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13. The Domestication of Nature: The Relationship between Philosophical Models and Juridical Systems of the Appropriation of Living Beings

D. Borrillo and Th. Pitois

1. The philosophical process of the objectivication of nature: a change from a "holistic" view of nature to a view of nature as a thing

The image that humans have of events and the discourse that they impose on them modifies their relationship with things as well as their relationship with others and society as a whole. We will attempt to show the relationships that can be established between the philosophical systems of the apprehension of things and of the world, and the juridical models that are put into place according to this representation. Because of this, in the Western World, in order to arrive at a juridical model of the appropriation of nature, it has been necessary to speak and to systemize a way of speaking that represents nature in a particular manner. In today's world, it is not difficult to imagine nature as an exterior thing, as an object. Our minds are accustomed to looking objectively at the natural world, a way of thinking, moreover, that tends to be ahistorical and universal. If it is difficult to define nature, we might try to identify a certain number of elements that will allow us to explain what men have called "nature" or "natural". And this way of "speaking nature" will condition, as we will see further on, man's action upon it. At this stage we can introduce a first distinction which may be simplistic, but has an operational value. Within Western thought, there are two main ways in which to consider nature: on one hand, nature is interpreted as an exterior phenomenon in relation to man -physically as well as metaphysically- and, on the other hand, man and nature are considered as a whole, as a unity- phenomenological as well as ontological. We shall analyze these two approaches keeping in mind the fundamental epistemological break that took place during the European Renaissance in the 16th century.

The Renaissance is presented as a movement which criticized the authority of the knowledge of the time. This criticism caused an irreconcilable break with the ancient cosmological system. It relies on the questions concerning Aristotelian thought as interpreted by the Scholastics. Upon losing the ancient explanation of nature, it became necessary to formulate a new interpretation of the world, in accordance with the presupposition of that time. Known as "natural philosophy", this new vision of the universe has taken many turns and has been subjected to strange combinations before becoming the central pillar of modern scientific thought. The "holistic" and "mystical" character of the universe disappeared and gave way to a quantitative and mechanical interpretation of the world and of man. The explanations embedded with a magical character, still present today in more rural societies, gradually lost, before the new view their capacity for explaining nature. Nature is now quantifiable and controllable. It is fitting to add that the analogous and symbolic interpretations (with the consequential lively

and magical relationship to nature), are replaced by an analytical and specific description of the phenomenon itself, interpreted as the pieces of a gigantic clock (to allude to Descartes' metaphor). Now the elements of globality can be separated and studied within their individual and intimate mechanisms.

Thus, the breaking up of the unity permits the emergence of a duality between the subject and the object of knowledge, leaving the subject at liberty to have the simple role of world spectator and not that of protagonist (and of an integral and integrated part). But at its core, the break -at least in the western tradition- does not occur between the theological view and the modern philosophical view. On the contrary, both participate in this movement of disassociation between subject and object, with man being placed at the center of the cosmos and a god becoming personalized.

A view of the world that places humans within an infinite network of symbols (microcosmic bodies representing the macrocosm, cycles in nature which find their correspondence in human physiology, etc.) appear within certain marginal interpretations of the "popular knowledge" or "Germanic naturism" type. In this respect, Paracelsian thought is strongly significant:

Nature moulds all things that proceed from it in accordance with the virtue found within each one. In relation to such a character, such a temperament, it gives man such a body with such a body with such a form...(XII, 172 *Astronomia Magna*).

It is the star that engenders time. But the star is grounded in the elements. It has its place like the soul has its own in flesh and blood, like the remedy has its own in the plant. The plant is not the remedy, the body is not the soul; and the elements are not the star. But the virtue of the star passes through the elements. For this reason it is important that the doctor be a well-informed astronomer, so as to learn what time gives, what it takes back, what it constructs and what it destroys. (IV, 495 *Kommentar Zu Aphorismen des Hippokrates*).

Modern philosophy and humanism pit a rational and detached view. Against this holistic view of man as a participant in nature. From now on, there is the problem of differentiating ourselves from nature, of making nature an object. The proposed idea as emphasized by Braun consists of rationalizing this relation, precisely and surely, in such a manner as to assure the subject of the control and certainty. But in attempting to appropriate nature, this way of thinking has forgotten to ask if it could be nature itself who wants to surrender control.

