TOWARDS A NEW COMMON SENSE: Law, Science and Politics in the Paradigmatic Transition

by Boaventura de Sousa Santos.
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For an occidental but non-occidentalist view of globalisation, development, modernity—and alternatives to these—people are going to have to read Boaventura Sousa Santos. This thinker, from a Portugal precariously balanced between the Northwest and the Rest, has read the work on economic, cultural, political and legal globalisation, development and modernity. Read, I would say, and absorbed, and then critically and creatively responded. Sooner or later someone had to cover this field (yes, it is one field) with the breadth and depth of vision required. It seems to be Sousa Santos in a book of over 600 pages. The unusual title and subtitle do not adequately promote what is a highly original work of social theory, analysis and prescription (or at least provocative suggestion). Readers are advised to obtain the book by hook, crook or inter-library loan.

I discovered it in a Latin American (actually international) alternative legal studies and resource centre, ILSA, in Bogota, Colombia, August 1995. They had a pre-publication proof of one crucial chapter which they were hoping to translate into Spanish for their own purposes. This may suggest that the work is relevant to Third World NGOs. It is indeed, but it is also, as we will see, rather more than this. Significant, for a general work on social theory, is that it is both inspired and informed by research on urban squatters in a Third World slum. So it should also be relevant to Third World social movements. It is, as we will see, more than this too.

Sousa Santos evidently considers us to be in the middle of a global civilisational crisis, a crisis simultaneously of the capitalist world system (he is not afraid to call it that) and knowledge about it. He has sipped of the waters of post-modernism without becoming drunk. He is thus, apparently, able to both theoretically deconstruct and theoretically reconstruct, and to do so in a form that is rich, deep, sometimes difficult, but totally lacking in either the glitter-that-is-not-gold or the obscurity-that-passeth-understanding. Coming from the world of theoretically-critical and socially-committed legal studies, he seems to have remembered that language is necessary for reaching down or out to a wider audience, and not a means for hoisting oneself above it: a new commonsense about our world is here, indeed, in the making. This passage may give some of the flavour of the work:

> Solidarity is a specific form of knowing that has won over colonialism [used here metaphorically - PW]. Colonialism consists in the ignorance of reciprocity, in the incapacity to conceive of the other as other than an object. Solidarity is the knowing obtained in the ever-unfinished process of one's becoming capable of reciprocity through the construction and recognition of intersubjectivity. The emphasis on solidarity converts community into the privileged sphere of emancipatory knowledge. After two centuries of deterritorialisation of social relations, the community cannot limit itself to being the territoriality of the contiguous

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> space (the local), and the temporality of the small time (the immediate). We live in an era of opaque, local-global, immediate-final nexus...The neocommunity transforms the local in a way of seeing the global, and the immediate in a way of seeing the future. It is the symbolic sphere, in which the specific territorialities and temporalities are developed, which allows us to conceive of the other in an intersubjective web of reciprocities. Since the new subjectivity does not depend on self-identity but, rather, on reciprocity, it is free of androcentrism: the other may be nature, or may be the beast of which Saint Francis of Assisi considers himself a brother. (27)

There is no way that one can, in a couple of thousand words, do justice to a work that has, every few pages, an idea or conceptualisation, like the above, that itself demands discussion or could fuel research. I can only give an impression of the whole, whilst concentrating on two chapters that speak more directly to me.

Part 1 represents a critique of modern science as a whole and proposes a post-modern alternative. Sousa Santos is evidently not a fully-paid-up, card-carrying, discourse-waving member of the Postmodernist Party (his sentences are too short, they lack convolution and contain too few metaphors). He simply considers "post-modernism" an adequate name for our ambiguous transitional era. His critique does not represent a dismissal of modernism but a recognition of the extent to which, in (social) science, the principle of regulation has come to dominate over the principle of emancipation. It may be partly for this reason that, in place of the enlightenment paradigms of infinite growth and increasing control, Sousa Santos proposes one of such modesty that I am still trying to absorb its implications for what is left of my intellectual and personal life: it is that of "a prudent knowledge for a decent life" (ix). Ecologists may be more immediately at home with this than I (brought up to believe that Soviet Power + Electricity = Communism).

