

# THE SPIRIT OF FEAR: ROME AND ABSOLUTISM<sup>1</sup>

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## Abstract

This article affirms that Enlightenment philosopher Montesquieu produced a historical and political theory based on the history of Rome. The main focus of this text is the association contained in the idea of a similarity between the Roman Empire and Oriental Despotism. For Montesquieu, corruption destroyed the spirit of freedom and virtue of the Roman Republic and founded an empire based on fear, which is the principle of despotism. The main source of analysis here is the book *The spirit of the laws*.

## Keywords

Montesquieu; Roman Republic; Oriental Despotism; Roman Empire; The Spirit of the Laws.

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## **Resumo**

Este artigo apresenta a tese de que o filósofo iluminista Montesquieu produziu uma teoria histórica e política baseada na história de Roma. O foco principal deste texto está na associação entre a ideia de que o Império romano e o despotismo oriental são semelhantes. Para o filósofo, a corrupção destruiu o espírito da liberdade e da virtude da República romana e instaurou um império baseado no medo, que é o princípio do despotismo. A fonte principal de análise é a obra Espírito das Leis.

## **Palavras-chaves**

Montesquieu, República romana, Despotismo oriental, Império romano, Espírito das Leis

## Introduction

In this article, Count Montesquieu appears as a political theorist who sticks out his neck in defense of his peers, that is, nobility. Montesquieu's anti-absolutism, based on his knowledge of Roman history and on his Germanist theory of history, opposes both absolutism and its legitimizing, or even better, fabricated historiography.

History is certainly the metal that connects the two sword edges of absolute power: on the one hand, the creation of such power; on the other, its legitimization. In this sense, erudite historiography acts as a metal alloy, fabricating its critique with fear and seduction. And an absolutist historian acts as a spiritual prophet of the State, who uses his clairvoyance to portray the reincarnation of Imperial Rome, under the feet of Monarchy.

The extolment of the Roman Republic and the reconstruction of its fall were used by Montesquieu to oppose the Catholic, absolutist and bourgeois erudition of his days. If Rome were ever to be seen as a good model, then such truth started and ceased to exist during its republic. In Montesquieu's view, the Roman Republic was above all fearless and virtuous politics crumbling before the empire of fear, i.e., the Roman Empire. And the historical law of fear, which could also be seen in the politics of the emperors and in Eastern despotism, was also thriving as a source of corruption in the streets and halls of 18<sup>th</sup> century France.

## Montesquieu and erudition

In order to better understand Montesquieu's opposition to the erudite history of the absolutist enterprise, we can observe the large oeuvre produced by several authors of the *Académie* and monasteries hired by the Crown. For instance, Gabriel Mably's work, *Parallèle des Français et des Romains*, of 1741.

Mably was absent from the anti-absolutist discussion, but he was described by Helga Gahyva as a defender of French equality:

*The existence of a common rival is a point of convergence between Mably and Boulainvilliers. According to Furet, their convergence goes even beyond, since the two authors "share one single conception of history. [And] they also share the same materials and an identical theme" (Furet, 1997, p.174). However, if on the one hand, Boulainvilliers' main target is the Dauphin, Mably's target, on the other, is the third estate. Their objectives also diverge: while Boulainvilliers is concerned with reinforcing estate distinctions*

*between the nobility and the bourgeoisie, Mably not only refutes such distinctions, but he also attempts to overcome them based on an understanding that if the consolidation of fixed estates had founded a national duality, then success in reestablishing unity would necessarily presuppose the reinsertion of the excluded population in the assemblies of the nation. Once the estates could be reconciled by a Germanist outlook, they would then be finally bound to turn into different classes within one and the same order (Gahyva, 2006: 131).*

The well-known Germanist approach of Henri de Boulainvilliers consists in a defense of privileges, though based on a much more complex theory. For this noble Normand, Germanism is an aristocratic ideology. Boulainvilliers sees aristocracy as the best form of government (Tholozan, 1999). The equality idea was indefensible in a context of legal and royal privileges for the nobility, even under Louis XIV. What Mably tries to do is to constitute France as a servant of Absolutism – what Montesquieu defined as ‘equality under a despot’.

*Les hommes sont tous égaux dans le gouvernement républicain; ils sont égaux dans le gouvernement despotique: dans le premier, c'est parce qu'ils sont tout; dans le second, c'est parce qu'ils ne sont rien (MONTESQUIEU, 1748: 90)*

The debate of the nobility against absolutist historiography took shape around the relation between morality and politics; between the idea of the fall of Rome as a consequence of immorality and of the employment of dishonored mercenaries by the Roman army. This debate emerged from a historical representation of bourgeois knowledge in the context of an absolutist State. The tax and legal privileges of the nobility were characterized by a theory of power, that is, a theory of government. Differently from the historians of the Crown, these nobility members looked to the Franks (Germanism) to defend aristocracy against the absolutists (Gaul-Romanists).

Both groups of historians turned to history in search of reasons to justify their political and juridical positions. Montesquieu, for instance, notably identified the absolutism of Louis XIV as a despotic government and structured his analysis based on the final days of the Roman Republic. In his view, the end of the Republic was, truly speaking, the “Fall of Rome” itself. This theme was an important element of anti-absolutist historiography, especially starting in the 1740s.

For this reason, the thesis of equality under the Ancient Regime was not to be seen in the production of the French academy, which remained at the service of the monarchy. Instead, it appeared in the works of some Enlightenment authors both in this context, and, in particular, after the French Revolution. This fact indicates the inexistence of a pre-revolutionary period – at least, not in the historiography field.

It was the monarchy that affirmed itself as imperial and 'Roman'. In the words of Senarclens:

*Si, à côté du discours moraliste sur la vertu et le patriotisme romains, le thème de la grandeur romaine garde une actualité politique au XVIIIe siècle, c'est aussi parce que la France brigue une place toute particulière dans l'héritage de Rome. Nombreux sont les historiens qui font de Rome un "modèle" pour la France aspirant à la gloire. Le caractère exceptionnel de cette cité est, en effet, à la mesure d'une nation qui se fait une haute idée de sa propre histoire, mais aussi de "sa destinée". (Senarclens, 2003: 39).*

One cannot ignore Claude Nicolet (2001), who presents some facts that were practically obvious until 1791: Rome was by then the most important theme in the *Académie*, followed by that of ancient Greece. Together, the two themes accounted for 55% of the *Académie's* total production. Meanwhile, the *Belle lettres* accounted for a total of 201 works on poetry, eloquence, theater and general literary. Homer and Virgil were the most-read authors, and 47 titles were published on Roman and Greek historians.

In the fields of legislation and politics, 16 works dealt with Greece, while 41 dealt with Rome, and 42 with Gaul and ancient France. Greek military art had 8 titles, and Roman military art had 31 titles. The same phenomenon was seen in the field of numismatics with 28 titles. The other hundreds of titles on the Eastern world, Africa and northern peoples were also an indirect product of the interest in the Roman Empire; and the same occurred in regard to the "history of the homeland", which authors were delighted to treat the theme of Gaul, understood as ancient France.

The Roman feeling emerged from the historical texts (*mimesis II*) and their reading (*mimesis III*) (Ricouer, 1994: 101). By resorting to narrative, the Crown managed to affirm itself as a continuation of the Roman lineage. Senarclens (2003: 40) maps out its text regime. First, the glorious aura of Rome emerged in the vast work of Catrou and Rouillé (1725); and the same can be said of another celebrated author, Jacques Bossuet (1691; Martins, 2010: chap. II), with his theocracy that narrates a history of the world, or universal history, from the creation of the world to the birth of Louis XIV. Senarclens also lists the Jansenist author Charles Rollin (1738-1748), who affirmed divine providence as a driving force behind the history of Rome and of the French monarchy. These authors identified Charlemagne as the figure that bridged the path between the downfall of Rome, on the one hand, and the French glory on the other.

