendered without a mother»])⁵, and thus the first scientific treatise on the *esprit* (or «sense» or «soul»⁶) of *positive legislations*, of *mores*, of *manners* and *usages* of the peoples of the planet.

1 *EL*, XIV, 13, p. 1388.

2 Virgil, *Aeneid*, III, 523–524.

3 Montesquieu to G.R. Solaro di Breglio, 7 March 1749, in Masson, III, p. 1200.

4 L. Althusser, *Montesquieu*, book cover.

5 Ovid, *Metamorphoses*, II, 553; *Tristia*, III, 13–14: *Palladis exemplo de me sine matre creata / carmina sunt* («My verses now are like Minerva, born without a mother»).

6 «It is not the body of the laws I am looking for, but their soul» (*MsEL*, II, p. 735). About the 're-translantion' of *esprit* through «sense», see S. Cotta, *Il pensiero politico di Montesquieu*, pp. 8–9.

These are the discovery of a new world (the endless variety of the human institutions in all times and places) and the foundation of a new science (the *empirical* and *universal* science of society and State, as Charles Bonnet had already understood in the eighteenth century: «Newton discovered the laws of the material world; you have discovered, Sir, the laws of the intellectual world»; d’Alembert pointed out that Montesquieu «first dared to open a new route. He has been among us, for the study of laws, what Descartes was for that of philosophy»⁷) that summarizes the whole meaning and value of the *Spirit of the Laws*: thanks mainly to its three innovations on which we focused, this work marked a watershed in the ideas of the Age of Enlightenment and, more generally, of Modernity.

In contrast to what Hobbes and Spinoza argued⁸, there will never be a ‘geometrical’ science of the man and the State, although we continue to admire and praise it. The reason for this is that human beings are not numbers or lines or points, and thus mere abstractions or mere quantities; and were that happened or happens, such as in all past and present totalitarianisms, human beings appeared and appears to be mere automatons or worse than beasts⁹. On the contrary, as Aristotle taught us for Antiquity, only the *empirical* science of man and society *concretely existed and existing* can be admitted, and thus of the *historically* determined peoples and societies. And in this sense, the *Président* with the *Spirit of the Laws*

7 Ch. Bonnet to Montesquieu, 14 november 1753, in Masson, III, p. 1478; d’Alembert, *Éloge de Montesquieu* (1755), in *Montesquieu. Mémoire de la critique*, p. 270.

8 Cf. Th. Hobbes, *De Cive*, «Epistle dedicatory»: «For were the nature of human actions as distinctly known, as the nature of quantity in geometrical figures, the strength of avarice and ambition [...], would [...] faint and languish; and mankind should enjoy [...] an immortal peace»; B. Spinoza, *Political Treatise*, I, 4: «[...] on applying my mind to politics, I have resolved to demonstrate by a certain and undoubted course of argument, or to deduce from the very condition of human nature, not what is new and unheard of, but only such things as agree best with practice. And that I might investigate the subject-matter of this science with the same freedom of spirit as we generally use in mathematics, I have laboured carefully, not to mock, lament, or execrate, but to understand human actions».

9 Cf. in this regard what Montesquieu writes about Hobbes and Spinoza in the repeatedly mentioned *pensée* 1266: the first one «would have men do what lions themselves do not do», whereas the second one «seeks to flatter me with the idea that I am merely a modification of matter. He uses a geometrical framework and reasonings that are said to be very bold, but that I have found very obscure, to elevate my soul to the dignity of my body [...]. He takes from me the motive of all my actions and relieves me of all morality. He honors me to the point of claiming that I am a very great villain, without crime and without anyone having the right to find it bad».

can be considered the eighteenth-century heir and successor of Aristotle¹⁰. In my opinion, it follows that the metaphorical qualification of Galilei or Newton of political science must be entitled to Montesquieu, and not to the author of the *Leviathan* or to the author of the *Social contract*, as we continue repeating in a mechanical way. In other words, Montesquieu is the true founder of this branch of knowledge in the modern age.

