



The Politics of esprit in De l'esprit des lois

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ABSTRACT. The concept of *esprit* is central to Montesquieu's political philosophy. This essay investigates Montesquieu's usage of the term, focusing on his magnum opus, *De l'esprit des lois*. Montesquieu shows that a multitude of variables in a society, including the laws, commerce, and religion, interact with one another to form (and in turn are formed by) the *esprit* or character of a society. Since each society has a distinct *esprit* that changes over time, Montesquieu is a proponent of a framework I call the 'politics of place'.

KEYWORDS. Enlightenment; Montesquieu; Spirit of the laws; General spirit; Politics.

Introduction.

One of the most important words in Montesquieu's vocabulary is *esprit*. We cannot understand his political project without focusing sufficient attention on this critical concept. This contention might seem obvious, given the centrality of the term in the title of Montesquieu's magnum opus, *De l'esprit des lois*. And yet, many scholars overlook or underestimate the import of this term. Legislators *must* understand and work within the confines of an *esprit* if they are to make a society more secure, free, and prosperous. In *De l'esprit des lois* Montesquieu shows that a multitude of variables in a society, including the laws, commerce, and religion, interact with one another to form (and in turn are formed by) the *esprit* or character of a society. Since each society has a distinct *esprit* that changes over time, there can be no universal recommendations applicable across time and place. Instead, Montesquieu is a proponent of a framework I call the «politics of place».

In this essay I seek to establish the centrality of *esprit* to Montesquieu's thought. I will focus on *De l'esprit des lois* but consider passages from other works that mention *esprit*. My goal is to explain what Montesquieu means by *esprit* and how it fits into his political theory.

Introducing esprit into De l'esprit des lois.

When readers study Book I of *De l'esprit des lois*, Chapter One usually catches most of their attention; after all, in it one finds the famous definition of laws beginning the chapter, and Montesquieu's discussion of five kinds of beings (*êtres*) in the body of the chapter. Chapter Two's (brief) discussion of the state of nature, and mention of Hobbes, also stand out. With an important discussion in Book II of the three species of government waiting, Book I, Chapter Three¹ receives relatively little attention. This is a mistake, for it is here that Montesquieu announces his project, with *esprit* coming to the fore.

After concluding I, 2 by focusing on man's natural «desire to live in society», Montesquieu bleakly portrays society as a state of war: «as soon as men are in society, they lose the feeling of their weakness; the equality, which was between them, ceases, and the state of war commences» (I, 3). As Thomas Pangle explains, «It turns out that nothing is so dangerous for man by nature as the association with his fellowman»². Both nations and individuals begin to sense their «force». They seek to «turn in their favor the principal advantages» of their position. These states of war lead to what I call Montesquieu's three «problems of politics»: conflict between nations, conflict between nation and individual, and conflict between individuals. These problems threaten the existence

¹ Hereafter I will cite from *De l'esprit des lois* in text in the following format: Book, Chapter (e.g. I, 3). All other citations are from Montesquieu's *Œuvres Complètes* (hereafter OC): 1998-2008, Voltaire Foundation, Oxford; from 2010, ENS Éditions/Classiques Garnier, Lyon, Paris. All translations are mine.

² T. Pangle, *The Theological Basis of Liberal Modernity in Montesquieu's Spirit of the Laws*, University of Chicago Press, Chicago 2010, p. 22. Making a similar point, Pangle writes elsewhere, «Following Hobbes, Montesquieu teaches that the state of war is the *permanent* state of man's relation to man insofar as *civil* society of the "State" does not intervene to impose peace». *Montesquieu's Philosophy of Liberalism: A Commentary on The Spirit of the Laws*, University of Chicago Press, Chicago 1973, p. 33.

of the nation³. A nation cannot be secure, free, and prosperous if it does not address each of these problems effectively. These «problems of politics» represent the puzzle Montesquieu seeks to solve. States must foster environments in which they are protected from internal and external threats, so far as possible. The question then becomes how each individual nation can address these issues successfully.

Montesquieu does not provide a universalistic solution for addressing these problems effectively in diverse societies across time and place. Rather, he proposes a particularistic approach I call the «politics of place». He offers two formulations of his «politics of place» in Book I, Chapter 3. First, he writes, «it is better to say that the government most in conformity to nature is the one whose particular arrangement best relates to the disposition of the people for whom it is established»⁴. He explains further that the laws «should be so appropriate to the people for whom they are made that it is very unlikely that those of one nation can suit another». These passages from I, 3 have a great deal of interpretive and normative importance. As they are the clearest expressions of Montesquieu's «politics of place», they offer core insights into understanding his political science. Circumstance requires that each state deal with these problems

³ Throughout this discussion at the beginning of I, 3 Montesquieu uses «*nation*» rather than «*Etat*».

