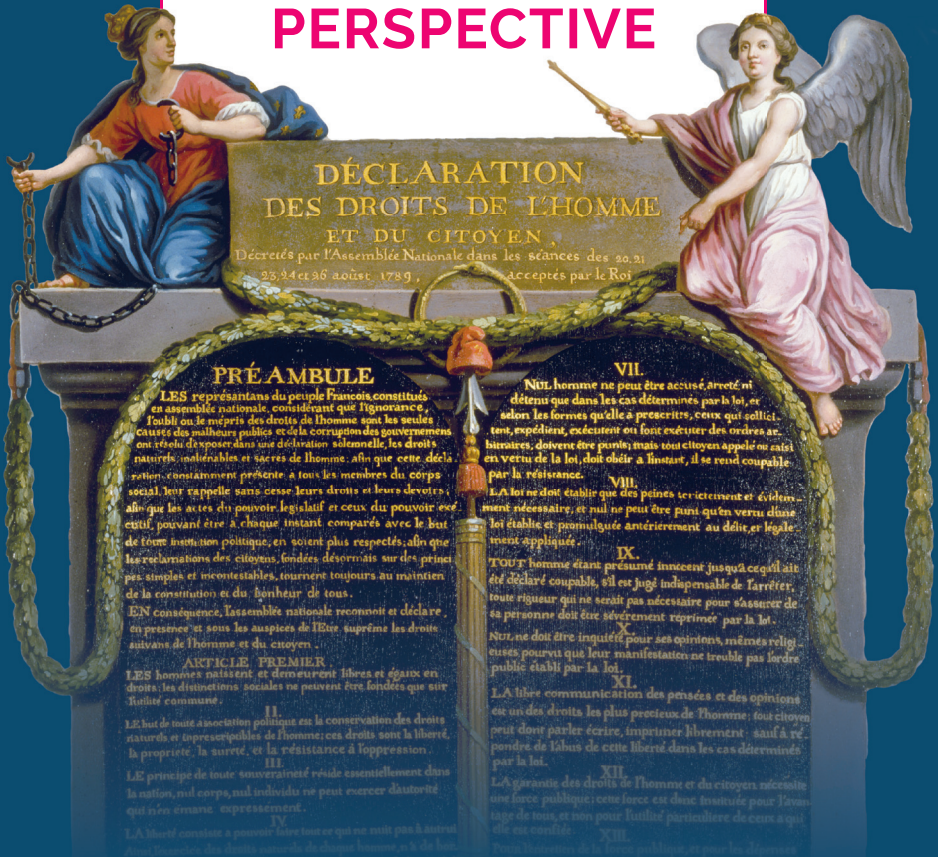


International Summer School  
Turin Humanities Programme - THP

## ENLIGHTENMENT LEGACY:

# THE RIGHTS OF MAN IN A GLOBAL PERSPECTIVE



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Turin Humanities Programme – THP

# ENLIGHTENMENT LEGACY:

## The Rights of Man in a Global Perspective



## **Fondazione 1563 per l'Arte e la Cultura della Compagnia di San Paolo**

Registered office: Corso Vittorio Emanuele II, 75 – 10128 Torino  
Headquarters: Piazza Gian Lorenzo Bernini, 5 – 10138 Torino  
Tel. +39 011 15630570 – info@fondazione1563.it  
Codice fiscale: 97520600012

### **Turin Humanities Programme**

Summer School

*Enlightenment Legacy: the rights of man in a global perspective*

Torino - Palazzo Carignano, September 1-3, 2022

Director of Studies of the Turin Humanities Programme, 1<sup>st</sup> cycle: Vincenzo Ferrone

Scientific Committee of the Turin Humanities Programme: Nicholas Cronk, Elisabeth Décultot, Serena Ferente, Vincenzo Ferrone, Nino Luraghi

Scientific coordination: Vincenzo Ferrone, Valentina Altopiedi, Giuseppe Grieco, Alessandro Maurini

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## **THE SUMMER SCHOOL OF FONDAZIONE 1563: EXPERIMENTING KNOWLEDGE AND ENGAGEMENT**

With this publication, we are pleased to present the experience of the first Summer School of the Turin Humanities Programme. We believe that sharing the memory of such an event is interesting for our institution's community and for all the scholars who address these research themes.

The THP-Turin Humanities Programme is a project of Fondazione 1563, which aims to encourage research tradition in the humanities in the broadest sense spanning from history, philosophy to the history of thought and of culture, to attract researchers of high quality from all over the world, selected through a competitive process to come to Turin.

The activity of THP therefore aims to re-evaluate Turin as a central research hub in the field of humanities on the national and international scene, as during the Twentieth century. A Scientific Committee made of experts selects the themes of the biennial cycles of scholarships (the third THP cycle is starting in November 2023) by looking at the global scene.

What matters is not only the scientific quality of the funded research, but also the ability to increase the value of the public debate thanks to the selection of salient topics, such as human rights, which are the focus of the first THP cycle of studies and the focus of this Summer School.

Obviously, this means involving the Scientific Committee of the THP and increasing the local scientific community, favoring strong interaction between senior researchers and scholars who were selected to follow our summer program. They are encouraged to participate in discussions about their research projects to create an international network that has Turin at its center. Fondazione 1563 has for a long time strongly believed in this principle. It has made it one of its main missions, that the role of research in the Humanities must be cultivated because it is fundamental for the development of our society.

*Piero Gastaldo*  
*Chair of Fondazione 1563*





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**INTRODUCTION**

Since 2013, Fondazione 1563 has been supporting research and advanced training in the field of Humanities through investigation programs, scholarships for postdoctoral researchers, fellowships to visiting scholars, and has furthermore been funding specialistic seminars and summer schools.

In continuity with these objectives, in 2020, Fondazione 1563 launched the Turin Humanities Programme (THP), a research and higher education program devoted to global history, with a cycle of studies focused on the legacy of the Enlightenment and the rights of man in a global perspective, which started in September 2021.

Since the start of the program, a Summer School was included in the THP programming. It was scheduled in September 2022, at the end of the first year of research conducted by the THP fellows Graham Clure, Ariane Fichtl, Brynne Mc Bryde and Tom Pye, who worked closely with four Italian scholars: Valentina Altopiedi, Guglielmo Gabbiadini, Giuseppe Grieco and Alessandro Maurini.

The Summer School was organized to provide them with the opportunity to share the first outcomes of their research projects with a wider audience of senior and junior scholars, but also to launch a wide-ranging reflection on the importance that historical investigation plays in understanding the present.

The Summer School *Enlightenment legacy: the rights of man in a global perspective* represented a significant challenge: both in terms of logistical organization, with the long-awaited return, after two years of pandemic, to activities carried out in person, and in terms of scientific ambitions, given the interdisciplinary variety of projects presented by the participants.

I think that the result of the Summer School is very positive, considering the dynamic intellectual ongoing debate between scholars and which certainly allows the research to progress on the discussed topics.

A special thanks goes to Valentina Altopiedi, Giuseppe Grieco and Alessandro Maurini, who supported me in the scientific curatorship of the Summer School, to the Junior Fellows of Fondazione 1563 for their constant commitment in the THP and to the staff of Fondazione 1563 for supporting the organization of the event.

This publication wants to recall the scientific activity that was produced and adds to the rich editorial production curated by Fondazione 1563.

*Vincenzo Ferrone*

*Director of Studies of the Turin Humanities Programme, 1<sup>st</sup> cycle*

## PROGRAMME

Thursday, 1 September

### ENLIGHTENMENT LEGACY AND RIGHTS

9.00-9.30am **Welcome and registration**

9.30-9.45am **Institutional Greetings** - *Piero Gastaldo*

#### FIRST SESSION Chair: *Piero Gastaldo*

9.45-10.30am Lecture | **Enlightenment Legacy: between individual rights and collective rights** - *Vincenzo Ferrone*

10.30-11.15am Lecture | **Que reste-t-il des Lumières? Les droits de l'homme à l'épreuve de la critique post-coloniale** - *Céline Spector*

11.15-11.45am Coffee break

#### SECOND SESSION Chair: *Graham Clure*

11.45am-1.00pm **Participants' Research Projects** – Part I - *Participants*

1.00-2.00pm Lunch break

2.00-3.00pm Visit to Museo Nazionale del Risorgimento Italiano

3.30-5.00pm **Participants' Research Projects** – Part II - *Participants*

#### THIRD SESSION Chair: *Vincenzo Ferrone*

5.00-5.45pm Lecture | **Rights, Constitutions, and Liberalism** - *Dan Edelstein*

5.45-6.30pm Lecture | **Writing the History of Human Rights: Some Personal Reflections** - *Lynn Hunt*

Friday, 2 September

## TURIN HUMANITIES PROGRAMME RESEARCH PROJECTS

**FIRST SESSION** Chair: *Céline Spector*

9.15-9.45am	Lecture   <b>Rousseau's Last Masterpiece: The Political Institutions of Poland</b> - <i>Graham Clure</i>
9.45-10.15am	Lecture   <b>The Greek Republican Tradition's legacy and the movement of immediate abolitionism in the early 19th century</b> - <i>Ariane Fichtl</i>
10.15-10.45am	Lecture   <b>The Scottish Enlightenment and the Politics of "Modern History"</b> - <i>Tom Pye</i>
10.45-11.15am	Lecture   <b>Biological Mythmaking and the Power of Visual Embodiment</b> - <i>Brynne McBryde</i>
11.15-11.45am	Coffee break
11.45am-1.00pm	Panel Session: <b>The challenge of global intellectual history: ongoing and new research projects</b> - <i>Fellows and participants</i>
1.00-2.00pm	Lunch break

**SECOND SESSION** Chair: *Nicholas Cronk*

2.00-2.30pm	<b>Europe and East Asia before modernity: the challenge of comparative intellectual histories</b> - <i>Serena Ferente</i>
2.30-2.45pm	Lecture   <b>Bodies at War: The Imperial, Divine and National Bodies in a Medieval Japanese Esoteric Buddhist Text</b> - <i>Yaara Morris</i>
2.45-3.00pm	Lecture   <b>The Blood, Breath, and Sinews of the State: Governing the Fiscal Health of the Body-Politic</b> - <i>Giorgio Lizzul</i>
3.00-3.15pm	Lecture   <b>All Things as "One-Body" (yi ti). Virtue, Order and Corporeity in the Philosophy of Zhu Xi</b> - <i>Rudi Capra</i>
3.15-3.30pm	Lecture   <b>Medieval Corpus and its Parts through Corpus-based Semantics</b> - <i>Evgeniya Shelina</i>

**THIRD SESSION** Chair: *Tom Pye*

3.30-4pm	Lecture   <b>The Rights of Man and the Burden of Women. Mind and Body in Eighteenth-Century Moral and Political Thought</b> - <i>Valentina Altopiedi</i>
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**EVENING SESSION** Chair: *Piero Gastaldo*

6.00-7.00pm	Lecture   <b>Music of Light. How the great musicians helped to shape and represent the Enlightenment</b> - <i>Giovanni Bietti</i>
7.00-7.30pm	<b>Classical Music Concert</b> Beethoven - Op. 135 - <i>QuartettOC Mantova</i>
7.30-8.30pm	Visit to Palazzo Carignano and light refreshments.

Saturday, 3 September

## DIGITAL HUMANITIES AND ENLIGHTENMENT LEGACY

**FIRST SESSION** Chair: *Ariane Fichtl*

9.30-10.15am	Lecture   <b>Digital Enlightenment at the Voltaire Foundation</b> - <i>Nicholas Cronk</i>
10.15-11.00 am	Lecture   <b>Naturalrightshistory.unito.it: the historical foundations of human rights</b> - <i>Alessandro Maurini</i>
11.00-11.30am	Coffee break

**SECOND SESSION** Chair: *Brynne McBryde*

11.30-12.00am	Lecture   <b>International Law and National Self-Determination. Globalizing Rights in the Nineteenth century</b> - <i>Giuseppe Grieco</i>
12.00-12.30am	<b>Final remarks</b> - <i>Piero Gastaldo</i>





## LECTURES

### DECLARATION DES DROITS DE L'HOMME



#### Vincenzo Ferrone

FULL PROFESSOR OF MODERN HISTORY,  
UNIVERSITÀ DEGLI STUDI DI TORINO, TURIN

Vincenzo Ferrone, graduated in history with Franco Venturi in 1977 at the Faculty of Letters and Philosophy, University of Turin. He studied social and cultural history of science (1985) as post-doctoral fellow at the Clark Memorial Library, UCLA. He is an historian of Old Regime and Enlightenment in Europe and he is Professor of modern history at the Department of Historical Studies at the University of Turin. He is also the Director of Studies of the first research cycle of the Turin Humanities Programme (2021-2023), which is devoted to the *Enlightenment legacy and the rights of man*. His primary research interests lie in the history of Old Regime and Enlightenment in Europe and in the history of rights of man. His current research is aimed at studying human rights and the emergence of the modern political language of the culture of Enlightenment and its consequences in later centuries, up to today's debates, with a particular interest in the religious confrontation on issues of bioethics and civil liberties.

#### THE LEGACY OF THE ENLIGHTENMENT: THE RIGHTS OF THE INDIVIDUAL AND THE RIGHTS OF THE COMMUNITY

As is becoming more and more apparent, the key to the enigma of the Enlightenment may lie in the invention of the language of the "rights of man", which is also its most valuable and vital legacy.

Eighteenth-century thinkers were already aware of this, and so were the enemies and detractors of the Enlightenment across the centuries, who saw those rights as something that must be neutralised at all costs. In order to denounce and "expose" this – in their view, negative – legacy, its enemies, to this day, do not hesitate to jumble together Jacobin populism and the Terror, the French Revolution – which, as Robespierre pointed out at every opportunity, was an attempt to uphold those rights – and what they see as the most dangerous and disturbing outcomes of the cultural revolution sparked off by the Enlightenment.

In fact this cultural revolution had far reaching roots even before it spread through France and throughout the western world in the course of the eighteenth century. We have only just begun to investigate its new and original characteristics in their own right, breaking free from the traditional exclusive association of the Enlightenment with the French Revolution.

To this effect one need only listen to D'Alembert, who, in the *Discours préliminaire* of the *Encyclopédie*, clearly linked the intellectual framework and early roots of that cultural movement back to Italian Humanism and the Renaissance, the Scientific Revolution of Galileo, Descartes and Newton, as well as to the sceptical stance of Montaigne and Bayle, and Bacon's



empiricism as reworked by John Locke. All these cultural movements had clearly set the agenda for the redefinition of the very foundations of all branches of knowledge, and of the tree of knowledge itself: something that was felt to be absolutely necessary if the experimental scientific method was to be extended to the nascent sciences of man, which were the other, great original legacy of the Enlightenment.

The need for a new empiricism and a new humanism was expressed also by other thinkers, such as, in Italy, Giovambattista Vico, with his *Scienza nuova*, Hume in Scotland and then Herder in Germany. However, we now know that it was the epistemological revolution represented by the *Encyclopédie* that gave it great impetus and a common voice. That monumental enterprise, which was, in Robert Darnton's words, "the supreme text of the Enlightenment", brought about a major anthropological shift, which in turn dramatically changed the course of western culture. It did this by placing at the centre of the new tree of knowledge man as an autonomous, finite cultural agent, capable of acting as "the minister and interpreter of nature" through his intellectual faculties, *memory* and *imagination*, as well as *reason*, which were now placed all on the same gnoseological level. This epistemological revolution was carried out by critiquing and going beyond mechanism, which was now no longer seen as the most successful method of representation when it came to nature and science. It exposed the inadequacy of an abstract, purely logical and mathematical kind of discourse for the construction of the new sciences of man and other living beings. Above all, this new epistemology challenged the primacy of abstract rationalism and of pure logic in all cognitive processes, taking issue with the cultural stance or *esprit de système* that dominated the major seventeenth-century philosophical works, such as Spinoza's *Ethica more geometrico demonstrata*.

The actual foundations of what Diderot called, with polemical intent, the new "experimental philosophy" were laid by Rousseau's *Discours*, and even more so by Diderot's own *Pensées sur l'interprétation de la nature*, that veritable *Novum Organum* of Enlightenment science. These works brought about an entirely new concept of philosophy, which eschewed all metaphysics, and which the Enlightenment avant garde set against not only Scholastic thought, but also against the old "rational philosophy" of the academicians. It was only in this way that the Scientific Revolution could finally be set on the right path: through the critique of the epistemological limitations of seventeenth-century rationalism and the logics

of domination that beset that form of rationalism, science could finally become an emancipatory tool at the service of humanity, a methodology capable of bringing together scientific empiricism and the Enlightenment humanism of the moderns.

The rise, history and specificities of the language of the "rights of man", indeed the definition itself, "rights of man", which did not appear in Europe until the second half of the eighteenth century, would have been unthinkable without this epistemological revolution, which has been neglected for too long by Enlightenment scholars. The language of the rights of man was, as a matter of fact, an essential aspect and offshoot of a radical anthropological transformation, which reviewed from a scientific point of view the characteristics of the human species, which Linnaeus had placed among the Primates, and indeed attempted to rewrite natural history entirely. The result of this anthropological revolution was the rise, in European Enlightenment circles, of the modern sciences of man and of a new humanism.

This means that, before they could "invent" the rights of man, Enlightenment thinkers had first to "invent" our modern concept of man. This was a man (a human being) to be studied in all his components: from the mind-body nexus, to his individual autonomy as a cultural agent, to his belonging, as a species, at one and the same time to the world of nature and the history of mankind: a polysemic being, with multiple meanings (*morale, politique* and *naturel*), a living being of male and female gender, as was clearly described in the *Encyclopédie* entry for *Homme*.

I have traced elsewhere the main aspects of this major shift in our view of the language of rights compared with its genealogy as traditionally studied up to now. What came to light was the considerable distance of this new concept from the first isolated traces of the theme of subjective natural rights as an *a priori* moral idea in late-twelfth-century canon law; how it also differed from the sparse and controversial references to this subject in the Second Scholastic, and above all from the "modern natural right" found in Grotius and Pufendorf. Pufendorf's version of this natural right (*Le droit de la nature ou système générale des principes les plus importants de la morale, de la jurisprudence et de la politique*) and that of his followers were to hold sway for a long time in universities across Europe. This new and important metamorphosis of the natural right of the ancients was also influenced and legitimised by the Scientific Revolution of Galileo and Newton, and especially by the geometric-demonstrative method of the





Euclidean system, and aimed at the creation of major rational systems founded on principles and postulates. The most important among those principles was the Aristotelian idea of man as a social animal, as expounded in the *Politics*: a principle that had always foregrounded collective identities – the family and the different communities – in human society, and which is found both among the Stoics and then in Thomistic communitarianism, and in the great sixteenth-century revival of Cicero and the *Stoa*, the latter being appealed to mostly in order to pave the way for modern social disciplining practices in an attempt to halt the tragic civil and religious conflicts that ravaged Europe in the sixteenth and seventeenth centuries.

