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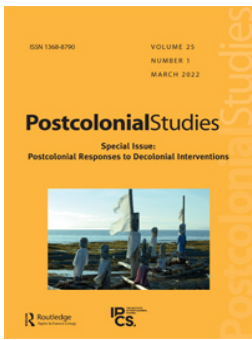
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## Writing rights: suturing Spivak's postcolonial and de Sousa Santos' decolonial thought

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## Writing rights: suturing Spivak's postcolonial and de Sousa Santos' decolonial thought

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### ABSTRACT

Exchange between postcolonial and decolonial thought has been hampered by intellectual and political divisions despite a shared concern with decentering colonial hegemonies. Against the grain, this article brings the work of Boaventura de Sousa Santos into conversation with Gayatri C. Spivak's, centring on one key converging issue of concern – human rights. I argue that both thinkers share what I call a 'reluctant commitment' to a human rights framework, while recognizing its tainted history and current instrumentalization for hegemonic imperial ends. I identify and weave together the strands that form the basis for their reluctant commitment, their critique of human rights, and their proposals for a reconfigured framework of human rights. The article maps how Spivak and de Sousa Santos aim to reconfigure a liberal human rights frame by suturing it to alternative ethical systems, including responsibility-based systems and other conceptions of dignity. It shows common patterns in their work, including their concern that binary global divisions undermine the supposed universality of the human rights framework and the risks of equating law with ethics. Tracing the deconstructive and reconstructive strategies at work in Spivak's and de Sousa Santos' writing helps to break down the walls between decolonial and postcolonial scholarship.

### Keywords

Human rights; postcolonial; decolonial; ethics; the state

### Introduction

This article stages a conversation between postcolonial theorist Gayatri C. Spivak's and Boaventura de Sousa Santos' decolonial writing through a close reading of their work, focusing on their engagement with human rights. Whereas some scholarly and activist work now fruitfully draws on shared decolonial and postcolonial concerns,<sup>1</sup> citation practices still reflect their different origins. The linguistic silos in academia that allow for conversations to run in parallel, rather than in dialogue, and the politics of citation, have arguably further entrenched the separation between postcolonial and decolonial scholarship. As Gurminder Bhambra observes, 'there has been little work, thus far, bringing together the various trajectories of these fields'.<sup>2</sup> Each field has created citational

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circles that only rarely overlap, and the exchange between the two fields of scholarship is mostly marked by silence rather than confrontation.

This tendency is also reflected in the work of Gayatri C. Spivak and Boaventura de Sousa Santos, who have not directly engaged with each other's work on human rights. The few references to Spivak in de Sousa Santos' work are limited to general nudges to postcolonial studies and to Spivak's seminal work 'Can the Subaltern Speak?'.<sup>3</sup> Spivak's work does not reference de Sousa Santos' writing at all. This is striking given that human rights have been a central point for reflection in the work of both. In 2001, Spivak delivered an Oxford Amnesty Lecture, 'Righting Wrongs', which was subsequently published in 2004 as 'Righting Wrongs'<sup>4</sup> and republished in 2005 in slightly revised version as 'Use and Abuse of Human Rights'.<sup>5</sup> Boaventura de Sousa Santos, who originally trained in law, has written several pieces that explicitly centre on human rights, including, for instance, 'Toward a Multicultural Conception of Human Rights',<sup>6</sup> the articles 'If God Were a Human Rights Activist: Human Rights and the Challenge of Political Theologies'<sup>7</sup> and 'Human Rights: A Fragile Hegemony',<sup>8</sup> culminating in 2015 in the book publication of *If God Were a Human Rights Activist*.<sup>9</sup>

