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Educational materials for Montesquieu

INTRODUCTION TO MONTESQUIEU

One of the most influential political theorists for the [framers](#) of the American Constitution, Montesquieu is a critically contested figure in Enlightenment-era political philosophy because of his “subtle, playful and elliptical” literary tone. In this article, Paul Rahe situates Montesquieu within the natural law tradition, particularly in relation to [Thomas Hobbes](#), and considers to what extent his theory promotes natural law or natural rights thinking. Although Montesquieu’s theory maintains Hobbesian premises, it departs from Hobbesian conclusions: man in the state of nature is primarily motivated by fear and other passions, but he is not necessarily ruled by them. Moreover, man is cognizant of the laws of nature which are “rooted” in the “constitution” of all human beings. Montesquieu argues that man is capable of grasping four laws of nature through direct, practical experience: first, man desires and seeks nourishment for his bodily preservation; second, man desires peace to sustain his bodily well-being; third, man is drawn instinctively to other people; and fourth, the knowledge derived from interaction with others moves him to desire to live in society. In the establishment of society, and consequently in the establishment of government and law, Montesquieu asserts that no single form of government is always and everywhere superior. Instead, those who seek to govern must take into account the geography, economy, character, and existing laws of the people for whom the government is to be established. In such an endeavor, Montesquieu insists, both prudence and moderation are requisite.



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MONTESQUIEU

Charles-Louis de Secondat, Baron de La Brède et de Montesquieu, was born on January 18, 1689 at La Brède, near Bordeaux, to a noble and prosperous family. He received a degree in law from the University of Bordeaux in 1708 and went to Paris to continue his legal studies. This time in Paris laid the foundation for his *Persian Letters*, a 1721 publication which made Montesquieu a successful literary celebrity. Upon the death of his father in 1713 he returned to La Brède to manage the estates he inherited, and in 1715 he married Jeanne de Lartigue, with whom he had three children. Upon the death of his uncle in 1716, Montesquieu inherited the title Baron de La Brède et de Montesquieu and the office of Président à Mortier in the Parlement of Bordeaux, which at the time was chiefly a judicial and administrative body.

For the next eleven years he presided over the criminal division of the Parlement, where his duties involved hearing legal proceedings, supervising prisons, and administering various punishments, including torture. Although he had no great enthusiasm for law as a profession, Montesquieu became increasingly interested in the principles that lay behind law. During this time he also fostered an academic interest in the scientific developments of the day. Election to the Académie Française furnished him with the opportunity to travel throughout the Continent and England. Returning to France in 1731, Montesquieu commenced work on his masterpiece of political theory, [The Spirit of Laws](#), which drew on the observations of his travel and was eventually published in 1748. Like the *Persian Letters*, *The Spirit of Laws* was both controversial and immensely successful, and it influenced the political theory of the [American Founders](#). Montesquieu died of a fever in Paris on February 10, 1755.

To read more about Montesquieu’s life and works, please click [here](#).



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GLOSSARY OF TERMS FOR MONTESQUIEU

absolute monarchy:

a form of monarchy in which the powers of the nobility have become attenuated. (See [DESPOTISM](#).)

civil law:

for Montesquieu, the kind of law that relates all members of society to each other; the application of human reason to particular relationships among members of a society.

constitution:

1) the particular form of government of a nation, sometimes called a polity. 2) the structure or make-up of anything.

deductive:

refers to a mode of reasoning or logic. An argument is said to be deductive when the truth of the conclusion follows necessarily from the premises such that, where the premises are true, the conclusion cannot be false. Deductive reasoning stands in contradistinction to “inductive” reasoning.

despotism:

a form of political rule in which one man rules without the assistance of a nobility, has the power to do whatever he wills, and is above the law.

enlightened despotism:

a kind of despotism in which the ruler has unlimited power for the sake of ordering society according to reason as conceived by some thinkers of the Enlightenment. (See also [DESPOTISM](#))

fatality:

a supposedly unthinking force that moves the universe without purpose. Montesquieu decries the notion that fatality, instead of reason, produced the world.

Hobbes's account of human nature:

According to [Hobbes](#), man is an animal whose passions (particularly fear) define his behavior and provide the basis for natural rights. As such, man has no purpose built into him, no particular end for which he was made. Although man possesses reason, it is directive only insofar as it helps him achieve his desires. Montesquieu understood human nature differently. He did not believe fear to be man's defining feature. Unlike Hobbes, he believed that laws of nature do exist and that these laws have a binding force for mankind.