However, that very same community-focused sociability principle, which inevitably foregrounded duties over rights, also legitimised the rediscovery of the moral idea of subjective rights, those rights that had first arisen in canon law. These rights were now derived on a theoretical basis from duties, in a complex historical process that was first traced by Gerhard Oestreich and Knud Haakonssen, and then relaunched by those American philosophers and historians of politics who propound a communitarian theory of “duty-based rights”.

Pufendorf was definitely one of the greatest protagonists of this development, which he expounded admirably in his tract *De officio hominis et civis iuxta legem naturalem*, which was to become a Europe-wide best-seller. The idea that rights derived from duties, which reinforced the sociability principle and consequently the primacy of collective identities in social and political analyses, became especially widespread in Germany thanks to the work of Christian Wolff and in Scotland and

England through that of Sir William Blackstone, finally reaching France through the Physiocrats, whose original economic and social take on this subject took hold in the second half of the eighteenth century and came to inform the Thermidorians’ 1795 *Déclaration des droits et des devoirs de l’homme et du citoyen*.

However, the momentous early-modern shift from duties, as already celebrated in Cicero’s *De Officiis*, to rights also happened through the emphasis on the primacy of the individual as he was in the state of nature, and the systematic critique of Grotius’s and Pufendorf’s theory of natural right. The latter, important pathway was the one chosen by numerous Enlightenment circles throughout Europe. Grotius’s idea of natural right was refuted in Italy, both in Naples, by Giovanbattista Vico, and in Milan, in Beccaria and Verri’s journal, *Il Caffè*, while in France Voltaire, among others, saw in Pufendorf’s works “un esprit faux, obscur, confus, incertain”, and the worst legacy and “toutes les horreurs de la scolastique”.

In the modern construction of individual identity this critique went far beyond the abstract, rational acknowledgement of Descartes’s *cogito ergo sum*, or of the philosophical primacy of the subject in the new contractualism of Hobbes or Locke. In Italy, Vico distanced himself from the sociability principle in his Lucretius-inspired account of the state of nature, and described early men as isolated beasts: primitive individuals endowed with natural rights that must be put into practice through the new conventional right that was emerging in the universal history of mankind. On the other hand, Hume, in his *Treatise of Human Nature*, called for a new “science of man” that should draw on scientific empiricism and on history viewed as an effective form of knowledge. However, it was Rousseau, with his *Discourse on Inequality*, who laid the actual foundations for a new anthropology capable of joining firmly together the language of rights with experimental philosophy and the new humanism of the moderns, as outlined by Diderot in the *Encyclopédie* entry on *Humanité*.

Rousseau achieved this by critiquing Linnaeus and Buffon, through his research into medicine and physiology, and through his reading of travel literature. He attempted to trace the boundaries between the two different kinds of primates, monkeys and men, and found that the humanity of man consisted first and foremost in his being an individual endowed with freedom rather than animal instinct. Thus, for the first time, with the acknowledgement of the individual’s fundamental natural right to freedom, the language of the rights of man had identified the very essence of mankind and of the dignity of





man, his original and distinctive trait, the insuperable obstacle to any form of dominion and slavery, without which human beings were deprived of their humanity.

The Enlightenment thinkers' modern construction of the identity of the subject as a concrete human person in relation to the rights and to the freedom-humanity nexus was not based solely on the, however fundamental, attempt to justify those rights with anthropological and historical reasons. Condorcet explains this quite clearly in his *Esquisse d'un tableau historique des progrès de l'esprit humain*, where he claims an important role for the struggle for religious freedom and *libertas philosophandi* in the defence of the individual and more generally in the process of emancipation and civilization across Europe. This struggle was carried forward by Enlightenment thinkers, who transformed the natural rights of medieval canon law and the iteration of those rights in Pufendorf's work into "droits politiques", as proudly described by Condorcet: those thinkers turned the language of rights into what we would now call a powerful "political formula", which could be deployed in the struggle against the despotism, privileges and injustices of the *Ancien régime*.

As we now know, eighteenth-century reforms in Italy were strongly influenced by the idea of a new universal morality founded on the rights of man, as outlined by Antonio Genovesi in his *Diceosina o sia filosofia del giusto e dell'onesto*, as well as in Cesare Beccaria's celebrated *Dei delitti e delle pene*, and in the work of Filangieri and Pagano. Beccaria's short treatise enjoyed outstanding international success, changing the course of penal law and leading to the secularization and humanization of the very idea of justice in the western world: it led finally to the separation of guilt and crime; openly denounced judicial torture and the violent arbitrariness of judges; in France, it contributed to amplifying the effect of Voltaire's intervention in the *affaire Calas*, which was followed by the *affaire Sirven*, the *affaire Martin* and *Monbailli*, the *affaire Lally-Tollendal*. The language of rights even spilled over into novels, plays, paintings and music, in order to spread among the nascent public opinion the new humanitarian spirit and what Rousseau, in his *Contrat social*, called the new civil religion of the rights of man. In Germany, in the *Spätaufklärung*, the masonic lodges, and especially the Bavarian Illuminati, played a major role in popularizing this language, alongside the works of Lessing, Goethe, Herder and Schiller that spoke out against despotism and obstinately searched for the original traits of the *Humanität* of modern man.

However, the most important milestone in the rise of the Enlightenment language of the rights of man as we know it today was, without a doubt, the Seven Years' War.

Besides setting definitively in motion the modern colonialism and global imperialism of the western world, this first great world war was a crucial test of the nexus between the cultural revolution and the emancipatory project of reformation demanded by the politicised intellectuals of the Late Enlightenment. The language of the rights of man was forced to confront the issue of the slave trade, with the difficult challenge that it posed to the universalization of rights. Similar challenges came from the new claims for communal rights, i.e. the rights of the new collective identities that were beginning to take centre stage: for instance, those nations that had acquired new strength through the revolutionary political principle of popular sovereignty against the divine right of kings; or the new nation-states as opposed to the old multi-ethnicity continental empires.

Overcoming an initially uncertain reaction to the issues of colonialism and slavery, after the Seven Years' War the universalistic turn of the idea of humanity developed by the European Late Enlightenment began rapidly to assert itself at a theoretical level, and then in political and cultural practice. In their writings, Diderot, Filangieri, Lessing, Condorcet, among others, fought strenuously against the slave trade in the name of the moral principle of the equality of rights for all individuals on earth, regardless of class, nationality, religion, gender or skin colour. Among the greatest Enlightenment thinkers, Genovesi and Herder in particular called for the establishment of a new universal morality founded on the tenet of the common identity of all mankind, on the acknowledgement of the fundamental dignity and humanity of man as a person and an individual regardless of physiognomy, racial or national origin, or the civilization stage reached in the history of the individual nations, regardless of hierarchies in the construction of the common humanity of the human species. The ethical tenet of the equality of rights was called upon to clarify the true meaning of the scientific research of Buffon, Blumenbach, Cuvier, Camper and others into human physiology and the varieties of peoples on earth, keeping at arm's length the early signs of that scientific racism that was coming to the fore especially in the Anglo-Saxon world, which was used to legitimise slavery, and which would become dominant in the following centuries. This principle of the universal equality of rights, as invoked by Raynal, Diderot and Filangieri in their indictment of slavery, thus became a powerful instrument and a precious political and moral legacy, which can still be applied to the defence of the freedom and life of individuals. This remains true notwithstanding the early, momentous betrayal of those principles in the undoubtedly racist American Constitution of



1787, which effectively denied Jefferson's 1776 "Declaration" that all men are born free and equal, and the similar betrayal that we see in the racial struggles that were unleashed by the Haitian Revolution.

A rather more complex and subtle threat to the principle of individual rights came from the assertion of the rights of communities and new collective identities.

We now know that the construction and defence of the modern concept of individual identity really was the primary and most successful challenge taken on by the cultural revolution of the Enlightenment in the western world. Nothing comparable in terms of achievement occurred anywhere in the world. Nevertheless, it is necessary to point out one thing: first, we need to consider very carefully the very modalities and themes of this cultural revolution and also the reasons why its construction of the individual became such a public opinion success through novels, scientific texts, and its cultural and artistic practices in general; we also need to bear in mind the sophisticated and theoretically rich formulation of the idea of the subject in the new universal moral philosophy. After we have considered all these things, we will realise that it is simply wrong to rehash the old accusation by the followers of Hegel and Marx, according to which the Enlightenment was at the origin of modern social atomism and of a pernicious liberal individualism. In fact, individualism as a political and ideological issue is entirely a nineteenth-century concept.



In the eighteenth century, the sciences of man always saw the subject, the individual in the context of the history of nations; eighteenth-century thinkers thought of individuals constantly in relation with one another, and with the theme of the Other, within the context of the transformation undergone by collective identities such as homeland, nation, republics (*res publicae*), peoples, corporations. For instance, Enlightenment thinkers devoted constant attention to the issue of the new social ties that needed to be established in order to go beyond the hierarchical society of the *Ancien régime*, with its basis in corporate privileges and prescriptive inequality. In order to realise how much attention Enlightenment thinkers devoted to these issues, one need only consider the great projects for nationwide education formulated by Filangieri and Condorcet, or the masonic- and cosmopolitan-inspired calls by Lessing and Herder to finally set underway a programme of "education in humanity".

From the start, Enlightenment thinkers were aware of the major political problem of how to reconcile the new rights of the individual with those of their communities. Rousseau placed this issue at the centre of his *Social contract*, where he wrote:

Where shall we find a form of association which will defend and protect with the whole aggregate force the person and the property of each individual; and by which every person, while united with all, shall obey only himself, and remain as free as before the union? Such is the fundamental problem, of which the Social Contract gives the solution.<sup>1</sup>

In fact the various solutions that were put forward – from the "general will", to democracy or republicanism – obviously failed to protect the rights of the individual, as became dramatically evident during the French Revolution. The third clause of the 1789 *Déclaration des droits de l'homme* solemnly asserted:

The principle of all sovereignty resides essentially in the Nation. No entity or individual may exercise any form of authority that does not expressly emanate from the Nation.

This principle, arbitrarily interpreted, effectively paved the way for Jacobin populism and the Terror, which found no obstacles to their annihilation of the rights of man. The undisputed primacy of the Nation, the omnipotence of popular sovereignty and of collective identities over individual



1 An Inquiry into the Nature of the Social Contract, or Principles of Political Right, translated from the French of John James Rousseau (London, 1791), p. 205.

ones definitively caused the rights of man to be pushed to one side.

Nevertheless, the fundamental question of how to protect the rights of man as an individual remained at the core of the political thought of the Enlightenment throughout Europe even during the Revolution. Condorcet, Paine, W. Humboldt, Filangieri never gave up on the idea of the *universal, inalienable* and *imprescriptible* character of the rights of the individual, of their centrality in the project of emancipation that would lead to a modern society of citizens who are all free and equal before the law.

We now know about these efforts, which started with the debates following the American Revolution. The solutions that were put forward included entrusting the defence of the rights of man to solemn *Declarations* or to legislation. The preferred solution, however, was the full constitutionalization of these rights. The theoretical foundations of the new *Enlightenment constitutionalism* were already fully outlined in Filangieri's monumental *Science of Legislation*, which was widely translated thanks to international masonic circles. Filangieri advocated a new juridical system based on the language of rights and the equality principle. This process was carried further by Francesco Mario Pagano, who, in the 1799 Neapolitan Constitution, openly took issue with the Thermidorian constitution of 1795, and came up with the idea of a *Tribunal of Ephors*, a valuable instrument for constitutional engineering, something like a modern high court of constitutional justice, especially devised to protect the rights of man as an individual from the legislative power and the omnipotence of the new popular sovereignty.

Nevertheless, the Enlightenment type of constitutionalism came under attack and was soon superseded by the various nineteenth-century forms of constitutionalism. Even historians disregarded it. Of course, following Tsar Alexander the First's Holy Alliance, the cosmopolitan language of the rights of man was faced with formidable, invincible adversaries, such as the legitimacy and nationality principles. Corporations, social classes, nations, peoples all appealed to the rights of the communities, and denied the universal character of the rights of the individual. The precarious balance between the individual and the community that the Enlightenment had sought to preserve in its constitutional project and all its works was set aside and neglected.

In response to today's wars, ethnic and religious cleansing, dictatorships and genocide, we rather tend to invoke the

language of *human rights*, which has a more "moral", and a generally anti-political and rhetorical character. It is a sort of ultimate American Utopia, which flared up in the 1970s and was characterised by its polemical tone and distanced itself from European Enlightenment constitutionalism, with its open acknowledgement of the political and juridical nature of the defence of individual rights. In fact, even though the solution put forward by the Enlightenment, which advocated the full constitutionalization of rights, was itself largely utopian, the world of the Enlightenment and its legacy must be credited at the very least with being the first to flag up the problem, and the importance of what was at stake, which once again confirms the role of the Enlightenment as a veritable laboratory of modernity. How valuable that legacy still is today can be seen by the response of a neo-Enlightenment thinker such as Norberto Bobbio, in a 1999 interview with the German newspaper *Die Zeit*, to the request by China and India to rewrite the 1948 Declaration of Rights foregrounding "Asian values", and, more in general, to any form of communitarianism that denied the existence of the rights of man as an individual:

I do not agree. Unlike the supporters of the community, I remain faithful to the idea of the primacy of the individual, since it is on this primacy that liberal democracy is founded. The only real element of progress this century, as far as I can see, is the widespread acknowledgement of the rights of man, and this refers to the rights of man as an individual, not to their rights as part of such or such community, but as citizens of such and such a state [...] We belong simultaneously to a number of very different communities. Sometimes our religious and ethnic communities coincide, but often they don't and we may belong to a religious community that does not correspond to the religion of one's people, or vice versa. Which is why today the defence of the rights of peoples has become a prominent issue again. But is there really a "people" as such, whose existence comes before that of single individuals? A "people" is an abstract construct: only individuals have concrete existence<sup>2</sup>.

There could be no better illustration of the importance of the problematic, but still powerfully relevant, legacy of the Enlightenment and its cultural revolution.

2 The interview was published in Italy by La Stampa, 30 December 1999.







## Céline Spector

SORBONNE UNIVERSITY, SND

Céline Spector is Professor at the Philosophy Department of Sorbonne University. Her work is devoted to modern and contemporary political philosophy, to the history of philosophy from the 18th century (Montesquieu, Rousseau) to the present day, to theories of justice, and to liberalism and its critiques. In the wake of a reflection on the legacy of the Enlightenment, she has been engaged for several years in an analysis of European democracy and sovereignty. Her latest publications are *Eloges de l'injustice. La philosophie face à la déraison* (Seuil, 2016); *Rousseau et la critique de l'économie politique* (Presses Universitaires de Bordeaux, 2017); *Rousseau* (Polity Press, 2019); *No demos? Souveraineté et démocratie à l'épreuve de l'Europe* (Seuil, 2021); *Europe philosophique, Europe politique. L'héritage des Lumières*, edited with T. Coignard and C. Spector eds, Classiques Garnier, "Rencontres - le Dix-huitième siècle", 2022; *Rousseau et Locke. Dialogues critiques*, edited with J. Lenne-Cornuez (Oxford University Studies on the Enlightenment, Liverpool University Press, 2022). She co-edits the series "L'esprit des lois" for the Librairie Vrin.

## WHAT IS LEFT OF THE ENLIGHTENMENT? THE POSTCOLONIAL CRITIQUE OF HUMAN RIGHTS

From the very end of the 18<sup>th</sup> century, the philosophy of human rights was subjected to powerful objections<sup>1</sup>. It became immediately clear that human rights could not account for their naturalness and their universality. Several paradoxes characterize the rights of man from their advent during the American and French declarations of 1776 and 1789: human rights are both self-evident and yet declared, natural and yet historical, innate and yet civic, universal and yet national. As a result, human rights were very early considered as pure fictions or mere illusions. The bill of rights could only concern men fit to be citizens and legislators<sup>2</sup>. What was at stake, above all, was the question of inclusion. The exclusion of women, slaves and other minorities deprived of the status of citizenship imperiled the intentions of the American or French revolutionaries: did they really want to extend the benefits of freedom and equality to all human beings? The accusation later made by feminists and Marxist thinkers is extremely strong: human rights reconstitute new privileges. They can conceal neither their hypocrisy nor their impotence: human rights, declared to preserve freedom and justice against all forms of oppression and exploitation, are indeed a pure ideal devoid of substance.

However, new theories coming from the *postcolonial studies* have recently added their own objections against human rights<sup>3</sup>. These theories were inspired by the Frankfurt School

1 This article takes up and amends a published text: "Que reste-t-il de l'universel? Les droits de l'homme à l'épreuve de la critique post-coloniale", special issue on "Controversies on the Enlightenment 2", *Lumières*, n°32, 2nd Semester 2019, p. 45-60.

2 Hannah Arendt, *The Origins of Totalitarianism*, Paris, Gallimard, "Quarto", p. 591-607.

3 For a valuable clarification, see Capucine Boidin, "Decolonial and postcolonial studies in French debates", *Cahiers des Amériques latines* [Online], 62 | 2009, online January 31, 2013, accessed June 20, 2022; and the special issue of *Raison présente*, Roland Pfefferkorn, Abdelhafid Hammouche and Gilbert Meynier (eds.), Vol. 199, n° 3, 2016. The work that we have undertaken remains to be carried out for authors from the Caribbean or Latin America.

and the poststructuralist critique of the Enlightenment. Since the 1980s, under the influence of Edward Said and Dipesh Chakrabarty in particular, these theories have developed a sharp critique of the Enlightenment, stamped by Western values. Without overemphasizing their unity, one can find a line of arguments in the edited volume by Nikita Dhawan, *Decolonizing Enlightenment: Transnational Justice, Human Rights and Democracy in a Postcolonial World* published in 2014<sup>4</sup>. Against this background, I thus decided to study an extensive and growing body of scholarship, which does not only concern departments of literary studies or anthropology, but also of history, law, cultural studies and political science. Within this body of literature, the critique of Enlightenment's fake universalism, of its illusions and its arrogance, is in no way marginal: rather, the denunciation of "human rights" as seen by the West is key.

