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War, Debt and Despotism: from Tyrant to Despot, 1570s to 1670s, Beza to Pufendorf

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The sixteenth century tyrant was overwhelmingly the prince defying divine and divine natural law by attacking the church. In the era of Reformation, all confessional churches had reason to attack those princes that failed to understand that their one respective confession – Roman Catholic, Lutheran, Reformed, Anglican – was the one and only true church of Christ. And in many cases, as in Protestant attacks on Mary Tudor or Catholic attacks on Henry III, the prince not sufficiently protecting this one 'true' church, but rather dealing with 'heretics' to find compromise, was denounced as tyrant.

The argument of this lecture is that since the later 1640s, but with roots going back right into the later 16th century, a decisively different notion of illegitimate rule became important. This new notion often also carried a 'new', or rather 'renewed', term – that of 'despotic' rule. This new notion did not primarily address the lack of virtue or of piety of a given prince, but rather a certain system of government that via a variety of measures aimed at robbing subjects of their property. That new notion, I will argue, came gradually to the fore as Europeans considered the changing nature of European monarchy and the threat that debt ridden monarchical regimes might throw over board all constitutional constraint and enforce de facto military dictatorships.

In what follows, I would like to start with the book that made this new notion triumphant, that is Montesquieu's *l'Esprit de Lois* in 1748 (I).

Then I would like to present you examples of two streams coming together in Montesquieu's famous tract: One of these 'streams' was the shift away from addressing the vice or virtue of an individual ruler in favour of addressing the societal dynamics of a certain polity, the interrelation of societal structure, governmental structures and politics, and to address a dynamics undermining major goals of legitimate government, rendering the government of that polity thus 'despotic'. The other 'stream' is to identify war and debt as mechanisms undermining the protection of property and of laws.

I will provide you with examples of these streams from four different sources. The first one will be Beza' s 'law of magistrates' and his use of the image of Turkish government (II). The second one will be the function of the argument on 'despotic government' in Bodin (III). The third one will be the attack on 'war-despotism' in French pamphlets in 1617 and Fronde pamphlets of 1649 against financiers and tax farmers (IV). The third one will be Pufendorf' s account on the nature of the kingdom of France as a predatory kingdom and as such true

successor to Rome (V). Though with disparate motives and varying examples, Beza, Bodin, the authors of the French pamphlets and Pufendorf all moved away from primarily considering the virtue – or lack thereof – of an individual king and his keeping or not keeping of divine and divine natural law, and toward considering mechanisms in society at large undermining the protection of law and property, including legal privileges, of subjects.

Let me add that the kind of history I present you here is a combination of history of Political Thought and Social History, and in particular follows from research of mine on the transformations of European monarchies under the pressure of war during the later 15th to later 17th centuries. What Montesquieu truly observed in his famous l'*Esprit des Lois* of 1748 were the consequences and dynamics of this transformation.

1. The modernity of Montesquieu, the ambivalences of modern freedom and the problem of despotism[1]

It is perhaps not unfair to agree with Susan Saunders in her review of Paul Rahe' s Logic of Liberty that Montesquieu long appeared to be 'a backward-looking aristocratic liberal seeking to restore feudal limitations on the dictatorial tendencies of the 18th-century French monarchy'[2]. In particular the recent two decades of stressing the 'Radical Enlightenment' as the true harbinger of modern liberty and the stress on 'republicanism' as the true interesting political and social development of Early Modern Europe – have not necessarily done well to Montesquieu[3]. For example, the treatment of him in the two massive volumes from Cambridge on Republicanism. A Shared European Heritage, is on the position of women in volume II, and on a major witness for the monarchical party during the endgame in France after August 26 1789, when the Declaration of Rights had been passed, and a few representatives of the assembly tried to rescue what was to be rescued from monarchy by referring to Montesquieu[4]. Not that this use of Montesquieu is mistaken: Indeed, I argue myself in my contribution on 'Republics and Republicanism' in the Oxford Handbook of Early Modern History that the term 'Republicanism' in eighteenth century Europe had its most frequent legitimate use as republican tendencies or aspects within a monarchy rather than advocating a kingless state.

Be that as it may, it relegates Montesquieu a usable source to defend traditional ideas of order, of hierarchy, and even of monarchy, in an age of rapid change, and

[1] This paper is based on material earlier published in chapter 8 of Robert von Friedeburg, *Luther's Legacy. The Thirty Years War and the Modern Notion of 'State' in the Empire, 1530s to 1790s*, Cambridge (Cambridge University Press), 2016.

[2] The book of the week January 21 2010 at http://www.timeshighereducation.co.uk/410106 .

[3] Recent overview Johnson Wright, *Montesquieuean Moments: The Spirit of Laws and Republicanism*, in Proceedings of the Western Society for French History 35, 2007, pp. 149-169.

[4] Johnson Kent Wright, *The Idea of a Republican Constitution in Old Regime France*, in Martin van Gelderen, Quentin Skinner (eds.), *Republicanism*, Cambridge, 2002, vol. I, pp. 289-306, 304-306.

while Montesquieu was used that way, Paul Rahe and Michael Sonenscher gave us, quite beyond that use, quite a different story, to which we have to turn to see the relevance of the emergence of the term 'despotic' and the place research on this needs to have in Political Thought.