It would be presumptuous to speculate on the reasons for this silence, or limited mutual engagement. Kiran Asher takes the decolonial thinkers of the Modernity/Coloniality/Decoloniality (MCD) research programme to task for sidelining Spivak's work 'on the basis that it [is] tainted by modernity', despite overlapping interests, reference points and concerns.<sup>10</sup> However, de Sousa Santos, while in mutual engagement with the core scholars of the MCD program, has not taken such an absolutist stance. Instead of centring the 'why' question of Spivak's and de Sousa Santos' non-engagement, or arguing that their positions are commensurable, I will take the more modest route of tracing the resonances between their writings on human rights and 'suturing' these together. In Spivak's work, 'suturing' has less to do with its more common meaning of the stitching of a wound and instead invokes the stitching together of fabrics, each with their distinct pattern.<sup>11</sup> Through the focus on identifying and connecting common threads in Spivak's and de Sousa Santos' work, a new motif is formed, which is neither reducible to each of their separate works nor a replacement of their distinct individual scholarship. In suturing Spivak's postcolonial and de Sousa Santos' decolonial thought, I weave together threads in their work, starting with their reluctant commitment to human rights, then presenting their critique of human rights and, finally, their proposals for a reconfigured rights framework.

### Across the postcolonial–decolonial divide

To set the scene for the subsequent sections in which I will present the synergies between Spivak's and de Souza-Santos' bodies of thought, I will first present the divergences and convergences of decolonial and postcolonial theory. The divide between decolonial and postcolonial thought appears insurmountable if one follows decolonial scholar Walter Dignolo's sharp delineation between the two thought traditions, where he defines the first as 'a project of de-linking', and the latter as 'a project of scholarly transformation within the academy'.<sup>12</sup> The 'de-linking' of decolonial thought 'foregrounds other epistemologies, other principles of knowledge and understanding and, consequently, other economy, other politics, other ethics' and refuses universality in favour of 'pluri-versality'

as an alternative ‘other-universality’.<sup>13</sup> In contrast, Mignolo considers postcolonial theory as remaining rooted and invested in the postmodern tradition of Western scholars Michel Foucault, Jacques Lacan and Jacques Derrida. The ‘Holy Trinity’ of the postcolonial camp, Edward W. Said, Gayatri C. Spivak and Homi K. Bhabha,<sup>14</sup> are thus considered as necessarily entangled with the Western tradition they seek to critique. A wide-ranging array of other thinkers, including Gloria Anzaldúa, Frantz Fanon, Aimé Césaire, Mahatma Gandhi and Aníbal Quijano, deserve the label of ‘decolonial’ by virtue of their delinked points of departure in Indigenous knowledges.

From this understanding, it follows that decolonial thought is not only considered intellectually distinct from postcolonial thought but also politically more radical, as delinking is where ‘the analytic of coloniality and the programmatic of decoloniality moves away *and beyond* the post-colonial’.<sup>15</sup> Or, in the words of Patricia Noxolo, ‘decolonial theory makes a louder and more radical challenge, linked more directly to protest and direct confrontations with existing practice’.<sup>16</sup> Whereas postcolonial critique is viewed as ‘deconstructive’, decolonial thought is considered ‘reconstructive’.<sup>17</sup>

While recognizing these ‘distinct – and for some no doubt conflicting – dispositions’,<sup>18</sup> some recent efforts have instead chosen to emphasize synergies, either by bringing decolonial and postcolonial thought into explicit dialogue with one another<sup>19</sup> or by interrogating postcolonial and neocolonial politics based on the combined contributions of postcolonial and decolonial thinkers.<sup>20</sup> Postcolonial and decolonial thought ‘share, at its most basic level, a common concern with decentering western epistemologies ... highlighting that the notion of the “West” is sustained by violent colonial and imperial history’.<sup>21</sup> Within this strand of scholarship, the difference between decolonial and postcolonial thought is attributed to their different genealogies and the positionalities of thinkers associated with them, rather than with substantive theoretical or political incommensurability. For the leading scholars of postcolonial critique, the legacy of the British Empire is a key reference point, which also marked their personal lives, while decolonial scholarship springs from thinking through the effects of the Spanish and Portuguese conquest of the Americas.<sup>22</sup> These different points of departure undeniably have significant implications, including but not limited to temporal outlook – with decolonial thought taking the earlier date of 1492 as central marking point – the language of scholarship (Spanish versus English), and decolonial thought’s orientation towards Indigenous epistemologies and ontologies. These groundings in different experiences and regions have also inspired distinct conceptual toolkits. A useful analogy for understanding the relationship between the two bodies of thought might be found in the relationship between postcolonial feminism and Black feminism, where each is recognized as grounded in distinct experiences but also as sharing a resistance to the violent manifestations of colonialism.