From the critique of this ancestral view which is at the core of the opposition between man and nature, between the spirit and the material, diverse currents developed in the Western world. Thus in 1866, Ernst Haeckel invents "ecology" in an attempt to integrate a view larger than that of human phenomena and natural events, in the hopes of restoring a natural history far too parcelled and torn apart. However, Haeckel does not completely overcome the scientific paradigm of the time that sees man as a disruptive being in a

virgin and unspoiled nature. During the same epoch, the German, Friedrich Ratzel, creates an "antrophopogogeographic" school that parts from the general principle that a given civilization is determined by the conditions of its physical and natural environment. It is in France, at the beginning of this century, that the mechanical excesses of Ratzalian. Determinism brings about the eloquent reaction of the geographer Vidal de la Blanche, a reaction which engenders the "possibilist" school whose most prominent representative was Lucien Febvre. Febvre denies the "mechanical action of natural factors on a purely receptive humanity," and strongly affirms, "necessities, never; possibilities, always; and man, master of possibilities, will judge the best manner in which to employ them".

Jacques Barrau, in his work, *Man in Nature*, distinguishes three theoretical currents that try to establish the relationships between societies, civilizations, and natural systems:

- a "determinist" current: a given culture is determined by the conditions of its natural environment.
- a "possibilist" current: independent of environmental constraints a culture participates in free choice among the potentials and possibilities of the natural environment.
- an "environmentalist" current: There is a reciprocal relationship between culture and nature, the first being the sum of the constant adapting and unadapting to the natural environment.

Frederick Engels and Karl Marx denounce the absurdity of these oppositions between Man and Nature, of Spirit and Material, emphasizing that in German ideology man has always been confronted by a nature which is historic and a history which is natural.

"In our ecosphere, " the authors point out, " nothing is exterior and human societies, as technologically advanced as they may be, do not enjoy extraterritoriatily. "

We also see, where Science does not encounter definitive legitimacy, the traces of this image where man and nature participate in the same movement. There is no meaning in "environment" as it is normally understood today, where man continues to be the center of a nature that surrounds him, but rather as a participant in it. He does not appear as a master, but rather as a collaborator. The Scholastic explanations of nature also attempt to find an equilibrium between man and the rest of "creation". They always encounter insuperable epistemological limits. Indeed, in the readings of St Thomas Aquinas on Aristotle, nature seems to impose itself even on God. For the sake of non-contradiction, the Creator finds himself submissive to that which he created, those principles to which St. Thomas gave the value of the principle of second causes. Thus for example, the principle of gravity already exists indecently of divine will. Going even further, St. Thomas believes that social order encounters its limits within its own nature. All that is a product of the creative activity of man must be submissive to this law. Dr. Aquinas tries hard to show that marriage, monogamy and consent in the act of marriage are natural, that it to say, in accordance with the finality of creation. This interpretation gives a static and frozen view of nature and betrays the very diversity of an always elusive

nature. From this point of view, Thomist thought contributes, in part, to the humanism conception, the both wresting from things that which the things will not tell us. The clerical culture is heir to the greco-roman aristocracy and, in this light, it partakes of a certain rationalism. In fact, as Le Goff points out, Christianity appears to have marked a new age in rational thought. In the deconsecrating of nature, scientific thought is allowed to make decisive progress. "In this regard, the folkloric opposition to Christianity (more fundamental, it seems to us, than amalgam and symbiosis) represents the resistance of the irrational, or rather of another mental system, another logic, that of "savage thought". We claim that the "epistemological" break does not arise between theological thought and modern scientific thought because both place nature outside of man. And if man should be submissive to nature, it is not to just any nature, but rather only to nature as it is interpreted and unveiled by the official teaching of the Catholic church. Regardless, within the logic of theological thought, the right found, in one way or another, the limits of its rationality. For example, if private property is considered a "natural" institution by the Church, there are things that fall outside the system of appropriation such as sacred things and communal things. It is within this idea of "sacred" that man is confronted with the limits of his action. In fact, sacred things are untouchable and impossible to appropriate. Life is sacred and nature is as well. Man can profit by its use but is confronted with the limits of its management because God demands the final judgement and also man's answerability to his own actions. Therefore he continues to appear as a manager, as different, as "another" in relation to nature. It is in this sense that we can allow ourselves to consider that the break is not between dominant theological and modern philosophical thought. In order to find the opposite elements which we have called a "holistic view" of the world and nature and which are in opposition to a so-called "objective" and "individualist" view, we are obliged to appeal to the "arguments" which are scorned by both the official theological and scientific thought: popular knowledge or the vitalist views, in the Germanic tradition of cities on the hills.