The postcolonial critique rests mainly on five claims: 1) human rights are not universal but European (born in Europe, they are dedicated to protecting European citizens, not non-European peoples or slaves); 2) human rights are rights that are "natural" only in name; rather, these are ideological fictions that may have served colonization and justified the "civilizing mission" of the European superpowers; 3) human rights are associated with a certain conception of "reason" and "civilization" in Europe: American Indians, Asians or Africans described as "savages" or "barbarians" are therefore incapable of accessing the idea of subjective rights; 4) the list of human rights itself sounds arbitrary, even abusive: acknowledging the right to private property within human rights amounts to excluding all nomadic peoples; therefore, human rights can be used to expropriate rather than to protect; 5) human rights are those of the settlers and slave masters, who did not have the political will to put an end to slavery.

To sum up, I will briefly tackle here three different issues (I): what is the consequence of the *European* origin of the philosophy of human rights? Does it mean that one should deny the universal scope of these rights? Does the granting of such rights depend on certain conditions, such as the development of reason – which would presuppose a preliminary process of "civilization"? (II) Second, about private property. Postcolonial studies rightly argue that the justification

of colonization was made for the benefits of "plantations", which served to expropriate nomadic peoples from their lands. The Declarations, by justifying the right to property in the name of the sacred and inalienable rights of man, are blamed for reinforcing these abuses. My question, therefore, is as follows: did "possessive individualism" permeate the spirit of the Declarations to the point of justifying the dispossession of stateless nations? (III) Finally, the most powerful accusation of certain authors associated with the current of postcolonial studies concerns colonization and slavery. Can we approve the idea that the philosophy of human rights is wrong because it was established within the great colonial powers, at the very moment of their expansion?

To be sure, my answer will be "No, no and no" and I will not even argue in favor of these here. My aim is just to give a short summary of the different charges levelled against Enlightenment envisioned as a unified construct, charges that have been put forward lately when postcolonial theory started to shape eighteenth century studies.

### Naturalness, Europeaness

Usually, postcolonial studies repeatedly wonder *who is the human in human rights* declared in the 18<sup>th</sup> century. In principle, of course, this is anyone and everyone – that's the whole point of claiming rights as a human rather than as a citizen of a particular country – and the rights of this human must apply equally, without discrimination. The language signals the inclusive equality of all human beings. *And yet* in practice the scope of human rights has been far more limited. In particular, the ideal of French human rights – that of access to equal freedom, security, property, and resistance to oppression – was immediately betrayed by the exclusion of certain groups who could not enjoy these rights. The Enlightenment philosophers – so the story goes – have introduced a hierarchy between the white European and the native American, reserving to the first the privilege of natural rights. Moreover, the declarations of the American or French revolutionaries resulted in the refusal to protect human rights for the colonized peoples: in the 18<sup>th</sup> century, human rights remained those of the white man, but in no way reached out the slaves of the American or French colonies, nor the freedmen of color (*libres de couleur*); they did not affect peoples considered as "savages" or "barbarian", because it was supposedly required to have achieved the *progress of the human mind* to become subject of rights. In the *rights talk*, reason was then considered not as a universal



<sup>4</sup> N. Dhawan, introduction to N. Dhawan (ed.), *Decolonizing Enlightenment: Transnational Justice, Human Rights and Democracy in a Postcolonial World*, Leverkusen, Germany, Barbara Budrich Publishers, 2014. See also Daniel Carey and Lynn Festa eds., *The Postcolonial Enlightenment: Eighteenth-Century Colonialism and Postcolonial Theory*, OUP, 2009.



attribute of humanity, but as the prerogative of the few, namely Europeans who, considering themselves as “civilized”, had the privilege of the rights created by their own civilization. The very idea of “perfectibility” was at the core of this view: only those who had actualized their perfectibility in a linear model of the progress of the human mind deserve to be holders of subjective rights.

One can find this typical line of thought in *Decolonizing Enlightenment*. According to Nikita Dhawan (who is currently professor of political science at the Leopold-Franzen University Innsbruck and Director of the Frankfurt Research Center for Postcolonial Studies), the Declaration captures the Enlightenment claim of emancipation through the exercise of reason. In the face of feudality, violence and prejudice, the Enlightenment enunciates ideals of equality, rights, and rationality as a way out of domination towards freedom. However, “Enlightenment’s promise of attaining freedom through the exercise of reason has ironically resulted in domination by reason itself. Along with progress and emancipation, it has



brought colonialism, slavery, genocide, and crimes against humanity” (p.9). On this account, Europeans emerged as ethical subjects in the guise of redeemers of the “backward” people and dispensers of rights and justice. The aim of Dawan, thus, “is to question the hollow myth of the Enlightenment’s long march to freedom and emancipation” (p.10). It would be naïve to think that all human beings assumedly aspire to irrespective and independent of their race, class, gender, sexual orientation, religion, and nationality. To consider human rights as universal principles, neither contingent nor negotiable, so that they are undeniable by any rational person independent of particular times and places, is simply flawed<sup>5</sup>. The truth, rather is that the universalizing project of Enlightenment imposed a uniform standard of instrumental reason, privileging European conceptions of knowledge and institutions. On this account, the Enlightenment claim of having overcome “barbarism” in Europe, justifying its spread to the “uncivilized” non-European world, is considered as leading to domination, not emancipation<sup>6</sup>.

Now, this significant challenge to the Enlightenment model of emancipation which comes from postcolonial studies can be interpreted, basically, as a new version of the Marxist critique of human rights: instead of the *bourgeois* who conceived his freedom on the model of private property<sup>7</sup>, the target is the white man, the master, the slave owner who conceives his own freedom as preconditioned by the slavery of others. On this account, the “liberal” tradition of the Enlightenment has defended the full enjoyment of civil rights as a privilege of the few; the *human* in human rights *has* to be an abstraction in order to deliver equality, but this empty ethical imperative is incapable of dealing with the institutionalized power relations that currently mark us as unequals; finally, the community of free men still has racial, gendered and social boundaries<sup>8</sup>. Finally, when the French revolutionaries declared the Rights of Man and the Citizen, they did not commit themselves to the view that all humans are born free and equal, and though they subsequently voted to extend the rights to Protestants as well as Catholics, Jews as well as Christians, and finally to freed



5 N. Dhawan, “Affirmative Sabotage of the Master’s Tools: The Paradox of Postcolonial Enlightenment”, in *Decolonizing Enlightenment*, op. cit., p.23.

6 N. Dhawan, art. cit., p. 24.

7 Marx, *On the Jewish Question* (1843). See Justine Lacroix and Jean-Yves Pranchère, *Le Procès des droits de l’homme*, Paris: Seuil, 2016, p. 215-254.

8 Domenico Losurdo, *Contre-histoire du Libéralisme*, Paris: La Découverte, 2013, p. 112.



black slaves from the colonies, they did so under the pressure of events and continued to resist the suggestion that French women could be as fully citizens as French men.

### Ownership

I will be very brief on the second issue in the critique of human rights, related to property rights. The claim here is slightly different. In a nutshell: not only did the absence of agriculture in freshly “discovered” America prove the lack of sovereign status of the natives and was part of the ideological justification for the colonial appropriation of non-European territories and “wasted” natural resources; not only were the nomadic practices of some natives judged inferior to sedentary forms of life. More generally, the justification of property rights helped to secure colonization: the generalization of the private property regime was extremely detrimental to the forms of land use by Amerindian communities. Assigned by the Enlightenment to the status of “savage”, uncivilized beings, the indigenous peoples of the Americas were forced to privatize their property. Instead of being considered as one form of property among others, the common use of land was reduced to an antecedent status in a space devoid of law and culture called “state of nature”<sup>9</sup>. The “modern” or “civilized” way of life could only prevail through the disappearance of traditional modes of subsistence<sup>10</sup>. In the Americas and particularly in Mexico, this belief led to the massive dispossession of lands previously held by indigenous populations.

### Political and Civil freedom

Finally, against the ideals of human rights, a last argument seems to be crucial to postcolonial theorists: they reveal the tremendous hypocrisy of rights talk, since in principle, human rights are based on justice, freedom and tolerance all over the world; but in practice, they are used against political power in Europe, not abroad. This would be the *original sin* of the Enlightenment. Whereas the intellectuals who were engaged in decolonization movements in the 50s or 60s

9 Judith Schacherreiter, “Propertization as a Civilizing and Modernizing Mission: Land and Human Rights in the Colonial and Postcolonial World”, in *Decolonizing Enlightenment: Transnational Justice, Human Rights and Democracy in a Postcolonial World*, op. cit., p. 227-242.

10 Boaventura de Sousa Santos, “Beyond Abyssal Thinking: From Global Lines to Ecologies of Knowledge”, art. cit., 2007.

often relied on the human rights ideals to denounce the way in which Europeans had betrayed or misrepresented them, postcolonial or decolonial authors now dismiss universalism as such. According to them, in fighting despotism “at home”, philosophers (Locke or Rousseau in particular) and revolutionaries obscured the *civil*, not *political*, use of the category of slavery, or – even worse – naturalized slavery in Asia and Africa (Montesquieu). In the end, the emancipation of slaves owed nothing to the ideas of philosophers; it came about purely and simply as a result of the violent struggles of slaves and black abolitionism.

### Answers?

In the last section of my talk, I will try to assess this “disenchantment” with the Enlightenment – the idea that Colonialism and enduring Slavery are testimony to the fact that the progressive ideals of the Enlightenment were in fact tainted. In doing so, I will thus leave aside Samuel Moyn’s argument on the “last utopia”. I actually don’t believe the premise that human rights, far from being descendants of the “rights of man” proclaimed at the end of the century of Enlightenment, are very different in nature. I don’t believe that in the 18<sup>th</sup> century rights were articulated around a politics of constructing citizenship within a defined space, whereas contemporary human rights promote a policy of compassion turned toward the outside. It is untrue that the *droits de l’homme* only aimed to define citizenship and not to protect humanity. So if one leaves Moyn’s idea aside, then postcolonial studies strictly appear as the heir of Marxist theory despite of their sharp criticism of Marx. As a matter of fact, the rationale identified by the *postcolonial studies*, in essence, supports the commonplace idea that human rights are the Trojan horse of Western cultural imperialism.

Consequently, two responses are usually put forward: the first one argues in favor of *cultural relativism* and advocates a local approach to human rights, rooted in either African, American or Asian practices (the core idea being that any legal order should depend on the cultural differences, and human rights themselves be understood contextually<sup>11</sup>). The second path argues in favor of a more authentic universalism, whose sources are not in the Philosophers ideas but in the actual

11 Abdullahi Ahmed An-Na’im, “The *Spirit of Laws* is not Universal: Alternatives to the Enforcement Paradigm for Human Rights”, *Tilburg Law Review*, Vol. 21, Issue 2, Oct. 2016.



revolts of slaves<sup>12</sup>.

This line of argument is to be found in Siba N. Grovogui's (Professor of international relations at the "Africana Studies and Research Center" of Cornell University) excellent paper, which points out that the colonized had their own notions of human rights – notions which were integrated into their revolutionary principles and institutionalized within the Constitution drawn up during the Haitian Revolution<sup>13</sup>. In a work entitled *A Colony of Citizens. Revolution and Slave Emancipation in the French Caribbean*, the French historian Laurent Dubois had already established the originality of the Haitian revolution by rejecting the theory of the "contagion" of revolutionary ideas from the continent: in Santo Domingo in 1791 in 1804, it was the slaves who freed themselves, owing nothing to the so-called "universal" declaration of the rights of man and of the citizen. For Dubois, the Declaration of 1789 perpetuated the colonial order based on plantation and forced labor, creating a "Republican racism"<sup>14</sup>. In an article titled "Mind, Body, and Gut! Elements of a Postcolonial Human Rights Discourse" (2006), Siba N. Grovogui follows in his footsteps: while the subject of the Declaration of Independence and of the French Declaration was in no way "the human" in general defined by his physical and intellectual faculties, but *the owner-man defined by his race and his class*, Haitian revolutionaries knew how to "deracialize" political agency and denounce the racial ontology of the Enlightenment in order to resist oppression. Siba N. Grovogui mentions the articles of the Haitian Constitution which reject any reference to the color of the skin (art. 14), and abolish the titles, advantages and privileges other than those which would come from the service rendered to freedom and independence (Art. 3). The author further emphasizes that the Constitution gave equal access to property to the *former free* and the *new free* (emancipated slaves) and recognized the

12 Robin Blackburn, "Slavery, Emancipation and Human Rights," in *Self-Evident Truths? Human Rights and the Enlightenment*, op. cit., p. 137-155, here p. 138-139. See also by the same author *The Overthrow of Colonial Slavery*, London: Verso, 1988. It should be added that, from a historical point of view, one cannot doubtless attribute to the resistances of the slaves the sole origin of abolitionist ideas, in particular outside the case of Santo Domingo (David Geggus, "Rights, Resistance and Emancipation: A Response to Robin Blackburn", in *Self - Evident Truths ?*, op. cit., p. 157-167).

13 Siba N. Grovogui, "To the Orphaned, Dispossessed, and Illegitimate Children: Human Rights Beyond Republican and Liberal Traditions", *Indiana Journal of Legal Studies*, 18 (1), 2011, p. 41-63.

14 See Laurent Dubois, *A Colony of Citizens. Revolution and Slave Emancipation in the French Caribbean, 1787-1804*, Chapel Hill and London, University of North Carolina Press, 2004.

equal dignity of all men, while setting up social rights for the protection of women and children. He concludes that it was up to the black slaves, and to them alone, to have theorized the precepts of freedom, equality, justice, and produced "universal notions of rights"<sup>15</sup>.

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What is left, then, of the Enlightenment's legacy? Can we subscribe wholly to the staunchest contestations of the emancipatory claims of the Enlightenment since the first generation of the Frankfurt School of social Theory? All the postcolonial studies arguments are extremely valuable, and we must pay full tribute to the authors who have been able to bring out the importance of the slave revolts or of the Haitian Constitution. But should we conclude that the concept of human rights is always an alibi or that there are non-Western, singular and specific, culturally situated ways of thinking and implementing human rights? Should we argue that the allegation that discourses of transnational justice, human rights, and democracy are ideological expressions of a coercive will to power of the global North? Such a re-reading of history is impoverishing. It may confuse the philosophical examination of the nature and content of human rights and the analysis of their scope of application. To say the least, the fact that human rights take time to become "truly universal" does not jeopardize their value as *aspirations* or ideals. Nor does it undermine the *task* of humanity to struggle to enforce them. Enlightenment concepts can function as aspirational ideals while providing evaluative criteria to critically assess our socio-cultural, legal, and economic practices. It is the case at least when the universality of human rights is understood, as Condorcet had wished, *without distinction of gender, religion or race*: the "human" is then understood as a sensitive being, endowed with fundamental needs, who uses his reason to satisfy them<sup>16</sup>. Condorcet fought not only for the rights of Protestants, Jews, Women and Black slaves but also against the hypocrisy of the colonists who did not want to follow the implications of the Declaration. Under attack in 1789 by a settler from la Martinique in the *Journal de Paris* who did not want to apply the Declaration to the French Indies and to free

15 *Ibid.*

16 Condorcet, *Réflexions sur l'esclavage des nègres* (1781), Paris: GF-Flammarion, 2007.



the slaves, Masseron de Launay, he answered that one should add to the first article of the Declaration: all *white* men are born free and equals (« tous les hommes blancs naissent libres et égaux en droits »); and even asked provocatively a method to assess whiteness (« une méthode pour déterminer le degré de blancheur nécessaire »)<sup>17</sup>.

The Enlightenment philosophers were certainly less naïve than our contemporary authors believe they were. Therefore, it is always dangerous to reduce any kind of universal aspiration to a pretense or to a game of dupes. To be sure, while proclaiming to be universal, liberal democracy building upon human rights can be shown to be exclusionary in a variety of ways. Yet the postcolonial critique amounts to confusing the destructive effects of colonization with those of the philosophical theories that did not defend it. As Vincenzo Ferrone has pointed out in the conclusion of his book<sup>18</sup>, we are not authorized to see the Enlightenment as the cradle of racism. By projecting all the evils caused by Western imperialism onto the inspirers and drafters of the Enlightenment Declarations, postcolonial studies subscribe to a Manichean account of intellectual history. They tend to accredit the questionable idea of intrinsically “Asian” or “African” values that no transcultural vision could apprehend<sup>19</sup>. This is the reason why other parts of my work seek to provide a corrective to this misrepresentation of the relationship between Enlightenment and Empire by recovering critical perspectives within European political thought.

17 Cité par J.-F. Robinet, *Condorcet, sa vie, son œuvre, 1743-1794*, Librairies-Imprimeries réunies, p. 69-70. Voir le commentaire de Sylviane Larcher, *L'Autre citoyen*, Paris: Albin Michel, 2014, p. 40-41.

18 Vincenzo Ferrone, *The Enlightenment and the Rights of Man*, translated by Elisabetta Tarantino, Oxford University Studies in the Enlightenment, Liverpool: Liverpool University Press, 2019, p. 496.

19 Not everyone falls, obviously, into these failings – the case of Spivak can be emphasized because here position, albeit critical, is clearly more subtle. Gayatri Chakravorty Spivak, “Righting Wrongs”, in Aakash Singh Rathore, Alex Cistelean (eds.), *Wronging Rights? Philosophical Challenges for Human Rights*, New Delhi/London: Routledge, 2011, p. 78-103. According to the author, “some of the best products of high colonialism, descendants of the colonial middle class, become human rights advocates in the countries of the South”.



## Dan Edelstein

STANFORD UNIVERSITY

Born in Ithaca (NY), Dan Edelstein earned his Licence ès lettres (French, English, Latin) from the Université de Genève (1999) and his Ph.D. in French from the University of Pennsylvania (2004). He is William H. Bonsall Professor of French at Stanford University. He works for the most part on eighteenth-century France, with research interests in literature, history, political thought, and digital humanities. Most recently, he wrote a book on the history of natural and human rights from the wars of religion to the age of revolution (*On the Spirit of Rights*, University of Chicago Press). His latest publications are: *On the Spirit of Rights* (2018), *Let There Be Enlightenment: The Religious and Mystical Sources of Rationality* (2018), *Scripting Revolution* (2015).