There are some further encouraging signs that indicate the porosity of the boundaries between decolonial and postcolonial scholarship. For instance, several thinkers have been claimed as members of both camps. Frantz Fanon, often the honorary ‘fourth member’ of the ‘Holy Trinity’ of postcolonial thinkers, who is also included in the canonical *Postcolonial Studies Reader*,<sup>23</sup> equally features as a key reference point for decolonial scholarship.<sup>24</sup> Boaventura de Sousa Santos himself is another case in point. In an interview with Katy Sian, he stated that he considers himself a postcolonial thinker. At the same time, he distances himself from ‘the Anglo-Saxon form of postcolonialism’.<sup>25</sup> Firstly, this is

because its narrow orientation towards British imperialism does not capture the Portuguese experience and, secondly, because Anglo-Saxon postcolonialism, according to him, ‘was a culturalist program’ that insufficiently incorporates the political economic dimension emphasized in Marxist thought.<sup>26</sup> De Sousa Santos is also claimed as a decolonial thinker, for instance by Ramón Grosfoguel, a decolonial scholar associated with the MCD group, who describes de Sousa Santos’ work as ‘an example of decolonial critical theory produced from Europe in critical dialogue with the thinking of the Global South’.<sup>27</sup> However, de Sousa Santos has also critically positioned himself in relation to aspects of decolonial thought. For instance, drawing on the specific experience of Portuguese ‘semi-peripheral’ colonialism, he insists on the need to recognize the internal divisions and hierarchies within ‘the West’ and ‘Europe’.<sup>28</sup> His understanding of colonialism resonates with both decolonial and postcolonial thought. By stating that ‘colonialism belongs structurally to the modernity of the West and to capitalism’,<sup>29</sup> he echoes the decolonial concept of modernity/coloniality<sup>30</sup> but also postcolonial thinking, which posits European colonialism and capitalist development as inescapably intertwined.<sup>31</sup>

De Sousa Santos hence straddles different positions. On the one hand, the orientation of his work towards the former Portuguese colonies and his interest in Indigenous epistemologies aligns him with other decolonial thinkers. On the other hand, he is influenced by the critical theory underpinning postcolonial thought. Kiran Asher, who brings the work of Spivak into dialogue with Silvia Rivera Cusicanqui’s decolonial feminist work on representation,<sup>32</sup> shows that decolonial and postcolonial commitments do not need to be mutually exclusive by describing her own dual positionality: ‘The monkey of British colonialism peers over one shoulder, that of Ibero-American settler colonialism over the other’.<sup>33</sup> While it may not be the ‘monkey of British colonialism’ peering over his shoulder, but rather the monkey of British Empire-inspired postcolonial thought, de Sousa Santos also draws on a dual register, which will facilitate dialogue with the work of Spivak.

Finally, as activist-scholars, Spivak and de Sousa Santos share with one another the expressed commitment to spend half of their year outside university teaching environments, confronting, connecting with and learning from other knowledges.<sup>34</sup> I will follow Asher, who likens dialogues between thinkers associated with decolonial and postcolonial thought to ‘translations’, as they ‘entail reaching across linguistic, historical, and geographical boundaries to build political and theoretical bridges in an attempt to connect decolonial and postcolonial divides’.<sup>35</sup> I consider this analogy with translation particularly fitting, since translation is a central concept in both Spivak’s and de Sousa Santos’ work.<sup>36</sup> I will return to this below.