2. The domestication of nature

Although it is quite difficult to come up with a definition and a clear demarcation of the term "domestication", we can say, as does J. Barrau, "that there is a complete domestication when the plant or animal, profoundly modified by the work of human selection, can no longer, without human assistance, protect itself, nourish itself, or reproduce itself". (This is the case in the example of genetically-cultivated hybrids such as the polypoides oyster of the Pacific, finally patented by the United States, because there is no demonstrable proof of their existence in nature outside of human intervention (Aff. Allen April 3, 1987). The author points out in his work, how within different Eastern regions, the religious, philosophical and moral systems, among others, place

conditions on man's relationship with the environment. In his analysis of the development and inter-relation between Chinese civilization and Mongolian culture, J. Barrau distinguishes two main models of action on nature: on one side, the model designated *hortus* or human action, is the "negative-indirect" type. It is a cautious and individual assistance of the growth of each of the plants wherein the cultivators always show regard for this domestic vegetation which Haudricourt calls a "respectful friendship". And on the other side, the model called *ager* or *pascum* where the action is of the "positive-direct" type, characterized by a permanent and brutal contact with the domesticated object. In this way, the relationships of man with nature are inseparable from the relationships of men among themselves and one can question, along with Haudricourt, if a civilization where the gods order and morality commands wouldn't be more favorable to a relationship with nature of the *ager* or *pascum* type. Inversely, wouldn't a civilization in which morality seems more relativist and the philosophy immanent be more favorable to development of the *hortus* type?

That said, and if we now return to the polarities proposed previously regarding the possible human options with regard to the types of intervention on nature and on its resources, we must note a net tendency in industrialized societies and civilizations toward hypersedentarism in suburban concentrations, an ecosystematic hyperhomogeneity an action that is increasingly positive and direct, mass treatment". It could be for this reason, says the author, that a paradise lost has been invented which is not the sublimated *hortus* of the *ager* society.

3. The "Dominion" over nature: man as master-owner

The reader may ask, perhaps, what these hypotheses have to do with the development of juridical thought. Let's take the example of subjective property right--the fundamental element of modern juridical logic: we want this institution to respond to an action on nature itself to societies of the *ager* type. This institution evolved, as we will see further on, through more flexible categories, from a juridical point of view, a flexibility which is not translated into the action of domestication of nature; it gives back, on the contrary, in a more and more interventionist and orderly way.

1. Real property right

In making a general analysis of the concept of real property right --real in the sense that it is exercised on a "res", on a corporal thing-- we bring up an element that is essential to this concept, which is: the disassociation between the subject and the object of the property right. In other words, when there is a relationship set up between two entities, it is necessary that these entities are distinct from each other. We could not be the owner of a house and also be the house itself.

In the Roman tradition of which we are heirs, property right refers to the right to goods as opposed to personal rights. This institution implies the superiority of the subject

(owner) in relation to the object (obtained). But this differentiation and hierarchization, so-called universals, are not part of the possible approaches. In fact, in so called "traditional" societies, that which in the West is an object (like land, for example), is considered a subject, on other. In certain communities of Madagascar, for example, the status of nature, is from a juridical point of view, closer to a subject than it is to an object. Therefore, the link that unites men to the land is of the affective order, and, if one wants to juridicize this connection, one must rather classify it in the category of right of the people, which contains within itself the right to goods. For the notion of property right to be able to emerge, it is necessary to rely on this animist view which would condition man's connection with nature as if with affective bonds and gradually establish, in its place, a rational and hierarchical view with the consequences entailed. The juridical history of the systems of the appropriation of nature, such as they are known in the Western tradition, begins when men first cover this, in the same way that the theory of Galileo manages to impose on minds before the complete rejection of Paracelsian thought.

