The Rights of History: Enlightenment and Human Rights

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06 May 2024

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ABSTRACT

Lately, the study of human rights has become a dangerous ground for historians—above all in Europe. In his celebrated *Le Sottisier*, Gustave Flaubert ironically defined history as a dangerous knowledge for teachers and students; yet, he was not fully aware in his time of all the rivalries and pretentions that scholars from other fields—like anthropology, law, sociology, political theory—would raise. In fact, those scholars seem to be frightened when seeing the ranks of the historians approaching a field they consider their own property. This is certainly the case of human rights.

I. INTRODUCTION

Lately, the study of human rights has become a dangerous ground for historians. There are multiple reasons behind this found inside as well as outside of history. Internal reasons may be identified in the old, and yet unsolved, opposition between the historians focusing on cultural relativism and historicism, on the one side, and those focusing on the cosmopolitan and universalistic dimension of rights, on the other. However, the external reasons can be deemed more important.

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In his celebrated *Le Sottisier*, Gustave Flaubert ironically defined history as a dangerous knowledge for teachers and students;[1] yet, he was not fully aware in his time of all the rivalries and pretentions that scholars from other fields like anthropology, law, sociology, and political theory, would raise. In fact, those scholars seem to be frightened when seeing the ranks of the historians approaching a field they consider as their own property. This is certainly the case of human rights. Indeed, historical inquiry on this topic started very late. Not that many results have been reached until now, but there are enough to raise alarmed reactions due to the political impact and cultural consequences they could produce in the contemporary debates within the public sphere.

II. THE DELAY OF HISTORICAL RESEARCH AND NEW HISTORIES ON HUMAN RIGHTS

In his article "The Recent History of Human Rights," Kenneth Cmiel emphasized the fact that only in 1997 did the American Historical Association choose human rights as the subject of its yearly Convention.[2] Therefore, he asserted that even if "[f]ew political agendas have seen such a rapid and dramatic growth as that of 'human rights[,]' [p]rior to the 1940s the term was rarely used."[3]

With sharp irony, arguing against those who were turning even Buddha and Jesus into "human rights activists," Cmiel denounced the danger of anachronism and historiographical mistakes run by those who confused the eighteenth century term "rights of man" with "human rights" in order to be politically correct in the contemporary world, but leaving too much room for the rhetoric of human rights.[4] Historical research, its methods, and its rules, had to be respected and defended from those who believed only in the eternal present, in the ideological removal of the past, or from those building new political utopias in spite of their embarrassing historical roots—such as the Reign of Terror.

According to Cmiel, in order to meet the task of an accurate historical reconstruction of the genealogy of human rights, historians have to start from the origins of the human rights language, a ground concealing specific geographical and cultural areas, personalities, concepts, points of view, and significant events.[5] In other words, historians, bound by their methodologies,

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1. *See* Gustave Flaubert, Le Dictionnaire Des Idées Reçues de Flaubert (Anne Herschberg-Pierrot ed., 1988).
2. Kenneth Cmiel, *The Recent History of Human Rights*, 109 Am. Hist. Rev. 117, 119 (2004).
3. *Id.* at 117.
4. *Id.* at 119.
5. *Id.* at 120.

must find their starting points in linguistic landmarks such as the United States Declaration of Independence of 1776 and the French *Déclaration des droits de l'homme* of 1789. These sources refer only to the "rights of man,"[6] which must be considered as something different from natural rights as they were sketched in the canon law of the Middle Ages, from the modern rights of men and women envisaged by some Enlightened thinkers of the late eighteenth century, as well as from the rights of person of the new Thomistic tradition (as they can be found in Emmanuel Mounier[7] and Jacques Maritain[8]), and from the human rights that have developed after the Second World War.

In this direction, with respect to the truth of historical semantics, those latter topics have been inquired by some fundamental research.[9] Similarities and dissimilarities among different stages of the history of human rights, and particularly between the eighteenth century culture of "rights of man" and the contemporary culture fueling the present debate on human rights, have been clarified by Samuel Moyn.[10] Moyn's deeply interesting work, which speaks not only to historians but to everyone dealing with human rights, vigorously supports the thesis of a sharp discontinuity between those two cultural worlds. Nevertheless, Moyn's stance lacks a full historical interpretation of the *Enlightenment Rights Talk*, mainly because of a widespread delay of the international historiography on human rights in the Enlightenment.