Though both books were written independently from each other, both share a starting point of view decidedly sceptic about the unproblematic nature of the promises of modern freedom[5]. Sonenscher expresses this scepticism by referring to Reinhard Koselleck' s work of the later 1950s, his 'Kritik und Krise', where Koselleck is arguing that a good deal of revolutionary favour in the late eighteenth century had forgotten why absolute monarchy had established itself with the broad support of the populace: Because the seventeenth century had shown that society itself had not been able to regulate its business. For France, that argument came back massively during the Fronde, when published attacks problematized the role of middlemen and officers of the crown, not of the king himself. In a way, establishing personal rule from 1661 by Louis XIV did respond to many a critique made during the Fronde. The emphasis of Sonenscher' s Montesquieu is thus not on human rationality to be unbound from traditional and irrational fears and constraints, but on the dangers presenting itself by the dynamics of power and competition among Europe' s major monarchies and their relentless war and arms race of the Early Modern period. Against this emphasis, Sonenscher traces from Montesquieu and the pamphlets he read to Sieyes a growing uneasiness about the relation of debt and standing armies. To Sonenscher, what drove Montesquieu and many following him was a fear that debt ridden monarchies might use the armies for which they had come into debt in the first place to erect despotic regimes and enforce support and taxation with the help of these armies rather than uphold relations of contract and keep serving the debt they had incurred. In a way, to Sonenscher, Montesquieu and those sharing his fear were concerned about the coming of a Napoleon way before the real one appeared.

Similarly, Paul Rahe developed his ideas from his background of Classics and the realisation, common with Leo Strauss, that modern republics are fundamentally different from ancient ones. In his earlier 'Against Throne and Altar', he tried to outline the basics of modern republics by analysing the reception of Machiavelli. Rahe' s Montesquieu is thus rather interested in England than in France, but interested not simply in a success story, but in an experiment that to his mind could easily transform into a despotic regime. Montesquieu's praise for England, Rahe tells us, was more ambivalent than is often recognized.

Both authors share an emphasis on the analysis of despotism in Montesquieu, Sonenscher as the regime that might realize its own ability to enforce payments rather than conduct them under law, and Rahe as inherent dynamic of all commercial societies to develop into despotic regimes. Both authors focus on the eighteenth century future; they do not link Montesquieu's arguments to seventeenth century debates making already similar points. For example, Paul Rahe stresses in his 'Logic of Liberty' Montesquieu' s ideas on the nature of the

[5] Michael Sonenscher, *Before the Deluge*, Princeton, 2009; Paul Rahe, *The Logic of Liberty*, New Haven, 2010.

corruption of monarchy into despotism. He cites p. 124 *l'Esprit des Lois,* book VIII, chapter 6,

> "a monarchy is lost when the prince believes that he demonstrates his power more in changing the order of things than in following it; when he deprives one group of its natural functions in order to give them arbitrarily to others, & when he loves his fantasies more than what he wills.
> A monarchy is lost when the prince, everything solely to himself, summons the state to his capital, the capital to his court, & the court to his person alone.
> Finally, it is lost when a prince misapprehends his authority, his situation, the love of his peoples; & when he does not sense that a monarch ought to judge himself secure just as despot ought to believe himself in peril".

Rahe further adds that Montesquieu specified this piece of information with stating that monarchy was in peril once

> "pre-eminent dignities are marks of a pre-eminent servitude, when one deprives the great of popular respect, & when one renders them the vile instruments of arbitrary power. It has been corrupted even more when honour has been set in contradiction with honours, & when one is able to be covered at the same time with infamy & with dignities"[6].

Montesquieu' s real live example for all this was tax farming and the role of tax farmers and financiers in France from the later sixteenth century onwards.

For anyone familiar with the outbursts against tax-farmers from the 1570s onwards, the attacks on financiers around the last 1614 General Estates, and the pamphlets of the Fronde, the famous Mazarinades against Cardinal Mazarin, one cannot fail to recognize that the origin of this kind of statement in Montesquieu, becoming a core item to identify the corruption of monarchy into despotism, was developed under the later Valois and earlier Bourbons kings, as the French monarchy became heavily indebted in order to finance its wars against Spain, and with the attack on the consequences of those debts that continued between the early to mid-seventeenth century.

Likewise, the worry that the existence of a large and effective professional soldiery might lead to the establishment of a military dictatorship shovelling aside all protection for property, and indeed all regard for established hierarchies, was born out to many commentators by the military dictatorship of Oliver Cromwell during the 1650s, when Dutch commentators addressed this kind of government as *statocratia*, as military government. The emphasis of modern revisionist authors on the problematic nature of the 'republican regime' of Cromwellian England and the real influence of the army had not been lost on seventeenth century commentators.

Both in fearing military dictatorship and in denouncing societal developments in direct connection to crown debt, seventeenth century commentators on England and France had stressed a variety of phenomena that posed a threat to

[6] Montesquieu, l'*Esprit des Lois*, book VIII, chapter 7, quoted after Rahe, *Logic of Liberty*, pp. 125-126.

good government, but were not covered at all under the rubric of the 'traditional' tyrant violating divine law and divine natural law.

Indeed, these threats had hardly anything to do with Christian doctrine as such. To find a name for that new kind of threat, those worried rather chose the term 'despotism' because that term had been used to identify threats to good government that were not directly related to Christianity, either.

2. The Example of the Ottoman to produce non-confessional boundaries of legitimate government in an age of confessional conflict: Protestant Argument in Germany and Beza

To Aristotle, tyranny (as oligarchy and democracy/anarchy) addressed a rule compromising the well-being of the polis and violating the innate nature of its citizens. The despot, however, treated his subjects like slaves of his household for his own profit, but did so according to local custom and the nature of his subjects. Fifteenth and sixteenth century humanists eschewed the term 'despotic' as Neo-Latin innovation. During the sixteenth century, the term 'despot' almost vanished[7]; so did the distinction between despot and tyrant. Leonardo Bruni rendered 'despot' in his influential translation of Aristotle with *dominus* or *dominatus*[8]; that was also Tacitus' term for the kind of rule succeeding the decline of the *res publica*. Their precise meaning depended on context. Europeans noted that the term despot was also used with respect to specifics of rule in the Ottoman, in particular since vassals to the Ottoman in Southeastern Europe addressed themselves as *despot*[9] without necessarily indicating anything cruel or illegitimate[10].