That is not to say that the activities of domestication of nature are foreign to traditional communities. The history of humanity is, perhaps, also the history of domestication, but the values that accompany these actions on nature -and are probably legitimate- are very different from those later developed in the west.

Subjective right ("dominion") of property, perceived as the central pillar of juridical thought, was unable to appear and take the scale so as to perform within the European context of the development and exaltation of individualism.

2. From land property to intellectual property

Influenced, perhaps, by a "positive-direct action" of the *ager* or *pascum* type, the Western juridical tradition will favor the development of increasingly flexible juridical categories, in order to better permit accessibility to natural objects. But this direct action is not satisfied with mere access; because of its very logic, it will become the creator, indeed, the very manipulator, of this "object nature". Thus, as agent of nature, man becomes creator; and it is precisely within this movement that the juridical technic of appropriation will be increasingly conditioned for a domestication process where contact with nature is increasingly permanent and brutal. The triumph of utilitarian philosophies in the midst of our post-industrial societies makes right a simple instrument of social regulation at the service of economy. M-A. Hermitte shows how the development of the market imposed the utilization of flexible categories on the juridical system in order to access an increasingly "objectified" nature defined as merchandise for the economy.

Liberal ideology placed property right in the ranks of a sacred category as an instrument which assured the end of tyrannies. Factor of liberation of the individual in the 18th century, private property will, from now on, be the axis around which the whole social systems turns. "Property is opened to all," stresses M-A. Hermitte, "Therefore, there is no juridical existence. To make it a right, it was necessary to fix its limits... and because property was sacred, all in all, its limits were fairly evident: developed within

individualist selfishness, property right could become dangerous for the cohesion of the Nation; it could be in opposition to popular sovereignty: it must be given an external limit, the public utility. On the other hand, because property gave absolute control over its object, certain goods were unattainable by nature: such was the internal limit of property right."

The end of the 20th century opens the era of biology, not only interventions acted upon the living becomes possible not only in laboratory practice, but also, and above all, in industrial activity.

The internal limits of property right, states M-A Hermitte, juridically render all types of appropriation of the product of these interventions impossible. It was necessary that the right adapt to this market demand and gradually one sees the appearance of more flexible and more adequate notions such as the background of commerce, client rights and intellectual rights.

3. Intellectual property right

Thus man insensitively accedes to the possession of the "res naturalis," of nature gradually envisioned as a corporal being; an object finally submissive to the regime of property right. The performance of the regime always seems insufficient for permitting a more direct and flexible action within the processes of domestication.

With the emergence and the recent development of life sciences, man acquires a knowledge and a control over the forces of nature before which a legal protection by property right does not hold up. The interests of the geneticist or the bio-industrialist backed by the rising cost of investments, demand a juridical protection pertaining to discoveries or to applications of the forces of nature but a property right, which, practiced essentially on phenomenological reality, does not permit anyone to hold influence over an immaterial nature such as the mechanisms of genetics. If the agriculturist can legitimately lay claim to the "enjoyment" and to the "arrangement" of the offspring of the domestic animal, he cannot, on the other hand, exercise the same claim on the mechanism of reproduction. How then can he obtain the recognition of a complementary right to the property adapted to the intellectual possession of nature? Most national legislation does not recognize private rights over the laws of nature. Scientific theories and laws escape the domain of intellectual property right.

And yet the question of scientific property feeds the lively debates before logically arriving at the recognition of a private right to a profit on the part of the researcher for having discovered a physical or biological law; but it was fervently opposed in that he would not be able to further it and would have to reinvestigate applications, and, therefore, technical progress. In fact, if the cohesion of investigator inclined toward a monopoly of exploitation of the scientific law, this monopoly could lead to a limitation, a certain suppression, of all practical application in the case of refusal on the part of exploiter.

One could always question the profound reasons which justify the rejection of the

appropriation of natural laws. But they leave intact, very curiously, all intellectual possession of the "natural reality," animate or inanimate, moldable and moulded through the action of man and brought about finally to its opposite: "artefact-reality."

