


CULTURAL  
RELATIVISM AND  
INTERNATIONAL  
POLITICS




  


# MONTESQUIEU: CULTURAL RELATIVIST AND PROTO-POSITIVIST?

## INTRODUCTION



In the year of Montesquieu's death (1754), Jean-Jacques Rousseau published his *Discours sur l'origine et les fondements de l'inégalité parmi les hommes* [Discourse on the origin and foundations of inequality among men] in response to a competition question posed by the Académie de Dijon – 'what is the origin of inequality among men, and is it authorised by natural law?'. In his Preface, Rousseau contended that he could not readily answer in respect of the idea of 'natural law' but, instead, by reference to what could be said to be 'natural' in human behaviour. This reference, in turn, demanded observation of human behaviour rather than the positing of a pre-political state of nature as a concept of political philosophy. Rousseau necessarily began with a discussion of the point of differentiation between animals and men. His insistence that '*l'homme sauvage*' [man in the wild] sets out with 'purely animal functions' of perception and sensation (Rousseau, 1969: 73) gave rise to the famous footnote X in which he expatiated on the current state of knowledge concerning human and animal behaviour. There he argued that for three or four hundred years Europeans had swarmed over the rest of the world and published travel accounts but, even in the name of studying mankind, had never succeeded in disclosing anything other than themselves, their preconceptions and prejudices (Rousseau, 1969: 142). Rousseau even coined a new word to indicate contempt when he commented that this disposition to reduce the characteristics of others to one's own explained how the '*tourbe philosophesque*' [the philosophish rabble] could peddle the idea that 'men are everywhere the same, everywhere having the same passions and the same vices' (Rousseau, 1969: 142). Sailors, merchants, soldiers and missionaries had been the principal adventurers, but even learned academicians had travelled abroad more as surveyors than as philosophers.



Some travellers, like Chardin, had observed comprehensively, but Rousseau imagined how much more definitive an account might have been offered by Montesquieu, Buffon, Diderot, d'Alembert and Condillac such that it would be possible to possess reliable evidence to enable distinctions to be made between men and animals (Rousseau, 1969: 143–4).

## THE DEVELOPMENT OF MONTESQUIEU'S CAREER

Was Rousseau's confidence misplaced in respect of Montesquieu's capacity to analyse scientifically or objectively the behaviour of men in social contexts dissimilar to his own?

De Secondat's great-grandfather had been a Protestant in the service of Henri IV. The family returned to Catholicism and de Secondat's brother and two sisters entered the Church. There was a significant Protestant minority in Bordeaux which remained anxious in the face of Louis XIV's religious intolerance. De Secondat married a devout Calvinist in 1715 and would, therefore, have been well aware of this tension. In 1716, de Secondat inherited his uncle's post in the Parlement of Bordeaux and took the name of Montesquieu. The Parlements of the French *Ancien régime* in the 18th century were not parliaments in the modern sense of the word. At the time of the French Revolution in 1789, there were 13 regional Parlements in France. As was the case with Montesquieu, their members were not elected but either bought or inherited their offices. Their principal function was the local administration of justice, rather than 'political' representation. Policies which concerned the nation-state were theoretically determined by the national assembly (Estates General), which consisted of representatives of the three social orders or estates (the Church, the nobility, and everyone else), but this had not met since 1614, and effective national power lay with the monarch and his court. In terms of the categories developed by Jürgen Habermas in his *The Structural Transformation of the Public Sphere*, the court at Versailles was the locus of 'publicness of representation' where the king 'displayed himself, presented himself as an embodiment of some sort of "higher" power' (Habermas, 1989: 7), while it was in the regional Parlements, such as that of Bordeaux, that commercial activity became the motor for an emergent bourgeois public sphere. Montesquieu was not a member of the '*noblesse de l'épée*' [nobility of the sword] but, rather, of the '*noblesse de la robe*' [nobility of the robe], which meant that he was amongst those who were commercially active rather than a member of the old landed gentry. Involvement with commerce in Bordeaux meant involvement with the wine trade and, therefore, familiarity with overseas markets and, additionally, with the slave trade. In turn, this often meant opposition to the attempts of central government to impose taxation or regulate commerce. There were five

specialized chambers in the Bordeaux Parlement and Montesquieu presided over the criminal division for 11 years. He was a second-rank '*président à mortier*' who could deputize for the President of the Parlement.

