

Moderating power

Johanna Lenne-Cornuez

Bernard Manin sees Montesquieu as a political philosopher who was attentive to the plurality of political forms and the way that such pluralism can, in moderate regimes, prevent the abuse of power. This is why it is important, he explains, to keep reading this Enlightenment philosopher.

Reviewed: Bernard Manin, *Montesquieu*, Paris, Hermann, "L'avocat du diable", 2024, 250 p., 24 €.

Published shortly before its author's death, this collection includes four studies devoted to Montesquieu, including a previously unpublished essay written in the early 1980s. Bernard Manin's commentary is striking in the way that it reconceives extensively debated topics, such as the status of the British political system and commerce in *The Spirit of the Laws*, the relationship between the Ancients and the French monarchy, the best regime, and the impact of Montesquieu's political philosophy to the French Revolution. This reconceptualization is authorized by an attentive reading of texts that is resolutely anti-Straussian in the philosophical rather than the prudential meaning it gives to apparent contradictions or difficulties in Montesquieu's oeuvre.

The strength of Manin's commentary also lies in his willingness to engage with other major interpreters, whose readings he takes seriously even as he examines the texts that they downplay or overlook. The volume's coherence lies, in the first place, in its critique of two major interpretations of Montesquieu: Althusser's Marxist critique, which connects his arguments to the nobility's class position, and liberal

interpretations¹ that see England, due to its commercialism, individualism, and the limits placed on political power, as the ideal society. Manin conflates these two interpretations, arguing that they fail to take seriously Montesquieu's thesis concerning the plurality of good regimes--that is, moderate regimes--and his emphasis on the various ways of achieving political liberty while limiting power and ensuring the state's stability.

By analyzing the writings of the well-known theorist of the separation of powers, Manin is thus undertaking an *internal* critique of liberalism: his interpretation is opposed to "unitary liberalism," which sets "univocally and once and for all the limits that power must not cross" (p. 166). Throughout the book, Manin defends "pluralistic liberalism," of which Montesquieu was the founder and which maintains that there is no single, absolute rule for determining the political good. In this way, it runs counter to "individualistic liberalism" (p. 171), which, like republicanism, offers a unitary conception of the good and the political regime capable of achieving it.

Fixed political systems

Far from being an exclusive defender of the English political system, the author of *The Spirit of the Laws* holds all moderate monarchies in high esteem, and maintains that the French monarchy, before its absolutist turn, was a model of this regime. The book's previously unpublished chapter shows that one must first recognize the arguments that Montesquieu did not employ, as doing so highlights his originality. The king's power is not, as with Bossuet, subject to the laws of divine justice; nor is the distinction between monarchy and despotism grounded in natural law. Montesquieu, one might say, brings moderate power down to earth: it must be found in institutional arrangements that are in no way dependent on transcendent or universal authority.

Yet several theories of the French monarchy² that Montesquieu knew well invoked specific positive laws to which the monarch was subject and espoused such principles as the heredity of the crown, the inalienability of the royal demesne, the crown's *indisponibilité* (which forbade the king from abdicating or choosing the order

¹ See Raymond Aron, *Les Étapes de la pensée sociologique*, Paris, Gallimard, 1967, chap. 1; Isaiah Berlin, "Montesquieu," in *À contre-courant*, Albin Michel, 1988, p. 200-235.

² See Gabrielle Radica, "Trois interprétations de la notion de 'lois fondamentales' au XVIIIe siècle," in *Lumières en mouvement*, ed. Isabelle Moreau, ENS éditions, 2017, p. 229-253.

of succession), the king's Catholicism, and the right of the *parlements* (i.e., high courts) to verify laws and remonstrate. How should we understand the fact that Montesquieu did not refer to debates on these fundamental laws? According to Manin, Montesquieu was interested only in the form (which implies stability) and purpose (the constitutional realm) of these laws, while being largely indifferent to their content. Whereas Straussians see an author's silences and terminological re-descriptions as evidence of an art of writing, Manin gives them a philosophical tenor.

In a monarchy, the depositary of the laws and fundamental laws are inseparable, for these institutions are what give laws their fixedness, a concept that is foundational to his analysis. When the will is susceptible to capriciousness and those who hold power are eager to abuse it, it is necessary to have a fixed power that is independent of such threats, which are socially destabilizing, terrifying for individuals, and destructive of order. Fixedness can be defined as that which resists an arbitrary will and remains independent of capricious desires. Yet even in despotism, which Montesquieu considers a regime unto itself, one finds a degree of fixedness, without which there would be chaos. This fixedness is not, however, internal to the political order but depends on religion (*Spirit of the Laws*, XXVI, 2). Monarchy is defined as "stability in the sphere of law" (p. 38), whereas despotism finds a degree of stability only outside the political-juridical system. One of the descriptive *and* evaluative criteria that Montesquieu applies to society is that of stability, though he does not see it as the sole criteria and recognizes that different regimes can achieve it in different ways. Rejecting the classic reading of Montesquieu by sociology's founder (which Manin deems reductive, in that it suggests that Montesquieu contented himself with describing societies), Manin insists on the normative dimension of Montesquieu's philosophy and his emphasis on the relative indeterminacy or plurality of norms.