Infinite creator of objects, human ingenuity has, for a long time, exercised its talents on the making of mechanical artifacts; machines and controlled machinery, inspired by natural reality: plane-bird, pliers-fingers... the animate material, vegetable or animal, from now on opens a new field of production of artifacts. It is true of plants after more than a century, and, soon after, it is equally true of animals. Let's consider for an instant the transgenic creatures such as the mouse produced by the researches at Harvard University in 1987, whose chromosomes from now on contain cancer-producing genes. The right recognized early on this "double view" of nature: natural / artefact. Since ancient times there has been a distinction between natural goods and industrial goods of the earth. Positive right experiences this same distinction. Codified in France at the beginning of the 19th century, it always contrasts natural fruit and industrial fruit of the earth. The apprehension of these goods by right evolved after a short time towards a more flexible category of intellectual rights inherent to the concept of "creation of the mind," producer of artefact. The historical analysis of intellectual rights reveals the determining action of individualist liberalism within the institutionalization of the dualist concepts of real and intellectual property. A movement for the emancipation of the people, the French Revolution anticipates the Industrial Revolution in the recognition of the rights subject to the holder of the title of an invention: industrial property rights.

The particularity of this flexible category of private rights sensibly modifies the traditional representation in support of property. Intellectual rights are not, as an object, material or tangible goods, such as a vegetable or an animal, but an immaterial or intangible good which results from the intellectual activity of man, such as the new genetic combination of a plant or an animal. It is therefore important to distinguish a creation, an intangible good, imperceptible by the senses (although the genetic combination is perceptible to the eye of microscope and constitutes in this way an evident reality to the geneticist) by its medium, a hybrid plant for example, or the mouse of the University of Harvard's investigators.

This nuance, not evident to the uninitiated, finds better illustration in the field of literary and artistic creation. Thus, the work protected by author's rights is not so much the canvas painted by the artist as the intellectual conception that it materializes. The living work exists indecently of its medium (canvas, musical score). As evidence, the artist sells his canvas. He loses, certainly, the medium of his work but conserves intact his right as the author. Therefore, to translate things into economic terms, we can refer to "intellectual reservation" seen as economic reservation, as suggested by certain authors, because in the past it was instead "the economic value that the creator or the controller of the information (genetic combination, chemical formula) intends to be reserved."

The holder of an intellectual right, the author of a creation has at his disposal only the

monopoly of its exploitation, which is: the fabrication, (materialization), and commercialization. Thus, a cereal grower could exclusively produce a new variety of vegetation that he developed, but the commercialiser cannot claim to be the agriculturist for a variety which already exists on the market.

Once the reality of intellectual rights is put into practice, what mechanisms of reservation put it to work and finally what relevant limitation can be imposed on it? It is through the interplay of this double questioning that the processes of the domestication of nature must be understood.

The reservation dialect: patents and the right of obtaining vegetation

The immaterial appropriation of "artefact nature" (plants and animals of selection) proceeds from the variable utilization of two types of intellectual rights: patent right and the right to obtain vegetation, either one determined as a function of the biological profile of the artefact. Consecrated by two centuries of practice, the patent system seems logically adapted to the potential reservation of a recreated nature, reinvented by the human mind.

The remarkable advantage of the rights given to the holder of a patent to an invention can be summarized by these surprisingly powerful words: the right to refuse. Nevertheless, the invention patent evolves within the movement of the market of products and services, notably regulated in liberal economies by the regulating principles of free circulation of merchandise and free competition. But the rights allotted to the holder of a patent lessens all the rigor of these principles in such a way as to preserve the exclusive monopoly of the exploitation of the patented invention. To simplify things a bit, the patent holder has at his disposal a three part refusal right:

- the production or utilization of the invention in the market.
- first commercialization of the invention.
- the importation of the invention in the territory where the patent is granted.

At the first glance of the rights that the patent implies, it seems appropriate to insert "natural artifacts" in the category of patentable inventions, a performance that remains in effect even if some difficulties continue to exist for the holder concerning the understanding of patentability and knowledge of patent rights.

The patentability of "natural artifacts" encounters the resistance resulting on the part of the exclusion of certain creations in the field of patents (animal breeds, vegetation varieties). Regardless, it is a fact that the quality of the living material of a creation does not justify the rejection of a type of "intellectual property" protection. The normative authority of the E.E.C. has only recently been established. In fact, the patentable "natural-artefact" category is constantly growing. so it is with transgenic microorganisms, plants and animals, and in a general way with all that constitute biological classifications with the exclusion of vegetables varieties and animal breeds. Such a recent exclusion is

relative, moreover, since certain national legislation like that of France admit the patentability of an important number of vegetation varieties.