⁴ D. Lowenthal offers a different interpretation of this passage in *Book I of Montesquieu's The Spirit of the Laws*, «*American Political Science Review*» 53, 1959, 2, pp. 485-498. He writes, «In chapter 3 Montesquieu explicitly rejects the idea that any one form of political society is most in conformity to nature». He continues by arguing, «Thus, the particularity of the political problems and solutions of each people does not by itself imply that no form of political society is best for man. It did not imply this for Aristotle, and there are innumerable indications in *De l'Esprit des Lois* that the debits and credits of the various regimes – as judged by some general and unchanging standard independent of them – are in the forefront of Montesquieu's attention. Democracy based on virtue, for example, is clearly superior to both monarchy and despotism» (p. 497). Lowenthal thus argues that despite the particularity in this passage, Montesquieu continues to affirm the superiority of certain forms of government over others, beyond denying the acceptability of despotism. Alternatively, C. Spector argues, «the government “the most conforming to nature” is not that which deduces itself from the rational nature of man but that which accords itself to the nature of peoples», *Montesquieu. Liberté, droit, et histoire*, Michalon, Paris 2010, p. 67. And this nature, Spector shows, differs across time and place.

differently. Céline Spector explains, «this diversity of peoples immediately requires the diversity of laws»⁵. It is only possible to address the three problems of politics across time and place with a particularistic approach. Reason, Montesquieu explains, demands nothing else but such particularity⁶. Before explaining how Montesquieu thinks that political actors should go about applying this reason to particular cases, let us examine this notion of the «politics of place» at its core⁷.

By the «politics of place» I mean the idea that political, economic, social, and moral factors need to fit a particular people while at the same time pursuing security, liberty, and prosperity, broadly understood. Empirically, states vary substantially in their laws, institutions, *mœurs*, manners, religion(s), environments, modes of commerce, and in other ways. One core claim of the politics of place is that states *should* vary on these issues too, for practical, political, philosophical, social, and moral reasons, with the caveat that this variation takes place within a certain spectrum of acceptability. The politics of place is an appealing approach precisely because Montesquieu demonstrates beyond a reasonable doubt that the disposition of peoples varies greatly over time and place. What is more, he shows *how* and *why* their dispositions differ so markedly, and offers guidance on how to govern societies based on these differences.

Variation is necessary and desirable because Montesquieu's politics of place holds that the political good is indeterminate. As Aurelian Craiutu rightly notes, for Montesquieu «the political good can never be defined in an unambiguous and universal manner, independent of the particular social and political condition of each country»⁸. One reason

⁵ *Ibidem*, p. 68. She continues, «It is henceforth the propriety of laws, their adaptation to circumstances, which is judged primordial».

⁶ «Law, in general, is human reason, as it governs all the peoples of the earth; and the political and civil laws of each nation should only be the particular cases where one applies this human reason» (I, 3).

⁷ I discuss Montesquieu's «politics of place» extensively in J. Bandoch, *The Politics of Place: Montesquieu, Particularism, and the Pursuit of Liberty*, University of Rochester Press, Rochester (NY), forthcoming.

⁸ A. Craiutu, *Virtue for Courageous Minds: Moderation in French Political Thought, 1748-1830*, Princeton University Press, Princeton 2012, p. 63. This observation has important implications for our understanding of how we should draw the line between the ancients and moderns. Craiutu continues by arguing that «the line between the moderns and the ancients should not be traced purely along chrono-

for this, Craiutu continues, is that Montesquieu «believed that the line between vice and virtue changes over time in such a way that what was previously considered a vice may later be seen as a virtue (or vice versa)». The political good is also indeterminate for Montesquieu because there is not one single political good, but multiple⁹. Security, liberty, and prosperity, while universal goods, remain indeterminate.

The politics of place offers political actors the flexibility they need to achieve security, liberty, and prosperity in different situations. Dennis Rasmussen, in his study of the «pragmatic Enlightenment», has helpfully explored the flexibility of Montesquieu's thought. Montesquieu «adopted a practical, pragmatic outlook that supports the reform of existing institutions but opposes efforts to form a wholly new “rational” order from scratch». While he «wanted to push» his «society in a broadly liberal direction», he «did not insist that these reforms be made all at once, or that the political and legal slates must be wiped clean in order to make room for a more liberal order»¹⁰. Montesquieu's flexibility means that he «did not insist on (or even allow for) a single set of institutions or a comprehensive view of the good life that would be applicable in all times and places»¹¹. Rasmussen rightfully finds this approach

logical lines (as is commonly done by historians of political thought), but must be rethought in light of the monist-pluralist dichotomy mentioned above. This line separates, in fact, advocates of pluralist politics such as Aristotle, Machiavelli, Montesquieu, and Burke, who believed in the essential indeterminacy of the political good and endorsed moderation, from philosophers such as Plato, Hobbes, Rousseau, and Marx who advocated monist theories of the political good and embraced forms of radicalism».

⁹ See B. Manin, *Montesquieu et la politique moderne*, in C. Spector, T. Hoquet (eds.), *Lectures de l'Esprit des lois*, Presses Universitaires de Bordeaux, Pessac 2004, pp. 171-231: 193. Manin also speaks of the political good as indeterminate, and finds it rooted in Montesquieu's philosophy of moderation, p. 201.