The internal limits of monarchical power

In debates on the rights of the *parlements*, Manin reminds us that the key issue was whether these bodies had the right to reject a law, making them counter-powers that placed an external institutional limit on royal power. This also meant that, in practice, the *parlements* shared power with the king. Montesquieu rejected this thesis, defended notably by Bernard de La Roche-Flavin, the president of the Toulouse *parlement*, in his 1621 book *Treize Livres des Parlements de France* (Thirteen books on the

Parlements of France): "being the depositary of laws entails no right of resistance on the part of the depositary body" (p. 43). How can bodies that only receive, announce, and recall the laws limit power? If Montesquieu grants royal power the exclusive right to make and abrogate laws, he diverges from the position that, from Hobbes to Rousseau, gave sovereign the unrestricted and immediate right to free itself from past laws. This is a key point of Manin's interpretation: time assumes a limiting function in two directions: the *parlement* reminds the king of past laws; and the mediation resulting from depositing the laws with the *parlement* has the beneficial effect of slowing the process down.

In the first place, depositaries of the laws did not oppose their will to the sovereign's but reminded him of his own will (or that of his predecessors). In this sense, royal power is bound by laws that it previously decreed. Neither monarchs nor despots have power or counter-powers superior to these laws (in the sense of a veto). The difference between them is temporal: the despotic will is instantaneous. Manin explains the meaning of arbitrary power, which has less to do with the injustice of a will (even if, in other instances, it is characterized as cruel) as with its ability to instantly dissolve the past. Irrationality implies a will that is unbound by temporality. Hence Manin's paradoxical thesis: "The law's irreversibility is a condition of freedom" (p. 49).

Secondly, temporal limits are ensured by the slow pace of procedures, which prevents the sovereign from willing a law whose usefulness is ephemeral: "fixedness and the slow pace of implementation have a cathartic effect on laws whose human origins are fully acknowledged" (p. 53). Just as the moderation of the English political system results from the separation of legislative, executive, and judicial powers, monarchical moderation consists in the "internal limitation of sovereignty" (p. 61). In both cases, fixed and established law is political freedom's necessary condition.

Yet absolute fixedness would be both impossible--since circumstances change and social life exists--and would condemn political power to impotence, as it would be incapable of undertaking anything new. Moderation must thus be distinguished from the two extremes of absolute fixedness and absolute instability, which correspond to the two forms of despotism. Despotic law's instantaneous character dissolves the very idea of law; but making law eternal would be just as dangerous, as it would render it inflexible when faced with new circumstances and incapable of adapting to the extra-legal relationships that are the essence of the spirit of laws, as the letter of the law would be bereft of spirit. The challenge that Montesquieu faced was

to preserve the immanence of political power while creating barriers against despotism--a risk that particularly haunts monarchy.

Manin is especially concerned with the internal limits on sovereignty. He could be criticized for downplaying the nobility's moderating effect on monarchical power by the nobility. Indeed, for Montesquieu, the content of a monarchy's fundamental laws cannot be separated from intermediary bodies. While Manin does not see them as counter-powers (in the sense that they are not autonomous entities that can challenge royal sovereignty), it is notable that Montesquieu sees them both as internal limits on monarchical sovereignty and as forces contributing to royal power's stability--as paradoxical guarantors of respect. Montesquieu considers the "dependent intermediary powers" as guarantors of a regime's stability, not only as conduits of royal decisions that slow down and amortize them (*temporiser* and *amortiser*, in Manin's terms), but also because they establish bonds between the king and his people, due to their ability to contain the latter's excesses. A king must thus be careful not to see the nobility as rebellious or seditious and, in so doing, to "render them vile" (*Spirit of the Laws*, V, 11).

But the limits on monarchical power are not only internal and procedural. They also include a social dimension. Honor, the "the prejudice of every person and rank" (*Spirit of the Laws*, III, 6)--a love for distinction that has its own codes--limits the prescriptive power of royal authority and can even prevail in conflicts over the prince's laws (IV, 2). In his efforts to refute Althusser's interpretation, which unilaterally equates Montesquieu's arguments with his support for feudalism, Manin, at times, is inclined to downplay this characteristic tension of the monarchical system.