As already seen above, the *Président* begins his voyage-knowledge *observing* and *explaining* the evils of the oppression in his historic present of Europe and Asia (*Persian letters*) and continues it with the analysis of the evils of the greatest western civilization, and thus the Ancient Rome (*Romains*). This voyage ends with an organic and systematic re-examination of these evils of the present and the past of *all* peoples of the Earth and puts forward, at the same time but solely for the West¹¹, the goods linked to liberty and the *concrete paths* — *in primis*, the separation and the mutual control of the State powers — to achieve them (*Spirit of the Laws*). In any case, this outlook doesn't dim down, as is mistakenly believed¹², his perception of the evils, which, as we have seen, remains deep and dramatic. Indeed, it is true that in the *Spirit of the Laws*, Montesquieu outlines in detail the different models for moderate or free State, but these forms of government are for him a «masterpiece of legislation», rarely produced by «chance», and seldom attained by «prudence» or «wisdom»¹³. Moreover — as highlighted before —, the East and the countries in the South of the world are all prey to a frightful despotism, the eighteenth-century Italian aristocracy employs the same means as the Ottoman Empire, and finally, the great English government is destined to «perish», like all other principal States of history.

In particular, in the works of Montesquieu, the tragic awareness of the incredible *fragility* of human beings and of their natural tendency *to gravitate downwards* is extremely acute («[...] it has eternally been

10 This is what is finely suggested by Isaiah Berlin in his study about Montesquieu of 1956: see his *Against the Current: Essays in the History of Ideas*, Princeton, Princeton University Press, 2013, p. 203.

11 See above. In this restriction to the West of the possibilities of liberty lies the most transitory and debatable structural aspect of Montesquieu's thought.

12 See in particular S. Rotta: according to him, after the *LP*, Montesquieu would be reneging on the «anguished feeling of his thirty years» and would go «the opposite way»: in short, the *LP* would admit the «rebellion and the rejection of the bad society», whereas the *EL* would invite to «conformism» (S. Rotta, *Il pensiero francese da Bayle a Montesquieu*, p. 207).

13 *EL*, V, 14, *in fine*. Cf. *supra*.

observed that any man who has power is led to abuse it»¹⁴). In this way, nothing is more illuminating than the words written by the *Président* in the «Preface» of the *Spirit of the Laws*:

Man, that flexible being who adapts himself in society to the thoughts and impressions of others, is equally capable of knowing his own *nature* when it is shown to him, and *of losing even the feeling of it when it is concealed from him* (p. 900; emphasis added).

As it has been rightly stated, what is perceived here is «more than loss» of the capacity for political action, which is the central condition of despotism and «more than growth of meaninglessness and loss of common sense ([...] that part of our mind and that portion of inherited wisdom which all men have in common in any great civilization): *it is the loss of the quest for meaning and need for understanding*»¹⁵. In other words, in the *Spirit of the Laws* (more than in the *Persian letters*), Montesquieu seems to be anguished by the idea that the human being is losing even the instinctive-rational *impulse* in the quest for meaning, and namely by the idea that humankind is depriving himself of *wonder*, which is the *sine qua non* of the questioning about the meaning and the significance. In short, his main fear is more the possible disappearance of the «human nature» itself, the «hideous nothingness», than the welfare of peoples and nations and the survival of political liberty¹⁶.

This is the reason of the urgent warnings which on several occasions and more or less explicitly the *Président* addresses to the sovereigns and

14 *EL*, XI, 4, p. 1216. See also *EL*, I, 1, p. 910, where we can observe that the man «constantly violates the laws God has established and changes those he himself establishes», who is «a limited being, he is subject to ignorance and error, as are all finite intelligences» and who «as a feeling creature, he loses even the imperfect knowledge he has, and he falls subject to a thousand passions»; or, *EL*, XII, 4, p. 1284, where legislators are invited to bear constantly in mind «the weakness, ignorance, and caprice of human nature»; or, finally, *EL*, XIII, 1, p. 1330, where is spoken about the «sick envy» of men for the «vainglory» and of a «certain impotence of spirit in the face of their fancies».

15 H. Arendt, *Essays in Understanding*, ed. J. Kohn, New York, Harcourt Brace, 1994, pp. 316–317.

16 Cf. *supra*, § 3. In this regard, Arendt writes: Montesquieu «certainly cannot be counted among the prophets of doom, but his cold and sober courage has hardly been matched by any of the famous historical pessimists of the nineteenth century»; and: «He had given too much thought to the evil of tyranny on the one side, and on the conditions of human freedom on the other, not to be driven to some ultimate conclusions» (H. Arendt, *Essays in Understanding*, pp. 315, 325 [note 9]).

