

**BOAVENTURA DE SOUSA SANTOS**

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## **REINVENTING DEMOCRACY\***

### ***Modernity's Social Contract***

The social contract is the master narrative that grounds the modern political obligation. Because it was established amongst free men and, at least in Rousseau, in order to maximize, not minimize, their freedom, this obligation is complex and contradictory. Indeed, the social contract expresses a dialectical tension between social regulation and emancipation, which is reproduced in the constant polarization between the individual and the general will, private interest and the common good order and progress. The national state, law, and civil education are the guarantees of the peaceful and democratic unfolding of this polarization in a social field that has been designated as civil society. As we know, the logical procedure that establishes the innovative character of civil society resides on the juxtaposition of civil society and the state of nature. It comes, therefore, as no surprise that the well known differences concerning the conception of the social contract in Hobbes, Locke, and Rousseau have their counterpart in different conceptions of the state of nature.<sup>1</sup> The more violent and anarchic the state of nature, the greater the powers invested in the state resulting from the social

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contract. The differences in this regard between Hobbes, on the one hand, and Locke and Rousseau, on the other, are enormous. However, they all share the view that the option to leave the state of nature in order to constitute the modern state and civil society is a radical and irreversible option. Modernity, they all believe, is problematic and full of antinomies — e.g., between coercion and consent, equality and liberty, sovereignty and citizenship, natural law and civil law — but it must reconcile them by its own means, without recourse to pre-modern or counter-modern resources.

Like any other contract, the social contract is based upon criteria of inclusion which are also necessarily criteria of exclusion. There are three main such criteria. The first one is that the social contract includes only individuals and their associations. Thus, the contract excludes nature, which renders significantly ironic the fact that what comes before or is outside the contract is designated as the state of nature. The only nature that counts is human nature, and even human nature is to be domesticated by the laws of the state and the civil society's rules of conviviality . Nature as such is either under attack or a mere resource. The second criterion concerns citizenship as founded by the territory. Only male citizens take part in the social contract. Everybody else — be they women, foreigners, immigrants, ethnic minorities (sometimes even ethnic majorities) are excluded from the social contract. The excluded live in the state of nature even when they inhabit the house of citizens. Finally, the third criterion concerns the public commerce of interests. Only such interests as have expression in the civil society partake of the contract. The social contract does not, therefore, include private life,

that is to say, the personal interests that constitute domestic space and intimacy.

The social contract is the founding metaphor of Western modernity's social and political rationality. Its criteria of inclusion/exclusion eventually become the very foundation of legitimacy as regards contractualization in economic, political, social, and cultural interactions. The range of the possibilities of contractualization has its counterpart in a radical separation between the included and the excluded. Although based on a logic of inclusion/exclusion, contractualization is only legitimized by the nonexistence of the excluded. To make this possible, the excluded, though living, are declared in a condition of civil death. The operative logic of the social contract is, thus, in constant tension with its logic of legitimacy. The immense possibilities of the contract coexist with its inherent fragility. Viewed synchronically, contractualization presents itself as encompassing and naturally given. Diachronically, contractualization is a battle field for the criteria of inclusion and exclusion which, by their results, go on establishing and reestablishing the terms of the contract. Today's excluded emerge tomorrow as candidates of inclusion and, who knows, may actually be included next. At any rate, according to the operative logic of the contract, the new included become so only at the expense of new or old excluded. The progress of contractualization appears, therefore, as somewhat Sisyphean. The arrow of time is at most a spiral.

The tensions and antinomies underlying social contractualization cannot ultimately be solved by contractual means.

Their controlled management resides in three metacontractual presuppositions: a general régime of values, a common system of measures, a privileged time-space. The *general régime of values* is based on the idea of the common good and general will. These are sociability-aggregating principles, which make it possible to designate as society the autonomous and contractual interactions between free and equal subjects. Their primacy is as necessary as it is problematic. Indeed the only "real" goods and wills are private goods and private wills and it is to secure them and guarantee their flourishing that the imagination of the "common" and of the "general" becomes necessary. The ethics emerging therefrom is a micro ethics in which only individual physical or judicial persons can be made accountable. Collection risks and damages are either a prerogative of political power (*raison d'état*) or a product of nature or chance.

The *common system of measures* is based on a conception of time and space as homogenous, neutral, linear, and functioning as the minor common denominator for the definition of relevant differences. Perspective, the technique introduced by Renaissance painting, is the first modern formulation of this conception. Of importance is also the improved technique of scales and projections in modern cartography since Mercator. Starting from this conception, it is possible, on the one hand, to separate nature from society and, on the other, to establish a quantitative means of comparison between massive and widely distinct social interactions. Their qualitative differences are either ignored or reduced to the quantitative indicators that can account for them approximately.

Money and commodities are the purest concretizations of the common system of measures. Through them, labor, wages, risks, and damages are easily measurable and comparable.

But the common system of measures goes way beyond money and commodities. Perspective and scale, combined with the general system of values, permit the measurement of the seriousness of crimes and punishments: to a gradation of scales regarding seriousness of crime corresponds a gradation of scales regarding punishment. Perspective and scale applied to the principle of popular sovereignty allow for representative democracy: to an  $x$  number of inhabitants corresponds a  $y$  number of representatives. By virtue of the homogeneities it creates, the common system of measures even allows for the establishment of correspondences amongst antinomic values. For instance, between liberty and equality it is possible to define criteria of social justice, redistribution, and solidarity. The assumption is that the measures be common and function by correspondence and homogeneity. That is why contractual solidarity is only possible once a pattern of equality (and, hence, of inequality) is established, its most perfect concretization being solidarity with and among workers.

The *privileged time-space* is national state time. The utmost articulation of interests is achieved in this time-space, which also defines the scales and perspectives by which the nonstate, subnational or supranational interactions can be measured. This is why the government of municipalities, for example, is designated as local government. It is in the national state time that economy is best articulated, integrated and managed, and it is also here that families

organize their lives and establish their horizon of expectations, or absence thereof. The political obligation of the citizens vis-à-vis the state and of the state vis-à-vis the citizens is defined in relation to the national state time-space, this being also the scale of political organizations and struggles, legitimate violence, and the promotion of social welfare. The national state time-space is not only a perspective and a scale; it is also a rhythm, a duration, a temporality. Thus, the national state time-space is also the privileged time-space of political deliberation (elections, legislation), judicial process, and the bureaucratic action in general. Its most isomorphic correspondence resides in the time-space of mass production: the factory is a micro-state which comprises political, judicial, and bureaucratic action of its own.

Finally, the national state time-space is the privileged time-space of culture as the set of identity devices which establish a régime of belongingness and legitimate the normativity grounding the social relations confined to the national territory: from the educational system to national history, from official ceremonies to national holidays.

These three metacontractual regulatory principles are congruent amongst themselves. If, on the one hand, the general régime of values is the utmost guarantee of the citizens' expectations, on the other, the range of expectations is possible and its turbulence intelligible because of the common system of measures. Perspective and scale are, among other things, visual devices that create a field of vision and hence a field of blindness as well. The visibility of certain risks, damages, deviances, and

vulnerabilities has its correspondence in the identification of certain causes, enemies, and aggressors, and in the occultation of others whose effects remain invisible. They are all managed in a privileged way by the national state time-space, that is to say, by the forms of conflictuality, negotiation, and management that are proper to it. State actions are as important as state omissions in organizing the time-space upon which civil society unfolds.

The notion of the social contract and its regulatory principles are the ideological and political foundation of the actual contractuality that constitutes sociability and politics in modern societies. The following characteristics of this contractualized organization must be underscored. The social contract aims at creating a socio-political paradigm which produces four public goods in a normal, constant, and consistent way: Legitimacy of governance, economic and social welfare, safety, and collective identity. These public goods can only be accomplished together: after all, they are different but complementary ways of fulfilling the common good and the general will. The pursuance of these public goods has involved a vast constellation of social struggles, starting with the class struggles, which express the fundamental divergence of interests generated by the social relations of capitalist production. Because of this divergence and of the antinomies inherent to the social contract between individual autonomy and social justice, liberty and equality, the struggles for the pursuance of the common good have always been struggles for alternative definitions of the common good. These struggles have gradually crystalized as partial contractualizations meanwhile agreed upon. On the other hand,

these contractualizations have gradually turned into institutions that guarantee the continuity and respect for whatever was agreed upon.