¹⁰ D. Rasmussen, *Pragmatic Enlightenment: Recovering the Liberalism of Hume, Smith, Montesquieu, and Voltaire*, Cambridge University Press, New York 2014, p. 21.

¹¹ *Ibidem*, p. 20. Rasmussen explains later that for Montesquieu «there is simply no such thing as a perfect, single best, or uniquely legitimate form of government or set of political institutions and practices», p. 82. He notes, moreover, that «Given his lack of a single standard for judgment and his insistence on the importance of context, it is unsurprising that Montesquieu refuses to single out any one regime or set of institutions as universally the best, and instead outlines the various benefits and drawbacks of each», p. 92.

appealing because it is «more realistic, moderate, flexible, and contextually sensitive than many other branches of this tradition»¹².

In order to identify effective particularistic solutions to the three problems of politics in a given context, legislators must discern the *esprit* of a society. In an extended passage Montesquieu explains his project:

They [the laws] ought to be relative to the *physical make-up (physique)* of the country; to the icy, hot, or temperate climate; to the quality of the terrain, to the situation, to its size (*grandeur*); to the lifestyle of the peoples, laborers, hunters, or shepherds; they must relate to the degree of liberty that the constitution can withstand (*souffrir*); to the religion of the inhabitants, to their inclinations, to their wealth, to their numbers, to their commerce, to their *mœurs*, to their manners. Finally they have links among themselves; with their origins, with the goal of the legislator, with the order of things on which they are established. It is with respect to all these perspectives (*mes*) that they must be considered.

It is that which I undertake to do in this work. I will examine all of these relations: they form all together that which is called the SPIRIT OF THE LAWS (*L'ESPRIT DES LOIS*) (I, 3).

This passage is extremely important for understanding Montesquieu's enterprise. Here we will focus on the nature of that enterprise; later we will examine it in relation to his notion of *esprit*.

For legislators to identify the best way to approach a particular people, they must do three things. First, political actors must examine intimately the host of variables Montesquieu identifies in the passage above. These include political, economic, moral, social, and environmental factors. The variables will differ from society to society. Montesquieu thinks it is necessary to account for these differences because they fundamentally have an impact on the makeup of each society. Moreover, each variable is not static over time; therefore, to know how to continue to act appropriately and effectively within a society requires knowledge of the changes in this society. Such changes can occur gradually or rapidly. Especially in the case of rapid changes, not accounting properly for such changes can lead to harmful miscalculations.

The second step entails investigating and understanding, how the variables interact with one another. Politics, morals, economics, and the

¹² *Ibidem*, pp. 1-2.

environment all affect each other, as well as other aspects of society. As Francine Markovits explains, «the variables do not define themselves independently from the others»¹³. For example, Montesquieu demonstrates that the effects of commerce go well beyond the economic realm. He thinks commerce impacts morals by giving people softer, gentler *mœurs*. He thinks it gives people a sense of exact justice. Commerce makes states more peaceful. Commerce alleviates the need to acquire by force, because people can acquire by trade. Commerce has the potential to undermine religion. These few examples show some of the ways commerce can affect other aspects of a state in fundamental ways. It is insufficient to consider only the economic effects of commerce, for example. The variables do not function in a vacuum; rather, they impact each other in a great many ways. Still, Montesquieu insists that another step is required to truly understand societies.

Legislators must see how the variables interact to form what Montesquieu calls the *esprit des lois* or the *esprit général*. These two formulations of *esprit* are critical to understanding the nature of Montesquieu's entire project. Indeed, he writes that he will «undertake» to «examine all of these relations» in his work, as they form what he calls the «SPIRIT OF THE LAWS». He continues by writing that he has «not treated the laws, but the spirit of the laws»¹⁴, and that this spirit [*esprit*] consists in the diverse relations that the laws can have with diverse things». He thus places his notion of *esprit* at the heart of his project. His political science requires that political actors work to understand and operate in the context of the *esprit* of a people. Montesquieu puts forward the notion that peoples have a general character or ethos that legislators must identify, assess, and then accept or try to change. In order to recognize the appropriate way of dealing with a particular people, a legislator or political actor must ultimately discern the *esprit* of that people. This is one of the key aspects of Montesquieu's politics of place. As such, it requires a more extended examination. It is this threefold process that will permit so-

¹³ F. Markovits, *Montesquieu: l'esprit d'un peuple, une histoire expérimentale*, in *Lectures de l'Esprit des lois*, p. 73 (1st ed. 1996). She makes her point further by quoting a passage from *Pensées*, n° 542: «These things all have a mutual relation with each other. If you change one, the others only follow slowly; that places a type of dissonance everywhere».

¹⁴ Emphasis added.

meone to «penetrate with a stroke of genius the entire constitution of a State» (Preface, 230).