De Secondat was tutored at home until the age of 11 and then was sent to a school run by the Congregation of the Oratory. He entered the University of Bordeaux to study law, gained his degree in 1708, was received as a lawyer in the Parlement of Bordeaux two days after graduation, and then continued legal studies in Paris before returning to Bordeaux when his father died in 1713. The curriculum at his school had been modern – teaching mathematics, science, geography, French and French history as well as the traditional classical subjects. The combined elements of his education meant that he was better trained in law than most of the other members of Parlement but also intellectually curious in respect of new learning.

Rebecca Kingston has investigated in detail the precise nature of both of these elements of Montesquieu's education and training. His legal training was in part prescribed by a royal ordinance of 1679 establishing a Chair in French law in every law school in the country. This was a centralized attempt to standardize national legal practice in opposition to the local maintenance of provincial customs. As such, it could be said to be a political strategy rather than a purely legal measure. Amongst legal theorists, rather than state officials, there was an emerging tendency to reconcile generalized, rational principles with customary diversity. Modern 'natural law' theorists, such as Grotius (1583–1645), were not simply upholding the commitment of Roman jurists to universal principles of law but were conscious of the need to establish those principles on the basis of consideration of the characteristics of practices in a range of nations (although Grotius thought that the diversity of practices defied rational systematization). Related to the royal ordinance of 1679 in respect of the teaching of law there were also ordinances seeking to reform the universities, eliminating corruption and imposing a common curriculum. The new professors were appointees of the king and the intention was that they should train new cohorts of state bureaucrats. The curriculum was still devoted to instruction in canon and civil law, assigning the teaching of French law to the final year, with the result that 'official' learning was a pragmatic compromise between codes rather than an attempt to establish new theoretical principles. It is significant that Montesquieu studied law in Paris for five years after completing his degree in Bordeaux. This was in contravention of the 1679 ordinance which ruled that lawyers should continue to practise for at least two years within the jurisdiction where they had been sworn in. Montesquieu was familiar with the tension between central and local legislation, with the contest between absolute and relative law, both in theory and practice.

Also in 1716, Montesquieu became a member of the Academy of Bordeaux (officially the Académie royale des sciences, belles-lettres et arts) which had only been founded four years earlier on the model of the Parisian Académie des sciences. The Academy of Bordeaux was one of 32 royally sanctioned provincial *académies*. They tended to be dilettante societies of gentlemen. They were contexts in which the potential benefits of scientific learning could be explored, but the activities of the Academy of Bordeaux cannot be said to have manifested any coherent view of 'science'. As Rebecca Kingston has argued:

The approach of the members can best be described as piece-meal and eclectic, for while there is a certain shared tendency to repudiate the traditional principles of scholastic science which grounded explanation of phenomena in a consideration of their final, rather than their efficient causes, there is a borrowing from both Cartesian and Newtonian frameworks for the interpretation of experiments and direct observation, as well as differing interpretations of these very frameworks themselves. (Kingston, 1996: 51)

Just two weeks after being received into membership Montesquieu read his *Dissertation sur la politique des Romains dans la religion* [Dissertation on Roman politics in respect of religion]. This was based on knowledge of classical history, but the concluding sentence made it clear that Montesquieu perceived that, for the Romans, religious beliefs possessed no intrinsic value and that the credulity of the people was encouraged so as to maintain order in the republic. 'The Romans', he said, 'who properly had no other divinity than the genius of the republic, paid no attention to the disorder and confusion into which they threw mythology'.