Moyn considers the human rights movement for as an absolute outcome of the present world, picturing it as the last utopia invented by humankind, something unprecedented, and wholly different from what has been created in the past.[11] He properly argues that the expression "human rights" did not become current until before the second half of the 1970s.[12]

Indeed, that expression has been spread under the influence of John Rawls and Ronald Dworkin,[13] then was used in the United States administration's official documents, both under left-leaning with progressive tones (i.e. Jimmy Carter)[14] and right-leaning with conservative tones (i.e. Ronald Reagan).[15] But,

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6. *Id.* at 122.
7. *See* Emmanuel Mounier, Manifeste au Service du Personnalisme (1936), *available at* http://clas-siques.uqac.ca/classiques/Mounier_Emmanuel/manifeste_service_pers/mounier_mani-feste_pers.pdf.
8. *See* Jacques Maritain, Saint Thomas and the Problem of Evil (1942).
9. *See* Richard Tuck, Natural Rights Theories: Their Origin and Development (1982); Brian Tier-ney, The Idea of Natural Rights: Studies on Natural Rights, Natural Law, and Church Law 1150–1625 (1997); Knud Haakonssen, Natural Law and Moral Philosophy: From Grotius to the Scottish Enlightenment (1996); T.J. Hochstrasser, Natural Law Theories in the Early Enlightenment (2000); Lynn Hunt, Inventing Human Rights: A History (2007); Dan Edelstein, *Enlightenment Rights Talk*, 86 J. Mod. Hist. 530 (2014).
10. *See* Samuel Moyn, The Last Utopia: Human Rights in History (2010).
11. *Id.* at 2.
12. *Id.*
13. *See* John Rawls, A Theory of Justice (1971); Ronald Dworkin, *Taking Rights Seriously, in* Applied Ethics: A Multicultural Approach 26 (Larry May & Shari Collins Sharratt eds., 1994).
14. Moyn, *supra* note 10, at 216.
15. *Id.* at 217.

above all, onward from the second half of the 1970s, important international movements for human rights were born, such as the Human Rights Watch, or were granted exceptional acknowledgments, as with the Nobel prize given to Amnesty International in 1977. In Moyn's opinion, the new utopia of human rights did not arise in the wake of the debate about the Holocaust or of the UN Declaration of 1948, as historiography would suggest, but rather as an answer to the evident and progressive end of old utopias, such as Socialist International and the capitalistic democratic reform movement.[16] Hence, the innovative utopia of those movements for a new morality of humankind, with their anti-political and universalistic vocation, clashed with the state and the nation; statism and nationalism, in the previous centuries, had been guilty of neocolonialism and the imperialist modern forms.

Until now, "human rights" was considered to be a modern and more politically correct version of the "rights of man" expression, or *droits de l'homme*, used in the Enlightenment and by the 1789 revolutionaries.[17] But this historical and linguistic distinction between "human rights" and "rights of man" is not completely harmless, and it risks generating problems when used without critical awareness. Indeed, this distinction is creating misunderstandings and confusion in Europe, not only in the field of historical research, where scholars are sometimes accused without foundation, of sexism by the supporters of an ideologized version of political correctness for refusing linguistic anachronisms. Also in the wider domain of political and juridical discourse: European institutions wanting to respect the reasons of their centuries-old history—that is to conserve expressions of the past in important international institutions with the reference to the "rights of man" in their own names—are requested to bend to this new linguistic trend.[18] See for instance, the case of the European Court of the Rights of Man, systematically translated in English as European Court of Human Rights.[19]