peoples of Europe of his time: the sovereigns should not extend their power beyond the permitted limits and should also keep their desire for glory and their ambition for conquest under control¹⁷; for their part, the peoples of Europe should always be restless, they should cultivate a «character of impatience»¹⁸ and be continuously on the look-out because — as he wrote in a very famous passage of the *opus magnum* — «servitude» (the despotism) «always begins with drowsiness»: in other words, it begins when the constant vigilance on those who hold political power fail and because this kind of State, like the totalitarianisms of the «short twentieth century» have confirmed, is initially always imperceptible and deceptive, but then, once it has been permanently established, it becomes particularly violent and aggressive. To use the words much more effective of Montesquieu himself, despotism is «always slow and weak in its beginnings» and «shows at first only a hand extended in aid», but afterwards, at its development, it is «prompt and lively» and «oppresses with an infinity of arms»¹⁹.

9.2. Montesquieu and his interpreters

Finally, let's make a fleeting mention to the reception (or influence or 'impact') of Montesquieu and his works. Among all modern authors, he is perhaps the most widely 'exploited' one by the later philosophers, even if they nearly didn't recognize to be in debt to him. One example will be sufficient: Kant. Nearly all his political and legal thought focuses are directly dependent on the *Président*: the theorization of the structure of the constitutional State and the distinction between the republic, which is based on the separation of powers²⁰, and despotism, which is on the contrary based on the concentration of powers, and finally the «definitive articles» for the implementation of the «perpetual peace». All this notwithstanding, the cases are very rare in which Kant explicitly

17 See *EL*, VIII, 8, 17; IX, 6–7; X, 2, 9; XIII, 17: pp. 1146, 1160, 1182, 1186–1188, 1198.

18 According to Montesquieu, it's the character which had the English of his time and that allowed them to «disconcert the projects of tyranny» (*EL*, XIV, 13, p. 1388).

19 *EL*, XIV, 13, p. 1388.

20 However, in this regard, it should be noted a significant different between Kant and Montesquieu. In his writing *Zum ewigen Frieden* (1795), Kant underlines the importance of the separation of the executive power from the legislative one. On the contrary, in his classical treatment Montesquieu underlines the importance of the separation of the judiciary from the other two powers.

mentions or praises Montesquieu and his thought²¹. On the contrary, the attitude of Hegel is very different: on the one hand, he acquires the innovatory tripartition of governments of Montesquieu and uses it to outline his philosophy of history as an «history of liberty», and namely as the historical-conceptual ‘evolution’ from the despotic Orient (in this case, «one is free») to the republics of Greco-Roman antiquity (in this case, «some are free») and, finally, to the Germanic monarchy (in this case, «all are free»²²). On the other hand, Hegel explicitly praises — in his crucial *Elements of the Philosophy of Right* (1821) — the *Spirit of the Laws* also for three other following ‘acquisitions’: firstly, the *Spirit of the Laws* illustrates «the historical view, the genuine philosophical viewpoint» of legislation, which has been deprived of the *abstractness* to be then brought back to «a dependent moment within one totality», which is «the character of a nation»²³; secondly, this work explains the «necessary division of powers [...], guarantee of public freedom»; and thirdly, the *Spirit of the Laws* sets out the «famous account of the principles of forms of government» (and here we can see «the Montesquieu’s *depth of insight*»²⁴).

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- 21 The most significant appreciation is perhaps the one we can find in the *Bemerkungen*: «Eine Ursache, weswegen Montesquieu so viel vortrefflich hat sagen können, ist diese, daß er vorausgesetzt hat, diejenigen, welche Gebräuche einführen oder Gesetze gaben, hätten jederzeit einen vernünftigen Grund gehabt» (*Kant’s gesammelte Schriften*, Akademie-Ausgabe, t. XX, pp. 166–167). About some debts of Kant to Montesquieu, see G. Benrekassa, *Kant, la question du droit et Montesquieu*, in *Lectures de Montesquieu. Actes du Colloque de Wolfenbüttel (26–28 octobre 1989)*, ed. E. Mass, Naples, Liguori, 1993, pp. 11–23; M.A. Cattaneo, *Montesquieu e la repubblica federativa*, in D. Felice – D. Monda, *Montesquieu: intelligenza politica per il mondo contemporaneo*, pp. 307–309.
- 22 «The East knew and to the present day knows only that *one is free*; the Greek and Roman world, that *some are free*; the German World knows that *all are free*. The first political form therefore which we observe in History, is Despotism, the second Democracy and Aristocracy, the third Monarchy» (G.W.F. Hegel, *The Philosophy of History*, New York, Colonial Press, 1899, pp. 104–104; emphasis added) See G. Bongiovanni – A. Rotolo, *Hegel e lo spirito del dispotismo*, in *Dispotismo*, vol. II, pp. 469 *et seqq.*
- 23 In this regard, already in the early writing about the *Natural Law* (1802), Hegel had defined the *Spirit of the Laws* an «immortal work» for «the view of the individuality and character of nations» and for having not deduced the «individual institutions and laws from so-called reason», but bringing them back to the «whole», which is constituted by the «living individuality of a nation» (*Natural Law: The Scientific Ways of Treating Natural Law, its Place in Moral Philosophy, and its Relation to the Positive Sciences of Law*, trans. by T. M. Knox, Philadelphia, University of Pennsylvania Press, 2011, pp. 128–129).
- 24 G.W.F. Hegel, *Elements of the Philosophy of Right*, ed. A.W. Wood, Cambridge, Cambridge University Press, 1991, §§ 3, 272, 273, pp. 29, 306, 310 (emphasis