Robert Shackleton has argued that Montesquieu's thinking, as manifested in his early *Essai d'observations sur l'histoire naturelle* [Essay of observations on natural history] of 1721, derived from Malebranche, whose influence had been significant at the institution where Montesquieu had been educated in the early 1700s (Shackleton, 1961: 8, 25). Shackleton concludes that:

To be a Cartesian, then, for Montesquieu in 1721, is to be a disciple of Malebranche; and a disciple of Malebranche who concentrated on the laws of movement, forgot the spirituality of the soul, and was very far from seeing all things in God, was accepting of Cartesianism that part which is philosophically and was historically most conducive to materialism. (Shackleton, 1961: 25)

Montesquieu appears to have been interested in 'scientific' subjects, appreciating the intrinsic value of empirical work, but one of his contributions – 'A Discourse on the Motives which Ought to Encourage us to Pursue the Sciences'

of 1725 – shows that he retained his allegiance to the Académie in part because it was an association which could foster the cultivation of local ethics based on scientific reasoning.

### LETTRES PERSANES [PERSIAN LETTERS]

Montesquieu's *Lettres Persanes* [Persian Letters] were first published anonymously in Amsterdam in 1721. His authorship, however, was an open secret and the success of the publication secured him an entry to the literary salons of Paris in the first half of the 1720s and, subsequently, in 1728, admission to the Académie Française. It is likely that Montesquieu wrote the bulk of *Lettres Persanes* between 1715 and 1720. The first edition contained 150 letters. Montesquieu supervised the publication of a second edition in 1754 in which he added, as a supplement, 11 new letters and 'Some Reflections on the Persian Letters'. The new letters were inserted into the original sequence for a posthumous publication of 1758, and this became the standard version of the text.

The *Lettres Persanes* was a literary production. It was a pioneering experiment in the epistolary form which, in England, Samuel Richardson was to refine further in *Pamela* (1740) and *Clarissa* (1748). The book presents the correspondence of two Persian visitors to Paris (Usbek and Rica). They had lodged with the author/editor. Since the travellers regarded the author, as he states in his Preface, 'as a man from another world' (Montesquieu, 2008: 3; 1995: 37), they had hidden nothing from him and he had copied what he had been given. The text is multivalent. It is much more than a simple device by which to use the perceptions and opinions of foreign visitors to satirize the customs and values of the host society.

Usbek was a man of status in Persia whose 'appetite for learning' had caused him to leave the land of his birth, not believing that the boundaries of his country should be the boundaries of his knowledge (Montesquieu, 2008: 4). He had belonged to a circle of friends who debated usually about 'philosophical and ethical issues' (Montesquieu, 2008: 15). There is a sense, therefore, in which Usbek was Montesquieu's alter ego. The early letters are concerned with Usbek's difficulties in managing his eunuchs so as to retain control at a distance over his seraglio – his eunuchs and his five wives. There are letters from Usbek to each of his wives and their letters to him. Behaviours are differentiated by the tone and content of these letters as each of the wives adapts to her situation of subservience in the absence of her master. Similarly, the eunuchs and slaves are addressed and respond differently in accordance with their status within the harem. Usbek operates within a context with different sexual mores, but the issues of authoritarian control and constraint in

relation to compliant acquiescence or affective subservience resonate with the situation in which Montesquieu found himself as a dispenser of justice of which he was not the originator. The satire can function, in other words, precisely because there are assumed to be fundamental commonalities between the editor and Usbek which transcend the eccentricities of local customs and manners. Perceptions of difference are underpinned bi-directionally by characteristics which are tacitly universal and independent of cultural construction. Usbek also corresponds with friends who are resident in Isphahan (Rustan) or Erzeron (Mirza), respectively in the Shiite Persian and the Sunni Turkish empires; with Ibben; with Ibben's nephew, Rhedi, residing in Venice; with a Muslim religious leader (Mehemet Ali); and with a Persian diplomat (Nargum). Usbek's observations of French society are deliberately made relative to the likely attitudes of the recipients of the letters – attitudes which are only accessible to us through their own letters. He comments directly on French customs in a way which simultaneously subjects both what he presents and the Persian perspective of his representation to scrutiny. Sometimes, as in the case of the story of the Troglodytes which he tells in four successive letters to Mirza, the narrative is offered to the reader irrespective of any significance which it might purport to have for either the sender or the receiver of the letters. The tale is a free-standing parable about the social and political consequences of altruism or selfish greed which Montesquieu probably derived from a 1st century Roman geographer (Pomponius Mela) in combination with the more modern source of Fénelon's *Télémaque*, published in 1699.