From the aforementioned contradictory pursuance of public goods, as well as from the compromises it has given rise to, three large institutional constellations have emerged in the national state time-space: the socialization of the economy, the politicization of the state, and the nationalization of cultural identity. The *socialization of the economy* occurred by virtue of the gradual recognition of the class struggle as the instrument of the transformation, rather than of the sublation (*Aufhebung*), of capitalism. The regulation of working time and conditions, as well as wages, the creation of mandatory social insurance and social welfare, the recognition of unions, the right to strike, and collective negotiation and contracts, these were all decisive moments in the long historical trajectory toward the socialization of economy. They were instrumental to reveal that capitalist economy is not only constituted by capital—production and market factors—but also by workers, that is to say, people and classes with basic needs, legitimate self-interests and, in a word, rights of citizenship. In this trajectory, the unions played a decisive role, namely, to reduce competition amongst workers, the major source of over-exploitation to which they had been initially subjected.

By regulating the economy, mediating conflicts, repressing the workers even to the point of extorting self-damaging consensuses, the state accomplished the normative and institutional constellation into which the socialization of the economy was translated. The central role played by the state in the socialization of the economy was a decisive factor for another institutional constellation: *the*

*politization of the state*, brought about by the very expansion of the state's regulatory capacity.

The expansion of the regulatory capacity of the state in capitalist societies has assumed two main forms: the Welfare State in the core of the world system and the developmentalist state in the periphery and semiperiphery of the world system. As it made social regulation its own task, the state turned it into a political battle field and became itself politicized. Just as the expansion of citizenship took place on the basis of labor, democracy was from the start linked to the socialization of economy. In other words, the tension between capitalism and democracy is constitutive of the modern state, and the legitimacy of the modern state, whether greater or lesser, has always been linked to the more or less balanced way in which it has taken care of this tension. The zero-degree legitimacy of the modern state is fascism, that is to say, the total surrender of democracy vis-à-vis the accumulation needs of capital. The maximum-degree legitimacy of the modern state resides in the ever problematic conversion of the tension between democracy and capitalism into a virtuous circle in which each of them apparently thrives, to the extent that they both thrive together. In capitalist societies, this maximum degree was obtained in the Welfare States developed in Northern Europe and Canada.

Finally, the *nationalization of cultural identity* is the process by which the partial and mobile identities of the different social groups are homogenized and territorialized in the national time-space and imagined as coming from a distant, honorable past. By conferring upon them a longer historical duration and greater stability, the

nationalization of cultural identity reinforces the criteria of inclusion/exclusion underlying the socialization of the economy and the politicization of the state. The equation of the nation with the state turns the exclusion into an act of collective selfdefense: the other is always the enemy, be it internal or external.

This large process of social, political, and cultural contractualization, as well as the criteria of inclusion/exclusion upon which it is based, has two limits. The first one has to do with the criteria themselves. Inclusion always has as its limit what it excludes. For instance, the socialization of the economy was obtained at the cost of a double desocialization, that of nature and the social groups without access to the formal labor markets. Being a solidarity among equals, solidarity among workers did not need to concern itself with what was outside the circle of equality. For this reason, labor organizations have not realized, often to this date, that the workplace is frequently the site of ecological crimes and extreme racial and sexual discrimination. On the other hand, the politicization of the state and its public sphere had its counterpart in the privatization and depoliticization of all the nonstate spheres. Democracy could enjoy expansion to the extent that its space became restricted to the state and the politics condensed by the state. Finally, the nationalization of cultural identity was based on ethnocide and epistemicide. Knowledges, memories, symbolic universes, and traditions, other than those elected to be included and made nacional, were suppressed, marginalized or decharacterized, and the same happened to the social groups that sustained them.

The other limit concerns inequalities articulated by the modern world system constituted by core, peripheral, and semiperipheral countries. The range of contractualization of social life varied widely and assumed different forms according to the position of the country in question in the world system: it was more or less inclusive, more or less stable, more or less democratic, more or less detailed. In the periphery and semiperiphery, contractualization tended to be more limited and precarious than in the core. The social contract has always coexisted with social status; compromises have always been evanescent moments between pre-compromises or pre-commitments and post-compromises or post-commitments; the economy was socialized in small islands of inclusion that ended up in large archipelagoes of exclusion; the politicization of the state yielded frequently to the privatization of the state and the patrimonialization of political power; cultural identity often nationalized a mere caricature of itself. Even in core countries, contractualization has widely varied between, for example, countries with strong contractualist traditions, like Germany or Sweden, and subcontractualist countries, like the United Kingdom and the United States.

### ***The Crisis of the Social Contract***

Granted all these variations, the social contract, its criteria of inclusion and exclusion, and its metacontractual principles have presided over the organization of the economic, political, and cultural sociability of modern societies. For over a decade, this

social, political, and cultural paradigm has been undergoing a period of great turbulence that affects not only its operative devices but also its presuppositions. It is in fact so profound a turbulence that it points to an epochal turmoil and a paradigmatic transition.

As far as presuppositions are concerned, the *general régime of values* seems not to be able to resist the increasing fragmentation of society, divided into many apartheid, polarized along economic, social, political, and cultural axes. The struggle for the common good seems to be losing its meaning and consequently the same happens to the struggle for alternative definitions of the common good. The general will seems to have become an absurd proposition. Under these circumstances, some authors even speak of the end of society. Ours is a postFoucaultian world, and we suddenly realize, in retrospect, how organized Foucault's world was. According to Foucault, two main modes of social power have coexisted in modern societies: the disciplinary power, the dominant one, centered around the sciences; and the juridical power, in decline, centered around the state and the law. Nowadays, these powers coexist with many others — corporate power, religious power, mafias' power — and they themselves are fragmented and disorganized. Disciplinary power is increasingly a nondisciplinary power, to the extent that the sciences lose their epistemological confidence and are forced to share the field of knowledge with rival knowledges — such as indigenous knowledges in the case of biodiversity —, which are in turn capable of generating different kinds of power and resistance. On the other hand, as the state loses its centrality in regulating society its law becomes

labyrinthian. The State official law becomes disorganized as it is forced to coexist with the nonofficial law of multiple factic nonstate legislators, who, by virtue of the political power they command, transform facticity into norm, vying with the state for the monopoly of violence and law. The chaotic proliferation of powers renders difficult the identification of the enemies, sometimes even the identification of the victims themselves.

The values of modernity — liberty, equality, autonomy, subjectivity, justice, solidarity — as well as the antinomies amongst them remain, but are subjected to an increasing symbolic overload, that is to say, they mean increasingly more disparate things to different people or social groups, with the result that the excess of meaning turns into trivialization, hence, into neutralization.

The turbulence of our present time is noticeable particularly in the *general system of measures*. Neutral, linear, homogenous time and space have long disappeared from the sciences but only now has their disappearance begun to make a difference at the level of everyday life and social relations. Elsewhere I have alluded to the turbulence affecting today the scales in which we are used to seeing and identifying phenomena, conflicts, and relationships. Since each one of them is the product of the scale in which we observe them, the turbulence of scales produces strangeness, defamiliarization, surprise, perplexity, and invisibility. My example has been that of urban violence as paradigmatic of the turbulence of scales (Santos, 1998a). When a street child looks for shelter to spend the night and is, as a consequence, killed by a policeman, or when someone is solicited on the streets by a beggar, refuses to give alms, and is, as a

consequence, killed by the beggar, what happens is an unforeseen explosion of the scale of the conflict: a seemingly trivial phenomenon, seemingly without consequences, is suddenly equated with another one, a dramatic one this time, and of fatal consequences. This abrupt and unpredictable change of scale of phenomena occurs nowadays in the most diverse domains of social practice. Following Prigogine (1979; 1980), I believe that our societies are undergoing a period of bifurcation, that is to say, a situation of systemic instability in which a minor change can bring about, in an unpredictable and chaotic way, qualitative transformations. The turbulence of scales destroys sequences and means of comparison, thereby reducing alternatives, creating impotence or promoting passivity.