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16.   *Id.* at 7–8.
17.   *See* The French Revolution and Human Rights: A Brief Documentary History (Lynn Hunt ed., 1996).
18.   Moyn, *supra* note 10, at 217.
19.   In France, the historical and linguistic problems have been recently pointed out with the campaign of a feminist group aimed to convince the Parliament and President François Hollande, to change the name of the *Declaration des Droits de l'homme* (see Kim Willsher, *French Feminists Demand Rewording of 1789 "Rights of Man" Declaration,* Guardian, 21 May 2015, *available at* https://www.theguardian.com/world/2015/may/21/french-feminists-rights-of-man-declaration-petition.) In Italy, one of the most important Italian historians has debated the question on the most important Italian newspaper (Giuseppe Galasso, *Because of the Intellectual Trends, Europe Gives its Historical Role up: World History and Human Sciences Diminish a Centuries-Old Heritage,* Corriere Della Sera, 9 June 2015). Therefore, the risks of a lack of historical and critical awareness about the difference between "human rights" and "rights of man" is really becoming a crucial question for international law as well. *See* Jean-Luc Egger, *"Diritti dell'uomo" e "Diritti umani:" Sinominia Pacifica?,* 3 Leges 503 (2014).

A turning, as much as arguable, point in Moyn's discontinuous histori-cal reconstruction is represented by the theory of the utopian and moral perspective of the human rights movement—indeed, the last chapter of his book is titled "Burden of Morality."[20] Hence, human rights seem to have anti-political features, and their foundation is a "politics of suffering" boost-ing their action.[21] These innovative features are pictured as different from the Enlightenment cultural and political project of the "rights of man" as stated in the 1789 Declaration, and are considered a "politics of citizenship,"[22] a reform plan to reach the rights of citizenship through the state and the na-tion—two essential elements of the Western political modernity.

This last point seems to be questionable. Recent international historical research on the language of the "rights of man" founded by the eighteenth century Enlightenment discloses new details and reinterpretations worthy of being known and spread among all those human rights scholars—even from different perspectives and points of view.[23]

Moyn seems to overlook the need to distinguish the Enlightenment from the French Revolution; this need springs from a theory that considers the Enlightenment as a laboratory of modernity.[24] The heart of that laboratory lies not only in its use of critical reason but in the idea of man in himself, searching for his own humanity through a political reform project of eman-cipation founded on the *sciences of man*. In this perspective, Enlightenment can be seen as a new original humanism, one that gained hegemony among European elites in the form Late Enlightenment—*Tardo Illuminismo*, *Lumières tardives*, *Spätaufklärung*—at the end of the eighteenth century. This culture had very different features from the revolutionary culture of 1789.[25]

Moyn thus seems to overlook the double fascinating character—a utopian and moral, as well as a realistic character, in the political and juridical fields—of the Enlightenment project of the Rights of Man, which invented the individual subject, defending him from the despotic power of the absolute state and the class privileges of the Old Regime—enemies that were renewed in the principle of nationality in the nineteenth and twentieth centuries. This project also deeply distinguished itself from the ideas and deeds of the revolutionary elites and the leaders of the Terror, as testified by Nicolas de Condorcet's tragic experience, by his death in a Jacobin prison,

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20. Moyn, *supra* note 10, at 212.
21. *See id.*
22. *Id.* at 12.
23. About this, the reference is to the results of Vincenzo Ferrone's research from 2003. *See* Vincenzo Ferrone, The Politcs of Enlightenment: Republicanism, Constitutionalism, and the Rights of Man in Gaetano Filangieri (Sophus A. Reinert trans., 2012); Vincenzo Ferrone, Storia dei Diritti dell'uomo: L'Illuminismo e la Costruzione del Linguaggio Politico dei Moderni (2014).
24. Moyn, *supra* note 10.
25. *See* Vincenzo Ferrone, The Enlightenment: History of an Idea (Elisabetta Tarantino trans., 2015).

and by the renowned pages of his *Esquisse d'un Tableau Historique des Progrès de L'esprit Humain*.[26]