The theme of the reincarnation of Rome is present in Mably, who established a parallel between the Romans and the French. Regarding Mably's work, Senarclens states that:

*Mably compare terme à terme les grands moments de l'histoire française à ceux de l'histoire romaine. Il énumère les circonstances qui empêchèrent la France d'atteindre plus vite le niveau de Rome ou, plus exactement, les*

*“principaux faits que retirent pendant plusieurs siècles le Gouvernement loin de sa perfection (Senarclens, 2003: 44).*

Senarclens' general thesis approaches the historiography of the *Académie* as the historiography of France from the perspective of a Roman lineage, or as Rome's reincarnation. According to Senarclens, after Louis XIV's death, the decadence of the Roman Empire emerged as a new, anti-absolutist theme that was studied since the work of Henri de Boulainvilliers in the 17<sup>th</sup> century (Martins, 2010: Chap. III).

### **The spirit of Rome**

Montesquieu's education was based on typical humanist values of his time. He was, therefore, well acquainted with the history of Rome, and he used it as a source of models as he presented his notions of the different forms of government.

Republic, Monarchy and Despotism – the historical forms of government – had been already treated in the works of Aristotle. Yet, for Montesquieu, Rome was their greatest expression, and Monarchy, Republic and Empire marked the central moments of its history. These three chapters of Roman history, in his entire work, are the epistemological condition of his political thought: for Montesquieu, history and politics are intertwined agents. Aristotelian knowledge, as he saw it, was not capable of fully covering the division of powers. Inspired by Newton, Montesquieu worked out an empirical view of history, based on more experimental data that the ancient political theory could not provide. Thus, the authority of history surpasses the authority of philosophy.

The presence of Aristotle, in Norberto Bobbio's words, meant that:

*However, one must recognize – here, as a subclass –, the extraordinary originality and fertility of the categories produced by the Greeks in general, and in particular, by Aristotle's Politics, which resulted in a conceptual system that resisted the test of time and reached us in the West in practically intact form. It was an idea that had to be put to test, and it seems to me that no other theme would be better suited for such a test than that of the forms of government, for two reasons: there is no classical work on politics that does not deal with this theme, and there is no classical author who has not referred to the Greeks either directly or indirectly when dealing with it. Furthermore, the terms we still use in the present, such as monarchy, oligarchy, aristocracy, democracy, autocracy and tyranny have all a Greek origin, as well as other artificially constructed terms such as technocracy and hierocracy (2005, 3).*

Although comparable with Aristotle to some extent, Montesquieu sets himself apart from the Greek philosopher for two reasons. First, Montesquieu's political ideal is not one of moral citizenship, but of constitutional monarchy along the lines of the English model, known as a moderated monarchy. The second reason lies in the very presence of Rome, which was totally unknown by Aristotle. Considered in its entirety, the history of Rome leads to the knowledge of political transformations produced by human agency, with its virtues and vices. One single population, living under one climate, experienced all types of government and all types of vices in the course of their history. And throughout all transformations, texts with an extremely high level of formality had emerged, providing Montesquieu – as an Enlightenment philosopher – with the conditions for an authoritative position vis-à-vis the discursive order of the so-called erudition. Thus, Rome became an assurance of his entire theory, while other peoples could be seen as ramifications and illustrations.

Political theory became a theory of history inasmuch as those transformations and their spatial features could shed light on thought by providing examples, leading to new questions and pointing at possible solutions. A sense of historical predictability could then be identified, and the downfall of the Roman Empire could serve as a warning of the downfall of Absolutism, and, perhaps, of France itself.

*À Rome, née dans la petitesse pour aller à la grandeur; à Rome, faite pour éprouver toutes les vicissitudes de la fortune; à Rome, qui avait tantôt presque tous ses citoyens hors de ses murailles, tantôt toute l'Italie et une partie de la terre dans ses murailles, on n'avait point fixé ce nombre; et ce fut une des grandes causes de sa ruine (MONTESQUIEU, 1748: 39).*

### **The Roman Republic**

For Montesquieu, all persons can perceive the difference in the nature of the three types of government. A republic can be recognized even by the least educated as: *le gouvernement républicain est celui où le peuple en corps, ou seulement une partie du peuple, a la souveraine puissance;*

His reference to the observed facts sets us apart from Aristotle, as he assumes in a categorical way that the only population in history to have experienced the three types of government, starting with democracy, was the Roman people. A democracy exists when the people have the power. On its turn, an aristocracy is found when the people are governed by a group that has the sovereign power.

The two statements above are an answer to Aristotle's question of "who?". And the answer regarding "how?" is provided by the reality of the suffrage. The law is

responsible for determining the type of suffrage: “indeed, it is as important to regulate in a republic, in what manner, by whom, to whom, and concerning what suffrages are to be given” (Montesquieu, 1748: 39).

As an example, Montesquieu cites the sophist Libanius (314-390 A.D.) (Fabricius, 1978), who stated that “in Athens, a foreigner who intermeddled in the assemblies of the people was punished with death” (Montesquieu, 1748: 39). It was the death of a person who usurped the suffrage right. The people had the sovereign power and were responsible for acting correctly, by means of its ministers. The legitimacy of the elections stemmed from popular decision. Therefore, power was exercised by the people – either directly, as in Athens, or by means of magistrates, as in Rome (Montesquieu, 1748: 40).

In his beautiful discourse on the republic, which closely resembles the empiricist contributions of English authors such as Newton and Locke, Montesquieu points out that:

*Le peuple est admirable pour choisir ceux à qui il doit confier quelque partie de son autorité. Il n'a à se déterminer que par des choses qu'il ne peut ignorer, et des faits qui tombent sous les sens. Il sait très bien qu'un homme a été souvent à la guerre, qu'il y a eu tels ou tels succès: il est donc très capable d'élire un général. Il sait qu'un juge est assidu, que beaucoup de gens se retirent de son tribunal contents de lui, qu'on ne l'a pas convaincu de corruption; en voilà assez pour qu'il élise un préteur. Il a été frappé de la magnificence ou des richesses d'un citoyen; cela suffit pour qu'il puisse choisir un édile. Toutes ces choses sont des faits dont il s'instruit mieux dans la place publique, qu'un monarque dans son palais. Mais saura-t-il conduire une affaire, connaître les lieux, les occasions, les moments, en profiter? Non: il ne le saura pas. (Montesquieu, 1748: 40).*

However, at this point, a specific limitation appears in regard to the empirical condition of politics. People did recognize moral quality, or virtue, at the public space. People did know men. But people did not know the problems. Montesquieu answers his own question as if Machiavelli's *virtú* itself were at stake: are people “capable of conducting an intricate affair, of seizing and improving the opportunity and critical moment of action? No; this surpasses their abilities” (Montesquieu, 1748: 40).

Despite being capable of electing individuals from all social classes, Greece and Rome did not elect plebeians to high offices. After all, for Montesquieu, the lack of knowledge regarding the business of a city resulted in a technical type of authority. Social class divides had always been a condition of prosperity for public legislators. However, this assertion appears here as a result of Montesquieu's “historical empiricism”.



Titus Livius<sup>3</sup> and Dionysius of Halicarnassus<sup>4</sup> described the aristocracy when Servius Tullius imposed it as a condition for the development of Rome by establishing the division of the Roman people into 193 centuriae and six classes. Solon, on his turn, had divided Athens into four classes.

The division of classes characterizes the basis of the suffrage:

*Comme la division de ceux qui ont droit de suffrage est, dans la république, une loi fondamentale, la manière de le donner est une autre loi fondamentale.*

*Le suffrage par le sort est de la nature de la démocratie; le suffrage par choix est de celle de l'aristocratie (Montesquieu, 1748: 41).*

To amend the suffrage by lot, if an individual selected for a function did not have the dignity and competence to exercise it, his merit should be judged. The famous speech of Demosthenes accusing Timarchus of corruption, prostitution and viciousness, is a case in point. The public status of the accusations and the exposure of the life of an eligible person were seen to contribute to the knowledge and development of the republic. Montesquieu, in this regard, cites Cicero's testimony in his *Treatise on the laws* (Cicéron, 1719) to show that secret suffrage had become one of the features of the Roman Republic in its final days.

At the Roman Republic, citizenship was directly linked to the life of the city: "every soldier was at the same time a citizen; every consul raised an army, and other citizens marched into the field" (Montesquieu, 2002: 71). The idea to include wealthy individuals in the army had the effect of encouraging victory and the return home. The battles on "Italian" territories enabled the existence of small armies, the surveillance of generals by the Senate and the return to the home city.