During the sixteenth century, specific instances of cruelty toward subjects, coupled with a lack of proper regard to law and the preservation of subject's property, were increasingly summarized to indicate a specific kind of tyranny and exemplified with alleged practices within the Ottoman, and, crucially, also with Christian Moscow[11]. During the reformation in the Holy Roman Empire, much of this was argued against a background of apocalyptic fears. Polemics addressing the danger from Charles V' campaign against the Smalcaldic League conflated the danger from the papacy as servant of antichrist and alleged cruelties similar to those of the Turks[12].

[7] For exceptions in Germany see e.g. Horst Dreitzel, *Monarchiebegriffe in der Fürstengesellschaft*, Cologne, 1991, vol. I, p. 147.

[8] Mario Turchetti, *Despotism and Tyranny. Unmasking a Tenacious Confusion*, in European Journal of Political Theory 7, 2008, pp. 159-182, 167.

[9] Dreitzel, *Monarchiebegriffe*, vol. I, p. 148; Turchetti, *Despotism*, p. 165.

[10] E.g. Augerius Busbequius in his letters about his embassy to Istanbul, see Z.R.W.M van Martels ed., *Vier brieven over het gezantschap naar Turkije*, Hilversum, 1994.

[11] Nancy Bisaha, *Creating East and West. Renaissance Humanists and the Ottoman Turks*, Philadelphia, 2004; Daniel Goffman, *The Ottoman Empire and Early Modern Europe*, Cambridge, 2002; Joan-Pau Rubies, *Oriental Despotism and European Orientalism: Botero to Montesquieu*, in Journal of Early Modern History 9, 2005, pp. 109-176.

[12] For example Regius Selinus/Basilius Monner, Bedencken von dem Krieg, der Anno sechs- sieben und vierzig zu Meissen und Sachsen geführt ist, wofür er zu halten sei, 1554, Basel 1557, Bibliothek Wolfenbüttel T 655, Helmstedt 4, a iiii on 'papistische Tyrannen und bluthunde' and on the 'bapst der Antichrist', G iii his apocalyptic images.

The Pope' s and his servants' goal was allegedly to establish a 'godless Turkish monarchy', depriving the "German Nation, our beloved Fatherland of its liberty … and to transform us into an abominable and unchristian Hispanic Servitude, that we need to do, what they want, as their serfs and slaves, against all rights, accords for peace, contracts and peace of the land…"[13]. These arguments conflated tropes about the 'Turk' with the emerging Black Legend about the 'Spaniard' and apocalyptic imagery[14], but they also added Christian Moscow to be an example of particularly cruel rule.

During the second half of the sixteenth century, the negative image of the 'Turk' stuck. For example, in the wake of the Bartholomew Night's Massacre, Theodore Beza considered in his 1574 'Rights of Magistrates' the problems of illegitimate use of force by magistrates. Beza was Calvin' s successor in Geneva. As major proponent of Calvinism, he also responded to the 1572 Bartholomew Night's Massacre. He produced a range of examples to prove established benchmarks of equity among and within Christian nations, including the right to punish wrong doing of a supreme magistrate[15]. To make his point, he chose to refute the claim that subjects to 'Turkish Emperors' ('turcarum imperatoris') had no such right. He retorted that the Turkish Empire was no proper kingdom in the first place, but barbaric and brutal ('barbarum', 'brutum'). Royal advisors referring to its practices and wishing to implement them were public enemies of mankind ('publicos humani generis hostes')[16]. Rather than referring to apocalyptic images of Armageddon, Beza constructed basic principles of legal order among non – barbarian people with the Ottoman figuring as non-Christian, but primarily as barbarian counter example. Christian Moscow and the Ottoman had become examples for a particularly cruel manner of government without laws to defend property. Though Beza' s argument was rooted in a specific phase of the French Wars of Religion, he nevertheless attempted to build a case not solely or primarily based on confessional theological polemics. Similarly, 'A discourse before the king of France, deliberating how France could be turned into Turkish slavery, also how the Spanish Nation will try to bring us Dutch into Turkish tyranny and slavery' of 1575, though written against the background of the Dutch revolt, suggested that in particular the Spanish and their supporters in France attempted to submit Christians to 'Turkish Slavery'. The pamphlet had been a translation of a French one but had added the Spanish threat to likewise submit the Netherlands to 'slavery and tyranny'. Against the background of religious civil war and revolt, the alleged

See in general Kaufmann, Apokalyptik; on this piece of Selinus Robert Kolb, *The Legal Case for Martyrdom*. Basilius Monner on Johann Friedrich the Elder and the Smalcaldic War, in Irene Dingel et al. (eds.), *Reformation und Recht*, Gütersloh, 2002, pp. 145-160, 155-160.

[13] Regius Selinus/Basilius Monnerus, *Von der Defension und Gegenwehr [1546]*, in Hortleder II, no. 30, pp. 156-173, 157f; see Friedeburg, *Widerstandsrecht und Konfessionskonflikt*, pp. 67-70.

[14] On Selinus, *Defensionem*, pp. 166-169; see Friedeburg, *Self defence*, pp. 80-83.

[15] Beza, *De iure Magistratuum: 'gentes ipsas populique ordines iussi biplerumqueret inuisse fraenandorum principum'*.

[16] Ivi, p. 73.

specifics of Turkish and Moscow rule became the basis of an evil recipe by which Christians were turned into slaves, but where the aspect of protection of property and person gained increasing weight rather than that of religion[17].

3. Bodin: Describing tyranny and despotism to strengthen royal monarchy

Sixteenth century French translations of Aristotle had, on the basis of Bruni's translation, rendered Aristotle' s 'dominus' as 'seigneur'. In commentaries, examples for seigneurial monarchy were non-European Empires, but also the Ottoman and Moscow that became increasingly entrenched examples for a specific kind of rule. Bodin took this terminology over when addressing 'seigneurial monarchy'. As Mario Turchetti observed, law of nature and rights by legitimate conquest informed Bodin's distinction between seigneurial monarchy, royal monarchy and tyranny. Not least because Bodin seems to be one of the last authors favoring a clear distinction between monarchy and seigneurial monarchy on the one and tyranny on the other hand[18], we need to look closer at Bodin' s argument in order to understand the significance of supplementing attacks on tyranny by attacks on 'despotism' during the seventeenth century.