Part 2 is about the "time-spaces of law: locality, nationality, transnationality". Here we find not only Sousa Santos' largely reflective and speculative globalisation chapter (transnationality) but two empirical studies: one on alternative or parallel law in a Brazilian urban squatter settlement (locality) and one on law, the state and urban struggles in a major Brazilian city (nationality). As if we did not have diversity enough, his locality chapter has woven through it (on alternate pages, in another typeface and layout) his reflections on his own role as a young, radical, U.S.-funded, Portuguese researcher in the settlement. If this "Chapter Three-in-the-Mirror" reveals the extent to which Sousa Santos has been infected with postmodern playfulness and paradox, it must also be said that it could, with the disrespect it demands, be extracted, reassembled into a moderately modernist text, and then used as a rich and provocative reading for postmodern courses on research methods and ethics.

Part 3 discusses "powers, laws and knowledges". Here, as a legal philistine, I have promised myself to read Part 3 before the end of the millennium.

Now for my key chapters—one on globalisation (Chapter 4), one on utopia (Chapter 8). Acutely aware of the dangers of producing/continuing a Western universalism for the era of globalisation, Sousa Santos proposes that a new kind of cosmopolitanism could be constructed at the margins, or in the interstices, of what

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he calls "globalised localism" and "localized globalism" (263), i.e. the dominant Western globalisation process as either projected or received. Sousa Santos provides a sketch of globalisation, largely drawn from the growing, largely British, literature on this topic (Waterman 1996).

With his "globalised local" versus his "localised global", Sousa Santos may appear to echo, endorse, or allow for, dependency theory, or others based on binary oppositions (e.g. North/South, centre/periphery, capitalism/socialism, control/emancipation). Such dualities are almost unavoidable for organising and mobilising but are also epistemologically problematic. They are also politically problematic if one is suggesting, as he sometimes seems to be, that the South, or South of the South, is the privileged site of emancipation. I am not sure quite how to understand them in what is otherwise a deeply dialectical work. Dismissal here, however, seems a little to me like condemning Charles Dickens because his plots are improbable and his characters impossible (both true). Like Dickens, Sousa Santos provides such a rich stew that everyone will be able to pick out what they don't like, without this necessarily spoiling their enjoyment. Enjoyment, incidentally, is something Sousa Santos believes needs reintroducing into science.

Where Sousa Santos is most original here, I think, is in conceptualizing the forms and agents of an alternative, as well as, of course, in the field of law. His twin forms are "cosmopolitanism" and the "common heritage of humankind" (263-5). His cosmopolitanism is contrasted with Western universalisms, whether of liberal or socialist hue, and seen to be being developed as a counterhegemonic discourse and action, particularly in the South (actual as well as metaphorical) and in the South of the South (as in his squatter settlements). His common heritage of humankind is likewise seen in conflict with inter-state law, insofar as it concerns issues that make sense only within a global framework: nuclear weapons; threats to the environment. As for transformative transnational agency, this is seen to be carried by NGOs, particularly by transnational advocacy NGOs (TANGOs) (267-8, 323-7, 349-50).

The idea of popular and democratic social forces as producers, rather than simply subjects or victims, of law comes out of his understanding of what goes on in Brazilian squatter settlements. Over and against the law of states, of regionalisation, of commerce, Sousa Santos thus poses four other kinds of law: that "of people on the move" (migrant workers, refugees), "transnationalised infrastate law" (indigenous peoples, ethnic identities), "cosmopolitan law" (human rights), and "jus humanitatis" (law of humanity, to do with ecology, etc.). The global political agents of emancipation here are again the TANGOs. Sousa Santos recognises the ambiguity of this growing phenomenon:

> The transnational NGOs have...become a contested terrain. But the contestation also shows how successful has been the attempt to create a transnational agency alternative to the TNCs and their supporting institutions.
>
> Without pushing risky symmetries too far, there is some evidence that transnational NGOs represent for the agendas of cosmopolitanism and common heritage of mankind what the TNCs represent for the agendas of localized globalism and globalised localism (268).