## A HIDDEN LEGACY: ENLIGHTENMENT RIGHTS TALK, NINETEENTH-CENTURY CONSTITUTIONS, AND THE UNIVERSAL DECLARATION OF HUMAN RIGHTS

The nineteenth century poses a problem in the history of human rights.<sup>1</sup> It may be bookended, on one side, by a flurry of revolutionary declarations of rights, and on the other, by the many proposals leading up to the Universal Declaration of Human Rights (UDHR). But what of the hundred or so years in between? The age of Bentham and Marx took a dim view of rights. Even in France, the revolutionaries of 1848 did not see it necessary to preface the constitution of the second republic with a declaration.<sup>2</sup> Nor would their republican successors, in 1875. Given these interruptions, is there much basis to claims that emphasize historical continuity between 1789 and 1948? Does the UDHR owe much or anything at all to the Age of Enlightenment and Revolutions? Or must we look elsewhere for its genesis?<sup>3</sup>

In this paper, I suggest that the nineteenth century did in fact extend the Enlightenment rights tradition up to the doorstep of the twentieth century, but that historians have not been looking in the right places. The line of transmission runs not through philosophical or political treatises, but through a more ephemeral conduit: constitutions. It was ephemeral because few of these constitutions lasted more than a few years; some were never even implemented. But the discourse of constitutionalism – “constitution talk,” as it were – perpetuated the Enlightenment language of rights, especially as it had been expressed in the 1789 French Declaration of Rights of Man

1 This paper draws on my recent book, *On the Spirit of Rights* (Chicago: University of Chicago Press, 2019), and the volume of essays I am co-editing with Jennifer Pitts for the *Cambridge History of Rights* (forthcoming).

2 This constitution does mention in its Preamble that France “recognizes rights and responsibilities anterior and superior to positive laws” (art. 3).

3 For different views on these questions, see notably Lynn Hunt, *Inventing Human Rights* (New York: Norton, 2007), and Samuel Moyn, *The Last Utopia: Human Rights in History* (Cambridge: Harvard University Press, 2010).

and of the Citizen (DRMC). What's more, these constitutions provided a seedbed for the next generation of international declarations, which made their appearance in the 1920's and '30's. These declarations, in turn, were immediate precursors to, and models for, the UDHR.

To appreciate this argument, it helps to start at the end. In October 1929, André Mandelstam (1869-1949) attended a meeting of the "Institut de Droit International" in New York. Mandelstam was a professor of international law, and after the 1917 revolution, an exile in France. He was a member of the Russian league of rights, the sister organization of the famous Ligue des Droits de l'Homme (LDH), both of which were headquartered in Paris.<sup>4</sup> He was also an admirer of the Italian professor of constitutional and international law, Pasquale Fiore (1837-1914), whose earlier (1890) work he had praised in a book on the Ottoman empire.<sup>5</sup> Fiore had already issued a call for "the declaration of the rights that everyone expects [*la dichiarazione dei diritti spettanti a ciascuno*]," one which would complete the work of the Enlightenment authors who "had all defended the rights of mankind" and assisted in "the development of the eminently just principles of the international community."<sup>6</sup>

In New York, Mandelstam attempted just that: he presented a "Declaration of the International Rights of Man" (*La Déclaration des Droits Internationaux de l'Homme*). It was a

short document, consisting of six articles and a preamble. The articles combined French-style affirmations of the right to life, liberty, and property (art. 1) with an American insistence on due process and equal protection (referring explicitly to the 14th amendment). It was well publicized in the early 1930's, and still remembered in 1941, when the American jurist George Finch described it as a precursor to Roosevelt's "Four Freedoms."<sup>7</sup> It would be one of the declarations considered by John P. Humphrey when he prepared the first draft of the UDHR.<sup>8</sup>

Mandelstam's declaration was also very self-aware about how its genealogy stretched back to the revolutionary era: "les Déclarations des droits inscrites dans un grand nombre de constitutions et notamment dans les constitutions américaines et françaises de la fin du XVIIIe siècle, n'ont pas seulement statut pour le citoyen, mais pour l'homme."<sup>9</sup> What is interesting about this statement is that Mandelstam inscribes not only a point of origin for human rights (the eighteenth century), but also sketches out their historical legacy: "dans un grand nombre de constitutions." Still, this comment is rather elusive, and does not clarify where exactly Mandelstam found these other rights claims.

An important clue can be found in another book published that same year by one of Mandelstam's closest collaborators, Boris Mirkine-Guetzévitch (1892-1955).<sup>10</sup> Mirkine-Guetzévitch was also a Russian professor of international law, also an exile in Paris, and the secretary general of the Russian league of rights. In 1929, he co-edited a collection of world constitutions with Alphonse Aulard.<sup>11</sup> This was a telling collaboration: Aulard was the inaugural holder of the chair for the history of the French

4 On Mandelstam, see Jan Herman Burgers, "The Road to San Francisco: The Revival of the Human Rights Idea in the Twentieth Century," *Human Rights Quarterly* 14, no. 4 (1992): 447-77; Paul Gordon Lauren, *The Evolution of International Human Rights: Visions Seen* (rev. ed.; Philadelphia: University of Pennsylvania Press, 2013), 114; Dzovinar Kévonian, "André Mandelstam and the Internationalization of Human Rights (1869-1949)," in *Revisiting the Origins of Human Rights*, ed. Pamela Slotte and Miia Halme-Tuomisaari (Cambridge: Cambridge University Press, 2015), 239-66; and Helmut Philipp Aust, "From Diplomat to Academic Activist: André Mandelstam and the History of Human Rights," *European Journal of International Law* 25, no. 2 (2014): 1105-21.

5 Mandelstam, *Le Sort de l'empire Ottoman* (Lausanne: Payot, 1917), 445-47.

6 For the original Italian, I consulted the third edition, which contains many additions to the original 1890 edition: *I Diritto internazionale codificato a la sua sanzione giuridica* (Turin: Unione Tipografico editrice, 1900). An English translation, based on the fifth edition, appeared in 1918: *International Law Codified and Its Legal Sanction: Or, The Legal Organization of the Society of States*, trans. Edwin Borchard (New York: Baker, Voorhis and Co., 1918). For the quotes, see §15/§11 for Italian, and §10. On this work, see Martti Koskeniemi, *The Gentle Civilizer of Nations: The Rise and Fall of International Law 1870-1960* (Cambridge: Cambridge University Press, 2001), 54-7. See also Marco Duranti, *The Conservative Human Rights Revolution: European Identity, Transnational Politics, and the Origins of the European Convention* (Oxford: Oxford University Press, 2016), 68-9.

7 See George Finch, "The International Rights of Man," *American Journal of International Law* 35, no. 41 (1941): 662-65 (663-64); cited in Moyn, *Last Utopia*, 294n7.

8 See Humphrey, who mentions the draft by the Institut de droit international as one of those he consulted: *Human Rights & the United Nations: A Great Adventure* (Dobbs Ferry, N.Y.: Transnational Publishers, 1984), 32.

9 Mandelstam, "La Déclaration des Droits Internationaux de l'Homme," *Esprit International: The International Mind* 4, no. 14 (1930): 232-43.

10 See Dzovinar Kévonian, "Question des réfugiés, droits de l'homme: éléments d'une convergence pendant l'entre-deux-guerres," *Matériaux pour l'histoire de notre temps* 72 (2003): 40-49 (42-3); Stéphane Pinon, "Boris Mirkine-Guetzévitch et la diffusion du droit constitutionnel," *Droits* 46, n° 2 (2007): 183-212; and Samuel Moyn, *Christian Human Rights*, 28-33.

11 *Les Déclarations des Droits de l'Homme: Textes constitutionnels concernant les droits de l'homme et les garanties des libertés individuelles dans tous les pays* (Paris: Payot, 1929).





Revolution at the Sorbonne until 1922 (he died in 1928). He also played an important role in the LDH (est. 1898), whose founding statute was the DRMC.<sup>12</sup>

At the head of Mirkine-Guetzévitch and Aulard's volume, they placed the 1789 Declaration, highlighting its function as a generative matrix for the burst of constitution writing that exploded in the nineteenth century. Their collection included a thorough index, allowing readers to see how rights originally announced in the DRMC were repeated, often word for word, in constitutions the world over.

Mirkine-Guetzévitch and Aulard's volume highlight how national constitutions make up an essential, if largely overlooked, legacy of Enlightenment rights, one that, moreover, played a crucial role in the efforts to produce a *new* international declaration in the 20th century. This legacy is easy to miss: while few nineteenth-century constitutions were preceded by standalone Declarations of Rights, many incorporated rights claims within them. And while the phrasing they chose to express these rights was often lifted directly from the 1789 Declaration, or other French Revolutionary constitutional

<sup>12</sup> See Emmanuel Naquet, *La Ligue des Droits de l'Homme: une association en politique (1898-1840)*, PhD dissertation, Institut d'études politiques de Paris (2005); and William Irvine, *Between Justice And Politics: The Ligue des Droits de l'Homme, 1898-1945* (Stanford: Stanford University Press, 2007).



documents, it can still be difficult to track. Most constitutions cherry-picked articles from the DRMC, or only cited them partially, and of course translated them into other languages.

Once you know where and how to look, however, it is fairly straightforward to identify how revolutionary rights spread through nineteenth century constitutions. In what follows, I'll offer some examples, though this is no way an exhaustive list. Consider the first written constitution in Spanish America, the 1811 Constitution of "the United States of Venezuela."<sup>13</sup> It contains no prefatory declaration, so the presence of rights provisions less obvious. Only in its eighth chapter do we find detailed the "Rights of man [*derechos del hombre*], which are to be acknowledged and respected throughout the whole extent of the State."<sup>14</sup> Here is where a large number of similarities with the DRMC appear:

1. The Venezuelans borrow the highly idiosyncratic French (and ultimately Rousseauist) definition of the law as "the free expression of the general will..." ("La ley es la expresion libre de la voluntad general," art. 149; cf. art. 6 of the DRMC, one of most famous formulations).
2. They also adopted the same definition of liberty: "Liberty, is the faculty of **doing every thing that does not injure the rights of other individuals**, or the body of society, whose limits can **only be determined by law**, for otherwise they would become arbitrary, and ruinous to liberty itself" ("La libertad es la facultad de hacer todo lo que no daña á los derechos de otros individuos, ni al cuerpo de la sociedad, cuyos limites solo pueden determinarse por la ley, por que de otra suerte serian arbitrarios, y ruinosos á la misma libertad," art. 153). The borrowing here is more subtle, as it includes some additional language and a different order of ideas. Compare with art. 4 of DRMC: "La liberté consiste à pouvoir **faire tout ce qui ne nuit pas à autrui**: ainsi, l'exercice des droits naturels de chaque homme n'a de bornes que celles qui assurent aux autres membres de la société la jouissance de ces mêmes droits. **Ces bornes ne peuvent être déterminées que par la loi.**"

<sup>13</sup> See in general John Lynch, *The Spanish American Revolutions, 1808-1826* (New York: Norton, 1986); and by the same author, *Simón Bolívar: A Life* (New Haven: Yale University Press, 2006); and Joshua Simon, *The Ideology of Creole Revolution: Imperialism and Independence in American and Latin American Political Thought* (Cambridge: Cambridge University Press, 2017).

<sup>14</sup> *Venezuelan Declaration of Independence and Constitution* (Longman and Co., 1812), 248. Available online: <https://scholarship.rice.edu/jsp/xml/1911/9253/1/aa00032.tei.html#div2030>.

3. They determined the relation of the law to liberty in the same exact terms: "It shall not be lawful to hinder anything not prohibited by law, and no one shall be obliged to do any thing, that is not thereby prescribed" ("No se puede impedir lo que no està prohibido por la ley, y ninguno podrá ser obligado à hacer lo que ella no prescrib," art. 157; cf. art. 5, "Tout ce qui n'est pas défendu par la Loi ne peut être empêché, et nul ne peut être contraint à faire ce qu'elle n'ordonne pas").
4. The presumption of innocence was expressed in the exact same terms as the French: "Every person shall be presumed innocent, till he has been declared guilty in conformity to the laws..." ("Todo hombre debe presumirse inocente hasta que no haya sido declarado culpable con arreglo à las leyes," art. 159; cf. art. 9: "Tout homme étant présumé innocent jusqu'à ce qu'il ait été déclaré coupable").
5. And finally they laid down a very similar (if not perfectly identical) principle of criminal procedure, insisting "No person shall be judged, or condemned, to the sufferance of any punishment in criminal matters, till after he has been legally heard" ("Ninguno podrá ser juzgado, ni condenado al sufrimiento de alguna pena en materias criminales, sino despues que haya sido oido legalmente," art. 160; cf. the very similar art. 7: "Nul homme ne peut être accusé, arrêté ni détenu que dans les cas déterminés par la Loi, et selon les formes qu'elle a prescrites").

What we find in this instance is a combination of "copy-paste constitutionalism," alongside extensive paraphrase. These passages are not always obvious to catch. But they are fairly typical of other constitutions as well, both in the new Spanish American republics, as well as European ones.

The Argentine Constitution of 1819 (officially known as the Constitution of the United Provinces of South America) offers a similar example. Again it does not include a prefatory enumeration of rights, though it does have a fifth section entitled "Declaración de Derechos:"

1. The article outlining the five basic rights that all citizens can enjoy contains a second sentence very close to DRMC: "No one can be deprived of any of them except in accordance with law" ("Los miembros del Estado deben ser protegidos en el goce de los derechos de su vida, reputación, libertad, seguridad y propiedad. **Nadie puede ser privado de alguno de ellos sino conforme a las leyes,**" art. CIX; cf. art. 7: "Nul homme ne peut être

accusé, arrêté ni détenu que dans les cas déterminés par la loi, et selon les formes qu'elle a prescrites.").

2. Like the Venezuelan one, this Constitution also adopts the same principle (and similar language) describing the relation between law and liberty: "No inhabitant of the State shall be forced to do what the law does not mandate, nor deprived of what it does not prohibit." ("Ningún habitante del Estado será obligado a hacer lo que no manda la ley, ni privado de lo que ella no prohíbe," art. CXIII; cf. art. 5: "Tout ce qui n'est pas défendu par la loi ne peut être empêché, et nul ne peut être contraint à faire ce qu'elle n'ordonne pas").
3. Finally, it protected the right of property in identical terms as the DRMC, terms which became quasi canonical in constitutional law ("Siendo la propiedad un derecho **sagrado e inviolable,**" art. CXXIII; cf. art. 17: "La propriété étant un droit inviolable et sacré").

What the Argentine constitution adds to this account is a recognition of how certain particular phrases and concepts had a greater likelihood of circulating and reappearing in constitutional documents. At some point, one might ask whether drafters were aware of the original source of their phrasing. But it is likely that they were all familiar with the DRMC, given its particular notoriety, and the fact that a Spanish translation had been published in Bogotá in 1793 by Antonio Nariño, the future president of Cundinamarca (now part of Columbia).<sup>15</sup>

Indeed, such was the allure of the DRMC that its influence can even be seen on the 1812 Cádiz constitution, written in opposition to the French occupation.<sup>16</sup> Here as well, there is no prefatory declaration. But scattered throughout are clear signs that the Spanish *liberales* were drawing on the French.



<sup>15</sup> See Anthony McFarlane, *Colombia Before Independence: Economy, Society, and Politics Under Bourbon Rule* (Cambridge: Cambridge University Press, 1978), 285-7.

<sup>16</sup> See e.g. Jaime E. Rodríguez O., "We are All Now the True Spaniards": Sovereignty, Revolution, Independence and the Emergence of the Federal Republic of Mexico, 1808–1824 (Stanford: Stanford University Press, 2012), esp. chp. 5; Scott Eastman and Natalia Sobrevilla Perea, eds., *The Rise of Constitutional Government in the Iberian Atlantic World: The Impact of the Cádiz Constitution of 1812* (Tuscaloosa: University of Alabama Press, 2015); and Roberto Breña, "The Cádiz Liberal Revolution and Spanish American Independence," in *New Countries: Capitalism, Revolutions, and Nations in the Americas, 1750-1870*, ed. John Tutino (Durham: Duke University Press, 2017), 71-104.

1. Some examples are fairly obvious: the Cádiz declaration opens by stating that “sovereignty resides essentially in the nation” (“La soberanía reside esencialmente en la Nación,” art. 3), directly copying art. 3 of DRMC: “Le principe de toute souveraineté réside essentiellement dans la nation.”
2. Others require digging deeper into the constitutional text. Freedom of the press was guaranteed by article 371, which placed similar caveats on a free press as had the French: “All Spaniards have the freedom to write, print, and publish their political ideas, without needing any license, revision, or approval before the publication, under the restrictions and liability established by law” (“Todos los españoles tienen libertad de escribir, imprimir y publicar sus ideas políticas, sin necesidad de licencia, revisión ó aprobación alguna anterior á la publicación, **bajo las restricciones y responsabilidad que establezcan las leyes.**” Compare article 11 of the DRMC: “La libre communication des pensées et des opinions est un des droits les plus précieux de l’homme : tout citoyen peut donc parler, écrire, imprimer librement, **sauf à répondre de l’abus de cette liberté dans les cas déterminés par la loi.**”
3. The Spanish drafters also drew on other French constitutional language. Article 172, on the executive power of the king, criminalized any “attack on individual liberty” (*atentado contra la libertad individual*).<sup>17</sup> This was precisely the language employed in the French penal code of 1791, which the Spaniards are more likely to have known from the 1808 Bayonne Statue: “Tout **attentat contre la liberté individuelle**, base essentielle de la constitution française, sera puni ainsi qu’il suit” (Part 2, tit. 1, sec. 3, article 19).

Finally, the 1822 constitution of Portugal echoed the French Declaration even more openly, as it began with a section on “the individual rights and duties of the Portuguese” (title 1).

1. Article 1 defined the object of the constitution as guaranteeing the “**liberty, security, and property** of all Portuguese” (“A Constituição política da Nação Portuguesa tem por objecto manter a liberdade, segurança, e propriedade de todos os Portugueses”). Here was the

17 “No puede el Rey privar á ningún individuo de su libertad, ni imponerle por sí pena alguna. El secretario del Despacho que firme la orden, y el juez que la execute, serán responsables á la Nación, y castigados como reos de atentado contra la libertad individual.” art. 172, item 11.

French “trinity” of rights (minus resistance to oppression, which had been added later), laid out in article 2 of the DRMC.