Bodin wrote in the tradition of Bruni' s and Petrus Victorius' rendering of Aristotle taking a clear cut hierarchy of order and subjection to be a functional requisite for any polity[19]. Simultaneously, Bodin held on to the fundamental distinction between the well-ordered polity and a ship of pirates and to goals of public order such as justice, felicity and the defense of subjects[20]. While the *république* rests on the erection of *a puissance souverenité* over households[21], the nature of this power is fundamentally different from that exercised within the household among spouses and by the head of household over children, servants and slaves. The former addresses public, the latter particular issues[22]. To illustrate this difference, he explicitly distinguished the house-laws and dynastic agreements among German princely dynasties from public rule in the Empire[23]. But he did not argue that slaves could not exist in a proper *république*. Rather, he stressed the historic vicissitudes of the empirical occurrence of slaves over time. At least from the flood, slavery had remained prevalent everywhere and could thus hardly have violated reason or

[17] Een discours ofte Vertogh ghedaen door de Coninck van Frankerijk eende ettelyke van zijnen raet, vvaerin verclaert vvort met wat middelen men soude connen Vrankerijke in een Turksche slavernije brinhen, verclarend einsghelycks hoe de Spaense Nacie den salven boosen raeten en middele ghebruykt om onse Nederlanden in een Turckse slavernij eende tyrannije te bringen, Knuttel 232, see Regina Boot, *Reshaping Argument. How Political Ideas transcend borders*, MA thesis (Research) Rotterdam, 2012, pp. 9-10, 27-42.

[18] Turchetti, *Despotism*, pp. 167-168.

[19] Jean Bodin, *Six livres de la république*, 1576, Paris, 1583, I, c 1, pp. 1, 11. Wherever necessary, the english translation of 1606 is used for English rendering, though the whole text of this translation differs at times significantly from the French.

[20] Bodin, I, c 1, 2-3, 5, p. 9. See Quaritsch 1975, pp. 61-62.

[21] Bodin I, ca 1, p. 1.

[22] Bodin, I, c 2, pp. 15-16.

[23] Bodin, I, c 2, p. 17.

law. But slave rebellions, while remaining a potent threat throughout, persuaded Christian princes during the early to high Middle Ages to abandon slavery and free slaves for pragmatic reasons. What is more, once Muhammed released all slaves of Muslim faith, Christians emulated that practice with regard to Christian slaves. By the thirteenth century, hardly any slaves remained on Western European soil. Yet Muhammed, and later the Ottoman, kept Christian slaves. Slaves were a common feature across the Empire of Charles V. Yet in Turkey, some slaves were treated particularly well and among elite soldiers[24].

In the course of his argument, Bodin managed to demolish almost any conceivable moral principle for or against the institution of slavery by providing historical examples for the emergence or decline of the institution entirely unconnected to any faith or philosophical principle. Likewise, his chapters VIII and IX on sovereignty and on 'Du prince tributeire ou feudataire' prepared the ground for his tenth chapter on the '*vraye* marques de souverenité' by empirically demolishing existing arguments for identifying a king and his rights. While the 'puissance absolue & perpetuelle' was the 'fondement principal de toute la république'[25], historical evidence on the *lex regia*, on rulers addressed as kings and on relations of feudal lordship and vassalage showed that an almost infinite number of power relations informed or followed from those, none of which necessarily included the holding of sovereign majesty. For the sovereign must not be submitted to his own law (though he may be obliged to keep certain laws and contracts with subjects). But the Emperor, for example, was bound to the Golden Bull and indeed to the sovereignty held by the princes[26].

Bodin sorted out in detail where, and where not, agreements between a ruler addressed as king (or otherwise) and his vassals did or did not compromise true sovereignty, considering that in some cases, the sovereign ruler could bind himself by his own laws and was bound by 'conventions' between him and his subjects, for he was bound by divine and natural law[27]. With respect to relations between fief-giver and vassal, Bodin denied any clear cut conclusions to be drawn toward sovereignty. He elaborated for his reader the complex taking and holding of fiefs among almost all members of Europe's royal dynasties, making many European kings vassals of other kings. Charles V, for example, appeared to be a native of Burgundy and thus of a duchy subjected to the French king and also a vassal to the Empire and the Pope[28]. He also established that the 'bien & domein publique' of a polity had to be respected by the sovereign, who was neither its 'usager' or 'usufruictier'[29]. He thereby took into account what in England and France, by that point in time, had developed as the lands and rights of the Crown beyond the reach of the person of the king and his dynasty. His confrontation between the chaos of interrelated enfeoffments among Europe's major dynasties, of very

[24] Bodin, I, c 5, pp. 46, 49-53, 59-64.
[25] Bodin, I, c 8, p. 122.
[26] Bodin, I, c 8, pp. 130-135.
[27] Bodin I, c 8, pp. 135-161, in particular pp. 148-151, 152-161.
[28] Bodin, I, c 9, pp. 174-175.
[29] Bodin I, c 9, pp. 181-182.

limited use to understand actual power relations, and the alleged clarity of the 'bien & domeine publique' and his own analytical approach to sovereignty, allowed him to introduce his own 'vraye marques de soverainete'. These were not the titles of a ruler or relations of enfeoffment[30], but making obligating law and deciding about war and peace[31].