However, we must note that in his reformulation of these ideas and theories of Montesquieu, Hegel often ends up getting lost in fuzzy and rash argumentations, which are far from the sober and ‘tidy’ reasoning of the *Président* who believes, as we know, that «even the excess of reason is not always desirable»²⁵.

Things are better for other ‘heirs’ of Montesquieu, such as Constant, Comte, Tocqueville, Taine, Durkheim during the nineteenth century, and Meinecke, Althusser, Arendt and Aron during the twentieth century²⁶. In particular, Arendt and Aron are the *alter ego* of Montesquieu. More than the others, Aron has the merit of having established, on the one hand, that Montesquieu is not «a precursor of sociology, but rather one of its great theorists», and on the other hand, that the ‘architrave’ of this science is the *concept of the general spirit of a nation*, of which Aron gives a very substantive characterization:

The general spirit of a nation is not comparable to the creative will of an individual or a group. It does not resemble the existential choice of a Kant or a Sartre, a single decision which is the source of the variety of actions or episodes of individual or collective life. The general spirit of a nation is the way of living, behaving, thinking, and feeling of a particular collectivity, as geography and history have produced it²⁷.

Another important aspect that should be mentioned here is the strong emphasis on the «synthesis» made by Montesquieu between the theory

added). See A. Rotolo, *Hegel interprete di Montesquieu. «Geist der Gesetze» e dominio della politica*, in *Montesquieu e i suoi interpreti*, vol. II, pp. 505–550.

25 *EL*, XI, 6, p. 1236.

26 See, in this regard, in the already repeatedly mentioned collection of studies about Montesquieu and his interpreters, the following contributions: G. Paoletti, *La libertà, la politica, la storia. Presenza di Montesquieu nell’opera di Benjamin Constant*, pp. 479–505; C. Cassina, *Un’eredità scomoda? Sulle tracce montesquieuiane in Tocqueville*, pp. 569–588; R. Pozzi, *Alle origini della scienza dell’uomo: il Montesquieu di Hippolyte Taine*, pp. 611–626; C. Borghero, *Durkheim lettore di Montesquieu*, pp. 671–712; U. Roberto, *Montesquieu tra illuminismo e storicismo nella riflessione di Friedrich Meinecke*, pp. 713–736; A. Ceccarelli, *Il momento montesquieuiano di Louis Althusser*, pp. 775–804; Th. Casadei, *Il senso del ‘limite’: Montesquieu nella riflessione di Hannah Arendt*, pp. 805–838; M. Iofrida, *Uno «spectateur engagé» del XVIII secolo: Montesquieu letto da Raymond Aron*, pp. 839–866.

27 R. Aron, *Main Currents in Sociological Thought* (1965), 2 vols., trans. by R. Howard and H. Weaver, vol. I, *Montesquieu, Comte, Marx, Tocqueville. The Sociologists and the Revolution of 1848*, Garden City, N.Y., Anchor Books, 1968 pp. 13, 47.

of politics (Aristotelian tradition) and sociology, giving shape to some *types* or *models*, which are not only (as is the case of *Politics* of Aristotle) a form of government, but also a form of social organization structured on the basis of the manner in which the power is exercised: therefore in the thought of Aron, the social development and the political structure are mirror one another. In fact he writes:

Montesquieu most important and valuable idea [...] is the connexion established between the form of government on the one hand and the style of the interpersonal relations on the other. Social life depends on the way in which power is exercised by government, and *vice versa*. Such an idea lends itself admirably to a sociology of the political regimes²⁸.