***ius gentium*:**

See [LAW OF NATIONS](#).

law:

as defined by Montesquieu in Book One, Chapter One of [The Spirit of Laws](#), a law is a relationship between two or more things, either the necessary result of nature, or the creation of intelligent beings such as man. (See also [LAW OF NATIONS](#), [LAWS OF NATURE](#), [POSITIVE LAW](#), [CIVIL LAW](#), [POLITICAL LAW](#).)

law of nations (Latin, *ius gentium*):

for Montesquieu, the set of laws that relate different countries to each other.

laws of nature:

According to Montesquieu in Book One, Chapter One of [The Spirit of Laws](#), the laws of nature (“laws” in general or “primitive laws”) are the necessary relationships among beings. Everything that exists, including God, matter, angels (“intelligences superior to man”), animals, and mankind, follows these laws. In Chapter Two, Montesquieu calls laws of nature the result of the nature of each being, where nature is defined as one’s “frame and existence” (the kind of thing that one is). In the case of man, these laws are discovered by thinking about man in his state before the existence of society, i.e., in the “state of nature.” Montesquieu outlines the four most fundamental laws of human nature, the first two of which are caused by the desire for self-preservation, as follows:

- 1) man seeks peace;
- 2) man seeks nourishment;
- 3) man is drawn into company with others;
- 4) man has an intellectual desire for the company of others.

(See also [LAW](#), [PRIMITIVE LAWS](#), [STATE OF NATURE](#))

mores:

the moral habits or traditions of a particular society.

passion:

for Montesquieu, any feeling whatsoever, including fear and pleasure.

political law:

for Montesquieu, the kind of law that relates those who govern a state to the people being governed; the application of human reason to a particular government.

political idealism:

the pursuit, by means of the powers of a government, of ordering all of a society toward an ideal state. Montesquieu believed that this idealism would inevitably become tyrannical because it had as its focus abstract ideals rather than real individual persons. (See also [RATIONALISM \[POLITICAL RATIONALISM\]](#).)

political virtue:

for Montesquieu, the love of 1) country and 2) equality. Montesquieu thought that political virtue was necessary for the operation of the republican form of government. In his words, political virtue is the “spring” of republican government.

polity:

See [CONSTITUTION](#).

positive law:

for Montesquieu, the kind of law that intelligent creatures (such as man) make for themselves. Positive laws are distinguished from laws of nature, which exist before the existence of creatures. In Montesquieu's words, positive laws are "nothing other than the particular cases to which . . . human reason applies itself."

primitive reason:

According to Montesquieu in Book One, Chapter One of *The Spirit of Laws*, primitive reason is that one force that purposefully orders all beings to itself and to each other by means of laws. This is another name for God, who supposedly creates and preserves the universe according to unchanging laws.

primitive laws:

See [LAWS OF NATURE](#).

rationalism (philosophical rationalism):

a philosophical position that distrusts the senses, seeks absolutely certain knowledge by use of reason, and holds that all ideas exist in our minds before we experience reality. This was the philosophy of René Descartes and Nicholas Malebranche. David Hume thought that Montesquieu was a rationalist in this sense.

rationalism (political rationalism):

the practice, in government, of creating and enforcing laws that do not take into account the legitimate differences among individuals. Such rationalism emphasizes the rule of law for its own sake and seeks to eliminate differences among individuals to a degree that exceeds what is required by the laws of nature. Montesquieu opposed this love of uniformity as tyrannical and immoderate; he advocated diversity and the use of prudence instead. Political rationalism is a kind of political idealism. (See [also POLITICAL IDEALISM](#).)

rationality:

the quality of being reasonable. For Montesquieu, this is the quality of being organized around a single rule. (See [also REASON](#).)

reason:

for Montesquieu in Chapter One, Book One of *The Spirit of Laws*, the order of all beings in the universe within themselves and to one another as set in place by God through the laws of nature. Human beings discover this order by a power also called "reason," with which they can create order by making positive laws. (See [also PRIMITIVE REASON](#), [POSITIVE LAW](#), [LAWS OF NATURE](#).)

right:

a personal entitlement to act or be acted upon in a certain way such that others have a duty not to deny that entitlement. Political rights are those entitlements that individuals have with respect to government simply because they are human beings. Positive rights are those entitlements that are created and protected by the authority of human government alone.

society:

a group of individuals who live together. Montesquieu believed that man leaves the isolated state of nature to form society as a consequence of the laws of nature. (See [also LAWS OF NATURE](#), [STATE OF](#)