2. Like the Venezuelans and the Argentines, the Portuguese adopted the same French definition of liberty as “consist[ing] in not being obliged to do what the law does not command, nor to refrain from doing what it does not forbid.” (“A liberdade consiste em não serem obrigados a fazer o que a lei não manda, nem a deixar de fazer o que ela não proíbe. A conservação desta liberdade depende da exacta observância das leis,” art. 2). This wording paraphrased art. 5 of the DRMC: “Tout ce qui n’est pas défendu par la Loi ne peut être empêché, et nul ne peut être contraint à faire ce qu’elle n’ordonne pas,” art. 5.
3. They similarly enshrined property as “sacred and inviolable” (“A propriedade é um direito sagrado e inviolável,” art. 6; cf. art. 17), and adopted the French rules for eminent domain: “When, for some reason of public and urgent need, it is necessary that he be deprived of this right, he will first be compensated, in the manner established by the laws” (“Quando por alguma razão de necessidade pública e urgente, for preciso que ele seja privado deste direito, será primeiramente indemnizado, na forma que as leis estabelecerem,” art. 6; cf. art. 17: “si ce n’est lorsque la nécessité publique, légalement constatée, l’exige évidemment, et sous la condition d’une juste et préalable indemnité.”)
4. Interestingly, they looked to the *French* declaration to affirm the English common law principle of *habeas corpus*: “No one shall be arrested without charge... The law will designate the penalties with which they must be punished” (“Ninguém deve ser preso sem culpa formada... A lei designará as penas...” art. 4; cf. art. 7: “Nul homme ne peut être accusé, arrêté ni détenu que dans les cas déterminés par la loi, et selon les formes qu’elle a prescrites”). Even if this right is traditionally associated with English constitutionalism, it was often the French declaration that provided the modern formula.
5. And they asserted freedom of expression in identical terms as in DRMC. “A livre comunicação dos pensamentos é um dos mais preciosos direitos do homem,” art. 7; cf. “La libre communication des pensées et des opinions est un des droits les plus précieux de l’homme” (art. 11).



These examples, chosen among many others, highlight the gradual dissemination of key Enlightenment rights provisions, particularly around the rule of law, through multiple national constitutions. The fact that so many constitutions copied/pasted the same language should not be seen as laziness or unoriginality on the part of drafters, but rather underscores the success of particular ideas (or at least ideals).

To be sure, the French Declaration was not the only source for these. The Venezuela constitution of 1811, for instance, also looked to American bill of rights: Article 160, to cite just one example, insisted that “no person shall be compelled or forced in any cause, to give testimony against himself” (cf. the Fifth amendment).<sup>18</sup> The Portuguese constitution also included a nod to Beccaria, insisted on proportionality of crimes and punishments, and abolishing torture and other “infamous punishments.”<sup>19</sup> More generally, the entire practice of incorporating human rights into constitutionalism owed a debt to Gaetano Filangieri’s “science of legislation.”<sup>20</sup>

But it is also striking -- and in a way, somewhat surprising -- how the French Declaration served as the chief model and *Urtext* for perpetuating Enlightenment and Revolutionary era rights into nineteenth-century constitutions. In part, it was perhaps because the French, in 1789, were often gesturing toward future, yet unwritten, legal codes that their declaration served as a better template (as opposed to, say, the American revolutionaries, who were primarily concerned about retaining the existing body of English common law).

But because the language and principles of the DRMC spread so widely around the world, international lawyers could claim that these ideas had *already* gained an international

acceptance. They could point to the “universal” spread of revolutionary principles to argue that they should be codified into a document with explicitly “universal” jurisdiction. In other words, the presence of Enlightenment-era rights in constitutions from around the world allowed international lawyers to claim that these rights actually were “universal.” What’s more, even when imperfectly enforced, these rights provisions afforded the citizens of new republics (and some kingdoms, like Norway, Portugal, or Greece) with genuine political and legal experiences. The language of property rights, freedom of expression, or “individual liberty,” might have been recycled, but the habits that these rights made possible were new and often welcome. Constitutional history, in this regard, can also be a proxy for cultural and even social history, which in turn can explain why certain peoples might value rights more strongly than others.

18 Article 160 granted defendants “the right of demanding the motive of the accusation attempted against [them]” (cf. article 1, sec. 9, of the U.S. Constitution). It also insisted that “no person shall be compelled or forced in any cause, to give testimony against himself” (cf. the Fifth amendment). The following article (161) established trial by jury (cf. the Sixth amendment). Others (162-63) forbade warrantless searches (cf. the Fourth amendment).

19 The entire penalty must be proportionate to the crime; and none will pass from the person of the delinquent. Torture, confiscation of goods, infamy, scourging, holding and trading, branding with a hot iron, and all other cruel or infamous punishments are abolished.” art. 11 (“Toda a pena deve ser proporcionada ao delito; e nenhuma passará da pessoa do delinquente. Fica abolida a tortura, a confiscação de bens, a infâmia, os açoites, o barão e pregão, a marca de ferro quente, e todas as mais penas cruéis ou infamantes”).

20 Vincenzo Ferrone, *The Politics of Enlightenment: Constitutionalism, Republicanism, and the Rights of Man in Gaetano Filangieri*, trans. Sophus Reinert (London: Anthem Press, 2014).







Lynn Hunt

UCLA

Lynn Hunt earned her B.A. from Carleton College (1967) and her M.A. (1968) and Ph.D. (1973) from Stanford University. Before coming to UCLA, where she is Distinguished Research Professor, she taught at the University of Pennsylvania (1987-1998) and the University of California, Berkeley (1974-1987). Prof. Hunt's most recent books are *History: Why It Matters* (2018) and *The French Revolution and Napoleon: Crucible of the Modern World* (2017). She has also written on the origins of human rights in the eighteenth century, *Inventing Human Rights* (2007), the question of time and history writing, *Measuring Time: Making History* (2008), and early 18th century views of the world's religions, *The Book that Changed Europe* (with M. Jacob and W. Mijnhardt, 2010), and *Writing History in the Global Era* (2014). Her abiding focus has been the French Revolution and she has also been concerned with historical method and epistemology. In addition, she has edited collections on the history of eroticism, pornography, and human rights, and co-authored a western civilization textbook, *The Making of the West: Peoples and Cultures* (6th ed. 2020). Her books have been translated into 14 languages.

## WRITING THE HISTORY OF HUMAN RIGHTS: SOME PERSONAL REFLECTIONS

Because the topic – the history of human rights – is so huge and so much has been published about it in the last twenty years or so, a very short overview of the different possible approaches might be useful. These can be briefly summarized as positive vs. negative views of human rights; long-term vs. short-term examinations of their sources; geographically focused (the West) vs. global accounts; and differing high water marks for their elaboration. For the purposes of discussion, I would put my account in *Inventing Human Rights* (2007) and the detailed exploration by Vincenzo Ferrone, *The Enlightenment and the Rights of Man* (2019) in the positive column and Samuel Moyn's *The Last Utopia* (2010) and Dan Edelstein's *The Terror of Natural Right* (2009) in the negative column. The distinction is not absolute but nonetheless important. None of these books tries to give a truly long-term history of human rights emphasizing sources in ancient Greece and Rome or the medieval period or a global account emphasizing sources of rights in outside of Europe and the United States. Instead they focus on particular moments. Much debate about human rights in the West concerns chronology: is the eighteenth century particularly important (Ferrone, Hunt, Edelstein), the reaction to World War II, the 1970s (Moyn) or the 1990s?

Although chronology still remains up for discussion, it is now possible to use Google n-grams to pin down the use of terms (something impossible when I wrote my book). A Google n-gram of French shows that *droits de l'homme* was rarely used before 1760, became much more common in the late 1780s and 1790s and then dropped off again after 1800 while still remaining more current than it had been before the end of the eighteenth century. A Google n-gram of rights of man in English follows a similar path. If I had had access to these more refined digital tools when I wrote my book I would have been able to be more precise, though I was aided in crucial ways by ARTFL, the US access point to Frantext, a data base of French literature, which though incomplete can be very suggestive. Now that more such tools exist, it is possible to affirm, for instance, that Voltaire, while being a champion of human rights in many respects (especially religious toleration),

did not use the term *droits de l'homme* very often: twice to be exact, once in 1765 and once in 1777. Similarly, the 16 volumes of Grimm's *Correspondance littéraire*, 1753-1790, register few uses of the term until 1788. Abbé Raynal's *Histoire philosophique et politique des établissements et du commerce des Européens dans les deux Indes* has the term twice in the 1770 edition, three times in the 1774 edition, and 9 times in the 1780 edition. Finally, the complete works of Maximilien Robespierre, spokesman for the revolutionary government in 1793-94, give us 138 uses of the term, all but two of them after 1789. I belabor this point in order to make two observations: first, the use of new digital resources can help us pin down language in much more precise ways than ever before, and second, to defend my own position, which is somewhat different from that of Ferrone, that while the Enlightenment plays an important role in formulating the idea of rights of man, the political crisis of the French Revolution gives it much greater resonance (both for better and for worse since rights were then associated with revolutionary violence). Human rights are not just an idea; they are a politics as well, and the politics makes the idea more powerful.

In my own work, I tried to combine three approaches with attention to three main places, France, the United States, and Great Britain: an intellectual history of the idea of the rights of man in the late eighteenth century; a political history of the events at the end of the eighteenth century that gave those ideas greater salience; and what be called an affective history, that is, a history of the emotions mobilized by reading novels, descriptions of judicial torture, or the brutal treatment of slaves. This last part was the most controversial of my approaches but also perhaps the approach that has had the most influence on other scholars. I argued that equality, the kind of equality that is crucial to human rights, was not just an idea; it had to be felt to make sense. People had to learn to feel that others not like themselves were equal to them in some fundamental fashion, and I concluded that they did that learning through reading, especially reading that fostered empathetic identification with those of lower social standing. I do not think I convinced all my readers, but at least it gave them something to consider.



**Nicholas Cronk** is the Director of the Voltaire Foundation and Professor of European Enlightenment Studies at the University of Oxford, where he is a fellow of Wolfson College and of St Edmund Hall. He is the general editor of the *Œuvres complètes de Voltaire* (205 volumes, 1968-2022), and was the Principal Investigator of Electronic Enlightenment (2000-2009). His principal research interests are related to the French Enlightenment, and touch particularly on Voltaire, on questions of critical editing, and on aspects of the history of the book and correspondence studies. He is also interested in the development of digital humanities research methodologies for textual research. His latest publications are: *Lettres sur les Anglais*, directing critical edition for the *Œuvres complètes de Voltaire*, 4 vols. 6A-C (Voltaire Foundation, Oxford, 2020-2022); (with Glenn Roe) *Voltaire's Correspondence: Digital Readings* (CUP, 2020); 'Electronic Enlightenment: recreating the Republic of Letters', in *Digitizing Enlightenment: digital humanities and the transformation of eighteenth-century studies*, ed. S. Burrows and G. Roe, *Oxford University Studies in the Enlightenment* (Liverpool University Press, 2020), p.55-72; and 'Voltaire: the Orient of the Enlightenment', in *A Companion to World Literature*, ed. K. Seignurie (Wiley Blackwell, 2020), vol.3, chap.47.

## Nicholas Cronk

VOLTAIRE FOUNDATION, UNIVERSITY OF OXFORD

### ENLIGHTENMENT LEGACY AND DIGITAL HUMANITIES

How may an understanding of Digital Humanities (DH) enhance or embolden our study of Enlightenment legacies? The question is an especially pertinent one given that medieval and 18<sup>th</sup>-century studies are two especially strong areas of applied DH research. This talk is concerned with digital text, but of course it should be remembered that digital humanists also deal with digitised images and digitised music, for example. In the realm of text, which is what most humanist researchers deal with most of the time, DH methodologies can help in a range of different ways. Firstly, they can aid us to locate and discover texts; secondly, they can enable us search those texts; and finally they allow us to carry out more advanced investigations that may involve searching across multiple databases or designing experiments to address particular research questions. In all these activities, it is important to bear in mind the difference between digitised texts and digital editions: they are not the same thing, and they permit different types of searches, of different levels of sophistication.

To begin with, it is important to remember that we all 'do' digital humanities', sometimes without realising it, for example when we consult an online library catalogue. Such catalogues are not to be underestimated as research tools, since they can serve as powerful finding aids for both primary and secondary sources, and many major libraries now provide digitised versions of books and even manuscripts. Take, for example, the *Karlsruhe Virtual Catalog (KVK)*, a search engine that gives access to millions of rare books, magazines and other media from library and book trade catalogues worldwide [<https://pro.europeana.eu/data/karlsruhe-virtual-catalog>]. In a different mode, the *Kalliope Verbundkatalog* is a union catalogue that searches archives all across Germany libraries [<https://kalliope-verbund.info>]. Such resources are powerful tools for scholarly discovery.

Many text collections are freely available online, though of course the range and quality of what is on offer varies widely. At one end of the spectrum, there are carefully curated single-author projects like *CatCor: Correspondence of Catherine the*



Great [<https://catcor.seh.ox.ac.uk>], while at the other extreme, but not to be ignored, Google Books contains many, sometimes unexpected, treasures. For French-language material, the Gallica website [<https://gallica.bnf.fr>] of the Bibliothèque nationale de France contains remarkable riches, including 850,000 books, nearly 200,000 manuscripts, and over half a million newspapers. Also freely available are the more curated texts of the ARTFL Project at the University of Chicago [<https://artfl-project.uchicago.edu>], containing, among other works, the ARTFL digital edition of the *Encyclopédie*, *Tout Voltaire*, *Tout d'Holbach* and a wide selection of historical dictionaries.

Other text collections are made available commercially, and usually accessed through university libraries that subscribe to the resource. *Electronic Enlightenment* was one of the earliest of these, a pioneering data resource that brings together the best available scholarly editions of eighteenth-century correspondences, published by different academic presses, created at the Voltaire Foundation and distributed since 2009 by Oxford University Press. Another key resource for those working with English-language material is *Eighteenth-Century Collections Online (ECCO)*, and published by Gale [<https://www.gale.com/intl/primary-sources/eighteenth-century-collections-online>]. This ranks as one of the most comprehensive online historical archives of its kind, bringing together every significant title printed in the United Kingdom between 1701 and 1800; with over 180,000 titles and more than 32 million pages, and still growing, ECCO is an immensely powerful resource for 18<sup>th</sup>-century research.

Secondary sources are also increasingly being made available online (and their value became all too apparent during the pandemic, when researchers were obliged to depend on online resources). One of the leading book collections in the area of Enlightenment studies are the *Studies on Voltaire and the Eighteenth Century*, founded by Theodore Besterman in 1955, more recently restyled *Oxford University Studies in the Enlightenment*. The collection, now numbering nearly 600 volumes, is published by Liverpool University Press in association with the Voltaire Foundation, and is available as *OSE Online* [<https://www.liverpooluniversitypress.co.uk/collections/oxford-university-studies-in-the-enlightenment-online/>].

With these databases of primary texts, we can conduct searches for words and phrases to carry out simple experiments. An example concerning a question of Enlightenment heritage: how in the 19<sup>th</sup> century do writers typically refer to the age of the Enlightenment? The corpus 'Critique' of the ObTIC database,

developed by the Sorbonne [<https://obvil.sorbonne-universite.fr/corpus/critique/>] and containing major works of French criticism published between 1750 and 1925 (with a strong bias towards works of the Third Republic) can help us answer this question. If we search the phrase *siècle des lumières* using the OBVIL 'Critique' database, going through interface Obvie, we find ten occurrences of *siècle des lumières*, not many, but there are some interesting usages among them, including Albert Thibaudet, in a work of the 1930s. Most astonishing, we find that Emile Faguet, in 'En lisant Nietzsche' (1904), uses *le siècle des lumières* to refer to the 19<sup>th</sup> century! – a salutary reminder of just how slippery this term can be. If we then run the same search across the whole OBVIL dataset through the interface of Philologic [<https://obvil.huma-num.fr/philologic/>], the results are more revealing. The expression *siècle des lumières* is widely found, but so too are other expressions, including *siècle éclairé* et the *siècle de Voltaire*:

<i>encyclopédistes</i>	2618 occurrences
<b><i>siècle des lumières</i></b>	739
<i>siècle éclairé</i>	352
<i>siècle de Voltaire</i>	131
<i>siècle des philosophes</i>	28

Further investigation of the expression *siècle des lumières* will need to include these alternative expressions, and so the initial search allows us to broaden the research questions that we can ask.

We may wish to conduct more sophisticated forms of research, and some online resources now contain their own research tools. Mapping is an obviously attractive tool, used to great effect in the project *Mapping the Republic of Letters*, developed at Stanford [<http://republicofletters.stanford.edu>], permitting, for example, visualisations of Voltaire's correspondence network. More recently the Stanford researchers have applied Social Network Analysis (SNA) to the corpus, analysing Voltaire's correspondents by social group and profession, and publishing their findings on their website. Another resource which invites us to ask our own questions of its data is the *FBTEE: The French Book Trade in Enlightenment Europe: Mapping the Trade of the Société Typographique de Neuchâtel, 1769-1794* [<http://fbtee.uws.edu.au/main/>]. ECCO is currently being modified to include a limited number of basic







tools within the dataset. The next step is for the researcher to design programmes that enable more sophisticated researches. Using the metadata behind *Electronic Enlightenment*, for example, it was possible to conduct a series of experiments on Voltaire's correspondence (see Nicholas Cronk and Glenn Roe, *Voltaire's Correspondence: Digital Readings*, Cambridge University Press, 2020).

In using digital texts for scholarly research, it is crucial to bear in mind the distinction between digitised (scanned) texts and digital (scholarly) editions. With the codex, the text is fixed from the moment the page is printed, whereas a digital book is fluid, multi-dimensional, always being made and remade. A scanned text can be useful, of course; but it is a different object from a critical edition, that is to say a full scholarly treatment of a text, that includes a copy text, with notes, variants and an introduction. There are cases where scholarly editions have been scanned and put online, as Oxford University Press has done with *OSEO*, *Oxford Scholarly Editions Online* [<https://www.oxfordscholarlyeditions.com>]. This is an immensely useful resource, but (for reasons of economy) its digital format derives directly from the paper version. A scanned text may be digitised, but that does not make it a digital edition. For high-quality research in future, we need to construct scholarly editions that exploit to the limit the full potential of the digital medium, imagining resources conceived as digital objects

from the start. The current flagship project of the Voltaire Foundation is to build *Digital Voltaire*, conceived as an online edition of Voltaire's complete writings that will stand as the definitive (though evolving) edition of reference to this writer's works.