## A reluctant commitment to human rights

In this section, I will discuss what I call Spivak’s and de Sousa Santos’ reluctant commitment to human rights. This engagement with and commitment is interesting, since the human rights framework is grounded in the logic of modernity that postcolonial thought interrogates and that decolonial thought wants to move beyond. De Sousa Santos defines conventional human rights thinking by reference to several dimensions, which are steeped in modernity: the belief in the universal validity of certain norms and an individualistic and atomic conception of human nature that considers humans to be

fundamentally distinct from non-humans. Another key dimension is the idea that what constitutes a human rights violation is based on denouncements by international NGOs, declarations and multilateral institutions. Then there is the stubborn insistence on the universality of human rights despite obvious inconsistencies in their attribution to particular groups, depending on differential degrees of power. Finally, there is the blanket assumption that human rights infringements are more prevalent in the Global South than in the Global North.<sup>37</sup>

According to de Sousa Santos' later work,<sup>38</sup> the hegemonic posturing of human rights is based on four illusions. The first is a teleological illusion, which presents the current human rights framework as a natural and as an uncontested endpoint. The second is a triumphalist illusion, which understands the hegemonic position of a liberal human rights framework as the victory of the best possible solution. The third is the monolithic illusion, which presents human rights as coherent, concealing the major tensions that the framework barely manages to contain, such as the tension between the individual and the collective and between universal humankind and specific citizens. The fourth is the illusion of decontextualization, which serves to hide the spatial and temporal development of the human rights framework, and thereby also covers over the contradictions contained in its history. Echoing this last point, Spivak calls upon the 'dispensers of Human Rights' to

realize that just as the natural Rights of Man were contingent upon the historical French Revolution, and the Universal Declaration upon the historical events that led to the Second World War, so also is the current emergence, of the Human Rights model as the global dominant, contingent upon the turbulence in the wake of the dissolution of imperial formations and global economic restructuring.<sup>39</sup>

Spivak and de Sousa Santos, however, share a commitment to salvaging human rights in some form, while recognizing their tainted history and instrumentalization for hegemonic imperial ends.<sup>40</sup> Hence, for both thinkers, their frequent treatment of the topic should not be interpreted as an uncritical embrace of the universal human rights framework. Instead, I propose that their approach can best be characterized as one of 'reluctant commitment'. This reluctant commitment can be illustrated with reference to several of their statements. De Sousa Santos' reluctant commitment to human rights can be understood in light of his argument that the human rights framework currently provides what he intriguingly calls a 'weak-weak answer' to important questions of our time. He suggests that conventional or hegemonic frameworks, such as the liberal human rights framework, no longer suffice in a time when the ideology of Western modernity – with its seeming reliance on secularism and the public/private divide – is in crisis, challenged, for instance, by the rise of political theologies.<sup>41</sup> In such transitional times, times that raise new and 'strong' questions, de Sousa Santos distinguishes between answers that are 'weak' and those that are 'strong'. While strong answers are rare in such times, weak ones are those that fail to recognize that the dominant paradigm – for instance, in this case, modernity with its characteristic individualism and secularism – is in crisis. Yet, importantly, weak answers, according to de Sousa Santos, come in two kinds: firstly, 'weak-weak answers', and secondly 'weak-strong answers'. Weak-weak answers are answers that pretend to be conclusive and fail to recognize their own weakness, having no reflexivity regarding the terms of their own confinement. Weak-strong

answers are at least partially strong, that is, where they recognize their own limitations and gesture towards alternative frameworks even if these currently lie beyond the conditions of possibility.<sup>42</sup> Weak-strong answers lay bare the contradictions and thereby create a space for new ways of thinking that may not yet have arrived but that eventually will shift the terrain of thought and practice. De Sousa Santos' reluctant commitment to human rights lies in his belief that the weak-weak answer that human rights currently offer could be pushed to be developed into what he calls a 'weak-strong' answer. This requires 'recognising the current fragilities of human rights [to make it possible] to construct, out of them, but also beyond them, strong ideas and practices of resistance'.<sup>43</sup>

In her intervention 'Terror: A Speech after 9/11', Spivak emphasizes that her critique of the human rights framework as insufficient in disrupting the global divisions that have deepened post-9/11 does not mean that she considers it 'unnecessary'.<sup>44</sup> In 'Close Reading', she declares that she is not 'impractical', after suggesting that the Universal Declaration of Human Rights 'serves its purpose as a point of reference to use against oppression'.<sup>45</sup> De Sousa Santos somewhat echoes her pragmatic approach when he writes that 'in any period of society we have to struggle and fight with instruments that are at our disposal'.<sup>46</sup> Elsewhere, he argues that recognizing the limitations of human rights and the violence committed in the name of human rights 'does not mean that human rights must be discarded' but, on the contrary, 'it has never been so important not to squander ideas and practices of resistance'.<sup>47</sup>