The stability of scales seems to be confined to the market and consumption, and even there with radical mutations of rhythm and explosions of range which impose constant transformations of perspective on the acts of commerce. The hyper-visibility and high speed of heavily advertised commodities turns the intersubjectivity demanded from consumers into the interobjectuality among acts of consumption. The same constant transformation of perspective is also occurring in information and communication technology, where indeed scale turbulence is the originating act and condition of functionality. Here, the increasing interactivity of technologies dispenses more and more with the inventiveness of the users, the consequence being that interactivity surreptitiously slides into interpassivity.

Finally, the *national state time-space* is losing its primacy because of the increasing importance of the global and local time-spaces that compete with it. This destructuring of the national state time-space also occurs at the level of rhythms, durations, and temporalities. The national state time-space is made up of different but compatible and articulated temporalities: electoral temporality, the temporality of collective bargaining, judicial temporality, welfare temporality, the temporality of the national historical memory, etc. The coherence amongst these temporalities is what gives the national state time-space its own configuration. Now, this coherence is becoming more and more problematic because the impact produced on every temporality by the global and local time-space is different. For instance, the judicial temporality tends to be less affected by the global time-space than the temporality of collective bargaining. On the other hand, the local time-space is, in the United States of America, affecting more the welfare temporality than the electoral temporality, while in Europe the inverse occurs.

Furthermore, temporalities or rhythms that are quite incompatible with the national state temporality as a whole become increasingly more important. Two of them are worth specific mention. The *instant time* of cyberspace, on the one hand, and the *glacial time* of ecological degradation, the indigenous question and biodiversity, on the other. Any of these temporalities collides head-on with the political and bureaucratic temporality of the state. The instant time of the financial markets precludes any deliberation or regulation on the part of the state. The slowing down of this temporality can only be obtained at the level of the scale in which it

occurs, the global scale, and hence through international actions. On the other hand, the glacial time is too slow to be adequately compatible with any of the national state temporalities (particularly, the electoral and judicial temporalities). Indeed, recent juxtapositions of state time and glacial time have been little more than attempts on the part of state time to cannibalize and decharacterize glacial time. One has only to consider how the indigenous question has been handled in many countries, or the quite recent global wave of national laws on patents and intellectual property rights having an impact on the question of biodiversity.

Since it has been so far the hegemonic time-space, the national state time-space configures not only the action of the state but also the social practices in general, upon which the competition between instant time and glacial time rebounds as well. As in the case of scale turbulence, these two times converge, in different ways, on the reduction of alternatives, creation of impotence, and promotion of passivity. Instant time collapses the sequences into an infinite present which trivializes the alternatives by their techno-ludic multiplication, fusing them into variations of the same. Glacial time, on the contrary, creates such a wide distance between real alternatives — from alternative models of development to alternatives to development — that they stop being commensurate and susceptible of being counter-weighted, and end up wandering in incommunicable systems of reference. The same confrontation between glacial time and national state time both creates the urgent need of a global alternative to capitalist development and makes it impossible to envision it, let alone to opt for it.

It is, however, at the level of the operational devices of social contractualization that the signs of the crisis of this paradigm are more visible. Nevertheless, at first sight, the present situation, far from prefiguring a crisis of social contractualism, is rather characterized by an unprecedented consolidation of social contractualism. Never before has there been so much talk about the contractualization of social relations, labor relations, welfare relations and partnership of the state with social organizations. But this new contractualization has little to do with the contractualization founded on the modern idea of the social contract. First, unlike the social contract, the new contractualization has no stability and can be denounced at any time by any of the parties. It is not a radical option; it is rather a trivial option. Second, the neoliberal contractualization does not recognize conflict and struggle as structural elements of the social pact. On the contrary, it replaces them by passive assent to supposedly universal conditions deemed to be unsurpassable. Take the so-called Washington consensus. If indeed it is a social contract, it occurs only amongst the core capitalist countries. For all other national societies, it appears as a set of inexorable conditions for acritical acceptance under pain of implacable exclusion. What later sustains individual contracts of civil law are precisely these insurmountable, uncontractualized global conditions.

For all these reasons, the new contractualization is a false contract, a mere appearance of a compromise constituted by conditions, as costly as they are inescapable, imposed without discussion upon the weaker partner in the contract. Under the

appearance of a contract, the new contractualization prefigures the reemergence of status, that is, of the principles of pre-modern hierarchical order in which the conditions of social relations were directly linked to the position of the parties in social hierarchy. But there is no question of a return to the past. As a matter of fact, status is now merely the consequence of the enormous inequality of economic power amongst the parties — be they states or individuals — in the individual contract, as well as the capacity with which such inequality — in the absence of the state's corrective regulation — endows the stronger party to impose without discussion the conditions that are most favorable to it. The new contractualism reproduces itself through extremely unfair contract terms.

The crisis of modern contractualization consists in the structural predominance of exclusion over inclusion processes. The latter are still in force and even assume advanced forms that allow for the bare/fragile reconciliation of the values of modernity, but they confine themselves to increasingly more restrictive groups which impose abysmal forms of exclusion upon much larger groups. The predominance of exclusion processes takes on two, apparently contradictory, forms: post-contractualism and pre-contractualism. Postcontractualism is the process by means of which groups and social interests up until now included in the social contract are therefrom excluded without any prospect of returning. The rights of citizenship, considered unalienable before, are confiscated and, without them, the excluded go from the condition of citizens to the condition of serfs. Pre-contractualism consists in blocking access to citizenship to social groups that before considered themselves

candidates to citizenship and had the reasonable expectation of acceding to it.

The structural difference between post-contractualism and pre-contractualism is clear, and the political processes that promote one or the other quite distinct. They are, however, frequently confused, both in dominant political discourse and in the personal experience of the groups affected by them. At the level of political discourse, a post-contractualism is frequently proffered that is in fact structurally a pre-contractualism. There is talk of social pacts and commitments previously assumed and which are now impossible to continue to honor, while, in fact, the previous situation never expressed more than contractual promises and pre-commitments which were never actually fulfilled. Pre-contractualism thus gives way to post-contractualism without ever there being contractualism at all. This is what is happening particularly in quasi-Welfare-States of many semiperipheral countries. Likewise, at the level of the experience and perception of the people and social groups affected, it is quite common that, faced with the sudden loss of the least stabilization of expectations, people realize that they had been citizens without knowing it and without having exercised their own rights of citizenship. In this case, pre-contractualism is subjectively experienced as post-contractualism.

The exclusions thus brought about both by post-contractualism and pre-contractualism are radical and insurmountable, and to such an extent that those who suffer them, though being formally citizens, are in fact excluded from civil society and thrown into a new state of nature. In postmodern society at the

end of the century, the state of nature consists in the permanent anxiety vis-à-vis the present and the future, imminent loss of control over expectations, permanent chaos concerning the simplest acts of survival and conviviality.

Both post-contractualism and pre-contractualism are the result of profound transformations undergone by the three operative devices of the social contract analyzed above: the socialization of economy, the politicization of the state, and the nationalization of cultural identity. The transformations are different in each one of them but they result, directly or indirectly, from what we might designate as neoliberal consensus. As a matter of fact, this neoliberal consensus unfolds into four main consensuses.

First, the *neoliberal economic consensus*, also known as the Washington consensus (Santos, 1995: 276, 313, 356). The Washington consensus concerns the organization of the global economy, including production, product and service markets, and financial markets. It is based on the liberalization of markets, deregulation, privatization, state reduction, control of inflation, primacy of export production, cuts in social expenses, reduction of the public deficit, concentration of market power on the large multinational corporations and of financial power on the large transnational banks. The great institutional innovations of the neoliberal economic consensus are the new restrictions to state regulation, the new international property rights for foreign investors and intellectual creators, and the rigid subordination of peripheral and semiperipheral states to multilateral agencies, such as the

World Bank, the International Monetary Fund, and the World Trade Organization.