The passages from I, 3 about the need for particularity in lawmaking and *esprit* shed further light on the definition of laws with which Montesquieu opens Book I. «Laws», we recall, «in the most extended significance, are the necessary relations which derive from the nature of things». The nature of things, though, changes to a significant degree across time and place. Societies are not static, and variables do not function the same way everywhere. Still, the relations that derive from the nature of things are «necessary», which implies some degree of continuity regarding how variables function across time and place. As such, Montesquieu studies how variables function generally, as well as how they relate to each other. At the same time, he emphasizes that religion, for example, does not impact all societies the same way, even the same religion. The nature of religion has changed greatly in America over the past centuries. Laws, then, derive from the relations that are necessary, and yet vary. The key to unlocking the relations and the nature of things in a particular society is the *esprit* because it defines and is defined by the variables.

Defining esprit.

Esprit is the single most important word in Montesquieu's political and philosophical vocabulary. Political actors must discern the *esprit* of a society if they want to attain and maintain a secure, free, and prosperous society, in part because it shapes the conception of these terms in the society. We only understand important concepts in Montesquieu's vocabulary such as «liberty» by first comprehending what he means by the term *esprit*. If political actors do not properly identify the *esprit*, they will be much less likely to work effectively with it and within the confines it presents. The contours the *esprit* creates impact greatly the ways and means a legislator has at his disposal to make a society secure, free, and prosperous. Because Montesquieu's two key formulations of *esprit* – the *esprit des lois* and the *esprit général* – have much in common, throughout the discussion I will use the broader term *esprit*.

Despite the importance he attaches to the term *esprit*, most scholars who have mentioned it have done so only in passing. This is surprising,

considering first that the word appears in the title of the work. The book is about the *esprit* of the laws. It is not titled «On laws», for example. Second, Montesquieu makes clear at the end of Book I that it is his very purpose in *EL* to examine the relations that form the *esprit des lois*. The concept warrants much greater treatment than it has received.

Esprit's conceptual importance in Montesquieu's thought runs throughout his oeuvre. In an unpublished essay entitled *De la politique*, composed in 1725, he explains:

In all societies, which are only a union of esprit (*qui ne sont qu'une union d'esprit*), a common character forms. This universal soul takes on a manner of thinking that is the effect of a chain of infinite causes, which multiply and combine from century to century. As soon as the tone is given and received, it is this alone which governs, and all that the sovereigns, the magistrates, the peoples can do or imagine, or that they seem to shock this tone, or follow it, is related to it always, and it dominates until its total destruction (OC, t. VIII, p. 515).

Many of the insights found here make their way into *De l'esprit des lois*. Montesquieu identifies *esprit* with a common character, and asserts that all societies have one. Some cohesive traits hold a society together and cause it to form a «union». This common character is unified, and yet is extremely complicated, being the result of «infinite causes» over centuries. Montesquieu portrays the *esprit* as an extremely powerful force in society. It «alone» governs a society, and political actors and the people either can follow the *esprit*, or try to «shock» it. The *esprit* or «tone» dominates a society, until either the *esprit* or the society is destroyed. Montesquieu portrays the *esprit* as both a defining and dominating aspect of all societies. Spector describes Montesquieu's usages here as referring to a «collective result»¹⁵. His later discussions of *esprit* also portray it as touching all spheres of society.

Montesquieu's two explanations of the *esprit général* in *Considérations sur les causes de la grandeur des Romains et de leur décadence* (1734) point us towards formulations he will use in *De l'esprit des lois*. First, in Chapter XXI, he explains: «Many received examples in a nation form there an

¹⁵ C. Spector, «*Esprit généraux*» in ed. C. Volpilhac-Auger, *Dictionnaire Montesquieu*, <<http://dictionnaire-montesquieu.ens-lyon.fr/fr/article/1376474276/fr/>> ENS de Lyon, Lyon 2013, paragraph 1 (01/2017).

esprit général, and make the *mœurs*, which reign as imperiously as the laws» (OC, t. II, p. 263). Montesquieu will adopt similar wording in *De l'esprit des lois*. We see that the *esprit général* is the product of numerous things, and that it is key to shaping the *mœurs* of a society. In the next chapter, Montesquieu further highlights the centrality of the *esprit*: «There is in each nation an *esprit général*, on which power itself is founded; when it shocks this *esprit*, it shocks itself, and it necessarily stops» (OC, t. II, p. 277). Montesquieu makes a significant universal claim, that *each nation* has an *esprit*. And legislators must note well that all power in the state is founded on this *esprit*.

Understanding precisely what Montesquieu means by the term *esprit*, especially in his magnum opus, *De l'esprit des lois*, is complicated by the fact that he uses the term in different ways. He does so, in part, because *esprit* has different meanings in French.

Montesquieu defines the *esprit des lois* in the lengthy passage quoted above from I, 3. He identifies a host of variables that form the spirit of the laws. However, Montesquieu does not suggest how we might distinguish between the importance of the variables that comprise the *esprit des lois*. He does that later, in Book XIX.