It is against this background that he considered seigneurial and royal monarchy. Possessing sovereignty on the one hand and the actual administration of government and justice on the other, in particular regional and local government, had to be radically separated for his purpose. Indeed, in a royal monarchy offices could be theoretically held by simple subjects[32]. After he had successfully demolished evidence from title or lord-vassal relationships, Bodin could fall back on 'notions of natural law and the right to conquest'[33] to categorize the three types he ended up with, royal, seigneurial and tyrannical monarchy, the latter in its acceptance as *république* in tension with the aims of the *république* as defined at the beginning. With law making the core mark of the possession of true sovereignty rather than the administration of justice[34], Bodin distinguished royal monarchy, obeying divine and natural law, respecting the property of subjects and thus also the contracts between the sovereign and subjects, and certain laws to which the monarch remained bound[35], seigneurial monarchy, where subjects and their property fell into the hand of the sovereign by force of arms in a just war and were subjects were subsequently ruled like slaves by a family father[36], and tyrannical monarchy, where divine or natural law was violated and the sovereign deprived his subjects without due title from their liberty[37].

Violations of the law of nature and the goals of public order, e.g. felicity and justice, were considered in his treatment of tyranny, but only by mentioning the tyrant's 'boucherie' ('butchery') of subjects. Bodin also contrasted the vices of the tyrant with the virtues of Scipio Africanus[38]. But his analytical point of departure was not the virtue (or lack thereof) of a ruler. His manner of identifying kinds of 'republics' did not, in Aristotelian fashion, confront the virtuous rule by one, few or many with its corrupted form. Thus, the 'monarchie tyrannique' is monarchy and 'république' as long as all law giving power is held by one sovereign, never mind the butchery of this tyrant. By the same token, the monarch of the 'monarchie seigneurial' can be just and virtuous though he treated his subjects as property[39]. Indeed, in Bodin' s historical account of the genesis of monarchy since the flood and under Nimrod, he points out that Nimrod' s title 'great hunter' also

[30] Bodin, I, c 10, pp. 213-214 on the 'absurdites' that jurists had produced by sorting out regal laws and rights with innumerable detail.
[31] Bodin, I, c 10, pp. 215-216.
[32] Bodin, II, c 7, p. 332.
[33] Turchetti, Despotism, p. 168.
[34] Bodin, I, pp. 215-16
[35] Bodin II, pp. 152-61, 273, 279, 289.
[36] Bodin, II, p. 273.
[37] Bodin II, pp. 273, 287-292.
[38] Bodin II, pp. 290-293.
[39] Bodin II, p. 279.

meant 'robber'. Early monarchs had all been successful 'robbers' subduing subjects by legitimate war and enslaving them by law of nature[40]. Bodin also undermined any evidence from actual office-holding or the administration of justice as a sign of privileges independent of the monarch, for even Royal monarchy could easily exist where all the office were given to the common people, and the form of government was effectively democratic[41].

This argument, and the assumptions on which it rested, allowed him to pursue the main goal of his book, to defend French monarchy and the natural person of the French king against any inroads of the Pope, the Catholic League or any other institution or corporation. For that aim, the king had to be made virtually independent of positive law with the sole exception of certain basic regulations concerning succession and the lands and rights of the crown. The elites had to be assured that their wealth and privileges, from offices they bought and the rents they hoped to earn in return, to fiefs, were secure and would be honored, as long as they understood that neither these offices nor their fiefs gave them any authority in public affairs unless conferred to them by the sovereign[42]. Bodin reduced the phenomenon of tyranny to illegitimate conquest and mass slaughter of subjects, and eliminated virtually every piece of evidence elites could refer to in order to claim privileges independent from their monarch. According to that logic, natural law protected contracts and subject's life and property, but it also allowed conquest and enslavement.

The ambivalences of Bodin' s argument have to be seen in this light. For royal monarchy, Bodin insisted on sovereign lawgiving without consent of subjects, but also on the keeping of certain laws and contracts with subjects. He also stressed the perpetuity and sanctity of the 'bien & domaine publique' from intrusions or alienations of the sovereign, but did not make that 'bien & domaine publique' the bearer of sovereign rights. In fact Bodin held that a legal fictitious person could not be a bearer of such rights[43]. Rather, the sanctity of the 'bien & domaine publique' was part of a development recently researched by James Collins. In the course of the Hundred Years War, and in particular since the peace of Bretigny, the French general estates had agreed with subsequent kings to define possessions of the crown unalienable by any individual French monarch. Simultaneously, the 'bien publique' had become the summary of what a French monarch was supposed to pursue. Bodin' s 'seigneurial monarchie' and 'monarchie tyrannique' demarcated the limits of what the royal sovereign in France could do, and did that by giving the French king not unlimited, but extremely large room for maneuver.

4. The re-emergence of the term 'despotic' during the seventeenth century: The attack on 'war despotism' in France, 1600s to 1652

What is crucial for our argument is that the confusion between tyranny and

[40] Bodin II, pp. 273-274.

[41] Bodin II, p. 332.

[42] John Salmon, *France*, in Howell Lloyd et. al. (eds.), *European Political Thought*, New Haven, 2007, pp. 458-497, 475-477.

[43] Ivi, pp. 275-276.

despotism that ensued after Bodin[44], and that Montesquieu was going to champion and that was going to allow to attack the legitimacy of government without having to refer to virtue – in the Aristotelian or Ciceronian sense – went right back into the seventeenth century. It was during the seventeenth century that the term 'despotique' was salvaged from Humanist dismissal to address the undermining of proper legal protection for subjects and their property akin to the alleged rule in the Ottoman or Moscow; that the confessional background to the argument was almost entirely shed, and that security of life and property in this world, at the core of Montesqueiu's concerns[45], became the conceptual heart of what the attack on despotism was about.