The second consensus is the *consensus of the weak state*. Though related to the previous one, it has other implications, for it goes beyond the economic and even social domain. By it, the state stops being the mirror of civil society to become its opposite. The strength of the state rather than grounding the strength of civil society, becomes the cause for the weakness and disorganization of civil society. The state is considered inherently oppressive, inefficient, and predatory, its weakening being the pre-condition for strengthening civil society. This consensus is, however, plagued by the following dilemma: since only the state can produce its own weakness, a strong state is needed to produce efficiently and sustain coherently its own weakness. Thus, the weakening of the state results in perverse effects that question the very tasks ascribed to the weak state. In other words, the weak state is unable to control its own weakness.

The third consensus is the *liberal democratic consensus*. It consists in the international promotion of minimalist conceptions of democracy as condition for the national states' access to international financial resources. The convergence of this consensus with the previous one has been recognized as being rooted in the very origin of political modernity. The truth is that, whereas nineteenth-century democratic theory was as concerned with justifying the sovereignty of state power, and its regulatory and coercive capacity, as with justifying the limits of state power, the liberal democratic consensus is not in the least concerned with the

sovereignty of state power, particularly in the periphery and semiperiphery of the world system, and the state's regulatory functions are seen more as incapacities than capacities of the state.

Lastly, liberal consensus still includes the *consensus of the primacy of the rule of law and courts*, which derives from the model of development promoted by the three previous consensuses. This model gives absolute priority to private property, market relations, and the private sector. All of them require safe and predictable transactions, guaranteed against the risks of unilateral violations. All this demands a new juridical framework, while attributing a new and far more central role to the courts as the guarantors of the rule of law. The political pillar of social contractualization must, therefore, yield to the juridical and judicial pillar of individual contractualization. This is one of the main dimensions of the judicialization of politics currently taking place in many countries.

The neoliberal consensuses have a profound impact on the three operative devices of the social contract. The most decisive impact has to do with the process of desocialization of the economy, the reduction of the economy to the instrumentality of the market. This is the privileged field both of post-contractualism and pre-contractualism. As we saw, according to the model of social contractualization in capitalist modernity, labor was the way of access to citizenship, whether by extending civil and political rights to workers, or by the new rights that were specific of the workers' collective, such as the right to work and social and economic rights. The increasing erosion of these rights, required by the imperatives of global market, combined with increasing structural

unemployment, leads to a shift in the workers' status, from citizenship to a new serfdom. For the vast majority of these workers, this change of status, from contractualism to post-contractualism, has no return.

In point of fact, as I mentioned above, the original citizenship status of these workers was already so precarious and rarefied in most countries that, in many cases, the change seems merely to concern a direct substitution of post-contractualism for pre-contractualism. Only the retrospective manipulation of expectations makes it seem as if the change had been from contractualism to post-contractualism. On the other hand, in the context of liberalized global markets with generalized control of inflation and containment of economic growth,<sup>2</sup> in tandem with new technologies that allow for the creation of wealth without creating jobs, the growth of employment in one country is always obtained at the cost of the decrease of employment in another country. Herein lies the increase of international competition among workers. The decrease of competition among workers at the national level was the great historical effect of the labor movement, and may well constitute today the major obstacle to a greater efficacy of the unions in the control of international competition among workers. Such control would require, on the one hand, the internationalization of the workers' movement and, on the other, the creation of supranational political authorities with power to impose the fulfillment of the new global social contract. In the absence of these requirements, international competition among workers increases, as increases the logic of exclusion that goes with it. In many countries, the

majority of workers entering the new labor market have no rights whatsoever. They are, therefore, included according to a logic of exclusion, and the lack of expectations about future improvement prevents them from even considering themselves candidates for citizenship. Many others don't even manage to enter the labor market. If, for some, this situation is conjunctural and transitory, for many others it is structural and permanent. In one way or another, to all these situations presides a logic of exclusion. We are facing a situation of pre-contractualism without any possibility of going over to a situation of contractualism.

Whether by way of post-contractualism, or by way of pre-contractualism, the deepening of the logic of exclusion creates new states of nature: the precariousness of life and the servitude generated by the workers' permanent anxiety concerning the amount and continuity of work, by the anxiety of the unemployed in search of jobs or of those who don't even have conditions to search for jobs, by the anxiety of the self-employed regarding the continuity of a market which they themselves have to create everyday to assure the continuity of their income, and finally by the anxiety of the undocumented migrant workers, who have no social rights at all. The stability referred to by the neoliberal consensus is always the stability of market and investment expectations, never of the expectations of working people. Indeed, the stability of markets and investments is only possible at the cost of the instability of the expectations of people.

For all these reasons, work increasingly ceases to sustain citizenship, and vice-versa, increasingly citizenship ceases to

sustain work. By losing its political status as both a product and a producer of citizenship, work is reduced to the pain of existence, both when it is available and when it is not. This is why work, even though it dominates people's lives more and more, is disappearing from the ethical references that sustain the subjects' autonomy and self-esteem.

In social terms, the cumulative effect of pre-contractualism and post-contractualism is the emergence of an underclass of excluded, which is smaller or larger according to the central or peripheral position of the society in the world system. This underclass is constituted both by social groups trapped in downward social mobility (unqualified workers, unemployed, migrant workers, ethnic minorities) and social groups for which the possibility of work has ceased to be a realistic expectation, or never was (long-term unemployed, youths unable to enter the labor market, disabled people, large numbers of poor peasants in Latin America, Africa, and Asia). This class of excluded assumes in core countries the form of an internal third world, the so-called lower third in the two-third society. In Europe, there are 18 million unemployed and more than 52 million people below the poverty line; 10 percent of the population have physical or mental disabilities that make their social integration very difficult. In the United States, the underclass thesis has been articulated by William Julius Wilson to characterize African Americans in the urban ghettos, affected by the decline of industry and the economic desertification of the inner cities (Wilson, 1987). Wilson defines underclass according to six main features: residence in spaces socially isolated from the other classes; lack of a long-term

job; monoparental families headed by women; lack of professional qualification or training; long stretches of poverty and dependence on welfare; tendency to engage in criminal activity, such as street crime. This class expanded considerably from the seventies to the eighties and its members have become tragically younger. The percentage of the poor less than 18 years old was 15 percent in 1970 and 20 percent in 1987, the increase of child poverty being particularly dramatic. The structural character of exclusion, and hence, of the obstacles to inclusion to which this class is subjected, can be observed in the fact that, though African Americans show a remarkable intergenerational educational improvement, such an accomplishment has not resulted in regular, full-time jobs. According to Lash and Urry, three main factors are responsible for this: the decline of industrial jobs in the economy in general; the flight of the remaining jobs from the inner cities to the suburbs; and the redistribution of jobs according to different types of metropolitan areas (Lash and Urry, 1996: 151).

If we go from the core of the world system to the periphery and semiperiphery, the class of the excluded reaches up to half or more of the countries' population, and the causes of exclusion are even more tenacious: those spared the breakdown of expectations are only those with no expectations at all.

The structural growth of social exclusion, whether by way of pre-contractualism or post-contractualism, and the resulting expansion of the state of nature, which allows for no individual or collective opting out, signals an epochal, paradigmatic crisis, which some designate as demodernization or counter-modernization. This

situation entails, therefore, many risks. The question is whether it contains any opportunities for the replacement of modernity's old social contract by another one, less vulnerable to the proliferation of the logic of exclusion.

### ***The Emergence of Social Fascism***

Let us first take a look at the risks. Actually, I think they can be summarized in one alone: *the emergence of social fascism*. I don't mean a return to fascism as in the thirties and forties. Unlike the earlier one, the present fascism is not a political régime; it is rather a social and civilizational régime. Rather than sacrificing democracy to the demands of capitalism, it trivializes democracy to such a degree that it is no longer necessary, or even convenient, to sacrifice democracy to promote capitalism. It is, therefore, a pluralistic fascism, that is to say, a form of fascism that never existed. The basic forms of fascistic sociability are as follows.

The first of such forms is the *fascism of social apartheid*. I mean the social segregation of the excluded through an urban cartography which distinguishes between savage and civilized zones. The savage zones are the zones of Hobbes' state of nature. The civilized zones are the zones of the social contract, and they are under the constant threat of the savage zones. In order to defend themselves, the civilized zones turn themselves into neofeudal castles, the fortified enclaves that are characteristic of the new forms of urban segregation (private cities, enclosed condos, gated communities). The division into savage and civilized zones is

becoming a general criterion of sociability, a new hegemonic time-space that crosses all social, economic, political, and cultural relations, and is, therefore, common to state and nonstate action.

