

# Montesquieu's Classification of Law and The Genealogy of Peace

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**Abstract:** This article analyzes the views of the French philosopher Charles-Louis de Montesquieu on political power, law, and society. He considered laws as a product of human intellect and explained the connection between the state and society. Montesquieu took a critical approach to the concept of “paternal authority” and emphasized that political power is based on dynastic foundations. The article also examines Montesquieu’s perspectives on international law, political and civil rights, as well as the relationship between war and peace. His views on democracy and national values are also discussed. The methodology of this article employs legal and political analysis, historical-comparative methods, and legal philosophy. Montesquieu’s theories are examined in relation to modern governance, comparing his views with those of Locke, Hobbes, and Kant. A systematic approach assesses his perspectives on despotism, monarchy, and republicanism within contemporary constitutional systems.

**Keywords:** Renaissance, Religiosity, Secularism, Naturalism, Globalization, Humanity, Authority, Equality, Morality, Society, Justice.

## Introduction

We have examined the laws as defined by Montesquieu above. Montesquieu explained that by “law”, he meant “a product of human reason” because “it governs all people on earth” (Montesquieu, 2024). Montesquieu did not distinguish between political and civil laws. He emphasized that with the emergence of society, a “political condition”, that is, the state, also comes into existence. He asserted that “a society cannot exist without government”. In this regard, he supported the definition given by Giovanni Vincenzo Gravina (1664–1718), an Italian professor of civil law at Sapienza University in the late 17<sup>th</sup> and early 18<sup>th</sup> centuries: “The unification of all dispersed forces constitutes what is called the political condition (the state)”. Here, Montesquieu put forward the concept of “paternal authority”, a theory first introduced by John Locke in his work “Two Treatises of Government”. Of course, this philosopher interpreted human authority on earth, beginning with Adam (peace be upon him), as political power (Petersen, 2023). In our view, in essence, any form of authority is human authority, even though its status and rank may change depending on whether it exists in a natural state or a political one. Moreover, the world was

initially understood through a religious perspective; later, during the Renaissance, it became secularized or “naturalized” (Vassiliou, 2023). Today, however, it is undeniably political, even though both religious and secular perspectives remain relevant in science. At the same time, much like humanity itself, the world has reached a state resembling a “hybrid” – exhausted by religiosity, secularism, naturalism, and ultimately, politicization. This, too, is a product of globalization, making peace and the survival of humanity more urgent than ever before (Meints-Stender, 2024).

## Methodology

In this article, legal and political analysis, historical-comparative approach, and legal philosophy research methods were applied as part of the research methodology. The study focuses on examining the legal and political essence of Montesquieu’s doctrine, analyzing his political theories in the context of modern state governance. Additionally, within the scope of the research, legal documents, Montesquieu’s works, and the scientific studies of other legal scholars and political scientists were subjected to comparative analysis. *Firstly*, through historical-comparative analysis, Montesquieu’s views were compared with those of 17<sup>th</sup>-18<sup>th</sup> century European philosophers, identifying their interconnections and differences. In particular, the differences between Montesquieu’s perspective and the political philosophy and governance theories of John Locke, Thomas Hobbes, and Immanuel Kant were analyzed. *Secondly*, based on a systematic approach, Montesquieu’s views on political power were compared with modern state governance systems. Therefore, his perspectives on despotism, monarchy, and republicanism were examined in terms of their influence on contemporary constitutional governance systems. *Thirdly*, using a legal-philosophical approach, Montesquieu’s principle of linking laws to natural laws was analyzed. His method of explaining laws in accordance with human nature was examined in terms of its influence on modern legal systems (Allen, 2024).

These methodological approaches in the research were aimed at ensuring a comprehensive and in-depth analysis of Montesquieu’s theories on law and political governance, allowing for the connection of his views with contemporary legal and political processes.

## Result and Discussion

Montesquieu wrote: “Some consider the rule of a single person to be the most natural, based on the idea that paternal authority is naturally established. However, the example of paternal authority proves nothing, because if paternal authority were to justify the rule of one person, then after the father’s death, authority would pass to the brothers, and after their death, to the cousins, which would correspond to the rule of several individuals. Political authority presupposes the necessary union of multiple families” (Montesquieu and the Separation of Powers). This conclusion itself contains several aspects that require further analysis (Toudic, 2024).

*Firstly*, Montesquieu briefly touches on “paternal authority”, whereas John Locke dedicated an entire book to this concept. Montesquieu lived in London for nearly four years

and was a member of the Royal Society. Locke had lived long before him and, like Montesquieu, was a loyal citizen of his homeland (the Kingdom of England). He based his ideas on the dominant ideology of his time – religion – specifically, the Holy Bible of Catholicism (Vassiliou, 2024).