The *Esquisse* was the spiritual legacy of a whole century of reflections, as well as the real final manifesto of the European Enlightenment's political and social thought on rights. Reading its lines it can be understood that Condorcet considered the "rights of man" as defined by the simultaneous presence of the following qualities and characteristics: 1) they naturally pertain to human beings as such; 2) they must be the same for all the individuals, without any kind of distinction concerning birth, class, nationality, religion, gender, or skin color; 3) they have to be universal; and, 4) they have to be considered unalienable and imprescriptibly in front of any political and religious institution.[27] With this in mind, Condorcet advocated in a hard struggle against slavery, and for the rights of women and of religious minorities, before and during the Revolution.[28]

From a theoretical point of view, Condorcet developed a modern, secularized Enlightened philosophy of history, in order to explain the progressive emergence of the "rights of man" from the oblivion through the secular struggles for liberty as a sign and evidence of the civil progress of humanity.[29] He was one of the first thinkers who turned Thomas More's traditional utopian genre into something that had never been thought of before: ucronia; that is a social and political dream imagined not in an unreal place, but rather in an unreal time, in a future dream to be fulfilled.[30] He described in the following way the last era of humanity—the era of the final triumph of the Enlightenment Rights throughout the world:

> *Il arrivera donc, ce moment où le soleil n'éclairera plus, sur la terre, que des hommes libres, et ne reconnaissant d'autre maître que leur raison; où les tyrans et les esclaves, les prêtres et leurs stupides ou hypocrites instruments n'existeront plus que dans l'histoire et sur les théâtres.*[31]

In *Esquisse*, Condorcet had discovered those rights one after the other, one century after the other, as innate rights in the struggles for the liberation and progress of the human spirit.[32] He had understood that their declaration was not enough: they had to be claimed, practiced, warranted in their "exercise," turned into *droits politiques*—i.e. into a written Constitution.[33] Together with Thomas Paine, Gaetano Filangieri, and Francesco Mario Pa-

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26. *See* Marie Jean Antoine Nicolas Caritat de Condorcet, Esquisse d'un Tableau Historique des Progrès de L'esprit Humain (1988).
27. *Id.*
28. *See id.*
29. *See id.*
30. *See* Bronislaw Baczko, Lumières de L'Utopie 202 (1978).
31. *See* Condorcet, *supra* note 26, at 271.
32. *See id.*
33. *See id.*

gano (with his *Project of Constitution* for the Neapolitan Republic of 1799), Condorcet was one of the fathers of *Enlightenment Constitutionalism*, a historiographical category not deeply known yet, and often mistaken with the Revolutionaries' Constitutionalism. The Enlightenment Constitutionalism was truly original as compared to the customary Constitutionalism of the Old Regime—opposing power to power and intermediate bodies to the king, according to Montesquieu's Machiavellian view[34]—and to the Revolutionary Constitutionalism, ruled by General Will, the primacy of legislative power, and the principle of national sovereignty. The heart of Enlightenment Constitutionalism was held instead by the "rights of man," written in a solemn introductory declaration, and the building of an innovative judicial system for realizing them—as Filangieri's monumental *Scienza Della Legislazione* hoped for[35] or for defending them from the legislative power's limitless sovereignty. This latter was the fear of Pagano; indeed, he envisaged an original instrument to protect them, the *Magistratura degli Efori*, very similar to the actual Supreme Courts.[36]

In the last ten years, the history of human rights has been rebuilt above all in the United States and in Italy, but starting from different research theories, sensitivities, and historiographical methods. Thus, the results are very different. But those results can enrich the international debate on the authentic nature, the present, and the possible future of human rights.

Lynn Hunt and Dan Edelstein have reconstructed the history of the "rights of man" mainly on the basis of a historiographical hypothesis focusing on the emotional change that occurred in common sensitivity and in the European eighteenth century mind, due to the clamorous success of the novels of Samuel Richardson and Jean-Jacques Rousseau. These novels changed the way European elites thought about human relationships, promoting the *bienveillance*—the modern empathy towards "the other" in respect to "oneself." Inspired by Franco Venturi, the Turin School has deployed another kind of approach, focused instead on: the Enlightenment's direct and fundamental contribution in shaping the modern language of rights the great political awareness of a movement whose effort was towards new reforms, a new subversive and utopian culture against the Old Regime stances, and, finally, on reformist politics engineered to protect people from themselves and from power, emancipating them, and making them happy by way of the influence of public opinion with its media.[37]