In a chapter entitled «What the general spirit is», Montesquieu explains: «Many things govern men: climate, religion, laws, the maxims of government, examples of past things, *mœurs*, manners; from this, it results that a general spirit [*esprit général*] is formed» (XIX, 4). Building on his thoughts from I, 3, Montesquieu elaborates with a key insight into how the variables relate to the *esprit général*:

To the extent that, in each nation, one of these causes acts with more force, the others give into it that much. Almost alone nature and climate prevail over savages; manners govern the Chinese; laws tyrannize Japan; in another time *mœurs* set the tone in Lacedaemonia; the maxims of government and ancient *mœurs* set it in Rome¹⁶.

We see, then, that it can be the case that one variable becomes especially important, indeed dominant, in a particular society¹⁷. When this

¹⁶ The movement is from people without a state (savages), to people living under despotism, to a nation, to an oligarchy, to a republic.

¹⁷ F. Markovits compares the way one variable dominates to the way a passion dominates someone: «Book XIX develops the idea that these causes which deter-

occurs, the other variables become less important. For example, Montesquieu's analysis elsewhere suggests that he would have identified religion as dominating life in Persia, and commerce dominating life in Holland. He also notes, though, that two variables can dominate in a society, as happened in Rome where the maxims of government and ancient *mœurs* dominated. So numerous factors can exert significant force on a society. When one factor does not «dominate», political actors must nonetheless determine the «relative force or the proportion that prevails between the components»¹⁸.

By arguing that one factor of the *esprit général* usually acts with more force, Montesquieu draws an important link to an earlier chapter, in Book XI. There he notes that while «all States have in general an identical object, which is to maintain themselves, each State has, however, one that is particular to them» (XI, 5). He proceeds to identify, for example, expansion as Rome's object, war that of Lacedaemonia, commerce that of Marseille, public tranquility that of China, and liberty England's object. Montesquieu complicates his discussion here when he notes objects not just for specific countries, but also for forms of government. Monarchy has glory as its object, and despotism has the delights of the prince. Be that as it may, the important point for our discussion is that one factor can be especially important as input for driving the *esprit général*, or as output, that is, as something towards which the state does or should strive. Not all factors are of equal import.

It is true that Montesquieu usually refers in *EL* not to the *esprit* per se, but to the *esprit des lois* or the *esprit général*. I acknowledge differences between these two concepts. Still, the terms are closely related¹⁹. Both

mine the *esprit général* are in a relation of force between themselves; just as, in a man, there is a character, a dominant passion», *Montesquieu: le droit et l'histoire*, Vrin, Paris 2008, p. 111.

¹⁸ Spector writes in *Esprit général*, «The *esprit général* (synonym of the *esprit* of a nation, of the character or genius of nations) results from the influence conjoined of different causes which give place to the existence of a dominant feature. In the absence of *a priori* hierarchies between these causes, the *esprit* is determined by a sum of forces or a chemical mélange, by the relative force of the proportion which prevails between its components».

¹⁹ Spector suggests that it is the relation between these two terms that «forms the true heart of the work»: «One will see, it is precisely the relation of the *esprit des lois* and the *esprit général*, to know the question of the totality of relations of right

form based on the interaction of and relation between essentially the same variables²⁰. Because the terms have much in common, I refer here to the *esprit*.

For Montesquieu, the *esprit* is the ethos or (national) character²¹ of a particular people or society. The *esprit* constitutes the union and common understanding of a people. It forms based on how the different variables in a society interact to make a people unique and gives each people an identity. By introducing his notion of *esprit général* Montesquieu shows that one of his primary concerns is to see how the identity of a community, state, or nation forms, changes, and maintains itself, and how a legislator can understand it. Montesquieu thinks that to discern the *esprit*, legislators must analyze all the factors we noticed above that interact to form the *esprit* of a society. Montesquieu puts forth that all peoples have an *esprit*; this is a universal claim. But each people will have a different *esprit*, ethos, or character. In *MP* he writes, for example: «An Englishman, a Frenchman, an Italian: three *esprits*» (n° 376). It is possible, however, for peoples to have *esprits* that are similar if the variables operate in a similar way in both societies. The *esprit* will change over time, because the factors contributing to form the *esprit* are not themselves static. Accordingly, the character of a people can change substantially over time.

Esprit is a way to consider a people holistically. Montesquieu suggests that we look at all the factors that constitute a society and not limit our analysis to only a few of them. Each factor impacts the character of a society, and the whole is more than the sum of the parts. With his holistic analysis Montesquieu offers legislators a much more robust,

with the different moral and physical principles that govern men (together with the physical and moral causes which constitute themselves this totality that is the *esprit général*) which forms the true core of *L'Esprit des lois*», Montesquieu. *Liberté, droit, et histoire*, p. 73.