There is an early hint that Usbek's fellow traveller – Rica – is a younger man who was lured abroad by his mentor. Rica's observations are less philosophical than Usbek's. Rica observes manners and often represents attitudes and opinions by reporting the conversations of people with him or by reproducing letters or writings which have come into his possession. He therefore appears often to record actual sentiments rather than his own mediation of experience. The account which he gives to an unnamed recipient of 'a large library in a convent of dervishes' over five successive letters is offered primarily as the reported speech of the curator. Rica may be naive or gullible, but he cannot be held responsible for the satire of scholastic learning which the curator unwittingly articulates.

The form of *Lettres Persanes* enables a rich representation of diverse opinion, but it conceals Montesquieu's attitudes. In the reflections which he added to the 1754 edition, Montesquieu defended some of the passages which many people had 'thought too daring' by arguing that the Persians 'had to be portrayed, for a certain time, as full of ignorance and prejudice'. This defence enabled him to suggest that the perceptions attributed to them may have been

misguided or wrong, but he also concluded by emphasizing that 'the entire charm of the work resides in the constantly recurring contrast between actual reality and the singular, naive, or strange manner in which reality is perceived' (Montesquieu, 2008: 228).

The secret of the success of the satire lay in its actualizing of Montesquieu's uncertainty in respect of the competing claims of a priori and empirical knowledge. This uncertainty is apparent in many of the 'substantive' statements in the text which are constantly modified contextually. Briefly, however, we can suggest some interlinked themes. We can say of Montesquieu, author/editor of *Lettres Persanes*, that he is concerned greatly about the nature of authority and obedience. In a letter to Ibben in Smyrna, Rica observes that 'The king of France is the most powerful prince in Europe' (Montesquieu, 2008: 31) because, in spite of his lack of wealth by comparison with the King of Spain, he exploits the vanity of his subjects so as to secure their willing support. Authority is dependent on consent, whether forced or unforced. This is true also of obedience to the law, but it is an open question whether there are laws which have universal validity or whether jurisdictions coincide with nation-state boundaries. Usbek also writes to Ibben: 'I am bound to obey laws when I am living under those laws, but when I am no longer living under them, can they still bind me?' (Montesquieu, 2008: 104). What perhaps is binding, eternal and universal is justice which, in a letter to Rhedi, Usbek defines as 'a relationship of accepted values and common interests between two entities'. Justice is not codified or objectified in universally applicable legal codes. If it were to be dependent on 'human conventions', he continues, 'that would be a terrible truth which we would have to conceal from ourselves'. Rather, our consolation is that 'When a man searches his own heart, what satisfaction for him to find that it is just!' (Montesquieu, 2008: 114). The same principle applies in respect of international relations. Still writing to Rhedi, Usbek opines: 'Magistrates are responsible for ensuring that justice prevails between individual citizens; each nation must itself ensure that justice prevails between itself and another nation. This second dispensing of justice must be governed by exactly the same maxims as the first' (Montesquieu, 2008: 126). Consent legitimizes resistance to conquest:

The right of conquest is not a right. A society cannot be founded other than upon the will of its members; if it is destroyed by conquest, then the people become free and no new society exists; if the conqueror tries to form one, that is an act of tyranny. (Montesquieu, 2008: 127)

Opinions such as these constitute, for Usbek, 'what I call public law; such is the law of humankind, or rather the law of reason' (Montesquieu, 2008: 128). In



the previous letter, also to Rhedi, however, Usbek had concluded (with a supposition rather than an assertion):

One might suppose, Rhedi, that there are two quite different kinds of justice: one, that regulates the affairs of individuals, and governs civil law; and the other, that regulates differences arising between peoples, and tyrannizes over public and international law; as though public and international law were not themselves part of civil law, not, indeed, the civil law of a particular country, but of the whole world. (Montesquieu, 2008: 126)

There is much to suggest, in short, that Montesquieu was disposed to recommend that civil law should always prevail and to believe that the system of parlements in France, if correctly revived, offered the best institutional prospect to enable authoritarian rule to be counteracted.