[NATURE.](#))

state of nature:

a hypothetical condition in which all individual human beings lived separately from one another before coming together into societies. Montesquieu believed that in the state of nature man was at peace, whereas Hobbes believed that in the state of nature men were always at war with each other. (See *also* [LAWS OF NATURE.](#))

state of war:

the situation in which individuals seek to use the benefits of living with others to their own advantage and to the disadvantage of others. Such a situation can also arise between whole societies. Montesquieu thought that this state naturally occurred only after the formation of human societies. He also thought that it was the state of war that inspired the formation of laws. Hobbes, unlike Montesquieu, believed that the state of war existed even in the state of nature. (See *also* [STATE OF NATURE.](#))

universalism:

the theory that there exist standards of behavior that are mandatory for all individuals of a certain kind, regardless of their particular circumstances. Those, including Montesquieu, who hold the theory that laws of nature exist hold a kind of universalism.



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OUTLINE OF THE ESSAY ON MONTESQUIEU

I. Considerations for Reading [The Spirit of Laws](#)

- A. Montesquieu's instructions, response to criticism, admonition to readers.
- B. Concerns for censorship made him conceal his full beliefs.
- C. Misinterpretations by other thinkers:

- 1. [Rousseau](#)

- 2. Hume

II. Overview of the Primary Readings

A. Chapter One: Natural Law is a deductive science.

- 1. This chapter was written to placate censors and does not reflect Montesquieu's true thought.
 - 2. Arguments in this chapter are irrelevant to the rest of the work and are not continuous with the natural law thinking expressed in subsequent chapters.

B. Chapters Two and Three: Montesquieu adopts Hobbes's premises but rejects his conclusions; he offers correctives to both [Hobbes](#) and [Locke](#).

1. Less traditional theories than those advanced in Chapter One are developed here.
2. These theories are elaborated in the remainder of the work.
3. Includes a “hypothetical history” to explain the origin of laws.

III. Montesquieu in light of Hobbes

A. Like Hobbes:

1. Man is a passionate animal that has reason but is not directly ruled by it.
2. Fear plays a large role in human affairs.

B. Unlike Hobbes:

1. Fear is not the first or only passion that influences human behavior.
2. “Laws of nature” do exist:

1. They are rooted in the ‘constitution’ of all human beings.
2. They are evident in the situation of the individual before the establishment of societies (i.e., in the “state of nature”).

IV. Montesquieu’s Hypothetical History of Man

A. Man in the State of Nature (The First Four Laws of Nature):

1. Man would seek peace and nourishment (First and Second Laws).
2. Man would be instinctively drawn to other people (Third Law).
3. Man would desire to live in society because of knowledge attained through interaction with others (Fourth Law).

B. After the establishment of society:

1. Men contract a desire to subjugate one another.
2. This desire is initially restrained by social mores.

C. Organized political society is a later development; such a society admits the possibility of despotism.

1. Political society tends to arise in tandem with such innovations as agriculture, institutionalized property, and coinage.

V. The Upshot of Montesquieu's Account of Human Nature:

A. Nature reveals the laws of human existence.

B. Laws vary by circumstances; no one passion or rule forms the basis of all laws, and no form of government is always and everywhere superior (compare to [Plato's Statesman](#)).

C. Therefore, prudence is essential for lawmaking.

VI. Prudence in Montesquieu's Theory of Law:

A. Principles of Montesquieu's Theory:

1. A natural government is that which is best suited to its people.
2. Laws are the particular cases to which human reason applies itself. Reason and a sense of natural right inform the evolution of the law.
3. Reason is a necessary standard for the formation of law; trial-and-error and incremental reform are the best modes for applying human reason to particular cases.

B. In sum: the legislator ought to be moderate.

C. Political idealism (the desire to mold all of society to one rule) is immoderate and to be avoided.

D. Even an absolute monarchy would be acceptable if it were best suited to the people that it governed.

VII. Montesquieu's Outline of *The Spirit of Laws*: How to Determine the Government Best Suited to the Disposition of a People:

1. Laws must fit the principle of the established or desired government (democracy, aristocracy, or monarchy).
2. Laws must fit a country's geography.
3. Laws must fit a country's economy.
4. Laws must fit the character of those governed.
5. Laws must fit with other existing laws.