*Sans doute que, lorsque le peuple donne ses suffrages, ils doivent être publics<sup>5</sup>; et ceci doit être regardé comme une loi fondamentale de la démocratie. Il faut que le petit peuple soit éclairé par les principaux, et contenu par la gravité de certains personnages. Ainsi, dans la république romaine, en rendant les suffrages secrets, on détruisit tout; il ne fut plus possible d'éclairer une populace qui se perdait. Mais lorsque, dans une aristocratie, le corps des nobles donne les suffrages<sup>6</sup>, ou dans une*

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<sup>3</sup> Montesquieu's note: *Titus Livius*, book I.

<sup>4</sup> Montesquieu's note: *Dionysius of Halicarnassus*, book IV, art. 15ff.

<sup>5</sup> À Athènes, on levait les mains.

<sup>6</sup> Comme à Venise.

*démocratie, le sénat<sup>7</sup> ; comme il n'est là question que de prévenir les brigues, les suffrages ne sauraient être trop secrets (Montesquieu, 1748: 41).*

With the increased scale of Roman conquests beyond the seas and beyond the Alps, the citizen's spirit was lost. Generals felt their own power and became lords of their troops, while Rome ceased to be their main reference. In this new context, the identity of the troops was directly linked to the figure of their general: "they were no longer the soldiers of the republic, but of Sylla, of Marius, of Pompey, and of Caesar" (Montesquieu, 2002: 72). For Montesquieu, there was a sole republican value that had to be pursued, namely the idea of the republic itself. "A wise republic ought not to run any hazard which may expose it to good or ill fortune; the only happiness the several individuals of it should aspire after is to give perpetuity to their State" (Montesquieu, 2002: 72).

Rome's transformation into an empire meant first to experience corruption. "If the unbounded extent of the Roman empire proved the ruin of the republic, the vast compass of the city was no less fatal to it" (Montesquieu, 2002: 72). By subduing "the whole universe", the city lost its spirit of love for liberty and equality, along with its hatred of tyranny. Thus, its internal union disappeared.

*Ce qu'on appelle union dans un corps politique est une chose très équivoque : la vraie est une union d'harmonie, qui fait que toutes les parties, quelque opposées qu'elles nous paraissent, concourent au bien général de la société, comme des dissonances dans la musique concourent à l'accord total (Montesquieu, 1734:59).*

On the other hand, a false union is one in which each individual oppresses the others; such is a state of union without freedom, that is, union based on oppression. Montesquieu cites the image of despotism in the 18<sup>th</sup> century Asian world as an explicative condition. Those States:

*ne sont joints que parce que les uns oppriment les autres sans résistance, et, si l'on y voit de l'union, ce ne sont pas des citoyens qui sont unis, mais des corps morts, ensevelis les uns auprès des autres (Montesquieu, 1734:60).*

Freedom demands love for politics and is an achievement. Hannah Arendt's view of ancient politics is instructive in regard to the importance of transparency and of the continuous conquest of the political.

*The response to the issue of the meaning of politics is so simple and conclusive that one could actually come to think that all other issues are*

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<sup>7</sup> Les trente tyrans d'Athènes voulurent que les suffrages des aréopagites fussent publics, pour les diriger à leur fantaisie: Lysias, Orat. contra Agorat., cap. VIII [37].

*absolutely irrelevant. The response is: the meaning of politics is freedom itself (Arendt, 2008: 171).*

Arendt argues that man rarely had the opportunity to experience the political. In her reasoning, the prototype of politics in search of freedom, by means of the word, after meeting the basic needs, is found in Hector and Achilles:

*The prototype of rivalry between men is still the combat between Hector and Achilles. Independently of the question of who wins or loses, it gives each side an opportunity to reveal itself; in other words, it gives each side the opportunity to come to reality, and thus to become effectively real. The same process occurred in the war between Greeks and Trojans, which for the first time gave both sides an opportunity to effectively reveal themselves. By mirroring the confrontation between the gods, this war not only attained its true meaning as it was fought on Earth, but it also clearly revealed that both sides also contained an aspect of divinity, even though one of them should perish (Arendt, 2008: 226).*

Transparency in the republic, both in regard to the suffrage and to the elected individuals, and materialized in the possibility of publicly accusing and being accused before the entire society, produced here an ennobling reality for the political struggle. Freedom re-emerges in this context amidst the existence of multiple points of view in terms of speech, desire and agency. Reflecting particularly on the Greeks, Arendt conceives a dimension of ancient politics that can be contrasted to Montesquieu's account of the Roman Republic. For Arendt:

*The decisive element is not the capacity to affirm rationales and invert propositions, but the fact that one has acquired the capacity to effectively see things from different sides – that is, the capacity to see things politically. Hence, people came to understand how to adopt different perspectives provided by the real world, from which one and the same object can be considered, and in which each object can be appreciated according to several points of view, in spite of its uniqueness (Arendt, 2008:228).*

The classic division among the government forms – Aristotle's question about "who?" – leads Montesquieu to a differentiation between two popular government types: democracy in chapter II, book II of *The Spirit of the Laws*; and aristocracy in chapter III.

The law defines the public space and establishes harmony, limiting the powers and stimulating tasks. The end of the Roman republic was characterized by the self-proclamation of individual power, which broke the established rules in a context of political accommodation. In this regard, Montesquieu affirms:

*mais, dans une république où un citoyen se fait donner un pouvoir exorbitant, l'abus de ce pouvoir est plus grand, parce que les lois, qui ne l'ont point prévu, n'ont rien fait pour l'arrêter (Montesquieu, 1748: 41).*

An improved aristocracy must participate of the popular life. Aristocrats must not remain aloof; instead, they must be closer: "The more an aristocracy approaches democracy, the more perfect it will be" (Montesquieu, 1748: 43). Conversely, the less an aristocracy resembles a monarchy, the better it will be too. Aristocrats must above all avoid situations such as the one of Poland, where aristocrats ruled the peasants as their serfs: "the most imperfect of all [aristocracies] is that in which the part of the people that obeys is in a state of civil servitude to those who command, as the aristocracy of Poland, where the peasants are slaves to the nobility" (Montesquieu, 1748: 107).

Montesquieu criticizes the Polish aristocracy along his work as a distant social class whose living almost resembles a form of despotism, marked by excessive luxury and excessive inequality. However, since the local population is too poor, the same occurs in regard to relative luxury:

*En Pologne, par exemple, les fortunes sont d'une inégalité extrême; mais la pauvreté du total empêche qu'il y ait autant de luxe que dans un État plus riche (Montesquieu, 1748: 131).*

In Montesquieu's rationalist mathematics, luxury is proportional to inequality. Only by sharing wealth and fortune can the State be established by equal citizens. Luxury in Poland was a scandal when one considered the local poverty, but it was still mediocre when compared to the luxury found in other nations.

*Le luxe est toujours en proportion avec l'inégalité des fortunes. Si, dans un État, les richesses sont également partagées, il n'y aura point de luxe; car il n'est fondé que sur les commodités qu'on se donne par le travail des autres (Montesquieu, 1748: 130).*

Here, one may notice a similarity between Montesquieu's reasoning and Karl Marx' view of labor alienation. Nonetheless, Montesquieu's mathematics of luxury economics belongs to arithmetic. The following excerpt indicates the rationalist and empirical relation contained in *The spirit of the laws*:

*Supposant le nécessaire physique égal à une somme donnée, le luxe de ceux qui n'auront que le nécessaire sera égal à zéro; celui qui aura le double aura un luxe égal à un; celui qui aura le double du bien de ce dernier aura un luxe égal à trois; quand on aura encore le double, on aura un luxe égal à sept; de sorte que le bien du particulier qui suit, étant toujours supposé double de celui du précédent, le luxe croîtra du double plus une unité, dans cette progression 0, 1, 3, 7, 15, 31, 63, 127 (Montesquieu, 1748: 131).*

On the other hand, the assembled crowd creates superfluous desires, which are a characteristic of the great empires and large cities:

*Le luxe est encore en proportion avec la grandeur des villes, et surtout de la capitale; en sorte qu'il est en raison composée des richesses de l'État, de*

*l'inégalité des fortunes des particuliers et du nombre d'hommes qu'on assemble dans de certains lieux.*

*Plus il y a d'hommes ensemble, plus ils sont vains et sentent naître en eux l'envie de se signaler par de petites choses<sup>8</sup>. S'ils sont en si grand nombre que la plupart soient inconnus les uns aux autres, l'envie de se distinguer redouble, parce qu'il y a plus d'espérance de réussir. Le luxe donne cette espérance; chacun prend les marques de la condition qui précède la sienne. Mais à force de vouloir se distinguer, tout devient égal, et on ne se distingue plus: comme tout le monde veut se faire regarder, on ne remarque personne (Montesquieu, 1748: 131).*

An unadvised reader could even think that the excerpt above was written by a Frankfurt-school thinker about contemporary mass societies. However, an excessive luxury is a characteristic of a different type of government. In democracy, luxury is almost inexistent, since in a context of equality, one would not expect to find, for instance, individuals who own up to four times more than the others.