The second form is the *fascism of the parallel-state*. In my previous work I have invoked the notion of the parallel state to identify forms of state action characterized by the wide discrepancy between the written law and the state action.<sup>3</sup> To my mind, in a time of social fascism the parallel state assumes a new form. It amounts to a double standard of state action in the savage and civilized zones. In the civilized zones, the state acts democratically, as a protective state, even if often inefficient and unreliable. In the savage zones, the state acts in a fascistic manner, as a predatory state, without the merest regard, even if apparent, for the rule of the law.

The third form of social fascism is *parastate fascism*. It concerns the usurpation of state prerogatives (such as coercion and social regulation) by very powerful social actors, often with the complicity of the state itself, which now neutralize, now supplement the social control produced by the state. Parastate fascism has two dimensions: contractual fascism and territorial fascism.

*Contractual fascism* occurs in the situations, already described, in which the power discrepancy between the parties in the civil contract is such that the weaker party, rendered vulnerable for having no alternative, accepts the conditions imposed by the stronger party, however costly and despotic they may be. The neoliberal project of turning the labor contract into a civil law contract like any other foreshadows a situation of contractual fascism. This

form of fascism occurs today frequently in situations of privatization of public services, such as health, welfare, and utilities, etc. In such cases, the social contract that presided over the production of public services in the Welfare State and the developmentalist state is reduced to the individual contract between consumers and providers of privatized services. This reduction entails the elimination from the contractual ambit of decisive aspects of the protection of consumers, which, for this reason, become extracontractual. These are the situations in which the connivance between the democratic state and parastate fascism is clearest. By claiming extracontractual prerogatives the fascistic, parastate agencies take over functions of social regulation earlier exerted by the state. The state, whether implicitly or explicitly, subcontracts parastate agencies for carrying out these functions and, by so doing without the participation or control of the citizens, becomes complicit with the production of parastate social fascism.

The second dimension of parastate fascism is *territorial fascism*. It occurs whenever social actors with strong patrimonial capital dispute the control of the state over the territories wherein they act, or neutralize that control by coopting or coercing the state institutions and exerting social regulation upon the inhabitants of the territory, without their participation and against their interests. These are the new colonial territories inside states that are very often postcolonial states.

The fourth form of social fascism is the *fascism of insecurity*. It consists in the discretionary manipulation of the sense of insecurity of people and social groups rendered vulnerable by the

precariousness of work, or by destabilizing accidents or events, creating in these people high levels of anxiety and uncertainty vis-à-vis the present and the future, thus lowering their horizon of expectations and encouraging their willingness to bear huge burdens in order to achieve the least reduction of risks and insecurity. As far as this form of fascism is concerned, the *Lebensraum* of the new *Führers* is the people's intimacy and their anxiety and uncertainty regarding the present and the future. It operates by putting in action the double play of retrospective and prospective illusions, and is today particularly obvious in the domain of the privatization of social policies, such as health, welfare, education, and housing. The retrospective illusions consist in underscoring the memory of insecurity in this regard and the inefficiency of the state bureaucracy in providing social welfare. The prospective illusions, in turn, aim at creating expectations of safety and security produced in the private sector and inflated by the occultation of some of the risks and the conditions for the provision of services. Such prospective illusions proliferate today mainly in health insurance and private pension funds.

The fifth form of social fascism is *financial fascism*. This is perhaps the most vicious form of fascistic sociability and requires, therefore, more detailed analysis. It is the form of fascism that controls the financial markets and their casino economy. This form of social fascism is the most pluralistic in that the flows of capital are the result of the decisions of individual or institutional investors spread out all over the world and having nothing in common except the desire to maximize their assets. Precisely because it is the most

pluralist, it is also the most vicious form of fascism, since its time-space is the most averse to any form of democratic intervention and deliberation. Highly significant in this regard is the reply of that stock market broker when asked what he considered to be the long term: "for me, long term is the next ten minutes." This virtually instantaneous and global space-time, combined with the speculative logic of profit that sustains it, confers a huge discretionary power to the financial capital, strong enough to shake, in seconds, the real economy or the political stability of any country.<sup>4</sup> The financial markets are one of the savage zones of the world system, if not the most savage of them all. The exercise of financial power is totally discretionary and the consequences for those affected by it — sometimes, entire nations — can be quite overwhelming.

The viciousness of financial fascism consists in that, being the most international of them all, it has become the model and operative criterion of the institutions of global regulation. I mention just one least known of the public in general: the rating agencies, the agencies that are internationally certified to evaluate the financial situation of the different states and the risks or opportunities they may offer to foreign investors. The grades conferred — which range from AAA to D — are decisive for the conditions under which a given country or an enterprise in a given country may be eligible for international credit. The higher the grade, the better the conditions. These companies have extraordinary power. According to Thomas Friedman, "the post-cold war world has two superpowers, the United States and Moody's." Moody's is one of the six rating agencies certified by the *Securities and Exchange Commission*; the others are

*Standard and Poor's, Fitch Investors Services, Duff and Phelps, Thomas Bank Watch, IBCA.* Friedman justifies his statement by adding: "if it is true that the United States of America can annihilate an enemy by using its military arsenal, the agency of financial rating Moody's has the power to strangle a country financially by giving it a bad grade" (Warde, 1997: 10-11).

As a matter of fact, at the moment when private and public debtors engage in a savage world-wide struggle to attract capital, a bad grade, and hence the distrust of investors, may well signify the financial strangulation of a country. The criteria adopted by the rating agencies are to a large extent arbitrary, they reinforce the inequalities of the world system, and bring about perverse results: the mere rumor of a possible dequalification (a low grade) may provoke turbulence in a country's stock market. These agencies' discretionary power is all the greater because they have the prerogative of making evaluations not solicited by the countries or debtors in question.

Financial fascism is exerted, in its many forms and ranges, by private corporations, whose action is legitimated by the international financial institutions and hegemonic states. It is a hybrid, parastate and suprastate phenomenon. Its viciousness resides in its potential for destruction, in its capacity to cast into the state of nature entire poor countries.

### ***Alternative sociabilities***

The risks we run in view of the erosion of the social contract are too serious for us to fold our arms and do nothing about it. It is, therefore, imperative to look for alternatives capable of neutralizing or averting these risks and opening the way to new democratic possibilities. This is no easy task, given the fact that the social deregulation provoked by the crisis of the social contract is so deep that it ends up deregulating the very resistance to the factors of the crisis and the emancipatory demands that would give meaning to it. It is no easy matter today to know unequivocally and convincingly on behalf of whom or what one must resist, even presupposing that what is being resisted against is known, which is equally problematic, anyway.

As it is, we must define in more broadly terms the notion of a cosmopolitan demand, capable of interrupting the vicious circle of pre-contractualism and post-contractualism. At a very general level, this demand appears as the reconstruction or reinvention of a time-space that favors and promotes democratic deliberation. I shall begin by identifying briefly the principles that must preside over such a reinvention, and then concentrate on operative suggestions.

The *first principle* is that it is not enough to think of alternatives, since modern thought on alternatives has proven extremely vulnerable to trivialization or cooptation, whether because the alternatives are unrealistic and discredited for being utopian, or because they are realistic and, for that reason, easily coopted by those whose interests would be negatively affected by them. We

need, therefore, an alternative thought on alternatives. In my work, I have been proposing an epistemology which, unlike modern epistemology, whose trajectory is from a point of ignorance I designate as chaos, to a point of knowledge I designate as order (knowledge-as-regulation), is an epistemology whose point of ignorance is colonialism and whose point of knowledge is solidarity (knowledge-as-emancipation) (Santos, 1995: 25).