De Sousa Santos' reluctant engagement with and commitment to human rights is grounded in his recognition that 'human rights [rather than other concepts] are the hegemonic discourse of human dignity and thus insurmountable'.<sup>48</sup> He expresses his puzzlement about 'the extent to which human rights have become the language of progressive politics',<sup>49</sup> displacing other projects such as revolution. While the left traditionally recognized that 'human rights [were] suspect as an emancipatory script', displaying obvious contradictions and hypocrisies, now, de Sousa Santos posits, they are 'called upon to fill the void left by socialist politics'.<sup>50</sup> Despite his scepticism, de Sousa Santos argues that there indeed might be 'conditions under which human rights can be put at the service of a progressive, emancipatory politics',<sup>51</sup> or, how he puts it in his later work, a 'counterhegemonic' version of human rights.<sup>52</sup> I will return to this later in this article when discussing the ways in which both Spivak and de Sousa Santos propose to develop a reconfigured human rights framework.

In *A Critique of Postcolonial Reason*, Spivak uses a negative formula, also known from her other works, where she states that we 'cannot not want to inhabit this rational abstraction' of human rights.<sup>53</sup> Or in the more mundane formulation of Drucilla Cornell, 'Spivak is not against human rights'.<sup>54</sup> In another context, Spivak has declared that 'there is no way that a language is just a criminal language', but that instead 'you turn it around'.<sup>55</sup> For instance, as she argues, the imperial basis of her inculcation with the English language requires her to 'defea[t] the English by loving the language'.<sup>56</sup> I suggest that her proposed strategy to engage with the imperial language of English can be extended to her relation to the language of human rights. In a 2007 interview with Robert Young, Spivak insists on recognizing 'that the concept of human rights, individual rights, has a deep complicity with the culture of imperialism'.<sup>57</sup> In the same interview, however, she argues that seeking to recover 'Indigenous' forms of rights to disrupt the Western origin story of 'rights', is both naïve and insufficient. She concedes that it is

an important political gesture to show that the South is not deplete of alternative conceptions of rights (which is a task also undertaken by de Sousa Santos).<sup>58</sup> However, she argues that if one wants to struggle against violent universalizing versions of human rights, one needs to ‘acknowledge that what is poison has historically been medicine’.<sup>59</sup> Spivak ‘recognises in [human rights] the structure of a double bind’.<sup>60</sup> In other words, human rights are simultaneously toxins and remedies; the two cannot be separated because the substance that makes it toxic contains the cure too.

Spivak has used the same description of ‘poison and medicine’ to describe her approach to the state.<sup>61</sup> Elsewhere, de Sousa Santos links his understanding of the state directly with his approach to human rights by recognizing that the state, in some cases, has become a ‘guarantor of human rights’ against multinational corporations.<sup>62</sup> Spivak’s thought thus resonates with that of de Sousa Santos, who asserts that ‘it would be a very tragic mistake for the left to accept that the state is ... not worth fighting for’.<sup>63</sup> In the absence of a ‘super-state political entity in which we can anchor our struggles’, the state is still the locus of social struggles.<sup>64</sup> In another text, de Sousa Santos suggests that one needs to work with the ‘ruins’ – that is, social structures that no longer work – and turn them into ‘seeds’.<sup>65</sup> This express willingness to work from the ruins places him closer to postcolonial theory’s strategy of working against from within, rather than decolonial theory’s emphasis on delinking and on the recovering and developing of autonomous ways of thinking and being beyond the modern/colonial mode.<sup>66</sup>

