

# *The Spirit of Laws*

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## Book XXIV. Of Laws in relation to Religion Considered in Itself, and in its Doctrines.

### 14. In what Manner Religion has an Influence on Civil Laws.

As both religion and the civil laws ought to have a peculiar tendency to render men good citizens, it is evident that when one of these deviates from this end, the tendency of the other ought to be strengthened. The less severity there is in religion, the more there ought to be in the civil laws.

Thus the reigning religion of Japan having few doctrines, and proposing neither future rewards nor punishments, the laws to supply these defects have been made with the spirit of severity, and are executed with an extraordinary punctuality.

When the doctrine of necessity is established by religion, the penalties of the laws ought to be more severe, and the magistrate more vigilant; to the end that men who would otherwise become abandoned might be determined by these motives; but it is quite otherwise where religion has established the doctrine of liberty.

From the inactivity of the soul springs the Mahometan doctrine of predestination, and from this doctrine of predestination springs the inactivity of the soul. This, they say, is in the decrees of God; they must therefore indulge their repose. In a case like this, the magistrate ought to waken by the laws those who are lulled asleep by religion.

When religion condemns things which the civil laws ought to permit, there is danger lest the civil laws, on the other hand, should permit what religion ought to condemn. Either of these is a constant proof of a want of true ideas of that harmony and proportion which ought to subsist between both.

Thus the Tartars under Jenghiz Khan,<sup>10</sup> among whom it was a sin and even a capital crime to put a knife in the fire, to lean against a whip, to strike a horse with his bridle, to break one bone with another, did not believe it to be any sin to break their word, to seize upon another man's goods, to do an injury to a person, or to commit murder. In a word, laws which render that necessary which is only indifferent have this inconvenience, that they make those things indifferent which are absolutely necessary.

The people of Formosa believe<sup>11</sup> that there is a kind of hell, but it is to punish those who at certain seasons have not gone naked, who have dressed in calico and not in silk, who have presumed to look for oysters, or who have undertaken any business without consulting the song of birds; while drunkenness and debauchery are not regarded as crimes. They believe even that the debauches of their children are agreeable to their gods.

When religion absolves the mind by a thing merely accidental, it loses its greatest influence on mankind. The people of India believe that the waters of the Ganges have a sanctifying virtue.<sup>12</sup> Those who die on its banks are imagined to be exempted from the torments of the other life, and to be entitled to dwell in a region full of delights; and for this reason the ashes of the

dead are sent from the most distant places to be thrown into this river. Little then does it signify whether they had lived virtuously or not, so they be but thrown into the Ganges.

The idea of a place of rewards has a necessary connection with the idea of the abodes of misery; and when they hope for the former without fearing the latter, the civil laws have no longer any influence. Men who think themselves sure of the rewards of the other life are above the power of the legislator; they look upon death with too much contempt. How shall the man be restrained by laws who believes that the greatest pain the magistrate can inflict will end in a moment to begin his happiness?

Source: <https://socialsciences.mcmaster.ca/econ/ugcm/3ll3/montesquieu/spiritoflaws.pdf>