Therefore, the superiority of democracy could be seen in the equal distribution of wealth. Once more, we see Montesquieu's arithmetic proportion: "the less luxury there is in a republic, the more it is perfect" (Montesquieu, 1748: 108). The earliest days of Rome and of Sparta did not see luxury. Such state of things strengthened the community spirit, in contrast to a context in which luxury is established and leads to a sense of private greed.

The luxury appears in Montesquieu as one of the reasons behind the end of the Roman republic (Montesquieu, 1748: 108). The criticism of luxury had been a long-standing moral discourse regarding the fall of Rome. Now it was resorted to in order to help explain the end of the Roman Republic and the beginning of the Roman Empire. The Empire was only possible in a context of corruption.

In aristocracies, the virtue of moderation must be used against luxury. Such was the case of Venice in the thinking of Saint-Didier<sup>9</sup> (1685) about the aristocracy of his days (Volpillac-Augier, 1998: 16-26). Venice was then a city with laws that obliged its nobility to exercise modesty. In contrast to it, Poland (Slugocki, 1999: 139-151) had a society in which the law guaranteed inequality and resulted in State corruption. Thus, such an eroded State was bound to suffer with the insurrection of its people.

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<sup>8</sup> Dans une grande ville, dit l'auteur de *La Fable des abeilles*, t. 1, p. 133, on s'habille au-dessus de sa qualité, pour être estimé plus qu'on n'est par la multitude. C'est un plaisir pour un esprit faible, presque aussi grand que celui de l'accomplissement de ses désirs.

<sup>9</sup> Saint Didier's book was found in Montesquieu's personal library. The cited page number is where the narrative about the wealth of Venice begins.

Reflecting about corruption, Montesquieu undertakes a metahistorical exercise of theory and compares modern Poland to ancient Crete. He repeatedly cites Plato's *Republic* (2006) as a historical source to demonstrate his comparisons, along with the works of Plutarch (Plutarque, 1655) and Martial (1864).

The issue at stake between Crete and Poland is the education of the people. According to Plato's account, the naked youth who practiced fighting sports at the public squares of Crete and Thebes were educated with war exercises and attained success in their insurrection. The same, on the other hand, could not possibly occur in Poland. As a remedy, an insurrection can only be efficacious when a "love for the homeland" exists. Polish laws in the 18<sup>th</sup> century did not promote such love; quite to the contrary, they created an excessive individual independence. "The independence of individuals is the end aimed at by the laws of Poland, [and] thence results the oppression of the whole" (Montesquieu, 1748: 107).

Polish laws (Lukowski, 2001: 49-59) had a deleterious effect on the country's trade, impoverishing both its people and nobility, while drawing Poland closer to barbarism. The following excerpt severely criticizes the laws of that country:

*La Pologne servira ici d'exemple. Elle n'a presque aucune des choses que nous appelons les effets mobiliers de l'univers, si ce n'est le blé de ses terres. Quelques seigneurs possèdent des provinces entières; ils pressent le laboureur pour avoir une plus grande quantité de blé qu'ils puissent envoyer aux étrangers, et se procurer les choses que demande leur luxe. Si la Pologne ne commerçait avec aucune nation, ses peuples seraient plus heureux. Ses grands, qui n'auraient que leur blé, le donneraient à leurs paysans pour vivre; de trop grands domaines leur seraient à charge, ils les partageraient à leurs paysans; tout le monde trouvant des peaux ou des laines dans ses troupeaux, il n'y aurait plus une dépense immense à faire pour les habits; les grands, qui aiment toujours le luxe, et qui ne le pourraient trouver que dans leur pays, encourageraient les pauvres au travail. Je dis que cette nation serait plus florissante, à moins qu'elle ne devînt barbare: chose que les lois pourraient prévenir (Montesquieu, 1748 (4): 43).*

Venice – another republic of Montesquieu's days – was also compared to the Roman Republic. First, in the discussion regarding the magistrates:

*L'exception à cette règle est lorsque la constitution de l'État est telle qu'il a besoin d'une magistrature qui ait un pouvoir exorbitant. Telle était Rome avec ses dictateurs, telle est Venise avec ses inquisiteurs d'État; ce sont des magistratures terribles, qui ramènent violemment l'État à la liberté (Montesquieu, 1748: 44).*

The ancient-modern relation – typical of modern days – allows us to grasp the political role of the magistrates during the republic. A magistrate was a check on the power of the prince and was capable of setting therefore, limits to such power. In the case of ancient Rome, it was important to establish a dictator according to a function; thus, the

magistrates acted between the people and the dictator. In Venice, on its turn, the magistrates exercised a permanent function (Georgelin, 1978. Vol. 41), since,

*c'est là que les desseins peuvent être commencés, suivis, suspendus, repris; que l'ambition d'un seul devient celle d'une famille, et l'ambition d'une famille celle de plusieurs. On a besoin d'une magistrature cachée, parce que les crimes qu'elle punit, toujours profonds, se forment dans le secret et dans le silence. Cette magistrature doit avoir une inquisition générale, parce qu'elle n'a pas à arrêter les maux que l'on connaît, mais à prévenir même ceux que l'on ne connaît pas. (Montesquieu, 1748: 44).*

Furthermore, the Venetian magistrates asserted themselves against the nobility in defense of the aristocracy. By continuously watching the nobility, they prevented the emergence both of a monarchy and of despotism. Since popular reaction is an easy prey for the emotions of the moment, Roman magistrates lasted only as long as the problem they had to solve. Venetian magistrates, in turn, were in a position to chase the sly, silent crimes of nobility, which were invisible to the people.

The proximity between the aristocracy and the people is an important feature. The ability to exhibit the conquests and possessions of the city, instead of giving them to the people, cultivated a spirit of unity. Thus, the *fold* that brings together the ancient and modern contexts acts as a maxim in the relations with the people. How does one share one's goods with the people? Simply by showing them.

*Si l'on ne distribue point les revenus au peuple, il faut lui faire voir qu'ils sont bien administrés: les lui montrer, c'est, en quelque manière, l'en faire jouir. Cette chaîne d'or que l'on tendait à Venise, les richesses que l'on portait à Rome dans les triomphes, les trésors que l'on gardait dans le temple de Saturne étaient véritablement les richesses du peuple (Montesquieu, 1748: 83).*

While reflecting on Rome and Venice, Montesquieu approaches the issue of the administration of State property and compares the Venetian law to the Claudia Law. In the source quoted by Montesquieu, the modern case appears: *Les lois de Venise*<sup>10</sup> *défendent aux nobles le commerce qui pour-rait leur donner, même innocemment, des richesses exorbitantes* (Montesquieu, 1748: 84).

Regarding the Claudia Law, Montesquieu cites the following text:

*"[...] inuisus etiam patribus ob novam legem, quam Quintus Claudius, tribunus plebis, adversus senatum, atque uno patrum adjuvante Caio Flaminio, ne quis senator, cuive senator pater fuisset, maritimam navem,*

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<sup>10</sup> Amelot de La Houssaye, *Du gouvernement de Venise*, partie III. La loi Claudia défendait aux sénateurs d'avoir en mer aucun vaisseau qui tînt plus de quarante muids. Tite-Live, liv. XXI, 63, 3.