With democracy being considered one of these ruins, de Sousa Santos calls for the development of ‘more diverse forms of state organization’ and plurinational and intercultural law as one of the emergences built upon ‘ruin structures’.<sup>67</sup> This is now more necessary than ever because we have moved away from the ‘first generation of human rights designed as a struggle of civil society against the state [as] the sole violator of human rights’.<sup>68</sup> In a recent conversation with Angela Davis, Spivak (again) challenged the often supposed ‘moral goodness’ of civil society by highlighting that it lacks democratic accountability.<sup>69</sup> While Spivak recognizes that the state often sides with global capital, she maintains that as long as rights are anchored in citizenship one has to work with the state as structure. Responding directly to Davis’ anti-state perspective, Spivak underlines that she considers those who eventually want to dismantle the state as her allies, but that ‘nonetheless, for the moment ... the work with the subaltern is for citizenship’.<sup>70</sup> In a prescient manner, given the recent attempted disenfranchisement of Muslims in India in the 2020 *Citizenship Amendment Act*, she argues that ‘citizenship, as the world teaches us every day, is a resource we ought to protect persistently’.<sup>71</sup> In an Arendtian mode, Spivak thereby recognizes that the protection of so-called universal human rights is dependent on citizenship status within a state and therefore the state, ‘that bloody structure [which] is capable of great harm’, is still the structure one has to work with.<sup>72</sup>

The fact of recognizing human rights as well as the state as poison and medicine, hence articulating a reluctant commitment to the human rights framework inherited from modernity, does not mean that such a framework does not need to be radically rethought. This reluctant commitment is ‘practical’ but is also and at the same time a commitment to transformation. Yet before moving on to discuss the alternative constellations of human rights that can be derived from the work of de Sousa Santos and Spivak, it is important to address in more detail their critique of human rights.

## The wrongs of rights

Following Spivak's 'medicine and poison' analogy, the wrong in human rights is contained in what is also right about it. Rights discourse is frequently used as an alibi for the denial of rights.<sup>73</sup> Hence, the poison cannot simply be separated from the medicine. De Sousa Santos similarly notes that 'the concept of human rights has itself oppressed'<sup>74</sup> and 'human rights are violated in order to defend human rights'.<sup>75</sup> Spivak presents the example of freedom of expression, which allows violations to masquerade as rights, to illustrate her point about the use of human rights as alibi.<sup>76</sup> The alibi trap, however, can only be fully acknowledged, according to Spivak, when we also recognize that 'we cannot not want freedom of expression'.<sup>77</sup> Spivak explicitly states that it is not the usual charge of the 'Eurocentrism' of human rights that is her concern per se, since accusations of Eurocentrism mask how the former colonial subject can nowadays be the local human rights worker.<sup>78</sup> Rather, she reiterates, her concern is with the 'use of human rights as an alibi for interventions of various sorts'.<sup>79</sup> De Sousa Santos also argues that the problem is not that 'their assumptions are western' but the 'unilateral way in which ... they construct abstract universal claims'.<sup>80</sup> Human rights, he states, have been instrumentalized in 'the struggle of the West against the rest' by being universalized from above in an act of 'globalized localism'.<sup>81</sup> Writing in the immediate aftermath of the invasion of Iraq and Afghanistan, it is not difficult to imagine some of the uses of human rights as an alibi for the violence with which Spivak is concerned. Elsewhere, de Sousa Santos refers to the fact that 'most people in the world today actually have no rights, but they are sometimes bombarded by our human rights discourses in Europe'.<sup>82</sup> While meant in a figurative rather than literal sense, it does not require a great leap of imagination to see how the imposition entailed in figurative bombardments translates into literal bombardments. As Spivak puts it, 'the impulse to help by enforcing human rights, by giving things, giving money, commodifying literacy, ... has a relationship with the impulse to kill'.<sup>83</sup>