The precise chronology of the re-emergence of the term 'despotic' is not entirely clear[46]. As mentioned above, the Leiden edition of Aquinas' *De regimine* in 1630 could have been one source to re-familiarize readers with the term. Indeed, Lucca characterized the *principatus politicus* as 'civilitate' (polite), by virtue of the exchange of officers and their rule under law as allegedly described in 1 Samuel 12 about Samuel' s end of tenure[47]. Likewise, Paul Rahe stressed that Montesqeuieu described proper monarchy as characterized by 'gentleness of the government (la douceur)'[48]. One might venture into suggesting that one emphasis of the argument on despotic rule was less the violation of a specific law – divine, natural or positive – but rather a characterization of the effects of the constitution of a regime on its treatment of subjects. Polemics against despotic features of French government in this latter sense, using explicitly the term 'despotique' to address their topic, were coming to fruition during the *Fronde*, when censorship broke down[49]. *Fronde* pamphlets against Cardinal Mazarin will be our major source in a moment[50]. The very term 'Fronde' derived from the French word for slingers with which Paris crowds allegedly threw stones at Mazarine' s home. The more immediate circumstances for the *Fronde* came about in 1643, when Louis XIII died and left his son Louis XIV, born in 1638, a minor. The regency was run by his mother, Anne of Austria, a Spanish Habsburg, and her main minister, the Italian Mazarin. Given the enormous pressures of the ongoing war with Spain, the scene was set to find fault with both 'foreigners', not least since anti Spanish and anti Italian stereotypes were surely among the most potent in France[51]. They could build on the 'hatred in print' against Katharine of Medici during the wars of religion[52]. But they could

[44] Turchetti, *Despotism*, pp. 169-71.

[45] Rahe, *Montesquieu and the Logic of Liberty*, pp. 95-98.

[46] Turchetti, pp. 169-171; Joan-Pau Rubies, *Oriental Despotism and European Orientalism: Botero to Montesquieu*, in Journal of Early Modern History 9, 2005, pp. 109-180, 170-171.

[47] *De Regimine Principum*, L, II c Viii 27 in Joseph Mathis 1971; see Ulrich Meier, *Mensch und Bürger. Die Stadt im Denken spätmittelalterlicher Theologen, Philosophen und Juristen*, München 1994, pp. 63-126.

[48] Rahe, *Montesquieu*, p. 82.

[49] Roger Boesche, *Monarchs and Merchants: Montesquieu's Two Theories of Despotism*, in *The Western Political Quarterly* 43, 1990, pp. 741-761, 41.

[50] See Christian Jouhoud, *Mazarinades: La Fronde des mots*, Paris, 1985.

[51] Lucien Bély, *Louis XIV. Le plus grand roi du monde*, Paris, 2005, p. 18.

[52] J.-F. Dubost, *La France Italienne. XVI-XVII siècle*, Paris, 1997.

also build, crucially, on a long established basis of attacks on Financiers borrowing money to the crown, financiers that were indeed often Italians, and that had come to a first peak in the years around the 1614 meeting of the general estates. At this point, national stereotypes against Italians met a structural critique about the transformation of French society and government by way of war and the making of debts.

The wars of the Valois and, from, 1635, the Bourbons, against the Habsburgs had let to a whole range of desperate financial measures that were addressed as in need of fundamental reform already from the late 1570s[53]. Rather than having been able to reform, Henry IV himself had to mobilize even more resources to appease his former enemies. Finally, the decision to enter the Thirty Year War in 1635 to prevent a threatening Habsburg dominance in Europe had destroyed all efforts at consolidation[54]. A major example for the kind of vitriolic attack at financiers that had developed by the 1620s is Isaac Bourgoin' s *La Chasse aux Larrons*, first published in in 1618. Bourgoin held that in the course of wars and growing indebtedness, the crown had become 'Vassal and tributary of the financiers'. The need to provide ready cash for troops in the field had forced the French monarchy to borrow that cash from financiers and hand them over, in turn, the administration of taxes and other privileges. These financiers, so he argued as many others, collected money from the upper nobility and rich segments of urban, mercantile society that expected interest on their investment. Many financiers held simultaneously administrative positions from where to direct policies leading to allegedly spectacular financial returns for these financiers, all wrought, via taxes, from the means of ordinary and noble Frenchmen alike, most unable to invest in war themselves. Investigations into this emerging financial machinery, from the 1570s to the General Estates of 1614, had led to nothing. Pamphletists like Bourgouin summarized the prevailing mood among highly diverse quarters of French society by suggesting to best hang them all[55].

It is not least this background of a common mood among pamphletists and in particular the French nobility at large that prompted Jean-Marie Constant to coin the term 'war despotism'. From the reign of Francis I, the number of holders of (often venal) royal offices had increased tenfold from 4000 to over 45000[56]. The nobility, no matter how utterly divers, resented in most of its sections the rise of these officers and was in its considerable poorer sections adversely affected by new burdens on tenants that in turn were less able to meet their obligations to their

[53] Mark Greengrass, *Governing Passions. Peace and Reform in the French Kingdom 1576-1585*, Oxford, 2007, pp. 274-286.

[54] Richard Bonney, *The Limits of Absolutism in Ancien Regime France*, Aldershort, 1995, 'The Development of Royal Finance'.

[55] Julian Dent, *An Aspect of the Crisis of the Seventeenth Century: The Collapse of Financial Administration of the French Monarchy (1653-1661)*, in Economic History Review 20, 1967, pp. 241-256, 241-254; Bély, *Louis XIV*, pp. 18-30.

[56] Jean-Marie Constant, *Der Adel und die Monarchie in Frankreich vom Tode Heinrichs IV bis zum Ende der Fronde (1610-1653)*, in Ronald Asch (ed.), *Der europäische Adel im Ancien Régime. Von der Krise der ständischen Monarchien bis zur Revolution (1600-1789)*, Köln, 2001, pp. 129-150, the term 146.

noble lords[57]. At the General Estates of 1561, 1576, 1588 and 1614, the nobility demanded to exempt their tenants from the *taille*. During the 1630s and 1640s, major aristocratic magnates such as Gaston de Orleans, the uncle of Louis XIV, shared with poorer sections of the nobility the resentment against the ongoing wars that had led subsequent regimes to enforce desperate financial measures, measures that in turn clearly enriched financiers and tax-farmers and seemed to undermine the actual constitution of the kingdom. Assemblies of noblemen addressed this problem and demanded to return to an alleged earlier and better time, when noble participation in politics had been more fully secured, noble status as such counted for more and where the common good had been treated better. Constant aptly summarized this critique as attacking 'war despotism'[58].