²⁰ Although the lists of variables that form the *esprit des lois* and the *esprit général* are different, Montesquieu certainly would not have said that commerce, for example, cannot impact or dominate the *esprit général*, even though he does not list commerce in XIX, 4. His analysis of Holland in *EL* and in his remarks on his *Voyage* in Holland show that he thought commerce could dominate the *esprit* of a people. For a more extended examination of the genealogy of «l'esprit général», see the article by Diego Vernazza in this collection.

²¹ In XIX Montesquieu seems to use «*esprits*» and «character» interchangeably.

nuanced understanding of societies, and helps them understand why his politics of place is a more effective approach. Montesquieu impels legislators to consider a people not only as a totality, but as a potentially *coherent* (or incoherent²²) totality²³. Indeed, this is one of the most crucial aspects of *esprit*: a society ought to come together in a sensible, meaningful manner. Their *esprit* should have sufficiently clear content.

Esprit is central to Montesquieu's philosophy. Legislators disregard it or take insufficient note of it not only at their own peril, but also at the peril of their state. Spector explains how *esprit* is key to the achievement of moderation:

The theory of the *esprit général* is inscribed in this way at the heart of the philosophy of moderation extolled in *L'Esprit des lois*. The multiplicity of factors that form the character of a nation permits him to put into perspective the status of the juridical, insisting on the necessary adaptation of commands to usages, of "established" laws to "inspired" manners and *mœurs*, which depend more on the *esprit général*²⁴.

By taking a multiplicity of factors into account, political actors understand where the boundaries of permissible action lie. Spector also rightly links Montesquieu's insistence on considering many factors to the attainment or abridgement of liberty. In XIX, 3, in the chapter before he defines the *esprit général*, Montesquieu explains that «tyranny» of «opinion» arises when «those who govern establish things that shock the manner of thinking of a nation». Spector elaborates:

²² Originally, I thought it best to speak of only «coherent» totalities. But there are many states that are incoherent in numerous ways, because they were constructed arbitrarily, or include groups that are disparate from one another. Spector contends, by contrast, that a coherent totality forms: «The *esprit des lois* relates to all the factors of the *esprit général*, which themselves relate to each other in forming a coherent totality», *Montesquieu. Liberté, droit, et histoire*, p. 73.

²³ Spector also speaks of the *esprit des lois* as totalizing: «The originality of this project reflects the notion that totalizes the relations, to know the notion of the *esprit des lois*» (*ibidem*, p. 70).

²⁴ C. Spector, *Montesquieu et la crise du droit naturel moderne. L'exégèse straussienne*, «Revue de Métaphysique et de Morale», 1, 2013, pp. 65-78. See also Spector, *Montesquieu. Liberté, droit, et histoire*, pp. 236-237, for more on the link between *esprit* and moderation. See pp. 230-237 for a discussion of *esprit*.

one does not obtain liberty as opinion of one's security simply by the legal protection of rights attached to an individual; it supposes the respect of collective customs deposited over time, and risks being obliterated by the 'tyranny of opinion' that shocks the manner of thinking of a people²⁵.

So political actors *must* consider the *esprit* of a people, according to Montesquieu. In the Preface he explains: «One looks at all the parts only to judge everything together; one examines all the causes to see all the results». Political actors must consider the bigger picture, that of society as a whole, that of the *esprit*. At the beginning of Book XIX, he notes that he «will be more attentive to the order of things than to the things themselves» (XIX, 1). If a political actor does not understand the *esprit*, then there is the potential to enact ineffective, inappropriate, or harmful policies. Is the *esprit* sufficiently malleable for political actors to mold it?

In sharp contrast to Rousseau, Montesquieu is skeptical about the abilities of legislators to shape the *esprit* of a people. According to Markovits, for Rousseau, the Legislator «is not a man but a hero. Rousseau examines the question of legislation at the intersection of the political and the theological»²⁶. Rousseau's Legislator has the power, right, and duty to (re)form a people. More than just being apprehensive about the negative consequences of political actors disregarding or misunderstanding the *esprit*, Montesquieu is highly doubtful that the Legislator possesses such abilities. As Markovits notes elsewhere, the very concept of the *esprit général* points us to the «diversity of things that steer the State to the unity of an order that is neither a principle of life, *nor the intention of the legislator*, but the effect of factors»²⁷. While Montesquieu does think that political actors can promote things like commerce that eventually will change the *esprit*, he does not think that political actors should attempt to remake the *esprit*, unless the *esprit* is ready for change.

²⁵ Spector, *Montesquieu et la crise du droit naturel moderne*.

²⁶ Markovits, *Montesquieu: l'esprit d'un peuple, une histoire expérimentale*, p. 208.

²⁷ F. Markovits, *Montesquieu: le droit et l'histoire*, Vrin, Paris 2008, p. 118. Emphasis added. She continues, «General maxims of government as well as *moeurs* or manners, religion, and particular laws, the *esprit général* returns us to the generation of laws, to their division into principals and accessories».