*quae plus quam trecentarum amphorarum esset, haberet: id satis habitum ad fructus ex agris vectandos quaestus omnis patribus indecorus visus* (Titus Livius *Ab Urbe Condita*,. Montesquieu, 1748: 84).

Here, one can identify two of the three main folds that characterize modern historiographical thought: the *first fold*, which brings together the ancient and the modern; and the *second fold* of erudition and empiricism. Houssaie (modern) and Livy (ancient) are juxtaposed as a *first fold*. However, the authority of the first fold depends on the second. The facts that Houssaie (empirical) was a traveler and had been to Venice established his authority as an empirical source. On his turn, Livy (erudition) imparts the classical authority. Thus, their juxtaposition allows a *second fold*. The narrative fabric, beyond its composition in the form of a text, appears according to quite specific folds. Hence, a *mimesis II* appears in Montesquieu's text (Ricoeur, 1994: 101).

Montesquieu's aristocratic theory also links Venice to Sparta (Lacedaemonia):

*Elles doivent mortifier, dans tous les temps, l'orgueil de la domination. Il faut qu'il y ait, pour un temps ou pour toujours, un magistrat qui fasse trembler les nobles, comme les éphores à Lacédémone, et les inquisiteurs d'État à Venise, magistratures qui ne sont soumises à aucunes formalités. Ce gouvernement a besoin de ressorts bien violents. Une bouche de pierre s'ouvre à tout délateur à Venise; vous diriez que c'est celle de la tyrannie* (Montesquieu, 1748: 73)..

These tyrannical magistrates within the aristocracy play a role of moderation, especially among the nobility, and such role ought not to be condemned. In contrast to Venice, "Romans were admirable. All other magistrates might be required to justify their official conduct, but never censors" (Montesquieu, 1748: 93).

The *third fold* - 'identity' - teaches more about the Venetian aristocracy, in particular, as it regards the magistrates and, especially, the types of government. Venice's hereditary regime needs to be distinguished by means of the Oriental type of government, which is constantly presented as despotic. Montesquieu frequently compares European peoples with non-Europeans. Here, therefore, we find his third fold.

In Montesquieu's view, each political regime leaves a mark on the customs of the people. Yet, he states that "unprepared" spirits cannot receive good laws, since these laws seem intolerable to them. The brief chapter II, book XIX of *The spirit of the laws* presents this reasoning, along with several folds.

The *first fold* - ancient and modern - is found in Justinian's imposition of the tribunal of Varus to the Germans; it flows down to the end of the chapter along the *second fold* - erudition and empiricism - connected by the account of Venice. Here, Montesquieu's



somehow ironical mood, which is present in the Persian Letters, can be seen too. Hence, the *third fold* – East and West – appears:

*Un Vénitien nommé Balbi, étant au Pégu <sup>11</sup>, fut introduit chez le roi. Quand celui-ci apprit qu'il n'y avait point de roi à Venise, il fit un si grand éclat de rire, qu'une toux le prit, et qu'il eut beaucoup de peine à parler à ses courtisans. Quel est le législateur qui pour-rait proposer le gouvernement populaire à des peuples pareils? (Montesquieu, 1748: 112).*

Montesquieu's comparison of Venice and Poland provides an additional clarification of his view of the Roman Republic. As he describes the divisions of Rome in the republican period, he indirectly refers to Venice:

*Ceux qui obéissent à un roi sont moins tourmentés d'envie et de jalousie que ceux qui vivent dans une aristocratie héréditaire. Le prince est si loin de ses sujets qu'il n'en est presque pas vu, et il est si fort au-dessus d'eux qu'ils ne peuvent imaginer aucun rapport qui puisse les choquer. Mais les nobles qui gouvernent sont sous les yeux de tous et ne sont pas si élevés que des comparaisons odieuses ne se fassent sans cesse (Montesquieu, 1734,52).*

### **Virtue as the principle of the Republic**

Virtue is the condition both for aristocracy and democracy:

*Ce que je dis est confirmé par le corps entier de l'histoire, et est très conforme à la nature des choses. Car il est clair que dans une monarchie, où celui qui fait exécuter les lois se juge au-dessus des lois, on a besoin de moins de vertu que dans un gouvernement populaire, où celui qui fait exécuter les lois sent qu'il y est soumis lui-même, et qu'il en portera le poids (Montesquieu, 1748: 51).*

From the perspective of the *first fold*, ancient and modern, Montesquieu considers the problems of Cromwell (cf. Hill, 1988) and Sylla,<sup>12</sup> as they attempted to build a democracy and to restore freedom to the citizens, respectively. Bourgeois ambition was no longer virtuous: hence, the failure of English democracy and of Cromwell. Sylla, in his days, was left without any option after Caesar, Tiberius, Caius, Nero and Domitian had devoured all virtue, leaving only its “feeble remains [...], which were continually diminishing”. Rome, therefore, had become a slave.

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<sup>11</sup> Il en a fait la description en 1596. *Recueil des voyages qui ont servi à l'établissement de la Compagnie des Indes*, t. III, part. I, p. 33.

<sup>12</sup> *Lucius Cornelius Sulla* (138 B.C. — 78 B.C).

Montesquieu compares the past to the present in order to point out to the lack of virtue in his time, which can also be seen as a fearsome irony for the political speeches in the 21<sup>st</sup> century:

*Les politiques grecs, qui vivoient dans le gouvernement populaire, ne reconnoissaient d'autre force qui pût les soutenir que celle de la vertu. Ceux d'aujourd'hui ne nous parlent que de manufactures, de commerce, de finances, de richesses et de luxe même (Montesquieu, 1748: 51).*

Virtue and ambition are antithetical in a government. Virtue leads to respect, while ambition leads to fear. For Montesquieu, frugality degenerates into avarice. Thus, the wealth of the individuals, which constituted the public treasure, became through ambition the patrimony of a few private persons. This was the reason for the fall of Carthage:

*Comment Carthage aurait-elle pu se soutenir? Lorsque Annibal, devenu préteur, voulut empêcher les magistrats de piller la république, n'allèrent-ils pas l'accuser devant les Romains? Malheureux, qui voulaient être citoyens sans qu'il y eût de cité, et tenir leurs richesses de la main de leurs destructeurs! Bientôt Rome leur demanda pour otages trois cents de leurs principaux citoyens; elle se fit livrer les armes et les vaisseaux, et ensuite leur déclara la guerre. Par les choses que fit le désespoir dans Carthage désarmée on peut juger de ce qu'elle aurait pu faire avec sa vertu, lorsqu'elle avait ses forces (Montesquieu, 1748: 51).*

Ambition marks the end of democracy. The more virtuous the citizens are, the more freedom there is: this is what constitutes a true Republic. When Athens became concerned with its own pleasures, it was dominated, because its pleasures became a substitute for the ideal of freedom.

*Athènes eut dans son sein les mêmes forces pendant qu'elle domina avec tant de gloire, et pendant qu'elle seroit avec tant de honte. Elle avait vingt mille citoyens <sup>13</sup> lorsqu'elle défendit les Grecs contre les Perses, qu'elle disputa l'empire à Lacédémone, et qu'elle attaqua la Sicile, Elle en avait vingt mille lorsque Démétrius de Phalère les dénombra <sup>14</sup> comme dans un marché l'on compte les esclaves. Quand Philippe osa dominer dans la Grèce, quand il parut aux portes d'Athènes <sup>15</sup>, elle n'avait encore perdu que le temps. On peut voir dans Démosthène quelle peine il fallut pour la réveiller: on y*

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<sup>13</sup> Plutarque, *in Pericle* [37, 4]; Platon, *in Critia* [112e].

<sup>14</sup> Il s'y trouva vingt et un mille citoyens, dix mille étrangers, quatre cent mille esclaves. Voyez Athénée, liv. VI [section 103 (272)].

<sup>15</sup> Elle avait vingt mille citoyens. Voyez Démosthène, in Aristog..

*craignait Philippe, non pas comme l'ennemi de la liberté, mais des plaisirs*<sup>16</sup>.  
(Montesquieu, 1748: 51).