*Secondly*, Montesquieu did not dwell extensively on “paternal authority”; he did not allocate much space to it in “The Spirit of the Laws”. Moreover, he did not derive political or civil rights, laws, or other sacred concepts – such as family, marriage, inheritance, child upbringing, brotherhood, duty, or responsibility – from religious principles or scientific paradigms.

Montesquieu’s doctrine, his views, and ideas draw inspiration from nature itself, and his conclusions are based on an extremely secular perspective. At most, he relied on the “classical” traditions of history, referring to ancient civilizations such as the Greeks, Romans, Persians, Bactrians, and Saka peoples. Even though he wrote analytical thoughts on three types of governance – despotic, democratic/republican, and monarchical – his fundamental reference point was the legal history of ancient Greece and Rome, which he then compared with his own time. For this reason, “The Spirit of the Laws” was published anonymously (Zhuang, 2024).

*Thirdly*, another important aspect is that if human history consists of the history of states, then the history of states consists of the history of dynasties – or at least, it has taken such a form, both in the East and the West. In Montesquieu’s time, this was precisely the case. Today, however, political activity is shaped either by the principle of monarchy and meritocracy in a few democratic or republican states or by modern despotic regimes characteristic of authoritarian states. Thus, in Montesquieu’s understanding of political power as the necessary alliance of several families, we can see the concept of dynastic rule and relate it to political order – because this is the requirement of political theory. This perspective is the product of a highly meticulous and precise political intuition, as it essentially serves to maintain peace or at least justifies it. Montesquieu wrote: “As soon as people unite into a society, they lose awareness of their weakness; the equality that once existed among them disappears, and war begins” (Montesquie, 2024). In this idea, the philosopher suggests that once people unite into a society or establish it, they forget their weakness in the state of nature and the thoughts associated with it. Why? Because, in our view, humans were equal in the state of nature. However, once they formed a society, (political) power emerged – along with it, the sense or passion for ownership. This, in turn, introduced arrogance, envy, discord, and various conflicts into human morality. For the first time, political vices such as greed for money, wealth, and political power were discovered, fostering the desire to dominate the weak. This is the genealogy of invasion, attack, and war. Aren’t modern wars, particularly the two world wars of the 20<sup>th</sup> century, rooted in this very archetypal consciousness? Montesquieu continued his thought: “Every individual society begins to recognize its own strength – this is precisely where the state of war between nations originates. Within each society, individual persons start to realize their own power and attempt to direct the primary benefits (resources) of their society toward themselves –

this is where the state of war between individuals arises. The emergence of these two types of war serves as a catalyst for the establishment of laws among people" (Montesquie, 2024).

This conclusion can have two interpretations. The first is that as the political state, or state structure, strengthens, the accumulation of military forces, wealth, or resources was perceived as a source of threat by early human societies toward other societies. Even Immanuel Kant analyzed this aspect in his maxims. If political power is always directed against the weaker, it is undoubtedly unjust and illegitimate. However, if both opposing sides are equally strong, they act in the same manner toward each other – such political archetypes still exist in international politics today (Kisner, 2024). The second interpretation relates to individuals, particularly in the context of wealth accumulation, political power, and exerting political pressure. This dynamic can be observed among political groups, political parties, opposition forces, parliamentary factions, and political leaders – even among presidential candidates in democratic states. Naturally, the more a state leans toward authoritarian archetypes or inherits a totalitarian or authoritarian legacy, the more despotic tendencies emerge within society. Just as a "shadow economy" or what we call the "black economy" exists, similar negative phenomena arise – such as the use of force, the inevitability of court rulings, the abuse of laws, corruption, and violations of human rights. Therefore, society develops a need for strong political will, which in turn gives rise to virtuous, just, or what Montesquieu called "positive laws" – only then can laws truly come into existence. By "real rights", we mean virtuous laws and regulations that serve justice, both in realpolitik and within society (Laurence, 2024).

The major representatives of the Renaissance, such as Charles-Louis de Montesquieu, Immanuel Kant, and Hugo Grotius, as Enlightenment philosophers, wrote that the very state of war itself creates and establishes laws. The only difference in paradigms is that, for Montesquieu – similar to Locke – it was understood as an internal condition of society, whereas for Kant and others, it was viewed in the context of international relations. Additionally, Montesquieu stated: "The goal of war is victory; the goal of victory is conquest; and the goal of conquest is preservation". He stated, "All laws that constitute international law must originate from this final principle and the aforementioned principles". The idea is that an analysis of Montesquieu's philosophy reveals that individuals or societies come to understand law better in a state of war, and they develop laws, rights, and principles to establish, preserve, or protect peace. This is because Montesquieu himself assessed that war serves as a catalyst for the establishment of laws among people (Spector, 2012).