Over the last twenty years, there has been significant investment in the digitisation of texts; the results have been exciting, but uneven. Digitisation has not always been of high quality, and some databases have not lasted. Sustainability is a huge question, for funders and for researchers. In the UK, funding bodies also increasingly demand that the projects they support should be available with Open Access (OA) – a reasonable demand, but one that is in direct conflict with their other core demand, for sustainability. The best research requires high-quality databases, and these require large resources. Aside from the obvious question 'Who pays?', there is another equally critical question: 'Who curates our digital resources?' It may be libraries (like the BnF), or commercial publishers (like Gale), or university research groups, or any combination of these. We need to devise interesting questions to put to the resources that are currently available, and we need to insist that those who curate our digital resources are not too easily satisfied with the *status quo*. Digital Humanities methodologies have the capacity to change radically our field of research, and we need to have the intellectual ambition to build the digital resources capable of achieving that goal.







## FELLOWS AND RESEARCHES

DECLARATION  
DES DROITS DE L'HOMME



Graham Clure

Graham Clure received his B.A. in Sociology and Philosophy from the University of Wisconsin-Madison in 2006, his M.Phil. in Political Thought and Intellectual History from the University of Cambridge in 2007, and his Ph.D. in Political Science from Harvard University in 2015. From 2016-17 he worked at the College of Europe at Natolin (Warsaw) and, from 2017-2021 he has worked in the Department of History at the University of Lausanne, as a Senior Swiss National Science Foundation Researcher. At Lausanne, he has been affiliated with a SNSF project entitled "Enlightenment Agrarian Republics: From the Vaud to Poland and America" directed by Prof. Béla Kaposy. During this time, he has primarily been engaged in writing a monograph, entitled *Rousseau's Last Masterpiece: The Political and Economic Institutions of Poland*. From autumn 2021, he has been a Fellow in the Fondazione 1563's Turin Humanities Program, where he undertook a project entitled *Rousseau's Global Legacy: The Science of Political Right from Poland to America*.

### ROUSSEAU'S LAST MASTERPIECE: THE POLITICAL INSTITUTIONS OF POLAND

At the 2022 Summer School of the Turin Humanities Program, Graham Clure gave a presentation, entitled "Rousseau's Last Masterpiece: The Political Institutions of Poland," in which he discussed some of the themes of the work he has been conducting in Turin. The talk concentrated on the political thought of Jean-Jacques Rousseau, seen from the vantage point of his last major political work, the *Considerations on the Government of Poland*, and its reception in France, Germany and beyond. The *Considerations on Poland* was the only text in which Rousseau ever discussed the constitutional design of a large state, giving it special relevance to attempts to reform the French monarchy from the 1770s through the Napoleonic period. Elements of Rousseau's contribution to the idea of a "monarchico-republican" constitution, or constitutional monarchy, can be found in the writings of figures such as Turgot, Du Pont de Nemours, Condorcet, and Hegel. Reconstructing these lineages can prompt a reconsideration of familiar accounts of Rousseau's relationship to the French Revolution and, in turn, the relationship of the French Revolution to the American Revolution as well as to reforms undertaken in Prussia in response to Napoleon. More generally, this line of inquiry raises questions about the history and development of federalism and representative government, as well as the emergence of the study of public administration, political science, economics and the history of political thought as academic disciplines.



## Ariane Viktoria Irmgard Fichtl



Ariane Viktoria Fichtl studied Classics, Archeology and Modern History at the University of Augsburg (Germany) and Kwansai Gakuin University (Japan). She graduated in 2013 with a Master's thesis that compared the Ancient Greek and Roman oratorical strategies of legitimating power in the second century AD. In 2018, Ariane completed her binational Ph.D. in the History of Ideas at the Université de Lille (France), in cotutelle with the University of Augsburg (Germany). In 2019 she won the British Society for Eighteenth Century Studies' Committee Award. Ariane's main area of research is the reception of classical republican ideas and culture in eighteenth-century France and the evolution of a more modern republican language in Enlightenment Europe and America, with a focus on the global reception of the 'Déclaration des droits de l'homme et du citoyen' (1789) in the late eighteenth and nineteenth centuries. In September 2021 Ariane started her project The Rights of Man in a Transatlantic Republic. French Migrants and the Birth of the Democratic-Republican Party in the United States as Fellow in the Fondazione 1563's Turin Humanities Program.

### WOMEN ENGAGED IN IMMEDIATE ABOLITIONISM: CHALLENGING EXCLUSIONIST PRINCIPLES BASED ON RACE AND GENDER

Within the political discourse of women's antislavery societies that appeared first in Britain and subsequently in the United States at the beginning of the nineteenth century, they articulated that the first and foremost aim of their activity was to disseminate more correct information about the system of slavery and how it operated on the whole of society. These women were engaged in the movement for the "immediate abolition" of slavery, a term which was coined by British Quaker Elizabeth Heyrick (1769-1831) who had modeled it after the term "immediate revelation" that was connected to the religious terminology of Quakerism since the seventeenth century.

The immediatists' goal was to turn the tide of public opinion against slavery by exposing its real nature. They characterized it as an institution of legalized robbery and oppression, a "republican despotism" based on the abuse of republican liberty.

According to the women engaged in antislavery, this abuse was inherently domestic in its nature, because it teared apart the very foundations on which human society was built, producing a Hobbesian state of "nature warring against itself".

The women's main strategy was to point out the role of societal prejudices in the up-keeping of the system of slavery. In their view prejudices were not natural, but stemmed from slavery itself, which the women associated with a patriarchal system to which they themselves were subjected to. They listed, amongst the crimes committed against the enslaved by the system, the deprivation of their right to own property, much less to own themselves, because their bodies, labour, and reproductive capacities were property to another. There are overlaps between the antislavery women's arguments with Mary Wollstonecraft's political philosophy and her arguments in favour of "self-ownership", on which Immediatism, following late seventeenth-century contestations of mind-body dualism





by proto-feminist writers like Lady Anne Conway (1631-1679), built its conceptual framework.

Following immediatist logic, black female abolitionists like Frances Ellen Watkins Harper (1825-1911) took a step further by pointing to the biopolitical dynamic of enslavement, and the subsequent sensual trauma that came with it, because what was taken from the enslaved was nothing short of the jurisdiction over the function of their own senses. The slave mother, for example, was denied the ability to embrace her own child. At the same time abolitionists and women suffragists emphasized black women's role as active shapers of a new generation that would leave behind the social degradation associated with the system of slavery.

Antebellum antislavery women emphasised that they regarded themselves as "bound with the enslaved" by pledging themselves to the tactics of "non-resistance" that were inspired by the Quaker peace testimony, and exercised through performance strategies based on the practice of "mental metempsychosis" (Elizabeth M. Chandler), by which was meant the mental placing of oneself into the enslaved's situation.

They described their engagement as enactment of a "moral revolution" that would do away with all abuse founded upon prejudices. The coming of the American civil war meant that the peaceful abolition of slavery was unsuccessful. However, the abolitionists' non-resistance tactics had carried the day, since the Southern slaveholders were now stigmatised as the aggressors.

My project engages with the question of how the conceptual framework of Immediatism came into being and how it influenced our conception of modern democracy.



Tom Pye

Tom Pye works on the political and intellectual history of Britain in the eighteenth and nineteenth century. He is particularly interested in the history of historical ideas, and has also published more broadly in the history of political thought for *Modern Intellectual History*. His doctoral thesis explores the relationship between the Scottish Enlightenment and the English constitution, and tries to explain why this might matter for the way we think about eighteenth-century British history. He is currently preparing the manuscript for a book. The project he began in Turin as a Fellow of the Turin Humanities Programme examines how eighteenth-century ideas about property, constitution, citizenship, and history played out in the conquest and settlement of Britain's 'second' empire. In doing so, it hopes to contribute a British chapter to a pan-European story about Enlightenment and its legacies.

## THE SCOTTISH ENLIGHTENMENT AND THE POLITICS OF "MODERN HISTORY"

The Scottish Enlightenment is typically credited with fusing English Whig history with a universal theory of social progress, creating a gleaming prospectus for Anglo-Scottish Union and leaving a 'cosmopolitan' legacy to British intellectual culture. This paper, which was delivered at the Turin Humanities Programme Summer School in September 2022, offers a different interpretation. Its claim is that Scotland's major jurists and historians were engaged by the more fundamental question of how 'modern' Europe had emerged from its feudal past, and that this question arose in Scotland because its own feudal institutions had been blamed for the Jacobite rebellion of 1745. By examining the contours of their debate, the paper reconstructs histories of modernity that sidestepped England's 'Glorious Revolution' of 1688-89—the moment commonly associated with the beginning of modern history within the English Whig tradition. As these Scottish visions of modernity often dulled the lustre of the new British state while excluding extra-European societies, the paper reshapes the Anglocentric yet cosmopolitan Scottish Enlightenment of British and imperial historiography.





**Brynne McBryde**

## **BIOLOGICAL MYTHMAKING AND THE POWER OF VISUAL EMBODIMENT**

Medical illustration has an apparently straightforward purpose: to accurately depict biological phenomena as they appear in the human body. As Lorraine Daston and Peter Gallison have demonstrated, the creation of scientific illustration takes great skill and close collaboration between doctors and artists. While the definition of accuracy has shifted, they argue, the goal has remained the same. Doctors and illustrators worked together to make interpretive decisions, what details to include and which to leave out, how best to frame the body so that it is clear and understandable to the viewer. According to Daston and Gallison, in the nineteenth century scientists and illustrators increasingly shied away from illustrative intervention, idealizing an artist who created a purely mechanical image of the subject at hand and relied on the viewer to interpret it accurately. My research, however, has revealed a great deal of interpretive license and invention in late nineteenth-century medical illustrations, particularly when doctors had firmly entrenched cultural beliefs about the bodies of their patients that were not necessarily reflected in those patients' anatomies. In the case of medicine and anatomy, these alterations, backed by the dual authority of science and, newly in the nineteenth century, the state, effectively told lies about the possibilities and limitations of individual bodies that changed the way that they were treated by their owners, their neighbors, and the government.

Doctors repeatedly manufactured physiological limitations on what constituted "good health", reserving it for an elite subclass of adult white men, that in turn justified vastly different interactions between individual bodies and the state. Medical illustrations embedded these invented differences in bodies, providing proof of the biological myths that led viewers to reaffirm the hierarchies that had given birth to them originally. My project considers medical illustrations as forms of visual culture that served an important function in codifying gender and racial categories as physiological realities embedded in the human body, categories that defined that body's possibilities, limitations, responsibilities, and rights.

Brynne McBryde graduated from the University of Michigan with a dual concentration in the history of art and English language and literature. She obtained a master's degree in art history at the George Washington University and completed her doctoral studies in art history at the Pennsylvania State University, presenting her dissertation "Public Bodies: the Nude and Public Health in Nineteenth-Century France" in 2020. Brynne's work focuses on the intersections of medicine, race, sexuality, and visibility in the nineteenth century by revealing medical illustrations as important tools in the dissemination of scientifically-defined identity categories. She examines photographs, intaglio prints, drawings and oil paintings as well as medical textbooks, journals, and popular health and hygiene pamphlets. Recently she has become increasingly interested in the networks of knowledge and social identities created by the circulation of these texts and the rhetoric of scientific medicine that accompanied them during and after the Enlightenment. Her current book project, on the subject *Enlightenment Medical Illustration and the Embodiment of Biological Myth*, is the focus of her work as a Junior Fellow in the Turin Humanities Programme of Fondazione 1563 per l'Arte e la Cultura della Compagnia di San Paolo.





Invented biological weaknesses, that pathologized all bodies that were not male, white, and European and some bodies that were, necessitated different relationships with the state. Because ill-health had been figured as an unjust result of class disparities in post-Enlightenment France, it became the responsibility of the state to adopt differentiated responses to differentiated bodies. Pathological bodies needed protection from their inherent weaknesses and, when possible, to be compelled to strengthen themselves. They were thus subject to very different restrictions and interventions than were "healthy" white male bodies. And the interventions in question were not merely social, they were physical and bodily. Biological myths of stratified physiology justified and even necessitated the curtailment of human rights on the basis of race and gender in the name of equality, medical illustrations provided the embodied evidence that these myths were objective truth.



**Valentina Altopiedi** graduated in Historical Sciences at the University of Turin presenting a master's thesis on Olympe de Gouges which received the award for the best thesis in history for the 2015-2016 academic year. Between 2016 and 2020 she continued her studies by carrying out a bi-national doctoral degree in modern history at the University of Turin and the Université Paris 1 Panthéon Sorbonne studying the evolution of female literary production during the French Revolution. From 2019 to 2021 she was a fellow at the Luigi Einaudi Foundation in Turin; now as a post-doctoral researcher at the University of Turin she is investigating the origin and spread of the language of women's rights in the French culture of the Late Enlightenment. Her research interests include gender history, the history of the French Revolution and the historiography of the Enlightenment. She is now working on an intellectual biography of Olympe de Gouges. Recently she published *Donne in Rivoluzione. Marie-Madeleine Jodin e i diritti della citoyenne, con l'edizione dei Pareri legislativi per le donne indirizzati all'Assemblea nazionale (1790)*, Edizioni di storia e letteratura, Roma 2021.

## Valentina Altopiedi

### THE RIGHTS OF MAN AND THE BURDEN OF WOMEN. MIND AND BODY IN EIGHTEENTH-CENTURY MORAL AND POLITICAL THOUGHT

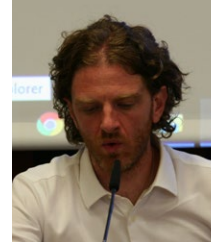
Among the many controversies that animate the modern Western age, the so-called *querelle des femmes* certainly occupies a prominent place: indeed, it can be affirmed that there is no philosophical, theological, or political debate during the modern era that does not integrate the question of women. Although the notion of *querelle des femmes* has spread in the historiographical debate of the nineteenth century starting from the works of Arthur Piaget, it is undeniable that the historiographic category of *querelle des femmes* has its own philosophical legitimacy, which finds its unifying element in the question about the nature of women. From the fourteenth to the nineteenth century, hundreds of texts and authors questioned themselves about the status of women, debating whether women had the same nature, meaning the same value and the same moral capacity as men. It is precisely from this archetypal question about the anthropological and moral nature of women that all the others on intellectual, social, and political capacity have derived. Does a different body correspond to a different spirit? This is certainly a much older question than the *querelle des femmes* and perhaps one of the oldest in the history of the Western thought.

But it was precisely in the eighteenth century that the question took on a new meaning because the debate on the nature of women and the equality of the sexes was accompanied by the Enlightenment's discourse on rights. It was then necessary to understand if the rights of man were the rights of the male or the rights of the human being. The "femme" entry of the *Encyclopédie* in all its declinations provides an excellent picture of the eighteenth-century reflection about the nature of women and the differences among the humankind. In the anthropological definition of women, Paul Joseph Barthez illustrates how the prejudices about the superiority of men over women were produced by the customs of ancient peoples and in particular by the religion. On the contrary, in his definition from a moral perspective Joseph-François-Edouard





de Corsembleu explains how the “delicacy of female organs” affects the disposition and the intellectual attitude of women, whose most suitable and happiest role is that of wife and mother. While in the definition of femme from a jurisprudential point of view the lawyer Antoine-Gaspard Boucher d’Argis presents the condition of women in different classes and cites their exclusion from the highest public roles and offices, it is in the entry written by the chevalier de Jancourt that emerges a very different definition from the previous ones. Jancourt states that it is not the nature that establishes the superiority of man over woman (and of the husband over his wife) but the positive law by convention. Pivoting on the idea of *égalité naturelle des hommes*, Jancourt defends the natural equality of men and women, which Olympe de Gouges and Condorcet unsuccessfully claimed during the French Revolution.



**Alessandro Maurini** (born in 1979) is graduated in Political Philosophy in 2005 (University of Turin, Italy); from 2008 to 2012 he did his Ph.D in Political Studies. History and Theory (and was visiting student at the Aldous Huxley Forschungsstelle – Centre for Aldous Huxley Studies, Westfälische Wilhelms-Universität, Muenster, Germany) at the Department of Political Studies (University of Turin); in 2014 he was a fellow at the Luigi Einaudi Research and Documentation Center (Turin); in 2017 he was a (non-user) fellow at the Robert H. Smith International Center for Jefferson Studies, ICJS (Thomas Jefferson Foundation, Monticello, US-VA). From 2012 to 2018 he was a Teaching Assistant of “History of Modern State”, and since 2016 he is a Teaching Assistant of “Human Rights. History” and is involved in the course of “Early Modern History” at the University of Turin. From 2014, he is a Honorary Fellow in “Early Modern History” at the University of Turin. His research interests are the history of contemporary political thought (utopia and dystopia in the twentieth century) and the history of modern political thought (human rights in the European and American Enlightenment).

## Alessandro Maurini

### NATURALRIGHTSHISTORY.UNITO.IT: THE HISTORICAL FOUNDATIONS OF HUMAN RIGHTS

Naturalrightshistory.unito.it (<https://naturalrightshistory.unito.it/>) is a website, actually in its infancy, on the history of human rights, and more in general on the idea of natural rights, in the Early Modern age. The current debate on human rights needs History, because contemporary human rights need historical roots and foundations, particularly in the Enlightenment: in the universal, individual, cosmopolitan, political, unalienable, and secular rights of man of the Déclaration (1789), there is a new way to think man, law, justice, democracy.

In the website, users and scholars will find the main sources of the history of human rights: this goal will be achieved by the help of the same users, who will be invited to submit the sources to digitalize and upload to the website – which will build by itself through the contributions of all the users. By logging in, scholars can submit a source to the scientific committee (<https://naturalrightshistory.unito.it/Website/Contact>), that will evaluate the request and will proceed to digitalize and upload it to the website, which will become a digital library of sources, with a short introduction to each of them, for the history of human rights (<https://naturalrightshistory.unito.it/Website/Sources>) – with constitutional, juridical, political, philosophical, literary as well as iconographic sources (<https://naturalrightshistory.unito.it/Website/Gallery>). For each source, users can read the original page on the right, and the ‘translation’ by the software on the left: ‘add to your desk’, ‘download source’, ‘search in document’ complete the tools available to their own research (<https://naturalrightshistory.unito.it/Website/Page/12>). Thanks to ‘search’ and ‘advanced search’ (<https://naturalrightshistory.unito.it/Website/AdvancedSearch>), users and scholars can search by author, title, language, year of publication, keyword, or by two main topics: Natural Rights, and Man and Nature, with several subtopics in each, which in turn suggest the main sources for each subtopic.