Montesquieu issues his historical judgement in truly dramatic words:

*Cette ville, qui avait résisté à tant de défaites, qu'on avait vue renaître après ses destructions, fut vaincue à Chéronée, et le fut pour toujours. Qu'importe que Philippe renvoie tous les prisonniers? Il ne renvoie pas des hommes. Il était toujours aussi aisé de triompher des forces d'Athènes qu'il était difficile de triompher de sa vertu* (Montesquieu, 1748: 51).

Virtue is so important for Montesquieu, that he sets a premium on the value of the private element. Thus, a private problem would also become a public problem, considering that a private crime collides with the constitution of the State and is, in essence, a crime against virtue. Hence the need for absolute transparency.

An education capable of cultivating virtue was the characteristic of the Greek institutions and the reason behind their strength. Yet, love to the homeland is not only a characteristic of the Greeks. For Montesquieu, the savages of Paraguay also had it. Linking the *first fold* – ancient and modern – to the *third fold* – Europeans and non-Europeans –, he presents his explanation, including his view of the Jesuit missions.

*First fold* – ancient and modern:

*La Crète et la Laconie furent gouvernées par ces lois. Lacédémone céda la dernière aux Macédoniens, et la Crète<sup>17</sup> fut la dernière proie des Romains. Les Samnites eurent ces mêmes institutions, et elles furent pour ces Romains le sujet de vingt-quatre triomphes*<sup>18</sup> (Montesquieu, 1748: 67).

*Third fold* – Europeans and non-Europeans (identity):

*Le Paraguay peut nous fournir un autre exemple. On a voulu en faire un crime à la Société, qui regarde le plaisir de commander comme le seul bien de la vie; mais il sera toujours beau de gouverner les hommes en les rendant plus heureux*<sup>19</sup> (Montesquieu, 1748: 67).

The Jesuit missions were compared by him to the ideal of Plato's republic. The characteristic of these missions, in Montesquieu's eyes, was the idea of religion joined with the idea of humanity. Thus, "repairing the pillages of the Spaniards, it begun to

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<sup>16</sup> Ils avaient fait une loi pour punir de mort celui qui proposerait de convertir aux usages de la guerre l'argent destiné pour les théâtres.

<sup>17</sup> Elle défendit, pendant trois ans, ses lois et sa liberté. Voyez les livres XCVIII, XCIX et C de Tite-Live, dans *l'Építome* de Florus. Elle fit plus de résistance que les plus grands rois.

<sup>18</sup> Florus, liv. I [16, 8].

<sup>19</sup> Les Indiens du Paraguay ne dépendent point d'un seigneur particulier, ne payent qu'un cinquième des tributs, et ont des armes à feu pour se défendre.

heal one of the greatest wounds mankind has yet received". The missions promoted honor and zeal, removing men from the forests to provide them with subsistence, and dressing them.

The Jansenists accused Montesquieu of not having said enough about the process of Christianization, as he wrote on the missions to Paraguay:

*Au chapitre VI du livre IV de mon livre, j'ai parlé de l'établissement des jésuites au Paraguay, et j'ai dit que, quelques mauvaises couleurs que'on ait voulu y donner, leur conduit à cet égard étoit très-louable; et les jansénistes ont trossuvé très-mauvais que j'aie par là défendu ce qui les a mis de très mauvaise humeur (Montesquieu, 1865: 303).*

Since virtue is the love for the Republic, in democracy it becomes love for equality, which is only possible by means of a frugal life, that is, modesty. The history of Rome began amidst the spirit of equality:

*Quelques législateurs anciens, comme Lycurgue et Romulus, partagèrent également les terres. Cela ne pouvait avoir lieu que dans la fondation d'une république nouvelle; ou bien lorsque l'ancienne loi étoit si corrompue, et les esprits dans une telle disposition, que les pauvres se croyaient obligés de chercher, et les riches obligés de souffrir un pareil remède (Montesquieu, 1748:75).*

Equality must be driven by diligent subordination. Thus, the more the youth can subordinate to the elders, the more moderate a society will be. The elders must respect each other and the young must respect the elders. Subordination within the families was, for Montesquieu, one of the pillars of the Roman Republic. Thus, the public outcomes hinged on the private conduct.

The authority of fathers in the families and the presence of the tribunes were key references of power and order for the Roman Republic:

*À Rome, les pères avaient droit de vie et de mort sur leurs enfants<sup>20</sup>. À Lacédémone, chaque père avait droit de corriger l'enfant d'un autre.*

*La puissance paternelle se perdit à Rome avec la république. Dans les monarchies, où l'on n'a que faire de mœurs si pures, on veut que chacun vive sous la puissance des magistrats (Montesquieu, 1748: 81).*

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<sup>20</sup> On peut voir, dans l'histoire romaine, avec quel avantage pour la république on se servit de cette puissance. Je ne parlerai que du temps de la plus grande corruption. Aulus Fulvius s'était mis en chemin pour aller trouver Catilina; son père le rappela et le fit mourir. Salluste, *De bello Catilinae*. Plusieurs autres citoyens firent de même, Dion, liv. XXXVII [36].

Did the French State need tribunes? Who represented the people at that time? For Montesquieu, the parliaments represented the people, as the citation above shows. They had much more of a juridical than a legislative nature, as meeting points of the nobility and instances of justice. However, starting with Mazarin, the authority of the parliaments began to wane, and the imposition of Absolutism became valid for all powers other than the Crown (Hurt, 2004; Roelker, 1997). Thus, we find here a hint of an anti-absolutist vindication.

*Cicéron croit que l'établissement des tribuns de Rome fut le salut de la république. « En effet, dit-il, la force du peuple qui n'a point de chef est plus terrible. Un chef sent que l'affaire roule sur lui, il y pense; mais le peuple, dans son impétuosité, ne connaît point le péril où il se jette. » On peut appliquer cette réflexion à un État despotique, qui est un peuple sans tribuns; et à une monarchie, où le peuple a, en quelque façon, des tribuns (Montesquieu, 1748: 89).*

### **General characteristics of the Roman republic**

Montesquieu's maxim "one can never leave the Romans" (Montesquieu, 1748: 166) points at a scene he was personally acquainted with: the ruins and castles of Rome. There, what most caught Montesquieu's attention was the sight of the Roman fields, home of the patricians – the great ones who elected their kings in the early times of the city. With the expulsion of the kings, Rome experienced the fractionation of the "three powers". For Montesquieu, two sources are fundamental for understanding this period of the Roman history: Livy and Dionysius of Halicarnassus.

The republic was born with the popular magistrates, while consulships were dissolved into several magistracies: praetors for private suits, questors for public crimes, aediles for supervising the police, and treasurers for administering public monies, along with the tribunes, who could intervene against the patricians, and, lastly, the influence of the people over the important decisions. All this took place during the reign of Servius Tullius.

The bitter taste of slavery emerged with Tarquin (Montesquieu, 1748: 168). Chapter XV of *The spirit of the laws* dramatically demarcates the Roman republic as the period between two bloodsheds: on the one hand, the death of Virginia (Antiqueira, 2009), whose blood represents the ruin of the decemvirs; and, on the other, the bloody robe of Julius Caesar.

*Le spectacle de la mort de Virginie, immolée par son père à la pudeur et à la liberté, fit évanouir la puissance des décemvirs. Chacun se trouva libre, parce que chacun fut offensé: tout le monde devint citoyen, parce que tout le monde*

*se trouva père. Le sénat et le peuple rentrèrent dans une liberté qui avait été confiée à des tyrans ridicules (Montesquieu, 1748 (2): 73).*

Each detail of history, presented in this case by Livy, is immortalized as a moral judgment in the form of a *mimesis I* – to copy for oneself – and a *mimesis II* – to write for the others, not only as empty rhetoric, but as a close political contact, to attain a *mimesis III* – action by the readers. Therefore, it is both a memoir aimed at the political and moral comprehension of the historical text *and* a device for believing, remembering and legitimizing, in order to attain a specific political goal.