Montesquieu distinguished three types of law: international law, political law, and civil law. He stated, "The existence of various nations on our planet is necessary in terms of population and scale; humans must have laws that regulate relations between these nations – this is international law", defining the first type of law in his classification. He then described the second type: "As beings living in society, humans must ensure their existence is preserved. They have laws that define the relationships between rulers and the governed – this is political law". Finally, he classified the third type: "They also have laws that regulate the relationships between all citizens – this is civil law" (Shackleton, 1961). According to

Montesquieu, warfare and actions taken during peacetime follow specific rules. He argued that, in addition to international law, each society also has its own distinct political rights. There is another strategically significant issue that philosophers of the Renaissance era frequently emphasized but could not provide a definitive solution for. However, Montesquieu offered an answer to a single fundamental question: "When is a government closest to its natural state?" Montesquieu asserted that "a government is in its most natural state when its characteristics align with the character of the people for whom it was established" (Montesquieu: French political philosopher).

Montesquieu also presented another strategically significant conclusion – one that many of the world's leading democratic states conveniently "forget". This concerns the "export" of democracy or the imposition of a democratic model established in one country onto another. The critical issue here is whether this "imported" system aligns with the foundational principles, structures, and values – especially political values – of the recipient country. If this compatibility is not thoroughly examined, such an endeavor becomes a reckless and dangerous mistake for both sides. While "goods" can be exported or imported, "political traditions and values cannot". National identity, cultural uniqueness, historical heritage, and societal mentality are not commodities that can simply be transferred from one place to another. In an era where the "Great Game of Mentalities" (S. Telbout) has ended, there was no need to "revive" or "reinvent" a new version of it – especially since humanity has yet to fully experience the quiet blessings of peace and civilization. Only things that possess "material value" and do not interfere with the most sacred and supreme human value – "human dignity itself" – should be subject to export and import, provided that such a universal value still holds a place in global politics (Ramgotra, 2014).

If democracy is forcibly "exported and imported" without considering these critical factors, then war becomes "inevitable" – if not outright ethnic cleansing or a form of "one-sided genocide". Montesquieu's legal principle stands as follows: "The laws must be closely aligned with the characteristics of the people for whom they are made; only in rare cases can the laws of one nation be suitable for another" (Montesquieu 2024). However, this should never apply to "universal principles and values" – meaning that "universal human laws must be the same for all and should not allow for any exceptions". This final conclusion is a fundamental principle in "modern ideologies, political thought, democracy, and the transformation of democratic systems". In our view, it ultimately connects to the "moral paradigm of humanity".

We have now reached a stage of "development" where morality, in many "advanced and democratic societies", has been reduced to nothing more than a "historical consciousness" or a historical stereotype. As we live in the second decade of the 21<sup>st</sup> century, we are witnessing "the decline of humanity". The greatest tragedy is that "morality has been abandoned" – not due to true innovation, but through so-called "discoveries" that have nothing to do with progress, leading people to forget traditional ethical values. Because if morality collapses, everything collapses – everything heads toward crisis and destruction. In a society where morality is eroded, law turns into the "right of the powerful", the weak suffer "humiliation", and politics becomes nothing more than a game of "double



standards". For this reason, modern societies must implement moral and ethical programs and ensure that these are not neglected in favor of technological or other innovations. History educates. Generations educate. Forgetting this means forgetting the very essence of patriotism. Anyone who loves their homeland – regardless of their nationality – will uphold morality. And when morality defines the standards of human relationships, peace prevails. Otherwise, there will be neither true peace nor true justice (Roger, 1990).

## Conclusion

Montesquieu's political and legal doctrine is one of the most important principles in human history, and his ideas have had a significant impact on modern legal studies and political theories. He emphasized that laws are a product of human reason and analyzed the natural origins of political power. In particular, he laid the foundation for the principle of the separation of powers and demonstrated its crucial role in ensuring the efficient functioning of governance. In his works, Montesquieu examined the formation of political power, its legal foundations, and its role in human society, shedding light on key aspects of state structure. According to him, as humanity transitions from a natural state to an organized society, laws and regulations become essential for structuring life. However, he also noted that social inequalities and conflicts naturally arise in this process (Burkert, 2012).

Montesquieu also emphasized that political systems must align with the character of a nation and argued that it is wrong to impose democracy or other forms of governance on other states by force. According to him, each state should choose a system of governance that suits its historical, cultural, and social characteristics. Montesquieu's political and philosophical views remain relevant today and serve as an important methodological foundation for modern research in law and governance. His ideas continue to be instrumental in shaping and strengthening the principles of the rule of law and democratic governance (Hendrickson, 2014). For this reason, his theories are still studied and analyzed by legal scholars and political scientists worldwide.

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