Finally, and it is a recent phenomenon, the reservation of nature by patent is not confined, from now on, to the "natural-artefact" category, but greatly overflows the technical invention type of creative field to end up as the reservation of "natural-nature" (wild plants and animals).

This process is all the more shocking in that it constitutes a misappropriation of the original vocation of the system of applicable patents to only creations of the mind (such as inventions) and it cannot reasonably be transposed onto natural phenomena preexistent to all intervention by man, which is to say, discoveries. All the norms, both national and international, state without ambiguity this solution. Therefore a discovery may fall within the domain of patentability if its author, during the process of presenting evidence, demonstrates the necessity of his intervention. For example, a micro-organism discovered within its natural environment may be patented because of the demand for human intervention because the patent right is full of instances where one isolates environment. From now on it is not necessary for the rest to appeal to the artifice of "human intervention," because it appears from the new communal norms that "all biological classifications other than varieties of vegetation or animal breeds... constitute a patentable object."

However, if certain legal limitations restrict the range of patent rights, such as the fixed duration of twenty years for an exclusive monopoly of exploitation, or the disruption of public order and norms of behavior, they do not question the evolutionary processes of the "intellectual domestication" of nature. It seems even more audacious concerning the right to obtain vegetation.

Equally defined as the right of the obtainer to refuse or forbid all production of the variety, all marketing and all importation in the territory protected under the three areas, the right to obtain, as the patent continues, sanctions the influence over nature considered "natural" as well as "artefact".

Organized under the international plan by the Paris convention of December 2, 1962, the right to obtain vegetation would produce the intellectual appropriation of vegetable creations, which assumes, by way of patents, a human intervention. But certain national legislation is noticeably distinct from the system defined by the Paris convention in order to better apprehend that which remains natural. Regarding this, the French law of June 11, 1970 is eloquent in that it was unaware of the principle of inappropriation of discoveries. The determining criterion of appropriation does not appear, curiously enough, as the creative activity of man, but as the novelty of variety. In fact, "intellectual domestication" of vegetation will encompass the varieties obtained as well as the wild varieties discovered. All of them replying to the demands of the novelty.

From this point, one may think that property and available market logic will not burden for very long this ancestral concept and perhaps make sacred nature outdated, if it is not already.

Critique of reservation of public order and ethics

If the juridical systems of material or immaterial appropriation largely contributed to the domesticating processes of nature, they also prepare and contain the seeds of their very limitation; they anticipate other systems of apprehension of the world, heralded for the urgent safeguarding of our ecosystem and assumed to lead to the "subjectification" of nature (as is already suggested by some minds) .

It could be noted, in the first place, that intellectual rights have their own limitation justified by the superior imperatives insuring social cohesion. It then leads to the undermining of public order and behavioral norms. Such a disposition is contained in the majority of laws concerning patents but its efficiency does not take away any conviction if it is in agreement with the realization of the uselessness of these concepts, too undefined for other places and fluctuating with the times, or seasons, or customs!...

Therefore, we keep ourselves from denying every demands on public order and behavioral norms and where there is no legal disposition they do not achieve objectification of some prohibition of patentability, it constitutes the last safeguard of right preceding the transgression of ethical values. Jean-Marc Mousseron does not miss the mark in saying: "Perhaps it will be necessary to appeal to this demand tomorrow, if patent request are aimed at inventions other than the therapeutic ones concerning the human organism itself."

But that is where juridical systems of appropriation do not appear to contain the overflow of science and finally maintain a reasonable equilibrium of domestication, of new philosophical models attempting to define what will one day be the unifying bond of man and his environment.

However, the molecular theory of the genetic code has started to transform the traditional representation of life .In fact , the living being is no longer envisioned within its globality: a plant, an animal or a human being (living-form), but by its constituents: a DNA molecule or a gene (living-code).

The consequence is evident. Man imagines and designs other semblances of life. Georges Canguilhem and Francois Dagonet do not disagree: "This is not like the other, untouchable life about which one knows the mechanisms and therefore can wait to modify that in which he can wait to intervene."