The shedding of Virginia's blood is contrasted to "the bloody robe of Caesar [, which] returned Rome to servitude" (Montesquieu, 1748: 168). Now, would this be only a "blood-based rhetoric"? A display of empty information? Absolutely not. These accounts were brought together in order to convey the effect that the empire was a form of despotism based on the principle of fear. The bloody robe of Julius Caesar – barbarous blood, for his glory, and Roman blood for his shame – demarcates the servitude of Rome, that is, the birth of the Empire and the end of the Republic.

A common method for judging is one of the characteristics of the Republic. Since the general goal of *The spirit of the laws* is to analyze the laws, Montesquieu uses the Roman laws in order to explain and support his assertions.

*À Rome, les juges prononçaient seulement que l'accusé était coupable d'un certain crime, et la peine se trouvait dans la loi, comme on le voit dans diverses lois qui furent faites. De même, en Angleterre, les jurés décident si l'accusé est coupable, ou non, du fait qui a été porté devant eux; et, s'il est déclaré coupable, le juge prononce la peine que la loi inflige pour ce fait; et pour cela il ne lui faut que des yeux (Montesquieu, 1748: 108).*

Furthermore, each citizen could publicly or formally accuse another citizen, while judges could not communicate to each other and always had to stand before the people (Montesquieu, 1748: 92). Thus, the judges would judge with the people. The people of the Roman Republic were above all virtuous and capable of issuing fair judgments, and for this reason they did not need have too many laws.

*Le peuple romain avait de la probité. Cette probité eut tant de force, que souvent le législateur n'eut besoin que de lui montrer le bien pour le lui faire suivre. Il semblait qu'au lieu d'ordonnances, il suffisait de lui donner des conseils.*

*Les peines des lois royales et celle des lois des douze Tables furent presque toutes ôtées dans la république, soit par une suite de la loi Valérienne, soit par une conséquence de la loi Porcie (Montesquieu, 1748: 117).*

The Valerian Law established that anyone who usurped power of the Republic should be sentenced to death, whereas the Porcian Law prevented all citizens from being whipped or suffering any other form of scourge as a punishment. The Porcian Law also

gave accused persons the right to appeal to the people. A loss of humanity is the distinctive mark of despotism. In this regard:

*L'esprit de la république aurait demandé que les décemvirs n'eussent pas mis ces lois dans leurs douze Tables; mais des gens qui aspiraient à la tyrannie n'avaient garde de suivre l'esprit de la république.*

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*Tite-Live*<sup>21</sup> dit, sur le supplice de Métius Suffétius, dictateur d'Albe, qui fut condamné par Tullus Hostilius à être tiré par deux chariots, que ce fut le premier et le dernier supplice où l'on témoigna avoir perdu la mémoire de l'humanité. Il se trompe; la loi des Douze Tables est pleine de dispositions très cruelles<sup>22</sup> (Montesquieu, 1748: 123-124).

For Montesquieu, the expulsion of the decemvirs resulted in a moderation of the laws:

*Après l'expulsion des décemvirs, presque toutes les lois qui avaient fixé les peines furent ôtées. On ne les abrogea pas expressément. mais la loi Porcia ayant défendu de mettre à mort un citoyen romain, elles n'eurent plus d'application.*

*Voilà le temps auquel on peut rappeler ce que Tite-Live*<sup>23</sup> dit des Romains, que jamais peuple n'a plus aimé la modération des peines (Montesquieu, 1748: 124).

Only the republican spirit softened the penalties, since respect for humanity is its main characteristic. Without the need to appeal for the clemency of the princes, justice was exercised with freedom and equality in a frugal context of simplicity and scarce luxury, (Montesquieu, 1748: 108). "All this leads to a reflection: republics end in luxury; monarchies, in poverty (Montesquieu, 1748: 109).

Rome was then a safe vessel, and the word of a Roman citizen had the strength of an oath and was as binding as a law, since this vessel was "held by two anchors: religion and mores" (Montesquieu, 1748: 128). When morality dissolved, the result was what Hannibal experienced upon his return to Carthage, as he found the city in a deplorable state of corruption (Montesquieu 1748: 128).

Women in the Roman Republic were encouraged to a modest existence and did not have considerable endowments. When necessary, they were judged in private tribunals

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<sup>21</sup> Liv. I [28, 11].

<sup>22</sup> On y trouve le supplice du feu, des peines presque toujours capitales, le vol puni de mort, etc.

<sup>23</sup> Liv. I [28, 11].

presided by the accused woman's husband before their relatives. There were no specific public tribunals for such matters, and the customary rules guided these types of tribunals to uphold the custom. Thus, on the one hand, women were held prisoners of the customs; and, on the other, they were set free by the law, except in cases of adultery:

*Le tribunal domestique regardait la conduite générale des femmes. Mais il y avait un crime qui, outre l'animadversion de ce tribunal, était encore soumis à une accusation publique: c'était l'adultère; soit que, dans une république, une si grande violation de mœurs intéressât le gouvernement; soit que le dérèglement de la femme pût faire soupçonner celui du mari; soit enfin que l'on craignît que les honnêtes gens mêmes n'aimassent mieux cacher ce crime que le punir, l'ignorer que le venger (Montesquieu 1748: 141).*

### **The corruption of the Roman Republic**

The corruption of the Roman Republic was also inscribed in one of its laws:

*C'était une mauvaise loi que cette loi romaine <sup>24</sup> qui permettait aux magistrats de prendre de petits présents <sup>25</sup>, pourvu qu'ils ne passassent pas cent écus dans toute l'année. Ceux à qui on ne donne rien, ne désirent rien; ceux à qui on donne un peu, désirent bientôt un peu plus, et ensuite beaucoup. D'ailleurs, il est plus aisé de convaincre celui qui, ne devant rien prendre, prend quelque chose, que celui qui prend plus, lorsqu'il devrait prendre moins, et qui trouve toujours, pour cela, des prétextes, des excuses, des causes et des raisons plausibles (Montesquieu 1748: 99).*

Through these small gifts, the spirit of luxury corroded the republican hearts until they became too busy with the love for private things and forgot the love for the public good, to the point of converting public goods into private objects. A man who is corrupted by luxury is never content. The fertile lands that sustain a small republic do not suffice for a corrupt republic, which craves for new dominions. The size of a republic is a sign of its permanence. The uncontrolled increase in the Roman conquests produced the effects of luxury and the dissolution of the customs. Thus, the painful fall of the Republic:

*Pendant que Rome conserva ses principes, les jugements purent être sans abus entre les mains des sénateurs; mais quand elle fut corrompue, à quelque corps que ce fût qu'on transportât les jugements, aux sénateurs, aux*

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<sup>24</sup> Leg. 6, §2, Dig. ad leg. Jul. repet.

<sup>25</sup> Munuscula.



*chevaliers, aux trésoriers de l'épargne, à deux de ces corps, à tous les trois ensemble, à quelque autre corps que ce fût, on était toujours mal. Les chevaliers n'avaient pas plus de vertu que les sénateurs, les trésoriers de l'épargne pas plus que les chevaliers, et ceux-ci aussi peu que les centurions (Montesquieu 1748: 158).*

The lust for power dominated the hearts, as each one would always desire the greatest and most powerful things. People were no longer interested in the values of frugality, simplicity or modesty. Now they wanted power, and were in love with the powerful:

*Lorsque le peuple de Rome eut obtenu qu'il aurait part aux magistratures patriciennes, il était naturel de penser que ses flatteurs allaient être les arbitres du gouvernement. Non: l'on vit ce peuple, qui rendait les magistratures communes aux plébéiens, élire toujours des patriciens. Parce qu'il était vertueux, il était magnanime; parce qu'il était libre, il dédaignait le pouvoir. Mais lorsqu'il eut perdu ses principes, plus il eut de pouvoir, moins il eut de ménagements; jusqu'à ce qu'enfin, devenu son propre tyran et son propre esclave, il perdit la force de la liberté pour tomber dans la faiblesse de la licence (Montesquieu 1748: 158).*

The price of freedom was luxury and excess. Behind Caesar's promise of a great empire lied the assumption of a despotic authority (Montesquieu, 1748: 130). In his theory on the possible outcomes of a republic, Montesquieu points at two distinct sides, i.e., two possible endings, as downfall conditions for despotism. After all, he did not see risks in the relation between two governments (called moderate), that is, he saw no evil in the possibility that a republic could become a monarchy, nor in its opposite, if a monarchy were to become a republic. Instead, the great evil lied in the possibility of a despotic outcome.