This links to another of Spivak's key concerns, namely that the human rights regime produces a binary division of the world with, on the one hand, those who are the 'dispensers' of human rights and, on the other, those who are the wronged ones and who remain on the receiving end of rights interventions. De Sousa Santos also observes a binary division. His emphasis lies strongly on making visible those on the other side of the line when he states that 'a large majority of the world's inhabitants are not the subjects of human rights. They are rather the objects of human rights discourses'.<sup>84</sup> Importantly, for both Spivak and de Sousa Santos, this separation cuts across North–South divides. However, de Sousa Santos' emphasis is primarily on the existence of a geographical and symbolic South in the North – marginalized communities, including Roma, migrants as well as peripheral European nations – with Spivak's on what can be simplified as a North in the South.<sup>85</sup> The global elites whom Spivak finds in her New York classroom, eager to help the world by delivering human rights and convinced that they are the centre of the universe with others waiting for their salvation, are both from the Global North and the Global South.<sup>86</sup> Hence, she sees a 'class apartheid' being produced by this human rights regime that cuts across regional areas.<sup>87</sup> Indeed, for Spivak, the distance between the 'wronged' subaltern subject and the staff member from the local human rights NGO in the Global South is larger than that between the Southern NGO worker

and their metropolitan Northern counterpart. As she argues, there is a ‘real epistemic discontinuity’ between those Southern advocates and subalterns;<sup>88</sup> their top-down understandings of rights, agency and duties do not manage to reach the communities that are supposed to benefit from their interventions. Hegemonic human rights interventions among the ‘poorest of the rural poor’ thereby have limited and short-term effects as they do not engage at a deeper level. Indeed, they maintain a situation in which ‘wrongs proliferate and have to be righted periodically’.<sup>89</sup>

Moreover, a focus on law can blind one to matters of justice, and law should never be equated with justice. Spivak illustrates this with reference to the distinction made in international law between the protection of the lives of civilians and those of soldiers. While this is ‘convenient’ and ‘it is just that there be law’, ‘in view of justice and the discourse of the ethical, human life cannot be marked for death by positive law’.<sup>90</sup> Law, she argues, is accompanied by a construction of the Other, which fixes the Other in a pretence to fully know the Other so as to ‘punish or acquit rationally [with] reason being defined by the limits set by the law itself’.<sup>91</sup> De Sousa Santos expresses a similar concern that in the West ‘our frameworks are very legislative’ when thinking about human rights in contrast to other regions of the world.<sup>92</sup> For both Spivak and de Sousa Santos, a focus on legislative frameworks runs the risk of limiting our imagination of different forms of justice.<sup>93</sup>

In much of his work, De Sousa Santos employs the concept of ‘abyssal line’ to theorize fundamental divisions between the colony and the metropole. The abyssal line in de Sousa Santos’ work applies not only to law and rights regimes but also to other meta-concepts and constructs, such as knowledge.<sup>94</sup> Tracing the abyssal line in relation to law, de Sousa Santos shows how the emergence of modern law and international law in the metropole happened alongside the demarcation of colonial areas as lawless zones. On one side of the abyssal line is the social contract, on the other side the state of nature. Legality and illegality only have meaning in the metropolitan zone. Rooted in colonialism, this abyssal line has been maintained beyond decolonization, with the realities on either side of the line seen as ‘incommensurable’.<sup>95</sup> While de Sousa Santos uses the terminology of ‘metropole’ and ‘colony’ to describe each side of the division, he also complicates a simple North–South divide in our contemporary world order. The ‘metropole’ does not neatly map onto one side of the globe, as illegalized migrant workers, asylum seekers, racialized Muslims and other Others in metropolitan areas are also considered as ‘on the other side’ of the abyssal line. Those dwelling in the metropolitan space either enjoy rights or can claim rights when their rights are denied. They are recognized as the humans, ‘often even citizens’, to which human rights apply.<sup>96</sup> On the other side, those considered subhumans, outside the law, are left developing their own innovative formations of social organization. De Sousa Santos suggests listening to and looking at those other formations in order to develop new ‘post-abyssal’ configurations,<sup>97</sup> as will be discussed in more detail in the next section.