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34. *See id.*
35. *See* Gaetano Filangieri, la scienza della legislazione (2003); *see also* Vincenzo Ferrone, La societa' giusta ed equa: repubblicanesimo e diritti dell'uomo in Gaetano Filangieri (2003).
36. On the "Enlightenment Constitutionalism," see Ferrone, The Politics of Enlightenment, *supra* note 23, at 140.
37. *See* Ferrone, Storia dei Diritti dell'uomo, *supra* note 23; *see also* Diritti e Costituzione: L'Opera Di Gaetano Filangieri E La Sua Fortuna (Antonio Trampus ed. 2005).

There are those same differences even with reference to Jonathan Israel's more recent thesis, albeit still unproven, about the relationship between the "Radical Enlightenment" and the "rights of man." In fact, Israel does not devote much room to this relationship, as if it were taken for granted. These rights, properly considered as corner-stones of modernity,[38] are defined by him as "inextricably linked to radical monist philosophical positions during the Enlightenment era."[39] Actually, things went quite differently. It was the exponents of deism, natural religion, and more generally, of the moderate Enlightenment—John Locke, Jean Barbeyrac, Giambattista Vico, Antonio Genovesi, Cesare Beccaria, Voltaire, Condorcet, Rousseau—who led the struggle for rights, beginning with the struggle for the *libertas philosophandi* and religious liberty as a "natural right."

The idea of natural rights has all but a philosophical foundation: it is an extraordinary moral idea, an ethical postulate based above all on the acknowledgement of the "dignity of the person" according to a model that can be found in Cicero, Pico della Mirandola, and Voltaire. During the eighteenth century, this idea was turned into an innovative and powerful political and juridical language, through its concrete use in the struggle for reforms and for the defense, the emancipation, and the freedom of the individual. The main actors in this process were Locke, Barbeyrac, Jean-Jacques Burlamaqui, Rousseau, Genovesi, Beccaria, and Filangieri.

If one really looks for the intellectual roots of natural rights, one should probably not turn towards philosophy or towards Spinozian monism. They must be looked for in the building of a new science of Man and in the Enlightenment's ambitious project to renew humanism focusing on the individual—as we can read in the *Encyclopédie*.[40] Indeed, how could one think about the invention of the "rights of man" without previously inventing a new idea of *Man*, redefining the relationships between the individual and the community, his liberty and his responsibility? The validity of the civil value of those rights, and their possible capability to gain a political reform of the Old Regime basis, must be identified in human history, as Vico and Condorcet did, and certainly not in any philosophical speculation.

This is the perspective in which historical scholarship—when dealing with the circulation of the idea of "rights of man" in the different European historical contexts in which it was born, in which it was given a moral and political meaning, and deeply differing from Medieval Canon Law's conception of Subjective Right and Natural Rights—has achieved some results deeply enriching the debate on human rights.

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38. Jonathan Israel, Democratic Enlightenment: Philosophy, Revolution, and Human Rights 1750–1790, at 13 (2011).
39. *Id*. at 21.
40. *See* Denis Diderot & Jean le Rord D'Alembert, L'Encyclopédie (Patrick Baradeau & Yves Verbeek eds., 1985).

In the Italian context, such research outcomes have led to the reconstruction from the point of view of the history of ideas, of the special theoretical contribution, to an original constitutional and republican reading of the "rights of man" that was given by Vico and Genovesi, and then by Beccaria and Filangieri in the political and juridical areas. In this sense, in Filangieri's *Scienza della Legislazione*, the real masterpiece and bestseller of the Late Enlightenment, translated in the more important languages of the West—the rights of man and the principle of their equality acted as the basis for a modern judicial system embracing every sphere of civil life: from a rights-oriented state-building conception to public education, from the reform of criminal law to a legislation in religious and economic matters based on the protection of the dignity of man and his fundamental rights.