The first possible path to the fall of a republic, which can only subsist as a small republic, is to be defeated by an external force – an empire. The second path is that of its own internal corruption, when a republic attains gigantic dimensions (Montesquieu, 1748: 127).

How can the republic be defended? Montesquieu compares the Greek cities to the Persians: an association. It was by means of these confederate associations that the “Romans attacked the universe, and with their use alone, the universe defended itself from the Romans; and when Rome had reached its greatest height, the barbarians were able to resist it by associations made beyond the Danube and the Rhine [...] Because of them, Holland, Germany and the Swiss leagues are regarded in Europe as eternal republics” (Montesquieu, 1748: 136).

Rome became great, and this was one of the paths that led to its own downfall. Such a path is present in Montesquieu's view of history: it is neither possible to conceive an empire without despotism, nor without luxury – the begetter of inequality. The path to monarchy was simply not available:

*Les anciens ne connaissaient point le gouvernement fondé sur un corps de noblesse, et encore moins le gouvernement fondé sur un corps législatif formé par les représentants d'une nation. Les républiques de Grèce et d'Italie étaient des villes qui avaient chacune leur gouvernement, et qui assemblaient leurs citoyens dans leurs murailles. Avant que les Romains eussent englouti toutes les républiques, il n'y avait presque point de roi nulle part, en Italie, Gaule, Espagne, Allemagne; tout cela était de petits peuples ou de petites républiques. L'Afrique même était soumise à une grande; l'Asie Mineure était occupée par les colonies grecques. Il n'y avait donc point d'exemple de députés de villes, ni d'assemblées d'États; il fallait aller jusqu'en Perse pour trouver le gouvernement d'un seul (Montesquieu, 1748 (2): 64).*

In a certain way, Rome was destined toward an Oriental form of despotism. It was too vast as an empire and lacked all notions of a moderated government for its vastness. It was also destined to learn with the Germans - who founded the French system of government. Here, we can identify the mechanism from which nobility's anti-absolutism originated (Martins, 2010: cap. II).

*Voici comment se forma le premier plan des monarchies que nous connaissons. Les nations germaniques qui conquièrent l'empire romain étaient, comme l'on sait, très libres. On n'a qu'à voir là-dessus Tacite sur Les Mœurs des Germains. Les conquérants se répandirent dans le pays; ils habitaient les campagnes, et peu les villes. Quand ils étaient en Germanie, toute la nation pouvait s'assembler. Lorsqu'ils furent dispersés dans la conquête, ils ne le purent plus. Il fallait pourtant que la nation délibérât sur ses affaires, comme elle avait fait avant la conquête: elle le fit par des représentants. Voilà l'origine du gouvernement gothique parmi nous. Il fut d'abord mêlé de l'aristocratie et de la monarchie. Il avait cet inconvénient que le bas peuple y était esclave (Montesquieu, 1748 (2): 64).*

Ironically, the downfall of the Roman Empire was to result in the emergence of the feudal government:

*C'était un bon gouvernement qui avait en soi la capacité de devenir meilleur. La coutume vint d'accorder des lettres d'affranchissement; et bientôt la liberté civile du peuple, les prérogatives de la noblesse et du clergé, la puissance des rois, se trouvèrent dans un tel concert, que je ne crois pas qu'il y ait eu sur la terre de gouvernement si bien tempéré que le fut celui de chaque partie de l'Europe dans le temps qu'il y subsista. Et il est admirable que la corruption du gouvernement d'un peuple conquérant ait formé la meilleure espèce de gouvernement que les hommes aient pu imaginer (Montesquieu, 1748 (2): 64).*

This Germanist outlook became then the main weapon to be used against absolutist Romanism.

## The Germanic Republic

It would be a great mistake if we were to overlook the aristocratic political strategy employed by Montesquieu. Distracted readers have already affirmed that he is the theorist of the three powers, and even the creator of this concept, when its authorship can actually be traced back to John Locke's *Treatise on government* in earlier days. Montesquieu is a defender of aristocracy, which for him is a republic. The constitutional monarchy – a Germanic invention – is easily compared to the republic. A proof of this fact is that *Servius Tullius* is constantly referred to as the creator of the Roman Republic.

In his political project, Montesquieu leaves no space for democracy – a suitable form of government for small cities –, since his aim is a constitutional monarchy along English lines. What he does *not* support is absolutism. His entire work *The spirit of the laws* is marked by this anti-absolutist character and firmly establishes his political ideas. Montesquieu reflects upon the “origins agency”, starting with the Franks, the Roman Republic and the historical experiences that were negative in his eyes, such as the Roman and Oriental despotisms, while positively affirming the experience resulting from the English Revolution, that is, constitutional monarchy.

History and politics are interwoven in Montesquieu's narrative fabric. And in the attempt to strengthen his political mantle – or power tapestry –, he actually folded it several times, so that it became a resistant fabric aspiring to infallibility. Did Montesquieu do it consciously? One cannot know; what we do know is that he did it following the order of the historical and political discourse of his time, in response to the absolutist erudition and its historical machinations, acting against such erudition.

As Montesquieu's fabric folds for the first time, his narrative reaches the two edges of Antiquity and his own Modern World, and produces a continuity that is alternately devastating and exemplary. Emperors, kings, wise men and laws appear in a non-linear and folded historical *continuum*, which acts therefore with the two-fold weight of its reasoning. The fold becomes invisible as its argumentative fabric reveals its strength, bringing together different epochs into a reasoning that is at once timeless and historical. By citing historical examples in different contexts to artificially produce the necessary argumentative strength, Montesquieu creates an odd historical timelessness.

For instance, when writing on trade in the republics, Montesquieu stated that:

*Dans le gouvernement de plusieurs, il est plus souvent fondé sur l'économie. Les négociants, ayant l'œil sur toutes les nations de la terre, portent à l'une ce qu'ils tirent de l'autre. C'est ainsi que les républiques de Tyr, de*

*Carthage, d'Athènes, de Marseille, de Florence, de Venise et de Hollande ont fait le commerce (Montesquieu, 1748 (4): 64)*

The discursive fold of Montesquieu's narrative appears again. At this point, it is more epistemological, slippery, impure, non-polarized and dense. The first edge of its fabric reveals a rationalist, Cartesian erudition, while the second edge reveals Newton's empiricism. As the fabric is folded, the two edges are made to touch each other: Montesquieu's empiricist reasoning (with its historical and contemporary examples) is blended with erudite authorities, classical texts and theoretical deductions.

A result of his empiricism is a third fold, which brings together two divergent points: the polarities of Europe and of the barbarian or savage world – or better yet, the non-European world. Breaking free from geographical and historical space, based on the travel narratives, is the condition for Montesquieu's empiricism. The otherness is found in opposition to one's identity. Together, these folds produce a theory of universal man, with universal politics and its governmental levers.

Therefore, Montesquieu's narrative fabric has eight times the weight of each of his reasoning. One fold sustains another: the *first fold*, which is temporal; the *second fold*, which is epistemological; and the *third fold*, which concerns identity. By deconstructing his work in the study of these folds, we may find his strategies, his aims and his point of departure.

## Conclusion

Montesquieu reflected on the Roman Republic in order to contrast it to the Roman Empire. He undertook an ethnographic analysis of the republics and theorized about the republican institutions. He extolled both the Roman and "German" republics. His main aim was to set a theoretical check on any advantage that could be possibly accrued from despotism – an evil to which France had then fallen victim.

Therefore, Montesquieu's anti-absolutism, based on his knowledge of Roman history and on his Germanist theory of history, enters the scene to oppose both absolutism and its legitimizing, or even better, fabricated historiography.

The extolment of the Roman republic and the reconstruction of its fall were used by Montesquieu to oppose the Catholic, monarchical and bourgeois erudition of his days. If Rome were ever to be seen as a good model, then such truth had started and ceased to exist during its republic. For him, the Roman republic was, above all, fearless politics – a virtuous historical reality that eventually crumbled before the Empire of fear.

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