‘Studies’ (<https://naturalrightshistory.unito.it/Website/Studies>) will contain the most important recent contributions in the history of human rights, and the ‘newsletter’ will keep up to

date the users with every news uploaded to the website – which aims to become an international virtual study centre in the history of human rights.

Through the implementation of the sources, the challenge will be to expand the temporal and geographical dimension of those sources: on the one hand, it means to analyse the legacy of the Enlightenment in the (transformation of the) language of rights up to the 19th and 20th centuries, on the other it means to address the problem of language – and of the several languages of the sources. The perspective is a new way of writing the history of rights (and to spread it in the public debate), that is to study rights in relation to their institutions, societies, values, according to a global approach – no historical research can ignore a global approach, especially concerning rights. To study human rights means to go beyond their mere juridical dimension, making a 'culturalization' and a 'constitutionalization' of those rights.

The current debate on human rights needs such a global approach with such a historical method.



**Giuseppe Grieco** is a postdoctoral fellow at the Fondazione Luigi Einaudi (Turin), a Visiting Lecturer at City, University of London, and a Research Associate at the Turin Humanities Program run by Fondazione 1563 – Compagnia di San Paolo. He earned a PhD in History at Queen Mary University of London in 2022 (thesis: *The British Empire and the Two Sicilies: Constitutions and International Law in a Revolutionary Mediterranean, c. 1800-1860*, supervisor: Maurizio Isabella). His research lies at the intersection between intellectual, imperial, and global history and focuses on empires, international law, and political ideas in the nineteenth century Mediterranean. Beyond academia, he is a Young Adviser at Chatham House, the Royal Institute of International Affairs".

## Giuseppe Grieco

### INTERNATIONAL LAW AND NATIONAL SELF-DETERMINATION. GLOBALIZING RIGHTS IN THE NINETEENTH-CENTURY

The early nineteenth-century central Mediterranean was a region at the fringes of Europe where Britain, France, Russia, and Austria competed for imperial hegemony. In this space at the boundaries between the European state-system and the colonial territories, European empires projected legal ordering and eroded the sovereignty of lesser polities, such as the Kingdom of Two Sicilies. Between the Napoleonic wars and the collapse of the Two Sicilies (1860), the central Mediterranean became an inter-imperial region where the Bourbon monarchy fought to promote its autonomy but was gradually demoted to a semi-civilized polity and pushed it at the margins of European civilization and international society. Meanwhile, Duo-Sicilian intellectuals and policy-makers imagined alternative international legal orders in which nations and empires could both prosper.

By taking the Two Sicilies as its starting point, this paper shows that the central Mediterranean was an intellectual laboratory of "world-making practices" where Southern thinkers reinvented international law as an emancipatory project and language of rights. By so doing, this research expands current understandings of nineteenth-century international law. Works by Koskenniemi, Keene, Anghie, and Pitts show that international law justified European imperial expansion and Europe's civilizing mission over the globe, and established dichotomies between Europe and other societies. This legal imagining rested on a parochial universalism that obscured the imperial nature of European states and described the international system as made by equal sovereigns, despite endorsing non-European polities' legal inferiority and not recognizing them as members of the international community. In the wake of colonialism, European legal thinkers defined international law as a European body of positive law with global authority that naturalized civilizational hierarchies, denied reciprocity to non-Western societies, and excluded them from the family of nations.

For its part, the paper argues that a liminal region such as the central Mediterranean brings to light original Southern



theories of international law centred on justice and national self-determination and supplying a powerful global critique of the unequal legal regimes governing international relations. Duo-Sicilian thinkers questioned imperial hegemonies and reinvented international law as a global language of national emancipation that abhorred exclusionary practices and protected weak peoples from oppression. These visions of world order bring to the fore a strong current of international thought, up until now neglected, in which scepticism of the standard of civilization, the Eurocentric scope of international law and imperial conquest prevailed. Moreover, Duo-Sicilian international theories unveil a peculiar intellectual tradition founded on the Neapolitan Enlightenment's cosmopolitanism and natural rights theory which testified the faith of Southern thinkers in the progress of the Two Sicilies and in the possibility of competing in a world of empires.

## PARTICIPANTS



**Francisco J. Bellido Sánchez** defended his first doctoral thesis at the University of Jyväskylä, Finland (Social Sciences) in 2020 and his second thesis at the University of Málaga, Spain (Philosophy) in 2022. His research interests are constitutionalism, the rule of law, and classical republicanism.

### Francisco J. Bellido Sánchez

#### THE RELEVANCE OF FAIR LAWS IN CLASSICAL AND MODERN REPUBLICANISM: CICERO AND MACHIAVELLI

Both Cicero and Machiavelli are representatives of the tradition of classical and modern republicanism respectively. Their defence of republican virtues meant the endorsement of good laws to protect the stability of republics and kingdoms, as well as the political life of citizens under conditions of justice, thus contributing to promoting civic virtues. A review of their arguments in *De Legibus* and *Discourses on Livy* in connection to Enlightenment's authors sheds light on the large influence of republican ideas during the eighteenth century.

Cicero's rhetorical works were part of the syllabus of prospective university students during the eighteenth century across Europe and America. His influence was remarkable among authors such as Montesquieu, who took inspiration from his writings to vindicate political ideas akin to the pre-eminence of laws in a just political order. Instead, Machiavelli's republican political ideas were interpreted in an ambivalent manner. Despite that fact, *Discourses on Livy's* ideas gradually began to be acknowledged in mid-eighteenth century as republican contributions to the Enlightenment.

This paper argues that conceiving of laws as instruments for promoting civic virtues was one of the benchmarks of classical republicanism that connected it to modern experiences of constitution-making. I will maintain that Machiavelli's and Cicero's views on the function of laws were decisive to the historical development of constitutionalism. Their imprint is patent in the enlightened republicanism of David Hume, Alexander Hamilton, and John Adams.



## Auguste Bertholet



### PHYSIOCRACY, BERN AND THE PAYS DE VAUD. EIGHTEENTH-CENTURY PERIPHERAL POLITICAL ECONOMY IN CONTEXT

Sorting and questioning the different ways eighteenth-century Swiss, Bernese and Vaudois thinkers tackled their economic concerns is one of the main efforts being made in the "Enlightenment Agrarian Republics" collective research project based in the University of Lausanne. The Pays de Vaud, subject territory to the canton of Berne – sovereign state organised as an aristocratic republic –, is a vibrant case study on how thinkers devoid of any political power tried to influence local economic practices to conserve the social and political balance they benefited from despite growing global instabilities. In reaction to Berne's orthodox and conservative approach, the Vaudois were very in tune to European reform theories. The economic debates I try to reconstruct reflect the status of Vaud as a subject territory to a sovereign city republic in that they empowered every actor of its economy to mingle in government actions. Despite the consensual appearance of the texts produced in that context, eighteenth-century readers would have perceived the effort being put into developing theories, going right up to the boundaries of acceptable criticism, and maybe even pushing the boundaries, without articulating a critique on the obstinacy of the sovereigns to prevent modernisation for the sake of keeping their prominence intact. One of the central issues was how to actually write about the complicated relationship between province and capital, agrarian countryside and the centres of manufacture, between subject territories and sovereign cities without being accused of criticizing the government. In that regard, they contributed to the European reform movement by emphasizing, however politely, that economic reforms ultimately were feasible only when accompanied by institutional and political adjustments.

**Auguste Bertholet** is completing his doctoral dissertation in the Department of History at the University of Lausanne. His research concerns the Swiss political and economic thought of the late eighteenth century. His previous work includes research on Mirabeau the Elder's correspondence with Sacconay.



## Jacopo Bonasera

### FROM THE 'PRINCIPLE' TO THE 'CHART'. ON THE CONCEPTS OF PEOPLE AND POPULATION IN THE POLITICAL THOUGHT OF T.R. MALTHUS AND F. PLACE

My current research extends my PhD studies on the political thought of Thomas Robert Malthus towards original intellectual trajectories. My goal is to study the semantic plexus people-population, as it is articulated in England between the first edition of the *Essay on the Population Principle* (1798) by Malthus, and the publication of the «People's Charter» in 1838. In order to evaluate the historical persistence of Enlightenment ideas of right and progress, as well as their intellectual contestation, I focus on the writings of Malthus and Francis Place. For Malthus, the principle of population expressed a limit against which the claims of the people were naturally destined to clash. For Place, once properly acknowledged the principle of population could open the space for the progressive emancipation of the working classes. In this shift, the concept of population did not lose its disciplinary character; rather, it expressed a norm called upon to ensure the orderly integration of the people into the political life of the Kingdom. For this reason, the hypothesis I pursue is that the concepts of people and population constitute a privileged vantage point on the debate that was unleashed in Early Nineteenth-century England around the conditions for the maintenance of the political and social order challenged by popular demands for greater rights, equality, and wellbeing.

While the people 'appeared' in hundreds of petitions, grievances, uprisings and strikes, Malthus elaborated the principle of population to discredit the Enlightenment language of progress and rights that the working classes were seizing, to subordinate their political expectations to the 'mathematical' nature of the population. In the same years, Place advocated the need to remove any obstacles on the path of political progress for the people. This determined the urgency of both enlightening the working classes on their moral obligations and pushing the government to repeal those laws which tended to excessively depress their condition. This revived the Enlightenment's dilemma regarding the relationship between rights and obligation, investing it with new meanings and possible historical formulations.



## Gabriele Caruso



### WHAT SIDE OF THE NEWS? THE RECEPTION OF THE FRENCH REVOLUTION THROUGH THE 'GAZZETTA DI BOLOGNA' (1789-1796)

The subject of this project is the newspaper 'La Gazzetta di Bologna' during the French Revolution. This newspaper is very interesting because it was the only printed newspaper allowed by the Pope in the city of Bologna in the XVIII century. This marked a de facto monopoly. Through this newspaper, we could in a certain sense identify the voice of the pope and his reign, what he wanted to communicate to his citizens not only in Rome but in the province and Bologna. I conducted the project using a text-centric approach, trying to grasp how news was transmitted and the purpose behind it. The ferment of Enlightenment ideas was well perceived in Italy and the 'Gazzetta' before the storming of the Bastille. The 'Gazzetta' was aware of and in favour of Enlightenment principles, specifically mentioning enlightened nations, compassion, and human dignity. They even blamed France if they did not give space to these ideas. However, like Luther against the peasants in revolt, any unconditional gesture by the people was disapproved by the Pope, and in the case of the Bastille, we have an explicit reference to anarchy. Furthermore, in the early reports of the storming of the Bastille, it is striking to note that only news coming from illustrious people were considered safe. Though we know that there was a world of information circulating in taverns, in the marketplace and from one person to another. In the meantime, it's interesting how various fake news was spreading: such as that the King's life was in danger; or that the King's guards had staged an insurrection. It all started with Enlightenment ideals, but they are slowly being supplanted by political and power things; the Pope as monarch couldn't endorse what was happening in France, just as in so many gazettes we read fierce criticism of the freedom of the press to defend its *status quo*.

**Gabriele Caruso** is a first-year Ph.D. student working under the supervision of Professor Pasquale Palmieri in History, Archaeology and Art History at University of Napoli "Federico II". His main field of research is focused on history of news in Early Modern History. He is particularly interested in gazettes and "avvisi" that circulated in Italy in the XVII century. He graduated with honours from the University of Bologna (Master's degree 2019) and Palermo (Bachelor's degree 2017). He holds first-level Professional Master's Programmes in Archival, Diplomatic and Paleography (ADiP) at University of Ferrara and second-level Professional Master's Programmes in Public and Digital History at University of Modena and Reggio Emilia.



## Luis De la Peña

**Luis De la Peña** is currently a student of the Ph.D. in Historical Studies at the University of Florence, a historian from the National University of Colombia, with an MA in Comparative History from the Central European University. His main topics of research are focused temporally on the age of revolutions and geographically in Latin America and the Balkans, with a special interest in military history, public history, and intellectual history.

### GIVING THE LIFE FOR THE RIGHTS. ANTONIO NARIÑO, THE TRANSLATION OF THE DECLARATION OF THE RIGHTS OF MAN AND THE FIGHT FOR THE INDEPENDENCE OF COLOMBIA

The echoes of the revolution and the Enlightenment had a different impact on the Spanish colonies in America than in other spaces and contexts of the age of revolutions. The conditions of colonial society in America, with its rigid hierarchies in terms of race and social advancement, made the possibility of a revolution unthinkable despite several examples of social discontent and harshly repressed revolts in the 1770s, such as the Comuneros revolt in New Granada or Tupac Amaru rebellion in Peru.

This would begin to change with the development of revolutionary events on both sides of the Atlantic, first with the independence of the United States, the subsequent French Revolution, and the constant flow of news and new ideas to the colonial territories in America. In this context, the figure of Antonio Nariño, a citizen of New Granada, who translated the declaration of the rights of man in 1794 into Spanish for the first time, is inserted. This deed of Nariño, despite being praised *ad nauseam* by the official historiography of Colombia, and at the same time, little known outside the Colombian context continues to be one of the most important episodes in the process of Enlightenment in Latin America: a translation made in secret, with a printing press acquired to give the greatest possible reach and dissemination to the declaration, which helped to tangibly manifest a new political vocabulary with concepts such as citizen, rights, sovereignty, freedom, and representation.

Consequently, this milestone led Nariño to jail as this translation was considered a seditious act before the absolutist authority of the King of Spain. In any case, the seed of revolution and discontent with colonial domination had been sown and irrigated by Nariño and his translation. In any case, it is worthy to analyze his figure and his actions with a global and critical historiographical perspective, swinging around the questions about the uses of the translation of the declaration during the wars of independence to give legitimacy to the republican project in Colombia; or



if the figure of Antonio Nariño a tangible connection between the revolutionary processes in Europe and Latin America, all of it to try to understand what was the true scope of the Spanish translation of the rights of man in 1794. These are some of the questions that this presentation tried to answer.



**Aris Della Fontana** is a Ph.D. Candidate at the Scuola Normale Superiore di Pisa and at the Université de Lausanne. His doctoral research is on eighteenth-century Venetian economic reform debates, with a particular emphasis on the reception of European political economy.

## Aris Della Fontana

### 'UNDER A WISE PRINCE IT IS NOT A CRIME TO POINT OUT THE DEFECTS OF CERTAIN LAWS': POLITICAL ECONOMY AND FREEDOM OF SPEECH IN ENLIGHTENMENT VENICE

This research relates to the role played by political economy in redefining the boundaries of political debate in Enlightenment Venice. It focuses on how the epistemological status of this discipline, and especially its normative value, were interpreted, and therefore examines in what terms political economy – as a discourse that associated its peculiar persuasive capacity with the fact of investigating objective mechanisms – was seen as a means to orient, influence and shape the decisions of the legislator. In close connection with this, it analyses the way in which reformers who did not belong to the patriciate justified their right to intervene in economic discussions, that is, how they were able to carve out a space in which to enjoy regulated freedom of speech. In considering the rhetorical codes they adopted, special attention is given to the paradigm of the 'Spirit of Legislation' developed within the Société Académique de Berne. This in fact made it possible to conceptualise a phenomenology of reform which, while not calling the Venetian constitutional structure into question, granted a specific role to economic experts.





## Gabriel Darriulat



**Gabriel Darriulat** is a Ph.D student in political philosophy at Sorbonne University under the supervision of Professor Céline Specator. His research focuses on political philosophy at the age of the Enlightenment with a particular attention on Condorcet and Rousseau. His interests in the Enlightenment studies cover many fields of research (collective decision-making, republicanism, rights of man, etc.) with a particular emphasis on the international communication of ideas and problems.

### THE CONSTITUTIONALIZATION OF THE RIGHTS OF MAN IN THE POLITICAL THEORY OF CONDORCET

My research aims at showing how the constitutionalization of human rights during the electoral period of the États-généraux of France led Condorcet to value the direct exercise by the citizens of their political rights in order to fight against the violation of their rights.

Condorcet is beyond doubt one of the precursors in France of the project of declaring the rights of man. At least three manuscripts of the Declaration of rights are listed in the Fonds Condorcet at the Bibliothèque de l'Institut for the year 1789. They reiterated most of his natural rights theory, the first drafts of which were elaborated in the early 1770s. However, before the late 1780s, Condorcet did not link the need to preserve the natural rights of men to a constitutional theory.

The constitutional debates of the late 1780s, in which Condorcet opposed those who advocated check and balances in government, led him to think about the best way to limit legislative power. It is in this context that he introduced the idea of a declaration of rights, born in America, at the core of his Constitutional theory. This idea was linked to the acknowledgment of the sovereignty of the nation. The nation, which was not totally identified to the national assembly, but could also express itself in the assemblées de baillage and latter in the assemblées primaires, had the constituent power and therefore had also the constant task to watch the constituted powers in order to make them respect the rights of man. Because the citizens were aware of their basic natural rights, knowledge that merely required common sense (*bon sens*), the declaration of rights had to be a separate document and political institutions needed to be created that left room for popular participation in order to control the way the National Assembly exercises power.



**Fabio Di Nunno** holds a PhD in History of International Relations at "Sapienza" University of Rome, after a master in European Political and Administrative Studies at College of Europe of Bruges, a degree in International Relations and Diplomacy at the University of Naples "L'Orientale" and a degree in Public and business communication at the University of Naples "Suor Orsola Benincasa".

## Fabio Di Nunno

### INTERNET AS A HUMAN RIGHT

The Internet has become a space in which citizens obtain information, share and seek news, disseminate data, trade, study, participate in democratic life. Although there is a push to recognize the Internet as a human right, the Internet is substantially out of the control of the states and managed by some platforms that the same states ask to self-regulate. In addition, the spread of the Covid-19 pandemic has further turned attention to disinformation and its contrast, with almost censorship episodes, often operated by web platforms.

The European Union (EU) is at the forefront of recognizing the importance of the Internet and has put in place a series of measures to protect citizens, but also to ensure their access to the opportunities that arise in the economy, education, democracy. The numerous opportunities are countered by many threats: digital divide, freedom of speech, disinformation, censorship, criminal phenomena. At the same time, Internet infrastructure, to be a driving force for economic and social growth, concerns multiple areas: broadband, submarine cables, computer literacy, artificial intelligence, e-government, network and data security.