#### DE L'ESPRIT DES LOIS

Perhaps Usbek's comment in a letter to Rhedi concerning the French parlements that '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' (Montesquieu, 2008: 124) may explain the fact that, in 1726, Montesquieu sold his post in the Parlement of Bordeaux. After some dispute and machination, he was admitted to the Académie Française at the beginning of 1728. In that year he embarked on his travels through Europe, arriving eventually in London in November 1729, where he stayed until the beginning of 1731. Back in Bordeaux that year, Montesquieu worked there for three years on aspects of Roman civilization, culminating in the publication in 1734 of *Considérations sur les causes de la grandeur des Romains et leur décadence* [Considerations on the causes of the greatness of the Romans and their decline]. From 1734 until his death, Montesquieu divided his time between his vineyard near Bordeaux and Paris. It was in 1734 that the project took shape that was to be published in Geneva in 1748 as *De l'esprit des lois* [The spirit of laws], or, to give the book its full title: 'On the spirit of the laws or on the relation which laws ought to have with the constitution of every government, their customs, climate, religion, commerce etc., to which the author has added new researches on Roman laws concerning succession and on French and feudal laws'. When published, the text stimulated serious religious objections, with the result that Montesquieu decided to respond anonymously in 1750 with a *Défense de l'esprit des lois* [Defence of the spirit of laws].

Montesquieu has often been described as one of the founding fathers of *social science*. He has equally often been claimed as the founding father of *political science*. As Althusser comments in the first sentence of the first chapter of his early study of Montesquieu: 'It is received wisdom to describe Montesquieu as the founder of political science' (Althusser, 1959: 11). Whereas Locke had laboured in the spirit of the empirical method deployed by his contemporaries in enquiry in the natural sciences (Boyle and Newton) to use a 'historical, plain method' to analyse the nature of 'human understanding' and to develop, as a corollary to this analysis, a political theory or theory of government, articulated notably in respect of 'toleration', Montesquieu claimed to exercise unprejudiced and direct observation of forms of governmental practice. He insisted on this in his brief, but extremely important, Preface. In the third paragraph, he asserted: 'I have first of all considered mankind, and the result of my thoughts has been, that amidst such an infinite diversity of laws and manners, they were not solely conducted by the caprice of fancy' (Montesquieu, 2011: lxvii). He claimed that he had analysed men, but there was no suggestion that he had attempted to analyse the origins of their thoughts or ideas (as in the epistemological orientation of Locke) nor that he had examined them in a way which might be analogous with the contemporary zoological scrutiny offered by Buffon in his *Histoire Naturelle* [Natural History] of 1753. Montesquieu had analysed forms of government. He claimed to have observed these forms and to have concluded that although his observations demonstrated that there is an infinite diversity of laws and customs, it was nevertheless the case that the diversity is not arbitrary but, rather, susceptible to rational explanation. He continued:

I have laid down the first principles, and have found that the particular cases follow naturally from them; that the histories of all nations are only consequences of them; and that every particular law is connected with another law, or depends on some other of a more general extent. (Montesquieu, 2011: lxvii)

He admits that he had posed some principles in order to carry out his observations, but he contends that the histories of all the nations are the consequences of these principles and that all laws operate either inter-relatedly or hierarchically. Although he admits that he had posed principles pragmatically, he immediately asserts that these were not a priori principles but were themselves derived from 'the nature of things': 'I have not drawn my principles from my prejudices, but from the nature of things' (Montesquieu, 2011: lxvii). Indeed, he claims, the more he reflected on his detailed observations, the more he found that they confirmed his exploratory principles ('The more we enter into particulars, the more we shall perceive the certainty of the principles on

which they are founded'). As an example of his sensitivity to the need to avoid prejudice, Montesquieu wrote: 'When I have been obliged to look back into antiquity I have endeavoured to assume the spirit of the ancients, lest I should consider those things as alike which are really different, and lest I should miss the difference of those which appear to be alike' (Montesquieu, 2011: lxvii). He attempted, in other words, to avoid anachronistic interpretation in such a way that he might retrieve the meanings of actions held by agents and base his analyses on indigenous self-understandings rather than on secondarily imposed meanings.