In any case, it is eminently Arendt the genuine twentieth-century heir of Montesquieu, who is considered by Voltaire «the most moderate and the finest *philosophe*»²⁹.

The two thinkers ‘resemble’ each other in nearly all aspects of their thought.

Firstly, they have sought to be two *spectateurs engagés* (as Aron liked saying³⁰), and not simply two slothful and inattentive investigators of their time. Secondly, they pursued the aim of a science capable of combining the conceptual rigour and the ethical commitment. Thirdly, Montesquieu and Arendt reflected on the despotism-totalitarianism (the abyss/the darkness) and liberty (the summit/the light), on the oppression and liberty, on the ‘bestiality’ and on the ‘angelicity’ of politics. *Last but not least*, as opposed to the extreme fetishism for the *physical sciences* which dominates unchallenged in the society of our time, they both had a true cult for the *political and moral sciences*. And the whole theoretical production of Hannah Arendt is its most evident demonstration. But the same also applies to Montesquieu. As hinted before at the beginning of this essay, his appreciable interest for the scientific disciplines never prevailed in him, not even during his early years: this is demonstrated *ad abundantiam* by the simultaneous drawing up of the *Persian Letters* and of other typically ‘philosophical’ writings, whose remarkable value we tried to highlight in these pages. Moreover, in the many parallels between the

28 *Ibidem*, p. 27.

29 Voltaire, *Lettres à S.A. Mgr. le prince de *** sur Rabelais et sur d'autres auteurs accusés d'avoir mal parlé de la religion chrétienne* (1767), in Id., *Mélanges*, éd. J. van den Heuvel, Paris, Gallimard (“Bibliothèque de la Pléiade”), 1961, p. 1206.

30 See R. Aron, *Le spectateur engagé: entretiens avec J.-L. Missika et D. Wolton*, Paris, Juilliard, 1981.

Ancients and the Moderns, the *Président* and Hannah Arendt both give decidedly preference to the first ones³¹. Following the thought of Cicero, Montesquieu describes the western modernity as «dregs and corruption»³² and us as «small souls»³³: in other words, from an ethical-political point of view, we ‘become smaller’ by one-third compared to the Ancients (here he is firstly referring to the rulers and the ruled influenced by Stoicism³⁴). In an important *pensée* relating to the *Treatise on Duties*, he writes:

It is love of Country that has given Greek and Roman history that nobility that ours does not have. It is the continual spring of all their actions, and one feels pleasure in finding it everywhere, that virtue dear to all those who have a heart.

When we think of the pettiness of our motivations, the baseness of our means, the avarice with which we seek base rewards, that ambition so different of love for glory, we are astonished at the difference between these spectacles, and it seems that since these two great peoples have disappeared, men have grown a cubit shorter³⁵.

But, perhaps, another less known but equally important *pensée* demonstrates most clearly this marked preference of Montesquieu for the Ancients: once he has recognized that, unlike Greeks and Romans, us moderns «we have esteem only for the natural sciences; we are occupied solely with them, and political good and bad are for us an opinion rather

31 As regard Arendt, see S. Giorcelli Bersani, *L'«auctoritas» degli antichi. Hannah Arendt tra Grecia e Roma*, Milan, Mondadori Education, 2010, pp. 63–168; as regard Montesquieu, S. Goyard-Fabre, *Montesquieu: la nature, les lois, la liberté*, pp. 343–349 («Montesquieu, un “Ancien” dans le monde des “Modernes”»).

32 *EL*, IV, 6, p. 982 and note *b*, which refers to the famous *in faece Romuli* of Cicero, *Epistulae ad Atticum*, II, 1, 8. See also *Défense*, p. 2354: «The world is very corrupt».

33 *EL*, IV, 4, p. 976: «Most of the ancient peoples lived in governments that had virtue for their principle, and when that virtue was in full force, *things were done in those governments that we no longer see and that astonish our small souls*» (emphasis added).

34 Its disappearance has been a «misfortune» for mankind: cf. *EL*, XXIV, 10, pp. 1798–1800 («[...] if I could for a moment cease to think that I am a Christian, I would not be able to keep myself from numbering the destruction of Zeno’s sect among the *misfortunes* of human kind [...]. *It alone knew how to make citizens; it alone made great men; it alone made great emperors*»; emphasis added).