The pluralism of political goods

Based on these considerations on monarchy's limits, Manin's goal is to find in Montesquieu an argument about the relative indeterminacy of political goods in a way that justifies a plurality of political regimes. In a chapter called "Montesquieu and Modern Politics,"³ Manin revisits Thomas L. Pangle's thesis in *Montesquieu's Philosophy of Liberalism. A Commentary on The Spirit of the Laws* (1973), which holds that the philosopher belongs firmly on the side of the Moderns, for whom the sole aim of

³ This study first appeared in 1985 in the *Cahiers de philosophie politique de l'Université de Reims*.

politics is the preservation of individuals' life and liberty, in contrast to the Ancients, who sought the perfection of human nature and the good life. In this way, Pangle draws on the distinction introduced by Leo Strauss. According to Pangle, its praise of England shows that *The Spirit of the Laws* opens the door to liberalism, with its emphasis on personal security and the pursuit of individual ends. For Manin, the most fruitful aspect of Pangle's interpretation is his distinction between two kinds of republics: one based on participation, the other described as "liberal." This shows that Montesquieu sees some tension between democracy and the pursuit of private interests.

Manin shows, however, that Pangle's emphasis on the desire for security conflates Montesquieu with Hobbes and fails to account for the meaning of safety (*sûreté*), understood not only as protection from attacks on one's person but also as the citizens' protection against the absolute power of rulers. Furthermore, despite the undeniable praise he bestows on the English political system, it must not be "considered as *the only* solution that Montesquieu proposes" (p. 125).⁴ Manin calls attention to the originality, which Pangle neglects, of the "irreducible indeterminacy that, in *The Spirit of the Laws*, characterizes the political good," though this indeterminacy does not-- herein lies the interest of his thesis--imply complete relativism (p. 126).

In this way, Manin revives the vigorously debated position of the Enlightenment thinker in a very dense discussion that engages with the Aristotelian perspective. Moderation is best understood not as the quest for the golden mean but as the effort to reconcile two equally important but contrary imperatives (for example, the need to be war of expanding regulation, which is symptomatic of the abuse of power, and that of introducing formalities into procedures that provide protections from despotism), even if it is not possible to say exactly what "*the* right balance or happy medium" is (p. 131). Though Montesquieu rejects extreme solutions, he also seeks to identify the various principles that conflict with one another, in relation to which multiple solutions are possible.

This interpretation of *The Spirit of the Laws* thus suggests a broader dividing line between political theories: against historicist or even progressive readings that are based on the divide between Ancients and Moderns, Manin proposes a conceptual line "between political theories of plurality, which assign a role to indeterminacy (whatever

⁴ See, too, Céline Spector, *Servitude et Empire Montesquieu. Des Lettres persanes à L'Esprit des lois*, Paris Vrin, 2024.

its origin) and unitary theories that, from Plato to Hobbes and Rousseau, seek to determine the universal (and thus unique) principle basis of a unified society" (p. 139). With magisterial skill, Manin gives another meaning to Montesquieu's liberalism, which he sees as "a kind of second order liberalism: to bring one people's institutions to another is to do violence to the latter's traditions; it is still an imposition. Montesquieu rejects non-liberal impositions of liberalism" (p. 154).

It is also on this relative indeterminacy--there exists one evil (despotism) but multiple goods--that the French revolutionaries stumbled. For they rejected "this prudential form of rationality that expresses itself in its modern form as a theory of moderation" (p. 177). Even so, they remain the heirs to a definition of the state's function, the principle of the separation of the three powers, and the limiting of power by power. According to Manin's third essay, the comparison of different interpretations of these principles allows one to see some of the major dividing lines between the revolutionaries.

By the same token, Montesquieu's pluralism explains why his thought has been embraced by liberals as well as republicans. The tension between the praise of ancient virtue and that of commerce in modern England is not a contradiction, but the "positive and explicitly embraced principle of his theory: the recognition of a plurality of political goods" (p. 201), a principle that allows Montesquieu to undertake in an original way "a systematic reflection on the relationship between republics and commerce" (p. 221), though the latter is not necessarily seen as a source of luxury and corruption. Through an analysis of commercial republics, Montesquieu shows that a plurality of forms can be conceived within the same regime.

Beyond these debates over interpretation, it is interesting to understand what the author of *The Principles of Representative Government*, which itself has become a classic, was trying to find in Montesquieu. Manin saw him less as a founder of the social sciences than as a political philosopher concerned with identifying the strengths and weaknesses of institutions, each regime being a "masterpiece of legislation" (*Spirit of the Laws*, V, 14), which also means a masterpiece in limiting power through power. Manin saw *The Spirit of the Laws* "not as a work of indoctrination, but as a genuine project to provide philosophical education to legislators and rulers" (p. 103). The fruitful legacy of Montesquieu's thought is best explained, for Manin, by its original ideas about pluralism--a pluralism of political goods, moderate regimes, powers, and the forces animating the social body. Through Montesquieu, he imagined a different

prospect for liberalism--a pluralist conception, which inspired the authors of the American Constitution.

First published in laviedesidees.fr, February 17, 2025. Translated by Michael Behrent with the support of Cairn. Info. Published in booksandideas.net, July 8, 2026