For societies to be secure, free, and prosperous, the *esprits* must be «prepared» (*préparés*)²⁸. Not all peoples are ready to be free or to embrace representative governments, for example. «Liberty itself», he writes, «has seemed insufferable to peoples who were not accustomed to enjoying it». So too with democracy: it is simply not appropriate for all peoples everywhere²⁹. Some *esprits* are not ready for democracy; it does not fit others. Peoples have different customs, and thus cannot – and should not – enjoy or embrace or even do the same things. To try to impose liberty or democracy on peoples ill-suited or ill-prepared for one or both is nothing short of tyrannical, according to Montesquieu. One sort of tyranny is that of opinion, which occurs when «those who govern establish things which shock the manner of thinking in a nation» (XIX, 3, 557)³⁰. Imposing the wrong order on a society does more than simply «shock the manner of thinking in a nation», though; it can be a kind of violence that greatly damages or even destroys a society. And a revolutionary Montesquieu is certainly not.

Montesquieu utilizes *esprit* as a normative concept, and not only as a descriptive one. He impels political actors to evaluate the goodness of an *esprit*. Not all *esprits* are similarly good. Some are categorically bad. Pangle explains that «Montesquieu's new undertaking by no means implies, then, that all national 'spirits' are equally good, or even deserving of support». It might be appropriate for political actors to attempt to change the *esprit* gradually. While some *esprits* «allow a more effective and complete satisfaction of the basic, original, and permanent, natural need for security», others «frustrate the need for security in varying degrees – often more than necessary in the circumstances»³¹. But the process of evaluating is not done in black and white terms. An *esprit* can have undesirable elements, but still be on balance good so long as the

²⁸ XIX, 2.

²⁹ Montesquieu explains: «A Venetian named Balbi, being in Pegu, was introduced to the king. When the king learned that there is no king in Venice, he began to laugh so loudly, that a cough took him, and it was painful for him to speak with those in his court. Which legislator could propose popular government to such peoples?» (XIX, 2).

³⁰ T. Pangle elaborates: «Any attempt to ignore or push aside this spirit, even for the sake of political freedom, leads to "tyranny"» *Montesquieu's Philosophy*, p. 185.

³¹ Pangle, *The Theological Basis of Liberal Modernity*, p. 25.

desirable or positive elements outweigh the bad ones. Indeed, as Spector explains, the «theory of the *esprit général* thus allows us to disqualify a moral or political evaluation that would take into account the *social utility* of collective qualities or flaws, identifiable *a posteriori*»³². The normative evaluation of an *esprit* thus must be comprehensive and take all relevant matters into account.

Montesquieu's notion of *esprit* is anti-perfectionist³³. He thinks it neither possible nor desirable to steer a society towards the «best» *esprit*; indeed, he does not even think a «best» *esprit* exists, either generally or for a particular people. In a chapter entitled «To what extent it is necessary to be attentive to not change the *esprit général* of a nation» (XIX, 5), Montesquieu makes a point central to his political philosophy: «If in general the character is good, what importance does finding a few faults there have?» Montesquieu opposes trying to change a good *esprit*. He insists that it is up to the «legislator to follow the spirit of the nation, when it is not contrary to the principles of government; because we do nothing better than what we do freely, and in following our natural genius» (*ibidem*). Trying to impose an economic, political, social, or moral order of any sort onto a society that will be unreceptive to the new order is foolhardy at best, and destructive at worst. What is more, Montesquieu thinks that faults are acceptable, perhaps even to be embraced on occasion. In speaking of the French *esprit*, he notes that one could change it by «restraining the women, making laws for correcting their *mœurs*, and limiting their [taste for] luxury; but who knows whether one would thereby lose a certain tastefulness which is the source of the nation's riches, and a politeness that draws foreigners to it?» (*ibidem*). Far from advocating the removal of so-called «faults», Montesquieu notes that what some see as faults are appealing to others. By attempt-

³² Spector, «*Esprit général*». She continues by quoting Montesquieu: «The diverse characters of nations are mixed with virtues and vices, of good and bad qualities. The happy mixes are those from which result great goods, and often one would not suspect it; there are those from which result great evils, and one would not suspect them either» (XIX, 10).

³³ For a discussion of (anti)perfectionism in Montesquieu, see M. Mosher, *What Montesquieu Taught: Perfection Does Not Concern Men or Things Universally*, in R. Kingston (ed.), *Montesquieu and His Legacy*, State University of New York Press, New York 2008.

ting to remove such «faults», the state likely will lose some of its positive attributes, and acquire negative ones. Montesquieu also thinks that some faults will correct themselves over time. In a chapter entitled «That it is not necessary to correct everything» (*Qu'il ne faut pas tout corriger*), he contends: «Nature repairs everything» (*La nature répare tout*) (XIX, 6). This suggests that he thinks societies have the potential to correct problems internally as long as they have sufficient chance to do so. More than just arguing against perfectionism, though, Montesquieu urges caution in changing undesirable *esprits* because the cure may be worse than the disease. In the Preface he warns: «One senses the old abuses, one sees the correction to them. One leaves the good, if one fears the worse». Montesquieu reminds his reader that it is necessary to evaluate all of the potential outcomes when trying to change an *esprit*. An *esprit* of middling desirability might be better left alone because the risk of making it bad is sufficiently high.