VIII. Conclusion: Contemporaries of Montesquieu Influenced by His Thought

A. In Europe: [Burke](#), Gibbon, Adam Smith, Hegel, all French political thinkers.

B. In the United States: [The Federalists](#), [Anti-Federalists](#), Madison and Hamilton.

1. Montesquieu was the "greatest authority" for American constitution-making.



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STUDY GUIDE FOR MONTESQUIEU

Part I. Basic Interpretation of Montesquieu

If you are interested in the thought of Montesquieu after reading Rahe's essay, please go to the [Primary](#)

[Source Documents](#) to read some of the essential passages of *The Spirit of Laws* that relate to the article. A biography of Montesquieu is also available. As you go back to the primary sources, keep in mind the following questions:

1. Describe Montesquieu's understanding of God. Explain the interrelation of God, or "prime reason," and the laws.
2. Rahe distinguishes the theory of natural law found in Chapter One of Book One of *The Spirit of Laws* from that found in Books Two and Three. Create your own definition of "natural law" based only on what Montesquieu says about natural law in Chapter Two of Book One of *The Spirit of Laws*. Contrast your definition with Montesquieu's definition in Chapter One. How are they different? What premises distinguish one definition from the other?
3. Describe Montesquieu's hypothetical history of man in the state of nature. Explain the reasoning behind the transition from each stage into the next. What are the four laws of nature that these stages indicate? What is the role of the instinct of self-preservation in this history?
4. Describe Montesquieu's distinction between natural laws and positive laws. How do positive laws depend on the natural laws? What is the difference between the laws that govern the physical world and the laws that govern the intelligent world? Why does the physical world conform more exactly and the intelligent world less exactly to the respective laws that govern them?
5. What is prudence and why is it important for Montesquieu? How does it relate the natural law to positive law?
6. Why does Montesquieu reject political idealism? How does his understanding of human nature provide a basis for this rejection?

Part II. Connections to Other Thinkers

With *The Spirit of Laws* Montesquieu became an extremely influential political thinker, especially for those responsible for the development of the [American Constitution](#). But Montesquieu was also greatly influenced by the early modern political philosophies, especially those of his near contemporaries [Thomas Hobbes](#) and [John Locke](#). Although the modern tradition marked a distinct break with the traditions of classical and medieval philosophy, modern thinkers were still influenced by the significant works of [Plato](#), [Aristotle](#) and [Aquinas](#). As you look deeper into Montesquieu's writings, consider the following questions in light of this broader history of ideas.

1. Montesquieu believed that the complexity of human nature prohibited the establishment of any one form of government as, in Rahe's words, "always and everywhere superior." Consider what Montesquieu says on this point in Chapter Three, Book One of *The Spirit of Laws* and compare it to the passage in Plato's *The Statesman* that Rahe mentions.
2. In Book One, Chapter One, Montesquieu calls laws "necessary relations." Compare and contrast this definition with that of Aquinas in *Summa Theologiae* [I-II, Q. 90](#).

3. As Rahe points out, Montesquieu was indebted to Thomas Hobbes for much of his thinking. Compare and contrast their respective understandings of humanity's "state of nature." What are the reasons for the differences between Hobbes and Montesquieu? Defend each position separately.
4. For Montesquieu, society is founded upon each individual's instinct of self-preservation, or to use another term, self-interest. Compare this understanding of society to that of Hobbes. Contrast it with Aquinas's understanding that society is founded upon the pursuit of a "common good." Are the views of Aquinas and Montesquieu compatible on this point, or is self-preservation unavoidably at odds with the pursuit of a common good?
5. According to Rahe and other scholars, of all the thinkers who influenced the Framers of the Constitution, no single person was more significant than Montesquieu. With this in mind, consider the following:
 - a. How are his ideas about natural law reflected in the Constitution, either in content or in structure?
 - b. Montesquieu said that no one form of government was best for all people. Does the Constitution see itself as suited for any people or only for Americans?
 - c. How does the Constitution reflect Montesquieu's commitment both to universal truths and to changing circumstances?

Part III. Critical Interpretations of Montesquieu

With a basic understanding of Montesquieu's thought, let us examine his work more critically. Are his arguments persuasive? Can we expand on Montesquieu's thought to determine what he would say about issues that he did not directly address? Use the questions below as your guide:

1. According to Book One, Chapter One of *The Spirit of Laws*, laws are "necessary relations." However, in that same chapter Montesquieu says that intelligent beings "[do] not conform to [their laws] so exactly as the physical world" because "their nature requires them to be free agents." How could one be subject to "necessary" laws without necessarily having to follow them always? In thinking about this question, consider what Montesquieu must mean here by "necessary."
2. Rahe suggests that Montesquieu's work may have a hidden agenda, veiled for fear of being censored by those in authority. Where can you find evidence of such an attempt in the readings from Montesquieu presented here? If you find no such evidence, explain how Chapter One harmonizes with Chapters Two and Three.
3. How or why could Montesquieu both oppose enlightened despotism (as Rahe points out) and nevertheless think that absolute monarchy, a type of despotism, need not be a bad form of government?
4. In Book One, Chapter Two of *The Spirit of Laws*, Montesquieu [says this](#) of man in the state of nature: "Plain it is that his first ideas would not be of a speculative nature; he would think of the preservation of his being, before he would investigate his origin." What does this suggest about man's practical and theoretical capacities? Further, Montesquieu begins his hypothesis by

envisioning man “before the establishment of society.” Does this mean, then, that for Montesquieu it is necessary to consider man first in isolation from others and driven by the desire to preserve himself in order to understand human nature? What about Montesquieu’s belief, as related by Professor Rahe, that “in politics, there is no one passion to be reckoned on, no single, all-encompassing imperative to be fulfilled”? How could one harmonize these two seemingly opposed views?

5. Montesquieu says, “The law which, impressing on our minds the idea of a Creator, inclines us towards Him, is the first in importance, though not in order, of natural laws.” However, if man’s inclination toward God is first in the order of importance, how could it not be first in the order of natural laws? What must Montesquieu mean when he makes this distinction?

Part IV. Connections to Contemporary Concerns:

Montesquieu had a tremendous impact on the political thinkers of the 18th century. Let us consider some contemporary issues in political theory and philosophy and see how Montesquieu’s thought might be applied to them:

1. Some today have suggested that the existence of Islamic fundamentalism in some countries makes them ill-suited for democracy. This view is contrasted with the assertion that democracy is the best form of government for all people because of its presumed compatibility with the way all human beings really are. What would Montesquieu have to say to either side of this debate?
2. The notion of self-interest or self-preservation is foundational to Montesquieu’s vision of human nature and consequently to his vision of society and government. Is contemporary American society united around self-interest, a common good, or both? Do the interests that motivate our society comport well with our form of government (democratic republic) as Montesquieu suggests it ought?
3. In the Advertisement preceding Book One Montesquieu writes, “in all countries and governments morality is requisite.” Is this a natural law argument? What role does positive law play in ensuring morality? Given his understanding of the role of self-interest, is morality opposed to, or in accord with, self-interest? How does the American understanding of a separation of Church and State complicate or clarify this issue?
4. There are widely divergent opinions as to whether man is fundamentally self-interested or fundamentally altruistic. Those who advocate an understanding of man as primarily altruistic argue that a society built on self-interest would be necessarily unstable: the members of that society would inevitably come to distrust one another to the point of civil war. Does Montesquieu (who viewed man as primarily motivated by self-interest) provide a sufficient response to this criticism? How does Montesquieu’s theory reconcile self-interest and the possibility of civil peace? What kind of laws might characterize the political society that was primarily altruistic rather than self-interested, and vice versa? Is there a third viewpoint that could harmonize the insights of both positions?
5. In the Advertisement Montesquieu [argues](#) that love of equality is the political virtue which “sets the republican government in motion,” whereas love of honor “gives motion to monarchy.” Love of equality has been an essential part of the American political experiment; this principle was

affirmed first in the [Declaration of Independence](#) and again in the [Civil Rights Movement](#). However laudable this political virtue may be, the famous political commentator Alexis de Tocqueville also noticed a potential downside. Echoing Montesquieu's separation of equality and honor, republic and monarchy, Tocqueville writes: "democratic communities have a natural taste for freedom; left to themselves, they will seek it, cherish it, and view any privation of it with regret. But for equality their passion is ardent, insatiable, incessant, invincible; they call for equality in freedom; and if they cannot obtain that, they still call for equality in slavery. They will endure poverty, servitude, barbarism, but they will not endure aristocracy" (*Democracy in America*, Vol. II, Book II, Ch. 1). Tocqueville goes on to analyze how customs soften as social conditions become more equal, a process which in turn gives rise to what he calls the "tyranny of the majority": an altogether new and unique kind of despotism that arises due to "an innumerable multitude of men, alike and equal, constantly circling around in pursuit of the petty and banal pleasures with which they glut their souls. Each of them...is as a stranger to the fate of all the rest...he exists only in himself and for himself alone" (*Democracy in America*, Vol. II, Book IV, Ch. 6). Do you agree with Tocqueville's analysis? Can a love of equality produce negative consequences under certain circumstances? How might these consequences be remedied? Is a love of honor necessarily incompatible with the love of equality? What other political virtue (or virtues) might mediate the negative consequences?

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