Some case studies might complete the research. The most illustrative examples refer to Donald Trump, who has used social media as never before as a tool for disintermediation between the elected and the voters, eliminating the traditional filters of the press, but also of the so-called intermediate bodies (parties, associations, trade unions, etc.), to the point of becoming an instrument of institutional and diplomatic disintermediation, in the case of the US attack conducted on Iranian objectives. The current Russia-Ukraine conflict poses new issues to be studied and discussed, like the use of private satellite connection systems to guarantee network access or the Internet as a tool of propaganda or censorship. When Trump's personal Twitter account was permanently blocked after the notorious assault on Capitol Hill on January 7, 2021, the issue of Internet freedoms and rights returned to the spotlight. Twitter has decided to freeze the profile for "the risk of further inciting violence". Other social networks such as Facebook and Instagram have moved in the same way. The impact of this unprecedented decision on democracy and freedom of speech is still under discussion and



needs to be analyzed in the appropriate fora, but it demonstrates, once again, how much social media has become central in the public debate and, probably, need of a discipline that must be carefully defined.



## Ilaria Ferrara

**Ilaria Ferrara**, Ph.D. in Philosophy at the University of Turin, international Ph.D. candidate in Philadelphia (U.S.A.) and currently post-doc researcher at the Italian Institute for Philosophical Studies (IISF) in Naples. Her field of research is on Kant and the theory of emotions, between politics and neuroscience. At the same time, she has a research project on the political thought of the Italian Risorgimento.

### KANT AND COSMOPOLITANISM: A TRANSITORY AND ASYMPTOTIC IDEAL OF PEACE (AS AN UNREALISABLE DREAM?)

My interpretation of Kantian cosmopolitanism is based on the concept of *asymptotic progress* of perpetual peace and the realization of an international state. But, what does it mean? I suppose that the “*transitional*” aspect of cosmopolitanism, understood as a form of *asymptotic approximation*, must be compared to an ideal of perpetual peace useful to understand the philosophical foundations of international law. In this sense, If we think of the metaphor of the asymptote, as the line towards which the function tends, we would say that for Kant perpetual peace is the function, while the line is the cosmopolitan law. In this sense, perpetual peace is an indefinite goal, a process that can only be made possible through the realization of international law.

Beyond a theoretical link with Rousseau, Kant introduces a major innovation, i.e. cosmopolitan law as the third pillar of public law, after state constitutional law, and after the law of nations. Given the impossible realization of a world republic (*Weltrepublik*), the moral and political tension towards the never-ending realization of pacification among peoples remains perpetual and constant. Compared to the inherited tradition of Enlightenment, Kant introduces an element of political reality, i.e. a confederal institutional bond as a plausible and achievable connection, and, in this sense, the League of Peoples (*Völkerbund*) is conceived as a starting point to proceed with the stabilization of relations between states. This is an idea of a progressive inter-state juridical weld, which Kant calls the *cosmopolitan constitution*.

According to the principle of “as if”, peace is a regulative maxim, that is, Kant understands peace as a historical and conceptual progression of cosmopolitan peace since nature does not hinder but, on the contrary, supports this moral project through the history of man in its possibility and exemplarity. In this sense, the French Revolution for Kant assumes an exemplary emancipatory value not only for those who have achieved it but also for the European peoples who have been inspired by it.





## Camilla Froio



### 'THE OTHERNESS': A COMPARATIVE DISCOURSE ON VOLNEY'S VOYAGE AND ALBERTO PASINI'S MEMORIES OF THE ORIENT

In the *Introduction* to his landmark study, *Orientalism*, Edward Said stated that the origins of Western discourse around Middle East culture should be traced back to the final years of the 18th century; consequently, the scholar not only dedicated scarce attention to the writings of the main representatives of the Enlightenment, but misinterpreted the thought of Constantin-Francois de Chasseboeuf de Volney as well as the main tenets of his *Voyage en Egypte et en Syrie* (1787), simplistically dismissed as the basis of Napoleon's expedition in Egypt.

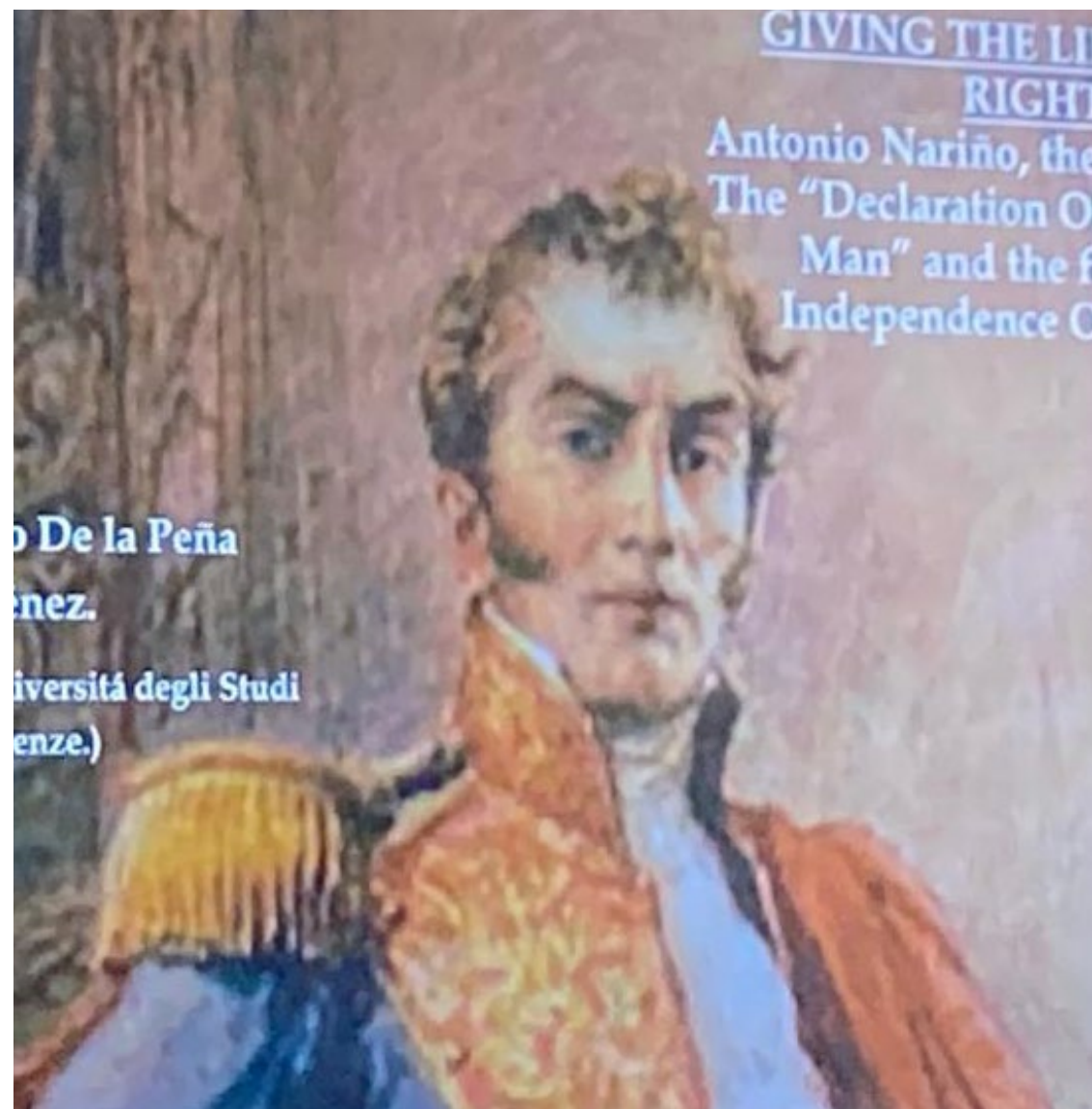
A few years before Said's publication, Sergio Moravia's *La scienza dell'uomo nel Settecento* shed light on Volney's interpretation and perceptions of the Near East by means of a broader contextualization that related the philosopher's thought to the activities of the so-called *Société des observateurs de l'homme* (1799-1804) as well as to the foundations of French anthropology. According to Moravia, in the case of the *Voyage*, which was based on Volney's first-hand experience of the Middle East, the close observation of 'the other' was the core of the author's methodology. The verb *observer* ('to observe') recurs frequently throughout the pages: for Moravia, it should be regarded not as the symptom of an impressionistic or simplistic approach, instead as the pinnacle of the influence Volney received from the Cartesian sense of evidence and from the development of French sensism.

Even though Said read Volney's survey merely as the memoirs of a traveler, the *Voyage* contradicted the common perception of the Oriental world, mostly nourished by stereotypical expectations, and proved the author's modernity as well as profound awareness of the problematic distance between the West and the East.

A new discourse around the metamorphoses of Volney's legacy throughout the XIXth century could be centered on the visual representation of the Orient made by the Italian painter Alberto Pasini (1826-1899). The artist's depictions of market

Camilla Froio earned her PhD at the University of Florence, Italy, with a dissertation on the legacy of Gotthold Ephraim Lessing's *Laokoon* in America throughout the XIXth and the XXth century, focusing in particular on Clement Greenberg's Marxist interpretation of the German treatise. For her doctoral project, she was the recipient of a Library Grant from the Getty Research Institute, Los Angeles. Moreover, in 2022, she became a fellow of the Center for Italian Modern Art, New York, where she studied the reception of Alberto Pasini's Orientalist paintings in Gilded Age America.

scenes and mosques, which reflected the principles of Realism and Positivism, proved how the perception of the "otherness" had been irreversibly transformed by colonialism and, as an extension, by the global art market. As Carl Schmitt pointed out in *The Concept of the Political*, the late XIXth century culture played a pivotal role in the process of objectification of "the other" by transforming it into a commodity and a source of amusement, therefore excluding any possible attempt to understand the contradictory and conflicted relationship between the Western world and the Near East.





## Samuel Harrison



### THE DUTIES OF MAN AND THE CITIZEN: THE ENLIGHTENMENT'S LOST LEGACY

During the drafting of the Declaration of the Rights of Man and the Citizen, members of the Assembly rejected a clerical proposal to draft a set of Duties of Man and the Citizen to be placed alongside his Rights. For some scholars, such as Keith Michael Baker (2006) and Ian Collier (2020), this decision established the principle, which still underpins modern rights discourses, that duties are mere corollaries of rights. In this reading, the Declaration paved the way for the modern asymmetry between rights, which are enshrined in law and violations of which are punishable, and duties, which are mostly moral in nature and rarely enforceable; only in exceptional cases, such as taxes and conscription, are they punishable.

But this outcome would have seemed strange to the many thinkers of the French Enlightenment who aimed to enshrine natural *duties* in law just as much as they did natural *rights*. The entry on "Duty" in the *Encyclopédie* makes it clear that duties are not mere corollaries of rights, stating that even "a man who finds himself alone in the world, must and may practise" certain duties. An array of Enlightenment thinkers, from Montesquieu to Mably to Quesnay, agreed that natural duties had equal status with natural rights, and that they should be enshrined in law separately from rights.

This paper argues that, far from being a pivotal moment, the decision not to issue a *Declaration of Duties* was an anomaly, quickly rectified. The idea of legally-enshrined duties remained influential throughout the Revolution, reaching its apogee in the Constitution of the Year III. If duties have become subordinate to rights today, this is a result not of the rights-orientated language of the Revolution, but of secularisation in subsequent centuries, which robbed duties of their force.

Samuel Harrison is the holder of the Derek Brewer Studentship at Emmanuel College, Cambridge, studying the evolution of the concept of citizenship over the course of the French Revolution. He was previously an editor of "Doing History in Public".



## Jesper Lundsby Skov

Jesper Lundsby Skov is a Danish historian with a PhD (2019) from the University of Southern Denmark about the political interpretations of civil rights in the Danish constitution 1840-1953. He has been a postdoc at the University of Copenhagen, and he is currently a postdoc at the University of Oslo on a project about the emergence of a Scandinavian concept of civil rights in the late Enlightenment.

### THE ORIGINS OF CIVIL LIBERTY AND CIVIL RIGHTS IN DENMARK-NORWAY IN THE LATE ENLIGHTENMENT

Denmark-Norway was an absolute system of government from 1660-1814/1848. In the last half of the 18th century, a new spirit of freedom and reform changed the government's policy on various topics. Freedom became a key concept in the discourse of the time, and freedom of speech was tolerated, particularly in the periods 1770-1773 and 1784-1799. In this period, Denmark-Norway functioned as an enlightened kind of absolutism.

During these periods of open discussion, civil liberty became a focal point. Civil liberty was defended by critics of the regime and even by the government itself. The concept's meaning changed dramatically in the last decades of the 18th century. While everyone in these years defended the rule of law as a minimum standard of civil liberty, three other interpretations of civil liberty emerged.

In the 1750s and 1760s, civil liberty was defended as a paternalistic concept. The government decided what was best for the citizen and protected their security. This was civil liberty, according to representatives of the government. This understanding changed in the 1770s and 1780s when a new and more harmonic interpretation of civil liberty emerged. It was no longer only the government's decisions that mattered. The citizen's personal freedom was underscored, but true civil liberty was only achieved when the citizen used his liberty for not only his own welfare but also for the welfare of the greater society. This concept was contested in the late 1790s by a more individualistic concept of liberty that rejected any idea of harmony between the individual and the state. The state was a threat to civil liberty; therefore, the citizens needed rights against any encroachment from the state. This individual concept of civil liberty never became dominant, but it was a critical last interpretation of liberty before the government restricted the freedom of speech in 1799.



## Vanessa Massuchetto



### WOMEN AND ENLIGHTENMENT THOUGHT IN THE IBERIAN-AMERICAN CRIMINAL LEGAL ORDER (18<sup>th</sup> CENTURY)

The research project concerns women's Enlightenment thinking on the female statutes in the criminal justice system from the Iberian-American Worlds in the 18th century. Understanding the global historical perspective as the transnational bias for the analysis of social, cultural, legal, political, and economic elements in history, the study has been developed by the analysis of doctrinal, legal, and political thought on criminal law regarding women's statute paying special attention to their discourses. Intertwining gender, race, and colonialism, the aim is to identify how and why the normativities regarding women within the criminal justice system were thought especially by the female historical actors.

My presentation encompassed the analysis of the legal doctrine regarding women's statutes according to jurists from the Iberian-American Worlds. In the early modern period, the debates about women's "rights" were developed meanwhile the ways of thinking about the sexual differentiation between men and women were changing. The intellectual environment in this moment had the natural order as base perspective for society, which justified the hierarchies between genders and maintained the female representations based on physical and intellectual constitution of men and women. From this perspective, the prohibitions based on incapacities arose from the weakness and debility of the female sex was a very common idea among the jurists, even though through contradictory arguments.

For the criminal justice system, the lack of capacity, the weakness, and the ignorance had different meanings besides imposing limitations. Regarding convictions and penalty application, it seems that there was no inclination toward guilt or impunity, but mitigation or removal of penalties for different reasons through the different centuries. The possibility of making accusations hung between capacity and incapacity, however the prohibition did not remain in the same way in the 18th century and the incapacity was valid when expressed. In other words, the capacity to initiate legal proceedings was

Vanessa Massuchetto is a junior postdoctoral fellow at the Maria Sibylla Merian Centre Conviviality-Inequality in Latin America, and holds a Ph.D. in Law (Legal History) from the Federal University of Paraná. Her research interests are women's experiences, agencies, and convivialities; gender relations; confrontation and social conflicts; criminal and ecclesiastical justices; and social uses of justice throughout the Early Modern Period in the Iberian American World.

the rule, limitation became the exception. Among the factors that built up the jurists' thinking, there are the fear of public exposure and the woman's dishonesty, thus, it is plausible to affirm that these notions, which were part of the feminine representations, served as a basis for the construction of several legal devices.





## Radoslaw Szymanski



### A PROJECT OF POLITICAL AND ECONOMIC REFORM OF THE POLISH-LITHUANIAN COMMONWEALTH DEVELOPED BETWEEN 1763 AND 1768 BY M. MNISZECH AND E. BERTRAND

At the Summer School, I present and discuss a chapter of my dissertation in which I retrace and reconstruct a project of political and economic reform of the Polish-Lithuanian Commonwealth developed between 1763 and 1768 by M. Mniszech and E. Bertrand. This ambitious, mostly unpublished plan was inspired and informed by works of Vattel, Rousseau, by Swiss debates on moral and political improvement, nascent Physiocracy and modern German Cameralism.

The chapter which I would like to discuss focuses specifically on their engagement with the natural law tradition, through which they sought to make use of older ways of conceptualizing duties and rights of individuals towards each other and towards the state; and on this basis think about the parameters of political and administrative reform of a state (Poland) whose failings they recognized as in large part economic in nature. The story which I am presenting in the chapter fits with the theme of the Summer School in many respects, in that it is precisely about a transformation of an older, jural conceptual framework into a reaction to a newer set of problems conceptualized in terms of political economy. Consequently, a particular emphasis for the protagonists of my research fell on duties and rights which had to do with the full participation in commercial economy, most notably the right to hold private property rights (attempt to abolish Polish serfdom) and to fair taxation – postulated not as privileges by the few, but as rights of the entire population, linking humanity with labour.

My research on this subject is informed by a major historiographical shift spearheaded by I. Hont, K. Haakonssen, R. Tuck, I. Hunter and others, namely a revival of interest in modern natural jurisprudence – a tradition whose pertinence to the transformations of politics in the eighteenth and nineteenth century had not been fully understood before. More specifically, it is inscribed in a historiography which posits a strong continuity

**Radoslaw Szymanski** is a doctoral candidate in modern history at the University of Lausanne, working on an unpublished eighteenth-century project of political reform of the Polish-Lithuanian Commonwealth, looking at how a certain strand of modern moral philosophy and natural law informed thinking about affecting societal change under the conditions of deep economic inequalities.

between natural jurisprudence and political economy, broadening our conventional understanding of the genealogy of political and the political discourse of the nineteenth and twentieth century and the discontinuities and continuities between before and after the Enlightenment. The added value which I am bringing to this body of research through my own project consists in employing this framework in considering the question of economic periphery, addressing the challenges faced by a state dominated by export-oriented agricultural sector.









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