For the first time, in the volume of the *Scienza della Legislazione* dedicated to economy and the laws of political economy, Filangieri put rights before the autonomy of the market.[41] This latter, oppositely, has prevailed in the reflections on the rights developed by the Anglo-Saxon Enlightenment, particularly by Hume and Smith, who politically neutralized them, relegating them to the mere juridical field because of their dangerousness in politics and economy.[42]

On the other hand, in Northern Europe and among Parisian physiocrats, there prevailed an interpretation of the "rights of man" considered as derived from duties (duty-based), in the wake of the stoic principle of sociability promoted by Samuel von Pufendorf in his small "catechism" of natural rights.[43]

Since the early decades of the eighteenth century enlightened thinkers from Naples, Milan, and Paris, polemicized with this conception of natural right descending from Hugo Grotius and Pufendorf, deeming it to be affected by Thomist rationalism and too compromised with absolutism and divine right monarchies. Their goal was to historically reassess the individual's freedom in his relation with the community, in the republican participation to politics, as well as in his pursuit of happiness as natural right.

It was mainly in France, with Rousseau, Voltaire, Denis Diderot, and Louis-Sébastien Mercier, that the language of rights turned into a true "political formula," a powerful tool in the struggle against the Old Regime, thanks to its appeal to public opinion through every communication media. The consequence was the "modern politicization" of Late Enlightenment literature, represented by Diderot's aesthetic revolution that appealed both to passions and reason, framing each form of art in the function of the emancipation of the individual, against slavery, inequalities, and the class justice of the Old Regime.

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41. *See* Filangieri, *supra* note 35.
42. For the results here shortly pointed out, *see* Ferrone, Storia dei Diritti dell'uomo, *supra* note 23.
43. Samuel von Pufendorf, De Officio Hominis et Civis Juxta Legem Naturalem (1682).

In the heart of Europe and in the territories of the Holy Roman Empire, the influence of the Italian, French, and US Enlightenment has been much stronger than what it was thought until now. It suffices to mention, for examples, the success of Beccaria's denouncement of torture and the death penalty and calling for a reform of criminal law, Diderot's writings against slavery, Voltaire's polemics in the *affaire Calas*, or the Declaration of Independence of 1776. A decisive battle for the history of the "rights of man" in the West was fought in Germany's most eminent universities, in the newspapers of Berlin and Munich, and in the salons and princely courts.

Although already known at the beginning of the eighteenth century in the duty-based version of Pufendorf—reintroduced by Christian Wolff and followed by the Scottish thinkers— the topic of rights was used and promoted in the second half of the century to challenge the absolutistic conception of the modern state that had drifted into Frederick II's despotism.

The process was interrupted following the events of the order of the *Illuminati of Bavaria* and the persecutions of young *Aufklärer* like Johann Gottfried Herder, Johann Wolfgang von Goethe, and Friedrich Schiller were involved in the case, as well as with the failure of the propaganda of rights attempted by Adam Weishaupt by means of political conspiracy and sectarian freemasonry. The proclamation of the Prussian General Code in 1794 marked the final neutralization of rights.

By turning the entire eighteenth century debate on rights in the Holy Roman Empire in rigid juridical formulas, the Prussian General Code ended the brilliant age of cosmopolitanism and Enlightenment in Germany. It reaffirmed centuries-old choices of political culture inspired by Thomas Hobbes' *Leviathan*; choices based on the idea that only the state, in its modern, bureaucratized and legislatively-almighty version, had the capacity to generate and protect the civil society, granting rights from above to its subjects, as opposed to what had been argued by Locke and the Late Enlightenment republicans about the primacy of civil society and the rights on the state.

With the French Revolution and The Terror, the Enlightenment project of protecting the individual, emancipating him, and giving him happiness through the practice of rights came to an abrupt and bloody end. It was attacked, then forgotten, and finally entered into a historiographical shadow that persisted until our time.

European history undoubtedly took another direction, which is yet to reconstruct from the viewpoint of the possible legacy of the world and the language of rights shaped by the Enlightenment as a shelter from the new colonialism, the omnipotence of the state, and, above all, racist nationalism. The task of reconstructing those terrible events and their generative relations with the twentieth century's totalitarianisms will be a challenge for future historians working on the new historiography on the Enlightenment and its legacy in Western history.