35 *P* 221. See also *EL*, III, 5, p. 954: in modern monarchies «the State continues to exist independently of love of the homeland, desire for true glory, self-renunciation, sacrifice of one’s dearest interests, and all those heroic virtues we find in the Ancients and know only by hearsay».

than an object of knowledge», he makes himself «*a partisan of the sect of that excellent man the abbé de Saint-Pierre*»³⁶. And this because, as the Ancients, the abbé de Saint-Pierre devoted himself to the «active philosophy»³⁷ eminently and he wrote a famous *Project for Making Peace Perpetual in Europe* (1713), which is a concrete program to leave the peoples of Europe of his time in better conditions as he found them³⁸.

Unlike Kant, the *Président* did not elaborate projects with «preliminary», «definitive» or «secrets» articles for «perpetual peace» between States. Nevertheless, long before Kant and Rousseau (who boasts about being the real ‘innovator’³⁹), Montesquieu closely connected the idea of *peace* with the idea of *republic* and investigated thoroughly the idea of «federal republic (*république fédérative*)»⁴⁰. The «federal republic» is a large political community «composed of several small republics», able both to withstand an external force and to maintain its greatness without any internal corruption⁴¹. The founding fathers of the United States of America took the «federal republic» as their model and, during the constitutional discussions, they mentioned the *Spirit of the Laws* more frequently than any other ancient and modern work⁴². Since it is quite true — as Hannah

36 P 1940 (emphasis added). In another *pensée* he defines him as «the best good man who ever was (*le meilleur honnête homme qui fût jamais*)» (P 1876).

37 P 1855: «Plutarch has remarked that ancient philosophy was nothing else but the science of government. The Seven Sages, he says, if one makes a single exception, devoted themselves only to Politics and Morality. Although the Greeks devoted themselves later on to the speculative sciences, it is clear that their highest degree of esteem was for the *active philosophy*, and their true cult was for city governors and their legislators» (emphasis added). See also P 1871 and 1926.

38 In fact, in another *pensée* Montesquieu writes: «The illustrious abbé de Saint-Pierre has proposed various schemes, all designed to bring good» (P 1295).

39 The subject of confederations — he asserts in the *Contrat social*, is «quite new» (*Du contract social*, III, 15, in *Oeuvres complètes*, vol. III, p. 431, nota **). See, concerning this, M.A. Cattaneo, *Montesquieu e la repubblica federativa*, in D. Felice – D. Monda, *Montesquieu. Intelligenza politica per il mondo contemporaneo*, p. 307, that rightly returns to Montesquieu his merits.

40 *EL*, IX, 2 («the spirit of republics is peace and moderation»: p. 1176).

41 *EL*, IX, 1, p. 1172. See also *EL*, IX, 1–3, X, 6, and *Dossier 2506/6 (2)* («*Des différentes manieres de s’unir*»), in *MsEL*, II, pp. 770–771.

42 In 1787, the year the drawing up of the constitution of the United States of America was completed, the *EL* «was the book most quoted than any other source except for the *Bible*» (B. Casalini, *L’«esprit» di Montesquieu negli Stati Uniti durante la seconda metà del XVIII secolo*, in *Montesquieu e i suoi interpreti*, t. I, p. 325). Especially the authors of the *Federalist*, James Wilson e Thomas Jefferson meditated upon Montesquieu’s pages about the federative republic: cf. P.M. Spurlin, *Montesquieu in America, 1760–1801* (1940), New

Arendt observed⁴³ — that in our recent history all important events fall within the scheme of intuitions outlined by Montesquieu, it would still be fair to recognize the merits which are due to him. But we Europeans, too, who for such a long time spoke about a *federal republic of Europe* (but still are unable to carry it out), should have enough common sense to remember and to acknowledge that, as is the case of the principles of the division of powers and of the independence of the judiciary, Montesquieu is the one and only *noble father* of this «perpetual»⁴⁴ form of State.

York, Octagon Books, 1969, pp. 205–226; J.N. Shklar, *Montesquieu*, pp. 122 *et seq.*

43 Cf. his *Essays in Understanding*, p. 329: «There is hardly an event of any importance in our recent history that would not fit into the scheme of Montesquieu's apprehensions».

44 The adjective is used by Montesquieu to define the European federative republics of his time, such as Switzerland and Holland: cf. *EL*, IX, 1, p. 1174.

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