The opening paragraphs of the Preface of *De l'esprit des lois* are, therefore, devoted to methodology. Althusser suggests that there is a disparity between Montesquieu's methodological claims and the actuality of his presentation. Althusser summarizes Montesquieu's text in the following way:

The *Esprit des Lois* seems to be made up of three parts joined together, as if containing ideas which occurred and were not to be lost. Where is the expected coherence? Must we search for Montesquieu's 'principles' in the first 13 books, and attribute to him the idea of a pure typology of forms of government, the description of their own dynamics, the deduction of laws in relation to their nature and principle? Yes. But then everything concerning the climate and diverse factors, then history, appear, although interesting, to be tacked on. Instead, are the real principles in the second Part, in the idea that laws are determined by different factors, some material (climate, terrain, population, economy), others moral (customs, religion)? ... We could say that Montesquieu was torn between a mechanistic materialism and a moral idealism, between a-temporal structures and historical genesis etc. (Althusser, 1959: 44–5)

Consideration of the validity of this assessment will enable us to decide whether Rousseau's confidence in Montesquieu's analytical capacity was justified.

*De l'esprit des lois* is, in fact, divided into six Parts, each of which is sub-divided into books which, in turn, are sub-divided into chapters. The 'Parts' were only established in the second edition of 1750. They are not given thematic titles and the numeration of the books is continuous through the whole text (I–XXXI). The books and chapters all have titles summarizing their content. Montesquieu asked, in his Preface, that his readers should 'approve or condemn the book entire, and not a few particular phrases' (Montesquieu, 2011: lxvii), and we must attempt to do justice to that request.

After discussing the nature of law and laws in general and in relation to human behaviour, the first 10 books consider these in relation to forms of government. Montesquieu distinguishes between three forms of government – tyranny, monarchy, democracy – and the emotional characteristics by which, respectively,

they are underpinned – fear, honour, virtue. From Book VIII, Montesquieu treats the corruption of the principles of the three forms of government and the ways in which these governments conserve themselves. Books XI to XIII are devoted to an examination of the conditions for political liberty, containing, in Book XI, Chapter VI, the favourable exposition of the English constitution. Books XIV to XIX, which constitute Part Three, advance the famous theory about the effects of climate difference. Books XX to XXIII consider industry, commerce, and demography. Books XXIV and XXV discuss religion. Books XXVI and XXIX are general conclusions, but they are mixed up with Books XXVII and XXVIII on revolutions in Roman and French laws and Books XXX and XXXI on feudal laws.

Althusser is right that the effect of the whole is of rather random reflection, but this arises from Montesquieu's apparent disposition, formally, to avoid any systematization which could be thought to be dogmatic, and, substantively, to resist causal explanations. Attention has traditionally focused on possible tensions between the discussions contained in the first 13 books and those offered in Books XIV to XIX, but this has to be seen in the context of the whole. The supposed tensions arise from the ambivalence or confusion of Montesquieu's epistemological position. Montesquieu appears to have been uncertain whether laws have an objective existence or are human constructs and also, relatedly, to be uncertain about what might constitute proof or evidence for the positions he advances. Even if his analyses could be thought to constitute 'science', Montesquieu did not assume that this would automatically give them authority. Current discussions of his 'science' neglect the extent to which he saw himself as offering observations which would enable readers to make sense of the logic of their own situations. He insisted that he was not dogmatically partial: 'I write not to censure anything established in any country whatsoever. Every nation will here find the reasons on which its maxims are founded' (Montesquieu, 2011: lxviii). Rather, his intention was to provide information about diverse social and political systems so as to counteract ignorant prejudice on the part of both rulers and ruled. The sharing of information in this way might legitimize and pragmatically induce substantively different forms of government.