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In reflecting on globalisation, I have myself used a terminology that sometimes contrasts with, sometimes possibly complements, that of Sousa Santos: "global solidarity", "global civil society", "global solidarity culture" (Waterman 1993, Forthcoming). I feel that some of his discussion here lacks either the empirical basis or conceptual bite of some of my own argument. I also do not feel that he is sufficiently aware of the problems of what I think of as "globalisation from the middle" (the international NGOs are, after all, overwhelmingly staffed by university-educated middle-class people). All such comments, however, must be qualified by the sense of reassurance I obtained on reading the argument of Sousa Santos, by amazement that a central place should be given to NGOs in a major work of social theory, and by my admiration (tinged with envy) at the manner in which he takes his alternative global vision and strategy to depths and distances I could never have dreamed of.

I am not, therefore, going to make an issue of his meagre attention to women (not one index mention) or to feminism (just two). It is possible for one's argument to be informed by the aspirations, insights and dialogical logic of certain feminisms without waving this flag either. (I predicted that feminist internationalists were going to be inspired and armed by him even before I discovered that a translated summary and extracts were being produced in Lima as part of the Latin American follow-up of the Fourth World Conference on Women.)

Back to things I either have, or have not, dreamed of.

The last chapter is entitled "Don't Shoot the Utopist". I found this chapter equally thought-provoking and reassuring. I recall a 1990 feminist conference at the Institute of Social Studies in The Hague, at which I was the only non-woman and also, apparently, the only non-ex-utopian, present. After fifteen to twenty years of enthusiasm, struggle and disappointment, the compañeras were exhausted (heroines, it seems, can also be fatigued). In place of my argument on the necessity of global utopian visions, one of them proffered the intimate utopia of the seminar underway. "That," I responded (with either my heart or my foot in my mouth) "is not utopia; it is solace." Sousa Santos would surely have agreed:

> 'The future is no longer what is used to be', says a graffito on a wall in Buenos Aires...What is to be done, then? The only route, it seems to me, is utopia. By utopia I mean the exploration by imagination of new modes of human possibility and new styles of will, and the confrontation by imagination of the necessity of whatever exists—just because it exists—on behalf of something radically better that is worth fighting for and to which humanity is fully entitled. My version of utopia...calls attention to what does not exist as being the integral, if silenced (counter)part of what does exist...Utopia requires...a deep and comprehensive knowledge of reality as a way of preventing imagination's radicalism from clashing with its realism (480-81).

This goes on for several pages, getting even more poetic, thus exemplifying the passionate, pleasurable, aesthetic rhetoric, the "re-enchanted common sense" (52) that Sousa Santos considers a style expelled from modern (social) scientific discourse. He then goes on, somewhat more prosaically, to argue the necessity for a new model of both society and subjectivity (i.e. a psychology necessary to bring such a society into being).

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The new emancipations (his plural) take place in specific spaces—or require space in different places: in the householdplace he calls for cooperative domestic communities; in the workplace, for eco-socialist production; in the marketplace, for human needs and solidarity consumption; in the communityplace, for what he calls "amoeba-communities" in the citizenplace, for socialism as democracy without end; in the worldplace, for democratic sustainability and dispersed sovereignties (482-489). The theoretical and political programme suggested here could keep us busy for the rest of the century.

I will not go into Sousa Santos' new subjectivity except to mention the two figures he considers to exemplify this. One is Gandhi, for quite predictable reasons, as spokesperson for a South that is liberating itself both from the North and from the South that the North has created. The other is Noam Chomsky (famous in the U.S. for his linguistics, infamous for his repeated denunciations of U.S. imperialism), because he "comes closest in the core countries to representing the subjectivity of the South" (508). And, also, because both are anarchists, and anarchism represents the most marginal and discredited political tradition of modernity (514). We are now at the end of the book, and either Sousa Santos or I, or both of us, seem to be getting tired.

I am prepared to consider his Gandhi as a prophetic voice, silenced fifty years too early (though this may be only a sign of my limited knowledge of the man). But Chomsky? His anti-imperialism hits only one note, just as does his critique of the U.S. media. It belongs to a thoroughly modern tradition of critical sociology which conceals its pessimism and justifies its impotence with a model of total domination (of all except the enlightened scientist of modernist tradition). Chomsky's last-minute, last-paragraph, rhetorical gestures in the direction of anarchism, resistance, people, are never spelled out, have no visible means of support and carry no weight. This final part of the Sousa Santos argument is more eccentric than original. And one should welcome it for being so. Every Achilles should have a heel, to bring him within reach of the rest of us.

Oh, but I do have my own Western candidate for the Chomsky role. It is Boaventura de Sousa Santos, heels and all.

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