From knowledge-as-regulation to knowledge-as-emancipation, the transit is not only epistemological; it implies transit between knowledge and action as well. And hence I draw my *second principle* to guide the reinvention of democratic deliberation. While the sciences have concerned themselves with distinguishing between structure and action, I suggest we focus on the distinction between conformist and rebel action. The latter I also designate, after Epicurus and Lucretius, as *action-with-clinamen*. Conformist action is the action that reduces realism to what exists. In my conception of rebel action I resort, as I have already indicated, to the notion of *clinamen* in Epicurus and Lucretius.<sup>5</sup> *Clinamen* is the swerving capacity ascribed by Epicurus to Democritus' atoms, an inexplicable *quantum* which upsets the relations of cause and effect. *Clinamen* is what confers creative and spontaneous movement to the atoms. Knowledge-as-emancipation is a knowledge that translates itself into *action-with-clinamen*.

In a period of scale turbulence, it is not enough to think of scale turbulence. The very thought to think scale turbulence must be turbulent itself. *Action-with-clinamen* is the turbulent action of a thought endowed with turbulence. Its little organized character

allows for the social redistribution of anxiety and insecurity, and creates the conditions to turn the anxiety of the excluded into source of anxiety for the included, so as to make socially evident that reducing the anxiety of the ones is not possible without reducing the anxiety of the others. If it is true that every system is as strong as its weakest link, I believe that the weakest link of the current system of exclusion resides precisely in its capacity to impose anxiety and insecurity so unilaterally and with such impunity to large masses of populations. When today they point to ungovernability as one of the crucial problems of contemporary societies, the hegemonic states and financial institutions do no more than express their anxiety and insecurity about the possibility of having the excluded redistribute anxiety and insecurity amongst the included.

Finally, the *third principle* is formulated as follows: given that social fascism feeds basically on the promotion of time-spaces that prevent, trivialize or restrict the processes of democratic deliberation, one of the major components of the cosmopolitan demand nowadays is the reinvention of time-spaces for the promotion of democratic deliberation. The compression of time-space as well as its segmentation is occurring in every society and culture. The division into savage and civilized zones is the eloquent manifestation of the segmentation of time-space as condition of its compression. On the other hand, if it is true that modernity's temporality combines time's arrow with the spiral of time, the recent transformations of time-space are destructuring such a combination. If, in the civilized zones, where the inclusion of the included is intensified, time's arrow flies swiftly, propelled by the vertigo of an

unprecedented progress, in the savage zones of the irrevocably excluded, the spiral of time shrinks until it becomes a circular time, where survival has no other horizons than surviving its own ever imminent rupture.

On the basis of these principles, I think, it is possible to define some of the dimensions of a cosmopolitan agenda for the reconstruction of the time-space of democratic deliberation. The ultimate objective of this agenda is the construction of a new social contract. The new social contract differs from that of modernity. To begin with, it is a far more inclusive contract, for it must encompass not only people and social groups but nature as well. Secondly, it is a far more conflictual contract, for inclusion depends both on criteria of equality and difference, be it ethnic, racial, sexual or generational. Thirdly, if the ultimate objective of the contract is indeed to reconstruct the time-space of democratic deliberation, this time space cannot, unlike what happened in the modern social contract, confine itself to the national state time-space, rather it must also include the local, regional, and global time-spaces. Finally, the new social contract does not abide by rigid distinctions between the state and civil society, economy, politics, and culture, public and private. Democratic deliberation, as a cosmopolitan demand, has no proper seat, nor a specific institutional materiality.

In a first phase at least, the construction of the new social contract has to address and confront the logic of exclusion derived from pre-contractualism and post-contractualism in the domains in which they occur more aggressively. I deal with this first phase in

what follows, limiting myself to two topics: the democratic rediscovery of labor; and the state as the newest social movement.

### ***The Democratic Rediscovery of Labor***

The democratic rediscovery of labor is the *conditio sine qua non* for the rediscovery of the economy as a form of democratic sociability. As I stated above, the desocialization of the economy was brought about by the reduction of labor down to a factor of production. In this context, it is problematic today that labor may sustain citizenship. On the contrary, however, it is urgently demanded that citizenship rediscover the democratic potentialities of labor. For that, the following conditions must be fulfilled. In the first place, *labor must be democratically shared*. It is, indeed, a double sharing. In the first place, unlike what capitalist modernity thought, human labor does not deal with an inert nature. Quite the opposite, human labor confronts itself constantly with the work of nature and competes with it. The competition is unfair whenever human labor is guaranteed only at the expense of the work of nature. In the new social contract, human labor must learn how to share with the work of nature the world's creative activity.

The second kind of sharing is internal to human labor. The permanent technological revolution in which we find ourselves allows for the creation of wealth without creating jobs. The available stock of work must, therefore, be redistributed on a world scale. This is no easy task for, even if labor, while factor of production, is today globalized, while wage relation and labor market, it is as segmented

and territorialized as before. Three initiatives appear to me to be particularly urgent. They are all of global dimension, even if unequally distributed in the global economy. On the one hand, labor must be shared by means of the reduction of the working hours, an initiative which, in the short term, will have more chances of success in core countries than in peripheral and semiperipheral countries. The second initiative concerns the labor standards, the definition of minimum patterns of quality of wage relations as prerequisites of the free circulation of products in the world market. It involves the international establishment of minimal labor rights (including the right to a living wage) to be included in all agreements of international trade. It aims at creating a base line of congruence between citizenship and labor at the global level. Resistance to it is enormous and comes both from multinational corporations and union organizations of peripheral and semiperipheral countries, which see in the labor standards a new form of protectionism on the part of core countries. A more global regulation seeming impossible, regional, or even bilateral, agreements on labor standards must be attempted, aimed at establishing networks of commercial exchanges in which trade preferences are to be based on such standards.

In order not to end up in discriminatory protectionism, the adoption of labor standards must be taken alongside two other initiatives: the aforementioned reduction of working hours, and the flexibilization of migration laws with a view to the progressive denationalization of citizenship. The latter will encourage a more egalitarian sharing of labor world wide, promoting population flows

from savage zones to civilized zones. Nowadays, and contrary to what the xenophobic nationalism of core countries propagates, such flows take place predominately between peripheral countries and constitute for them an unbearable burden. Against the social apartheid to which pre-contractualism and post-contractualism subjects the immigrants, citizenship must be denationalized, in order to grant the immigrants conditions that guarantee both equality and respect of difference, so that the sharing of labor may also become a multicultural sharing of sociability.

The second condition of the democratic rediscovery of labor resides in the *recognition of the polymorphism of labor*. A regular full-time job for an indeterminate period of time was the ideal-type of labor that has guided the workers' movement since the nineteenth century, but it had an approximate correspondence in the real economy only in the core countries, and only during the brief period of fordism. To the extent that the so-called atypical forms of labor proliferate and the state promotes the flexibilization of the wage relations, this ideal-type is getting farther and farther away from the reality of labor relations. The atypical forms of labor have been used by global capital as a means of transforming labor in a criterion of exclusion, which happens whenever the wages do not allow the workers to rise above the poverty line. In such cases, recognizing labor polymorphism, far from being a democratic exercise, foreshadows an act of contractual fascism. In this domain, the cosmopolitan agenda assumes two forms. On the one hand, the recognition of the different types of labor is democratic only in so far as it creates for each type a minimal threshold of inclusion. That is to

say, labor polymorphism is acceptable only to the extent that labor remains a criterion for inclusion. On the other hand, professional training must be incorporated in the wage relation no matter what the type and duration of the job.

The third condition of the democratic rediscovery of labor is the *distinction between productive labor and real economy, on the one hand, and financial capitalism and casino economy, on the other*. I held above that financial fascism is one of the most vicious forms of social fascism. Its destructive potential must be limited through international regulation. A time-space must be imposed to it to allow for the democratic deliberation on the appropriate conditions to defend peripheral and semiperipheral countries from entering into inordinate competition for capital and credit, and becoming agents of international competition among workers. The regulation of financial capital is as difficult as it is urgent. Amongst the most urgent measures, I would highlight the following.