In the first paragraph of the whole text, Montesquieu embarks upon an attempted clarification of terms. Book I – Of Laws in General – opens with a chapter on 'the relation of laws to different beings' which begins: 'Laws, in their most general signification, are the necessary relations arising from the nature of things. In this sense all beings have their laws: the Deity His laws, the material world its laws, the intelligences superior to man their laws, the beasts their laws, man his laws' (Montesquieu, 2011: 1). For this reference to 'the Deity', Montesquieu adds a corroborating footnote to a treatise by Plutarch.

It is important to register as well that Montesquieu actually wrote here that '*la Divinité a ses lois*' [the divinity has its laws]. It is possible to tease out from this one opening sentence much of Montesquieu's meaning, subsequently developed in his text, and some of the concomitant problems. The reference to Plutarch demonstrates that in respect of the 'Battle between the Ancients and the Moderns' which was at its height in France shortly before his birth in which the authority of scientific reasoning was opposed to that of classical texts in relation to all aspects of culture, Montesquieu was resolutely non-partisan and pragmatic. Throughout *De l'esprit des lois*, Montesquieu introduces, without discrimination, evidence from contemporary histories or travel accounts of, amongst other countries, China, Persia, Russia, the Indies, as well as from classical texts. He is as happy to make a point in respect of the Iroquois who, like all countries, have a law of nations even though 'they devour their prisoners' (Montesquieu, 2011: 5), as to cite an oration of Demosthenes to clarify Solon's law in Athens on the appointment of magistrates (Montesquieu, 2011: 10). The choice of the word 'divinity' rather than 'deity' indicates that Montesquieu supposed that his argument applied to all gods and was not to be restricted to the contemporary debates about Deism within Christianity. We can derive substantive views from this sentence. Montesquieu asserts that there are discrete categories of law, all of which derive their character from the same process of correlation with discrete orders of being. The derivation from 'the nature of things' does not imply materialism but, rather, recognition of a plurality of existences in the universe. Apart from 'the material world', the categories which have their own laws are all 'beings'. Montesquieu proceeds to argue that the laws obtaining within these separate categories are both independently correlative with an initiating 'prime reason' and also correlative with each other. 'God is related to the universe', but this is to present divine law as a product of the second order correlation rather than to identify God with the 'prime reason'. God relates to the universe as creator and conserver but, as a creation, the material world has autonomous laws integral to its being as much as do the 'intelligences superior to man', beasts and man. There is nothing arbitrary about this fundamental model. It would be absurd to suggest that the creator could govern the world unless there were autonomous and constant rules by which it subsists. Intelligent beings make their own laws, but their existence as intelligent beings is predetermined by laws intrinsic to that being which preceded their own law-making. As Montesquieu puts it: 'Before laws were made, there were relations of possible justice' (Montesquieu, 2011: 2). Montesquieu professed himself agnostic about whether animals have the capacity to construct their own laws or whether, like the material world, they are constant in following predetermined behaviour. By contrast, the distinctive feature of human beings

is that they are capable of constructing laws which contravene those of their intrinsic being.

Montesquieu elaborates these positions in subsequent chapters of the first 10 books. This is the essential framework which introduces Book II on 'laws directly derived from the nature of government', that is to say, laws in relation to government which arise from the nature of things rather than from potentially deviant examples. Montesquieu claims that his division into three sorts of government is based on a recollection of 'the common notion'. Anachronistically, we would say that Montesquieu posits three 'ideal-types' of government in order, instrumentally, to conduct his empirical analysis of political systems. The truth is, however, that Montesquieu deploys, as an a priori classification of reality, the typology found in Aristotle's *Politics* which, in turn, was the classification which he developed in about 350 BCE, based upon *his* analysis of the constitutions of contemporary city-states as informed by *his* prior theory of the development of the state from its social origins. Montesquieu imitates Aristotle in examining variants of contemporary constitutional government but, in spite of the advent of the new empirical science, Montesquieu uses a classical template to understand the diversity of current practices.