Establishing a new relational model between man and nature first entails ceasing to see, where there does not exist a multitude of living beings, a disembodied material of industrial production. This is to try, then, to catch a glimpse of life; to recognize, within nature, the entity as part of the whole, the partner, the alter ego of the world adventure, the victims themselves, with humanity getting in touch with the ecosystem. Once this recognition is achieved, the traditional man-nature relation will evolve, as concerns right, through concepts of apprehension relating to the *hortus* of the chinese civilization. The threats to the environment already generated by juridical mechanisms lead to a removal (within the limit of economic stakes) of the parts of nature from the domain of human intervention.

The juridical doctrine advances the notion of the common patrimony of humanity, the legislature, and the international community elaborating the restrictive norms of "natural reserve" of "ordered protection of biotope" from French right, the "Contracts of Servitude" from Swiss right or even the "shared resources" from international right, the organizer of parsimonious management of natural riches.

But this string of juridical instruments does not lead to the fabrication of natural reservoirs in accordance with human needs, that is to say, once urban, industrial and agricultural spaces have been created. At the same time, it removes the domain of protection of the living being, vegetable or animal.

Certain authors forcefully demand a work of reflection on the juridical status of the animal before emerging from the elimination of the "distinctions" of selector and geneticist. In advancing the faltering notion of "Contacting the identity of the animal" it is necessary to determine reasonable and admissible thresholds of life conditions and of animal suffering. Other authors courageously propose imagining the man-animal relationship in terms of liberty: "From now on, one tends to think of the liberty of man with regard to the liberty of living beings of his developing according to his own project, which implies conflict between two liberties of radically different natures." without bending, M.A Hermitte proposes the recognition of animal rights presented as a sole alternative in safeguarding the environment, and, shattering the content of great juridical categories, it suggests making nature, "biological diversity," a veritable subject of right. "To me, it seems that a special right of human responsibility toward nature should and can be precisely constructed, beginning with nature as subject, whereas one does not go beyond tinkering from the point of view of nature as an object."

The unreserved adhesion to the advanced idea of the subjectification of nature brings forth very strong reluctance. It supposes, first, the lifting of difficulties on the part of our intellectual habits: does nature have patrimony?. How could be it in justice?... Beyond the juridical solutions presented, (effective or utopian) which finally introduce the commencement of the retreat of violent domestication, they reveal the need for ethical consideration of the behavior of man with regard to nature in the image, perhaps, of that activity that follows the attitude of science on the human body (we are thinking, in particular, of the mapping of the human genome). Failing that, the progressive degradation of the environment and the consequential health risks recall the interdependence of the man-nature couple and the idea that within such material, divorce does not exist.

4. Conclusion

If the advanced hypothesis reveals itself to be just, accordingly the forms of appropriation and domestication of nature are strongly conditioned by the group of values which structure the political and social systems wherein right, the gradual process of objectification of private reservation, of manipulation and in some sort of marketing (who

escapes the law of the market?) of natural phenomenon as we have analyzed it, would appear as a revelatory element of axiological and normative organization on which the political organization of post-industrial societies relies and rotates.

We are going, therefore, to streamline a juridical system that is more and more a manager at the service of monopolies of industrial politics. Politics which comes from interventionists to modify, most notably, in the name of economic profitability, the very biological structure of natural species. This process appears less costly than the use of insecticides.

The neo-liberal ideology tries to find normative management within the economy, making right a simple mechanism of formal legitimatizing. The Community Institution reveals, to this regard, the effective abandon of social values, culturally affirmed and guaranteed by the law.

Attentive to international competition, to the propensity to the development of biotechnical goods and services, sustained by constant pressure on the part of the industrial lobby, the normative management of the E.C.C., without the slightest bit of democratic discussion, has succumbed to the desires of market demand for biotechnological creations, for life, and to the movement of the great European market.

In fact, biotechnological states and multinationals continue to invest hundreds of millions of dollars without any of these different projects giving the slightest concern to democratic consultation.

Within this context, which we have tried to define, perhaps we will find ourselves a more just and harmonious solution, concerning man's action and well-evidenced by nature, if we value right as an independent normative authority and we make ethics an immanent concern of the first order.