To begin with, the adoption of the Tobin tax. The Tobin tax, proposed by the Economy Nobel Prize winner, James Tobin, is a global tax of 0.5 percent on all short term currency transactions. Originally formulated in 1972, already in the context of the problems that led to the collapse of the Bretton Woods system, this idea was immediately dubbed “idealistic” and “unrealistic.” However, this kind of proposal — or others concerning the creation of global taxes to be applied on speculative currency markets — has been winning increasingly more followers, in view of the destructive and destabilizing potential of exponentially growing speculation upon national economies and societies.<sup>6</sup> While in the early 1970s the daily

currency transactions amounted to 18 million dollars, in 1995 they reached one trillion and 300 million dollars. A market of such dimension and, moreover, unregulated, is entirely at the mercy of speculators. Just remember the move that, in 1992, earned George Soros one million dollars in a day, when he speculated against the sterling pound, thereby contributing to the devaluation of the pound.<sup>7</sup> The Tobin tax aims basically at deaccelerating the time-space of currency transactions by subjecting them, even if marginally to an interstate time-space that would allow for international public regulation. To quote the famous Tobin metaphor, this would amount to throwing a little sand into the well oiled wheels of the machine of the financial markets. (Tobin, 1982: 493). According to Tobin, the income obtained by this tax (about 1.5 billion dollars per year), and collected at the national level by the states, would be channeled towards a central fund — which Tobin thought could be controlled by the World Bank or IMF — and redistributed, 85 percent being the share of the core countries, which would rechannel the fund to support peace operations, struggles against poverty and the degradation of the environment, etc. The remaining 15 percent were to be attributed to developing countries to be used in their own benefit.

Even though the main purpose of this proposal was initially the control of currency markets, the destiny to be given to the income resulting from this tax has been increasingly the object of attention and ample discussion. Indeed, even with a very low rate, the potential income is extremely high: for example, a mere 1/10 of the one percent rate on the present volume of currency transactions

would generate an income of US \$250 billion, which corresponded to 25 times the expense of the entire system of the United Nations in 1995.

Another measure for “civilizing” the markets might be to pardon the poorest forty countries' external debt. This measure is most called for in Africa. The paradoxical character of the current situation is that in recent years the transferences from developing countries to the G7 countries for payment of the debt have become higher than the transferences of the G7 countries to the developing countries. The United States, the United Kingdom, and Canada have actually been in this situation since 1988. In 1994, only Japan and Italy had a positive net transference. The debt of poor countries' has greatly contributed to the exhaustion of the natural resources, drastic cuts in social services and programs of economic development, such as infrastructures, professional training, information technologies, and so on.

The recognition that there is a “debt crisis” and, above all, that the crisis also concerns debt vis-à-vis multilateral organizations, seems to have been finally acknowledged by such institutions as the World Bank or the IMF. In October 1996 these organizations prepared a proposal for the reduction of the debt of the highly indebted poor countries (*Highly Indebted Poor Countries [HIPC] Initiative*). However, this proposal has been the target of strong criticism on the part of NGOs, namely because it underestimates the problem and excludes from the initiative a large number of countries, its calendar is too long (6 years) in view of the emergency situation in which these countries find themselves in. It also puts the

burden of the measure too much on indebted countries and too little on multilateral organizations, thereby dispensing the IMF from participating with its own funds.<sup>8</sup>

The fourth and last condition of the democratic rediscovery of labor consists in the *reinvention of the union movement*.

Against the aspirations of the nineteenth-century workers' movement, the capitalists of all the world have united, not the workers. While capital globalized itself, the labor unions secured their strength at the national level. In order to confront global capital, the union movement must restructure itself profoundly. It must incorporate the local and the transnational scales as efficiently as it once incorporated the national scale. It is also the new task of the union movement to reinvent the tradition of workers' solidarity and the strategies of social antagonism. A new, wider circle of solidarity must be designed in order to meet the new conditions of social exclusion and the forms of oppression existing in relations *in* production, thus going beyond the conventional scope of union demands, i.e., those concerning the relations *of* production. On the other hand, the strategies of social antagonism must be reconstructed. A more political labor movement is called for to fight a civilizational alternative, where everything is connected to everything else: work and the environment; work and the educational system; work and feminism; work and collective social and cultural needs; work and the Welfare State; work and the elderly; etc. In a word, the workers' demands must not leave out anything affecting the life of the workers and the unemployed and citizens in general.

### ***The state as the newest social movement***

The second great moment of the cosmopolitan agenda toward a new social contract is the transformation of the national state into **the** newest social movement. My formulation here may be somewhat surprising and needs justification. In my view, the current decline of the regulatory power, renders obsolete the theories of the state that have prevailed up until now, both of liberal and Marxist origin. The depoliticization of the state and destatization of social regulation, resulting from the erosion of the social contract, as stressed above, show that under the same name — the state — a new, larger form of political organization is emerging, articulated by the state itself, and composed of a hybrid set of flows, networks, and organizations, in which state and nonstate, national and global elements combine and interpenetrate.

The relative miniaturization of the state inside this new political organization is usually conceived of as erosion of the state's sovereignty and of its regulatory capacities. As a matter of fact, what is occurring is a transformation of the sovereignty and the emergence of a new mode of regulation, in which the public goods up until now produced by the state — legitimacy, social and economic welfare, security, and cultural identity — are the object of permanent contention and painstaking negotiation among different social actors under state coordination. This new political organization does not have a center, and thus the coordination by the state functions in fact as imagination of the center. In the new political constellation, the state is a partial and fragmented political relation, open to competition among agents of political

subcontracting and franchising carrying alternative conceptions of the public goods to be delivered. Under these new terms, rather than an homogeneous set of institutions, the state is an under-codified and unregulated political battlefield where the struggles bear little resemblance to the conventional political struggle. The various forms of social fascism look for opportunities to expand and consolidate their own despotic regulations, thus turning the state into a component of their private sphere. The democratic forces, in turn, must focus on models of high-intensity democracy comprising both state and nonstate actions, thus transforming the state into a component of a variety of nonstate public spheres. This state transformation is what I designate as *the state as the newest social movement*.

The major features of this transformation are as follows. In the emergent political organization it behooves the state to coordinate the different organizations, interests, and networks that have emerged from the destatization of social regulation. The democratic struggle is, thus, before anything else, a struggle for the democratization of the tasks of coordination. While before the struggle was about democratizing the state's regulatory monopoly, today the struggle must be about democratizing the loss of such a monopoly. This struggle has several aspects. The coordinating tasks concern mainly the coordination of divergent, even contradictory, interests. While the modern state assumed as its own a version of these interests, nowadays the state only assumes as its own the task of coordinating among interests which can be both national and global or transnational. Having lost the monopoly of regulation, the

state still keeps the monopoly of meta-regulation, that is to say, the monopoly of articulation and coordination among subcontracted private regulators. This means that, today, notwithstanding the appearances, the state is more than ever involved in the politics of social redistribution, hence in the criteria of inclusion and exclusion, as well. This is why the tension between democracy and capitalism, which is urgent to reconstruct, can only be reconstructed once democracy is conceived of as distributive democracy comprising both state and nonstate action.

In a public sphere where the state incorporates nonstate interests and organizations whose actions it coordinates, redistributive democracy can not be confined to representative democracy, since the latter was designed for conventional political action, that is, confined to the state realm. Actually, herein resides the mysterious disappearance of the tension between democracy and capitalism at the end of this century. Indeed, representative democracy has lost the meagre redistributive capabilities that it once had. Under the new conditions, social redistribution is premised upon participatory democracy, engaging both the state actions and the actions of private agents, firms, NGOs, and social movements, whose interests and performances the state coordinates. In other words, it doesn't make sense to democratize the state if the nonstate sphere is not democratized at the same time, as well. Only the convergence of the two processes of democratization guarantees the reconstitution of the public sphere.

There are already in the world today many concrete political experiences of democratic redistribution of resources obtained by

means of participatory democracy or a combination of participatory and representative democracy. In Brazil, for example, mention must be made of experiences of participatory budgeting in cities ruled by the Workers' Party (PT), particularly and with special success Porto Alegre.<sup>9</sup> Although these experiences have been so far of a local scope, there is no reason why the application of the participatory budgeting could not be extended to regional or even state government.