Almost a century later, Montesquieu' s characterization of the corruption of monarchy into despotism reiterated several of the issues that were attacked by Fronde pamphlets. Montesquieu stressed the deprivation of a corporate group of its function and the giving of privileges to others. The Estates General and Fronde pamphlets had addressed the alleged deprival of the function of the nobility as represented in the Estates General in favor of non-noble office holders. Montesquieu had described the corruption of monarchy in terms similar to the corruption of imperial Rome and had singled out the favoring of tax farmers[59]. So had Fronde pamphlets. And in this very context, they had introduced the term 'despotique'. Just let me give one example.

Among the most searching Fronde pamphlets was the 'Lettre D'Avis a Messieurs du Parliament de Paris. Escrit par un Provinciel', published in 1649 and singled out for counter attack by pro Mazarin pamphlets, probably because it was seen as particularly damaging[60]. While the pro-Mazarin repudiation of this pamphlet characterized the 'advis' as 'political theology' that had tried to mislead its readers about the true nature of monarchy as laid down in 1. Samuel 8[61], 'l'avis' had hardly much to say about theology. Nor did it have much to say on vices or virtues, of princes or other men. Rather, it attempted to link a *system* of government run by ministers and princes and their 'mignons' with the rise of the sale of offices. It did not argue about vice or virtue, but about mechanism working on society under the pressure of war and debt. Already in Rome under Augustus, men like Maecenas and Agrippa had acquired public office solely for their own profit and solely and on the basis of their wealth. Tiberius built on that development, and ultimately filled the senate with his 'creatures'. Soon, the Senate had been composed of favorites pursuing for themselves and their factions the appropriate politics. Those

[57] See e.g. Michel Nassiet, *Noblesse et Pauvrete. La petite noblesse en Bretagne, XV-XVIII siècle*, 1993.

[58] Constant, *Adel*, pp. 146-149.

[59] Rahe, *Logic of Liberty*, p. 125 with respect to Montesquieu, l'*Esprit des Lois*, 1.8.7. and 2.13.20.

[60] A 13942 no 10 *Lettre D'Avis a Messieurs du Parliament de Paris. Escrit par un Provinciel*, Paris, 1649.

[61] 'Question s'il y doit avoir un premier minister dans le conseil Du Roy? Raison D'Estat et Politique Tres Importante A Decider pour le bien du Souverain y pour le Repos de la patrie', Paris 1649, M 12060, pp. 3-4.

opposed became victim to proscription and banishment. Along the same way, the whole of France had been corrupted. Mark here the method of gaining analytical insights on France by looking at Imperial Rome, but not with respect to the decline of virtue, but with respect to the nature of societal organization and its effects on elites. To 'l'avis', any agreement with Mazarin was dangerous, for he was going to perpetuate the system of government that had evolved in France since the sixteenth century and ultimately, France would have to accept as legitimate the 'politique of a Tyrant'[62]. Mazarin had created a 'puissance despotique & seigneuriale' that had nothing to do with proper royal government. For 'the Despot governs subjects like a father of a family his slaves just as the government of the Turk'[63]. The level of burdens that had been reached in order to serve the interest that had been growing due to France's wars was leading to the enslavement of its subjects. A prince could legitimately ask for tributes for his House and affairs concerning 'le repos de l'estat'[64]. But the amount of burdens and the excessive manner of taking the 'tailles' had long left the path of legitimate taxation in favor of 'unjust and tyrannical procedures'[65].

Hubert Carrier stressed that the 'lettre d'avis' quoted Bodin that royal monarchy respected divine law and the property of subjects and concluded that the argument of 'l'avis' was one of the remnants of the wars of religion in Fronde pamphlets[66]. But neither League nor Hugenoet argument had stressed the gradual ascendency of financiers and favorites pursuing war and establishing taxes for private profit. The emphasis of the attack on tyranny during the French Wars of Religion rested on either Henry III and his mother Catherine' s lack of due defense of the true faith by negotiating with (Protestant) heretics and then killing a prelate and a leading league aristocrat in 1588, or alternatively in allowing to kill or conspiring to kill Christian subjects, in particular during the Bartholomew night's massacre. For both League and Huguenots, the tyrants – first Henry III and then, to Catholics, Henry IV, had violated divine and natural law by threatening the true church and allowing heresy to spread.

For 'l'avies', in contrast, developments reaching back decades and being likened to developments in Imperial Rome had allowed financiers and favorites to profit from increases in burdens and taxes that in turn had de facto compromised the property of French subjects to the point of enslaving them. The reference to the 'Turk' did not allude to an eschatological challenge, as it had done for most sixteenth century pamphlets addressing the Turk, but to a government of household rule over slaves in stark contrast to the proper protection of property and subjects in a royal monarchy, as indeed Bodin had claimed. Bodin' s royal

[62] A 13942 *Lettre D'Avis* 3-13, quotation 21 'Politique de Tyran'.

[63] A 13942 *Lettre D'Avis*, p. 2: 'la Despotique governe des subejcts comme un père de famille ses esclaves Tel est le governement de Turc'.

[64] A 13942 *Lettre D'Avis*, p. 23.

[65] A 13942 *Lettre D'Avis*, pp. 25, 30: 'iniustes & tyranniques procedures'.