Montesquieu offers further insights into how the *esprit* and character form in an earlier³⁴ work. In *Essai sur les causes qui peuvent affecter les esprits et les caractères*, Montesquieu distinguishes between the *esprit* of an individual and of a nation. «We know better», he explains, «what gives a certain character to a nation than what gives a certain *esprit* to an individual... We know better what shapes the genius of societies that have adopted a given way of life than what shapes that of an individual» (*OC*, t. IX, p. 219). It is easier, then, to generalize about a society and the values and practices the inhabitants have adopted than it is to know the particular *esprit* of an individual. Societies develop certain tendencies. Not all individuals may embrace them, but enough do to justify making generalizations. Montesquieu then identifies two kinds of «causes» that affect the character of societies: physical causes (the physical environment) and moral causes (*e.g.* laws, education, *mœurs*, manners, and commerce). The moral causes, though, play a larger role in forming the «general character of a nation» and its «*esprits*» than the physical causes (*ibidem*, p. 257)³⁵. Montesquieu attributes somewhat greater importance

³⁴ C. Volpilhac-Augier dates the essay 1736-1739 (*Sur quelques sources prétendues du livre XIV de «L'Esprit des lois». De l'Essai sur les causes à «L'Esprit des lois»: la théorie des climats existe-t-elle?* <<http://montesquieu.ens-lyon.fr/spip.php?article872>> [01/2017]).

³⁵ He explains just before this passage: «We just spoke about the particular education that forms each character; but there is still a general education, that one re-

to education as a moral cause. This education can come from many sources, including the laws and other people. Even the books of Confucius, with their moral precepts, greatly affect the *esprit* of the Chinese; so too the Talmud with Jews³⁶.

The nature of the *esprit* in a particular state impacts the *human* nature of the inhabitants. Montesquieu sees human nature as flexible³⁷. He deems man a «flexible being» who «adapts himself, in society, to the thoughts and impressions of others» (Preface, 230). Man's nature in a particular state forms in large part based on how the inhabitants impact – and are impacted by – the variables. The nature of the inhabitants is a product, in part, of the *esprit* in that society.

There is no universal standard for assessing the goodness of *esprits*. At the end of his account of the English *esprit*, Montesquieu makes an important observation: «one would find here something which approaches more the force of Michelangelo than the grace of Raphael» (XIX, 27). *Esprits*, then, have something in common with art: what makes them beautiful, or good, differs. Evaluating the beauty or value of art has a subjective component. It is, to an extent, a matter of taste³⁸. It might even be the case that a good *esprit* always will have some bad or vicious aspects: «the diverse characters of nations are mixed with virtues and vices, good and bad qualities. The happy mixes are those from which great goods result, and often one would not suspect them; there are some from which result great evils, and one would not suspect them either» (XIX, 10). The good, Montesquieu acknowledges, is often mixed with the bad.

ceives in the society where one is; because there is, in each nation, a general character (*un caractère général*), which those of each particular society attend to more or less. It is the product of two manners: by the physical causes, which depend on the climate [...] and by moral causes, which are the combination of laws, religion, mœurs, manners, and this species that represents the way of thinking, the air and the silliness of the Court and of the Capital, that spread out far away» (*ibidem*, p. 254).

³⁶ *Ibidem*, pp. 254-255.

³⁷ For a discussion of Montesquieu's views on human nature see S. Krause, *History and the Human Soul in Montesquieu*, «History of Political Thought», 24, 2003, 2, pp. 235-261.

³⁸ Consider Montesquieu's *Essai sur le goût* for more on these matters.

Conclusion.

In order to promote security, liberty, and prosperity in a particular society, legislators must undertake the enterprise of studying, discerning, and working within the context of an *esprit*. This entails evaluating how the variables function separately and in relation to one another in a particular society. These interactions form, and are formed by, the *esprit*. Indeed, the causal arrows go in both directions: the *esprit* shapes the variables, and the variables shape the *esprit*. Indeed, these kinds of interactions are a constant in Montesquieu's writings. Legislators may be in a position to change an *esprit*, and the *esprit* of any society is never static. Legislators must begin, though, by treating the existence of an *esprit* as a fact and appreciate the contours of a given *esprit*. Montesquieu's notion of *esprit* remains valuable today, for example as a helpful tool for studying institutions like the European Union³⁹. In order to understand the continued relevance of Montesquieu's political project, we must start where he does, with the *esprit*.

³⁹ J. Bandoch, *On the Problem of Forming a European Spirit – Montesquieu's De l'Esprit des lois (1748)*, in T. Pinheiro, B. Cieszynska, E. Franco (eds.), *Ideas of for Europe. An Interdisciplinary Approach to European Identity*, Peter Lang, Frankfurt 2012, pp. 75-87.