The limits of experiences like the participatory budgeting is that they only concern the use of state resources, not the collection of such resources. To my mind, the participatory logic of redistributive democracy must concern itself also with obtaining state resources, hence, basically, with fiscal policy. As concerns the tax system, redistributive democracy defines itself as fiscal solidarity. The fiscal solidarity of the modern state, to the extent that it exists (progressive taxation, etc.), is an abstract solidarity. Under the new political organization, and given the miniaturization of the state, such solidarity becomes even more abstract, and ends up being unintelligible to most citizens. Hence the various *tax revolts* we have witnessed for the past few years. Many such revolts are passive, rather than active, and have expression in massive tax evasion. I have been proposing a radical shift in the logic of taxation to adapt it to the new conditions of political domination. I speak, thus, of *participatory taxation*. Since the state's functions will concern more and more coordination rather than direct production of welfare, controlling the linkage between resource collection and resource allocation by means of the mechanisms of representative

democracy becomes virtually impossible. Hence the need to resort to mechanisms of participatory democracy.

Participatory taxation is a possible means of recuperating the state's "extractive capacity," linking it to the fulfillment of social objectives defined in a participatory way. Once both the general levels of taxation and the set of objectives susceptible of being financed by the state budget are established at the national level by mechanisms combining representative and participatory democracy, citizens and families must be given the option of deciding collectively, where and in what proportion their taxes should be spent. Some citizens, groups may prefer to have their taxes mainly spent in health, whereas others may prefer education or social security, and so on, and so forth.

Both participatory budgeting and participatory taxation are crucial pieces of the new redistributive democracy. Its political logic is the creation of public, nonstate spheres in which the state is the key agency of articulation and coordination. The creation of these public spheres is, in the present conditions, the only democratic alternative to the proliferation of fascistic private spheres sanctioned by the state. The new democratic struggle, as a struggle for a redistributive democracy, is an antifascistic struggle, even though it occurs in a political field that is formally democratic. This struggle will not assume the forms that the previous one, against state fascism, once assumed. But neither can it limit itself to the forms of democratic struggle legitimated by the democratic states that rose from the ruins of state fascism. We are, therefore, about to create new constellations of democratic struggles allowing for more and

ampler democratic deliberations on greater and more differentiated aspects of sociability. My own definition of socialism as democracy without end goes in this direction.

The emphasis on redistributive democracy is one precondition for the conversion of the state into the newest social movement. Another one is what I designate as *experimental state*. In a phase of turbulent transformations concerning the role of the state in social regulation, the institutional matrix of the state, for all its rigidity, is bound to be subjected to strong vibrations that threaten its integrity and may produce perverse effects. Moreover, this institutional matrix is inscribed in a national state time-space which, as we saw, is undergoing the crossed impact of local and global, instantaneous and glacial time-spaces. The conclusion must be drawn that the institutional design of the new emerging state form is still to be invented. It remains in fact to be seen whether the new institutional matrix will consist of formal organizations or of networks and flows, or even of hybrid forms, flexible devices, susceptible of being reprogrammed. It is, therefore, not difficult to predict that the democratic struggles of the coming years will be basically struggles for alternative institutional designs.

Since what characterizes periods of paradigmatic transition is the fact that in them coexist old-paradigm and new-paradigm solutions, and that the latter are often as contradictory among themselves as with the former, I think that this condition must be taken into account while designing new institutions. It would be unwise to take at this phase irreversible institutional options. So, the state must be transformed into a field of institutional

experimentation, allowing for the coexistence of and competition among different institutional solutions, as pilot-experiences, subjected to the permanent scrutiny of citizen collectives charged with the comparative assessment of the performances. The rendition of public goods, specially in the social area, can thus occur in various forms, and the option amongst them, if it is to take place, must occur only after the alternatives have been scrutinized by the citizens for their democratic efficacy and quality.

This political experimentation will be based on two principles. The first one is that the state is only genuinely experimental in so far as the different institutional solutions are given equal conditions so that they can develop according to their own logic. That is to say, the experimental state is democratic to the extent that it confers equality of opportunities to the different proposals of democratic institutionalization. Only thus can the democratic struggle truly become a struggle for democratic alternatives. Only thus is it possible to fight democratically against democratic dogmatism. The institutional experimentation will necessarily cause some instability and incoherence in state action, which may eventually generate new unexpected exclusions. This is a serious risk, all the more so because, in the new political organization of which the state is part, it still behooves the democratic state to provide basic stability to the citizens' expectations and basic standards of security and inclusion.

Under these circumstances, the state must not only guarantee equality of opportunities to the various projects of democratic institutionalization, but also — and herein lies the second principle of political experimentation — basic standards of inclusion, in the

absence of which the active citizenship required to observe, verify, and assess the performance of alternative projects will not be possible. The new Welfare State is an experimental state, and the continuous experimentation through citizens' active participation is what guarantees the sustainability of welfare.

The field of democratic struggles thus emerging is vast; as vast as the fascisms that threaten us. The democratic struggles cannot, however, as results from the above, confine themselves to the national time-space. Many of the proposals for the democratic rediscovery of labor, presented above, presuppose international coordination, that is to say, collaboration among states aimed at reducing international competition amongst them. Just as social fascisms legitimize or naturalize themselves internally as pre-contractualisms and post-contractualism imposed by insurmountable global or international imperatives, so it is up to the democratic forces to transform the national state into an element of an international network aimed at reducing or neutralizing the destructive and excluding impact of those imperatives, in search of an egalitarian redistribution of the globally produced wealth. The Southern States — particularly large semiperipheral states, like Brazil, India, South Africa, a future democratic China, a Russia without mafias — have in this regard a decisive role to play. The increase of international competition among them will be disastrous for the large majority of their inhabitants and fatal for the population of the peripheral countries. The struggle for a new, more democratic and participatory international law is, thus, part and parcel of the national struggle for a redistributive democracy.

Fascism is not a threat. Fascism is among us. This destabilizing image is what grounds the radical cosmopolitan demand of a new social contract.

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#### NOTES

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<sup>1</sup> I analyze the different conceptions of the social contract in great detail in Santos, 1995: 63-71.

<sup>2</sup> Among others, Jean-Paul Fitoussi emphasizes how the primacy given to the control of inflation, as required by the logic of financial markets, is actually what precludes sustaining growth (Fitoussi, 1997: 102-103).

<sup>3</sup> This form of State consists in failing to apply the laws, or applying them only selectively, failing to punish violation of laws, etc. Whenever it becomes a recurrent pattern of state action the different state institutions themselves end up functioning autonomously as micro-States, developing their own conception as to the degree of rule of law adequate to their sphere of action (Santos, 1993: 31).

<sup>4</sup> Let us not forget that in every US\$100.00 circulating daily in the globe, only US\$2.00 concern the real economy.

<sup>5</sup> On the concept of *action-cum-clinamen*, see Santos (1998a).

<sup>6</sup> According to a recent survey on the regulation of capital flows, conducted in 20 countries by the *The Economist*, 49% of the inquired were in favor of such regulation; 37% were against and 14% did not know (*The Economist*, January 2, 1999).

<sup>7</sup> George Soros, one of the world's greatest financial speculators, is no doubt a paradoxical character. In recent times he has been publishing articles and books in which he asserts: "Although I have made a fortune in the financial markets, I now fear that the untrammelled intensification of laissez-faire capitalism and the spread of market values into all areas of life is endangering our open and democratic society. The main enemy of the open society, I believe,

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is no longer the communist but the capitalist threat" (1997). More recently, Soros published an article in which he argues for an open global society, suggesting as ways of accomplishing it 1) strengthening the existing institutions and creating new international institutions capable of regulating the financial markets and reducing the asymmetries between the core and the periphery; 2) a greater international cooperation on capital taxation; 3) creating efficient international institutions for the protection of individual rights, human rights, the environment, and for promoting social justice and the preservation of peace; 4) establishing patterns of international behavior to stop corruption, strengthen fair labor practices, and protect human rights; 5) establishing a network of alliances to promote peace, freedom, and democracy (1998).

<sup>8</sup> For a critical description of this program, see Bökkernik (1996) and van Hees (1996).

<sup>9</sup> On the experience of participatory budgeting in Porto Alegre, see Santos (1998b); Fedozzi (1997); Oliveira *et al.* (1995).

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