[66] Hubert Carrier, *Des guerres de religion à la Fronde, l'héritage des monarchomaques dans les Mazarinades*, in Jean Lecointe et al. (eds.), *Devis d'amitié. Mélanges en l'honneur de Nicole Cazauran*, Paris, 2002, pp. 901-917, 908-910.

monarchy had become a welcome benchmark to attack the current regime at it was and its burdens as allegedly introduced by favorites.

In the course of this change, Bodin' s 'monarchy seigneuriale' was turned from a different, yet legitimate kind of government into something actually appearing in France itself and being simultaneously unacceptable. A crucial step away from Bodin and toward Montesquieu' s later argument had been made.

5. Pufendorf: The model of Rome' s wolf-nest and the structure of despotic robber- societies

The application of this model allowed Pufendorf in his 1680s Introduction to the Empires and States of Europe to generalize about the relation of the specific dynamics of societal organisation and the thirst for a given society to rob its neighbours. Again, Rome figured prominently as original model and France as successor to the problematic features already identified in Rome. Built from a majority of poor residents without relevant technical skills and insufficient land to settle, robbing their neighbors became the only option for the emerging 'wolf-nest' that Rome became. Integrating captured people into their citizenship and various demographic measures allowed Rome to increase continuously its armies. Organized solely for conquest by warfare, Rome' s religion was entirely meant to keep the common people in order and engage them for purposes of the 'state'. After Tarquinius had been overthrown, the aristocracy had to make further concessions to the common people in order to appease them. Lacking any regular written constitution, law making and politics remained the prey of daily politics and their factions, further fuelled by arrangements almost institutionalizing the struggle between common people and aristocracy. For this reason, the aristocratic council waged one war after another, primarily to keep the lower orders busy with war and appease them at home. Rome' s conquests, in turn, only exacerbated the basic 'desease' of this 'state'. Once rich and influential citizens became able to organize their own armies from Rome' s pauper-population, their soldiers turned their 'gangster hands' onto Rome itself rather than primarily onto foreign victims. The introduction of the principate could not address the underlying problem, for once the soldiers realized that on them alone rested the power of the Emperors they began to erect their own emperors who in turn remained entirely dependent on the 'war mob' ('Kriegspöbel') that proceeded to plunder the Empire as it had plundered its neighbours.

Modeled on robbery by conquest, Pufendorf also indicted the Spanish and French monarchies for a similar design. After having been freed to pursue 'other's goods' after the termination of English influence on French soil and Moorish influence on the Spanish Peninsula Spain during the mid to late fifteenth century, both the French and Spanish monarchies were able to consolidate and immediately clashed with each other from the 1490s. They incited a 'fire of war' submitting all Europe unto unspeakable misery. The indictment of 'war despotism' ran like a red threat through his whole analysis.

From the retreat of English kings from French soil, Pufendorf identifies as a core interest of every French king to plant faction among his major vassals.

Strife between the houses of Valois, Bourbon and Guise was also at the roots of the French Wars of Religion, allowing an avalanche of 'cruelty' and the 'fury of the mob' to erupt. Priests and the Paris mob supported the Guise in their machinations and manned the Catholic League, a faction becoming insane with wrath after the murder of their leaders. None of that prevented the people of Paris to receive Henry IV, their former protestant arch enemy, as if there had never been any dispute. Other Catholic cities likewise hastened to submit to Henry. The struggle between French kings and French magnates went on, leading even to plans of one aristocrat to break up the French kingdom into many principalities in alliance with Spain. Henry IV, after having survived more than fifty attempts at assassination from Romish clergy eventually fell victim to the last of them. During the minority of Louis XIII, his mother attempted to buy the good will of the magnates. Against this background, Pufendorf rather praises Richelieu, including his suppression of Hugenuet influence, while he rather critically assessed Richelieu' s Protestant adversary, the Duke de Rohan, as 'cunning'.

Crucially, his emphasis did not rest on confessional solidarity, but rather on the casualties of civil war instigated by religious fanatics and magnate pride, estimated by him as above one million dead, ten million livre to be paid to the soldiery alone, nine cities, four hundred villages, 20.000 churches, 2.000 monasteries and 10.000 houses wasted and burnt. As the mother of Louis XIII had done to appease the great, Mazarin spent lavishly during the minority of Louis XIV to find allies and had to burden French subjects accordingly. But it was 'jealousy' among French aristocrats that led to rebellion against Mazarin, not care for the Kingdom of France or its subjects. Again, as with Richelieu, Pufendorf concedes that Mazarin sought the advantage of 'his king and of the Empire'. In contrast, Mazarin' s many opponents sought only their own. Pufendorf also praised Louis XIV' alleged removal of favorites and his attempt to cleanse Royal financial administration from corruption. But ultimately, Louis was bent on capturing and robbing his neighbours and manipulating other European courts to that end, just as many of his predecessors. The sheer potential of France' s twenty million subjects' taxable wealth and its rich textile manufacture and trade and, according to an alleged assessment of Richelieu, its potential 600.000 infantry and 150.000 cavalry that could be paid by these resources, had made France bent on conquest, in particular since its nobility had made war its profession and reputation. At least smaller neighboring states remained in imminent danger to be capture.

6. Conclusion

The complicated analysis of the genealogy of checks and balances Montesquieu came up with in order to protect us from despotism, and the actual nature of despotism as connected to global developments of war and indebtedness, developed for more than a century of reflection on the impact of relentless wars on European monarchies, from the mid seventeenth to the mid eighteenth century.

Some of Montesqieu' s argument was already existing in Pufendorf. For the Europe Pufendorf described was not one where founding a 'state' allowed

men to leave behind entirely the inconveniences of the state of nature. War and its miseries remained in full swing. The gradual and piecemeal transformation of the confessional rhetoric against the impious tyrant and toward analyses of society stressing the consequences of war and debt was further moving toward Tocqueville and his skeptical remarks about the workings of democracy, in America or elsewhere. It is one example of the modernity of Early Modern Political Thought.