However, the turning question from which all Anglo-Saxon recent historiography on human rights has started still remains: what are the reasons that drove the 1776 Declaration of Independence to define as self-evident the truths relevant to human rights?[44] First, it must be noted that Declaration's language was completely in line with Pufendorf and Grotius' doctrine of natural rights, based on demonstrative logics and the Euclidean geometry of self-evident postulates. Apart from this, the answer provided by Hunt, which centered around the emotional change in collective sensibility of the eighteenth century,[45] can be accepted only partially in front of the reconstruction I have tried to express, pointing to the powerful and conscious political campaign on the "rights of man" organized by European Enlightened elites. The consciousness and intentionality of that campaign opens the door to new questions.

III. CONCLUSION

Why did those Enlightened circles commit themselves so firmly in this struggle to create a new political language to defend and emancipate the man? More generally, why did the Enlightened West discover the "rights of man"?

A possible answer could come from a faraway past and from a deep crisis that kept in check Western civilization in itself. The reference is to the harsh civil and religious war that has been fought for almost two centuries, from the sixteenth to the early eighteenth centuries, afflicting the whole continent with its horrors and slaughters, and that lies at the heart of this answer. The pitiless massacres between Protestants and Catholics not only broke up forever Christianity and its unitary idea of truth, generating longstanding hate and feeding the skeptical movement, but also put into crisis the ancient conception according to which no human community nor civilization is possible without religion. As Fyodor Dostoevsky asked himself with anguish, "is everything permitted without God?"[46]; Friedrich Nietzsche wrote, "To my eyes no idea is greater than the denial of God. What is the history of mankind? The man has done nothing other than inventing God to avoid reciprocal killing."[47] The civil and religious war of those centuries showed how that invention was failing everywhere. Instead of restraining and limiting the will of power and the homicide spirit of man, God had become the justification for the killing of Christians. This was bitterly admitted by Grotius, Pufendorf, and the fathers of modern natural law, determined to give

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44. *See* Self-Evident Truths? Human Rights and the Enlightenment (Kate E. Tunstall ed., 2012).
45. *See* Hunt, *supra* note 9.
46. Fyodor Dostoyevsky, I Fratelli Karamazov [The Brothers Karamazov] 88 (2004).
47. Friedrich Nietzsche, La Volontà di Potenza [Der Wille zur Macht] 129 (1984).

new ground to the principle of authority and to create a new moral science of man's duties, a secularized one, autonomous from religions mastered by priests and theologians and pitting each one against the other. That admission paved the way to deism and the revolutionary conception of natural religion, towards the discovery of the moral idea of the "rights of man" as the new possible stop and limit to the will of power and the homicide instinct of the *homo necans*. It all started with Hobbes claiming the natural right to life, then Barbeyrac claiming it for religious freedom, finally ending with Burlamaqui and his idea of a natural right to the pursuit of happiness, leaning on human works instead of the design of Divine Providence. In other words, the Enlightenment, with its political language of rights, arose from the moral failure of a burning Christianity that threatened the existence itself of the individual.

The real objectives of the Enlightened intellectuals became the creation of new morals, rational and universal, and founded upon rights on the one side, and on the other side, the education of mankind by overcoming the ancient connection between morals and religion as the founding principle of civil coexistence—the connection that had allowed Plato, in the celebrated Book 10 of his last work, *The Laws*, to attack the partisans of atheism. From this viewpoint it was not Pierre Bayle's hypothesis about the possible existence of a society of atheists, nor the theses of the Radical Enlightenment materialists that laid the premises for a universalistic and cosmopolitan conception of rights. It was instead the deists like Voltaire, Filangieri, or Rousseau, that promoted a natural religion common to each peoples, without churches or theologians, envisaged to improve the existence of the individuals and inclined to think of a faraway God, not involved in human events. It was the time of the first inquiries of the Enlightenment on religion as a natural experience, expression of the human need to ease existential anguishes, up to Rousseau's civil religion of the "rights of man."

Starting from those extraordinary ideas, the history of mankind, through defeats and delusions, created upon time the foundations for what we now call *Human Rights Talk*.