



NON-HUMAN RIGHTS PAULO TAVARES

(NOTES)

?We conceive law as based on a legal subject, whose definition has progressively broadened. In the past not just anyone could attain this status: the Declaration of the Rights of Man and of the Citizen gave the possibility to every man to attain the status of subject of the law. The social contract was thereby completed, but closed upon itself, leaving the world on the sidelines, an enormous collection of things reduced to the status of passive objects to be appropriated. Human reason was of age, external nature a minor. The subject of knowledge and action enjoys all rights and its objects none. They have not yet attained any legal dignity. Which is why, since that time, science has all the laws on its side. Thus we necessarily doom the things of the world to destruction. Mastered and possessed, from the epistemological point of view; minors in the pronouncement of the law.?

--- Michel Serres, *The Natural Contract*

Originally published in 1990, Michel Serres's book *The Natural Contract* narrates the coming into being of a new socio-geological order: ?from now on there will be lakes of humanity, physical actors in the physical systems of the Earth?. Anthropogenic interference over global ecological dynamics had grown so powerful that humanity itself had turned into a ?geological force? that would be decisive in shaping the future history of the Earth. Given the intrinsic violence and the destructive potential implied in such power, Serres argued that it was necessary to imagine new ways by which modern societies could conceptualise the ?object-world?. The necessary transformations were at the same time philosophical and legal, epistemic and political. No longer to be understood as an inert object available for limitless appropriation, nature ought to be considered a subject who takes part in a form of ?social contract? that encompasses all those things we have left outside our definitions of society. As history has made humans equivalent to natural forces, reversely, Serres argues, nature should be endowed with similar rights as the ones conquered by humans along history.

Michel Serres starts by describing *Fight with Cudgels*, a painting by Francesco Goya produced between 1820 and 1823. In that image two giant men are depicted in the

middle of an open landscape, engaging in a "duelo a garrotazos". They appear attacking each other, while knee deep and sinking deeper into a swamp of mud. Serres uses Goya's image as an allegory to elaborate his critique of the relationship between humans and their environment: the fight symbolizes war, and by extension the social contract, and while war/politics is fought through, they seem to be somewhat oblivious to their surroundings. And yet they are entirely subject to the environment, and the mud will swallow them up, unto the verge of collective death, regardless the victor and the defeated.

Together with Goya's image, the preface to Serres's book could have been the images of two paradigmatic environmental disasters of the late 80s. On the communist side, the accident at the Chernobyl Nuclear Power Plant in 1986, which, as Mikhail Gorbachev himself put it, "was perhaps the real cause of the collapse of the Soviet Union five years later". On the capitalist side of the map, the Exxon Valdez Oil Spill in 1989, the largest oil-related accident in the history of the United States before the BP oil spill in the Gulf of Mexico in 2010, whose catastrophic effects on the pristine shores of Alaska turned into a mass-media event that was fundamental in the crystallization of a public sensibility in relation to the emergence of an environmental crisis.

If globalization has increasingly become an objective reality and humanity a subjective consciousness, it is not only because our nervous systems have been electronically extended to the point of "global embrace", as Marshall McLuhan wrote in 1964, but also, and perhaps more importantly, because of the potential consequences of what ecologist Wolfgang Sachs has called a "massive accidental internationalization". The emerging "global nature" and its subjective complement, "humanity", were the two entangled outcomes of a dystopian future: the potential of total disaster and subsequent impossibility for human life on the planet forcefully unites us subjectively and objectively: morally as a trans-national community who bears the responsibility of preserving the life of the planet; physically as a single species inhabiting a common land upon which our existence is dependant.

Rather than the natural outcome of progress and material accumulation initiated with modernity/colonialism, "globalization" denotes an entire new spatial configuration that, having emerged out of the former, positions a critical perspective upon it. In Serres's terms, "global nature" is above all a new epistemic terrain in which the divisions that separated humanity and the environment, culture and nature, the anthropological and the geological have been blurred. Spatial shifts were not only technological but relational, and therefore demanded a new geo-politics, one which, ultimately, called for the establishment of a New Constitution "a new social contract, as Serres writes " within which nature is positioned on a common ground in relation to humans and assumes the status of a right-bearing subject.

Drawing a parallel with Bruno Latour's seminal critic of modernity in *We have never*

been modern, a text that was published only one year after Serres's, we could say that the "natural contract" is a mechanism that disrupts the border regime that structures what Latour named the Modern Constitution - a "foundational law" that is instituted by sectioning reality into two great and separated poles, namely the world of objects and the world of subjects, nature and culture, performing a decisive cut that unfolds into a series of other dualisms by which we frame the world (body and mind, instinct and reason, physical and social, fact and value, reality and ideology etc.)

The colonial and post-colonial histories of the process through which modernity's constitutional law became globally hegemonic has been foremost criticized in relations to its structural cultural violence, that is to say, because the diffusion of modernization has been largely guided by the destructive intent of modelling and homogenizing other cultural formations under western-centric paradigms of civilization. Michel Serres's *Natural Contract* likewise the video material presented in the research project *Non-human Rights* - allow us frame that process from a different yet complementary perspective, according to which not only the question of cultural hegemony is politically important but also the question of the imposition of a "hegemonic nature", one which do not tolerate other definitions but that of object and property. While the modern constitution has been increasingly tolerant in relation to the cultural pole - to the point that multi-culturalism has become a central element of neoliberal governmentality-, it has been firmly grounded on the perpetuation of "mono-naturalism" (E. Viveiros de Castro).

Non-human Rights, a project originally conceived for the exhibition *Animism* (HKW, 2012), is informed by the intuition that the most contentious political conflicts of today are directly or indirectly related to the conservation or transformation of what maybe described as one of the most powerful ideological apparatus produced by colonial/modernity - the very idea of nature itself. Perhaps nowhere else than in Ecuador the lines of this conflict are being so clearly drawn. In 2008, after ten years of successive political convulsions, Ecuador passed a new National Constitution in which nature, alongside and similar to human beings, is included as a subject of the law. The "animist" conception of this legal text, which grants fundamental rights to elements such as rocks, mountains, river deltas and the seas, introduces a radical legal-epistemic shift that challenges the rigid borders that separates the world of objects from the world of subjects, the natural from the social, thus projecting a radically new universalism between humans and non-humans.

It is not coincidence, I believe, that the political roots of this constitutional law are located at around the same time when Serres was writing *The Natural Contract*, precisely in the year of 1990, with a landmark indigenous uprising that radically shifted the national politics of Ecuador and sent waves of emancipation throughout Latin America. For the task writing of this new natural-social contract, Serres says, was above all a question of recovering the deep memories of an ancient cosmopolitics. I

quote:

?We have lost the world. We've transformed things into fetishes or commodities, the stakes of our stratagems; and our a-cosmic philosophies. It is all as if the contemporary powers had eradicated long-term memory, the thousand-year old traditions, the experience accumulated by cultures that have just died or that these powers are killing. Before us is an anguishing question, whose principal component is time, especially a long-term time that is all the longer when the system is considered globally. Mixing the waters of the oceans requires a cycle estimated at five thousand years. If there is a material, technological, and industrial pollution, which exposes weather to conceivable risks, then there is also a second pollution, invisible, which puts time in danger, a cultural pollution that we have inflicted on long-term thoughts, those guardians of the Earth, of humanity, and of things themselves. If we don't struggle against the second, we will lose the fight against the first. In memory of those who have fallen silent forever, let us then give long-term men their say. Let's listen to them a moment, before painting the portrait of the new political leader.?

Paulo Tavares, December 2012.

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Cluster: Non-human Rights

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