Aristotle's text provided Montesquieu with a framework with which to consider the deviance of contemporary practices against norms of governmental laws and forms which, he claimed, were 'natural' rather than 'ideal'. He deployed the relational model announced in his first sentence, but the problem which was inherent in that announcement was that he could not readily assess the relative importance of the correlation of categories of law with, on the one hand, the initiating 'prime reason' and, on the other, inter-categorical reference. How far, in particular, do the laws which are inherent in the material world impinge upon the positive laws generated by humans without reference, in either case, to the originating regulation of 'prime reason'? Montesquieu never admits that this is a problem. Instead, after concluding the last chapter of Book XIII on taxation with a consideration of 'the farmers of the revenues', he moves straight into a new book on 'laws in relation to the nature of the climate' in which he introduces the 'general idea' in the following way: 'If it be true that the temper of the mind and the passions of the heart are extremely different in different climates, the laws ought to be in relation to the variety of those passions and to the variety of those tempers' (Montesquieu, 2011: 221). The influence of climate on forms of government is not direct. Montesquieu discusses the correlations between climate, produce, nutrition, energy and different forms of government. In a chapter on slavery, he refers to Aristotle's discussion of it in *Politics*. He is not convinced by Aristotle's abstract argument that there are 'natural slaves', but his interest in the physical effects of climate

poses a dilemma. Montesquieu grants that hot climates dispose people to laziness such that 'laziness is there more reconcilable to reason'. However, he is forced to acknowledge a disparity between the claims of normative natural reason and the influence of material forces, and concludes:

But as all men are born equal, slavery must be accounted unnatural, though in some countries it be founded on natural reason; and a wide difference ought to be made between such countries, and those in which even natural reason rejects it, as in Europe, where it has been so happily abolished. (Montesquieu, 2011: 240)

## CONCLUSION

Montesquieu's normative disposition in *De l'esprit des lois* was tempered by an empirical orientation in support of which he mobilized anecdotal evidence derived from classical texts and the accounts of travellers. His assertion above that 'all men are born equal' resonates with the opening sentence of *The Social Contract* (1762) in which Rousseau asserts that 'all men are born free', but Montesquieu's statement was qualified with practical observation whereas Rousseau was to issue a proclamation of the 'principles of political right'. This distinction sets up a differentiation which Comte was to accentuate in the following century.

## NOTES

For the *Lettres Persanes*, I used the edition published in 1995 by Flammarion, which has a useful introduction by Laurent Versini. This text follows the numeration of the 1758 edition which incorporated the supplementary letters into the original text. The Garnier edition of 1960 has a detailed introduction and notes by Paul Vernière. For my quotations, I used the Oxford World's Classics edition (2008), translated by Margaret Muldoon, and edited and introduced by Andrew Kahn. This text adopts the numeration of the 1721 edition with the supplementary letters at the end and provides an appendix which correlates the numerations of the 1721 and 1758 editions. To avoid confusion, I have not referred to letters by number.

For *De l'esprit des lois*, I used the two volume edition published by Garnier in 1961, edited by Gonzague Truc, who also provided an introduction and notes. For my quotations, I used the complete edition of *The Spirit of Laws* published by Cosimo Classics in 2011. This is a reproduction of the translation published by Thomas Nugent in 1914. Whereas the French edition differentiates clearly between Montesquieu's own footnotes and those of the editor, these are undifferentiated in the English edition.

I have also quoted from:

Althusser L (1959) *Montesquieu. La politique et l'histoire*. Paris: PUF.

Habermas J (1989) *The Structural Transformation of the Public Sphere*. Cambridge: Polity.

Kingston R (1996) *Montesquieu and the Parlement of Bordeaux*. Geneva: Droz.

Rousseau JJ (1969) *Discours sur l'origine et les fondements de l'inégalité parmi les hommes*. Paris: Gallimard.

Shackleton R (1961) *Montesquieu: A Critical Biography*. Oxford: Oxford University Press.