### Suturing human rights

While it is the hegemony of human rights that compels de Sousa Santos and Spivak to a reluctant commitment, at the same time they recognize hegemony as the problem. In de Sousa Santos’ suggestive words, ‘is the hegemony claimed by human rights today the

outcome of a historical victory, or rather of a historical defeat?<sup>98</sup> Therefore, I will now trace how Spivak and de Sousa Santos seek to interrogate and reconfigure a liberal human rights framework by ‘suturing’<sup>99</sup> it (using Spivak’s words) to alternative ethical systems. Suturing, which Spivak also refers to as ‘undo-reweave’, works from and connects the unravelling threads of separate and often torn structures.<sup>100</sup> These alternative ethical systems are neither necessarily law-based nor use the language of rights. For Spivak the (imperfect and ‘torn’) antidote to the human rights system is ‘responsibility-based cultural systems’.<sup>101</sup> For de Sousa Santos these are the various alternative conceptions of human dignity, including those grounded in the topoi of Hindu *dharma*, Islamic *umma*<sup>102</sup> and Indigenous people’s *pachamama*.<sup>103</sup> Spivak echoes his decentring of a Christianity-inspired human rights framework by emphasizing the need to ‘ask the question, how is it possible to think [the subject of ethics] outside of the monotheist Judeo-Christian tradition and its critique?’<sup>104</sup> Responsibility-based systems, as Spivak explains, foreground the ‘call of the other’ as the ground of ethics. Unlike the human rights regime, which relies on a kind of ‘social Darwinism’,<sup>105</sup> in which the fittest is the dispenser of rights, a responsibility-based system is grounded in the call of the other, which precedes the formation of a self. In Spivak’s words, the notion of responsibility is based on ‘the predication of being-human as being called by the other’.<sup>106</sup> It is, therefore, in contrast to a rights-based system, ‘not so much a sense of being responsible *for*, but of being responsible *to*, before will’.<sup>107</sup> This is not without risks, since ‘you get burned if you are touched and called by the other’.<sup>108</sup> However, this responsibility is ‘un-derived from rights’<sup>109</sup> and therefore opens up ethical relations with those deprived of rights under the conventional human rights framework.

De Sousa Santos locates in progressive theologies an ‘ethics of care and engagement based on visceral reactions of inter-subjectivity between self and neighbour, engagements that are pre-representational and even pre-ethical’.<sup>110</sup> This visceral non-representational call described by de Sousa Santos resonates with Spivak’s Levinasian interpretation of the call to responsibility. In de Sousa Santos’ words, this ‘gives absolute priority to intervention, to the detriment of understanding’<sup>111</sup> as, following Spivak’s terms, ‘the ethical interrupts ... imperfectly’ the legal inclination to rationally ‘know the other’.<sup>112</sup> The ethics postulated by the call of the other is not grounded in rationality and cognitive control, but is immediate and unmediated. As I will elaborate in the next section, neither de Sousa Santos nor Spivak believe in a wholesale replacement of the human rights framework by somehow superior existing alternative frames. Instead, they seek an uneven and imperfect attachment between two or more forms of ethics and law, ‘sutured’ as Spivak would say, or, in de Sousa Santos’ words, creating a ‘mestiza conception of human rights’.<sup>113</sup>

De Sousa Santos recognizes that the ethics derived in theologies from the immediate encounter with suffering contains the ‘underside [of] depoliticisation’ and hence does not fall into the trap of a romanticized notion of subaltern ethics, which may be the pitfall of some decolonial perspectives.<sup>114</sup> Spivak considers responsibility-based cultures ‘unprepared for the public sphere’.<sup>115</sup> One side of the suture would therefore not just be strengthening the other side but also highlighting its incompleteness. As de Sousa Santos argues, each culture is ‘incomplete and problematic in their conceptions of human dignity’ and this ‘incompleteness ... is best visible from the outside, from the perspective of another culture’.<sup>116</sup> As concrete examples, he posits that from the

topos of *umma*, the liberal individualized human rights framework falls short in its failure to embed individual rights within collective structures and solidarities, while from the perspective of liberal human rights, the topos of *umma* neglects rights by virtue of its overemphasis on duties.<sup>117</sup> Moreover, a relational encounter of human rights with political theologies could expose that the proclaimed secularism of the human rights framework is uneven and unfinished and forces interrogation of its Judeo-Christian roots.<sup>118</sup>

It is thus not incompleteness that is the problem but rather false claims to completeness or, in the case of the human rights framework, universality. A human rights culture that moves beyond the abyssal line, therefore, has to be ‘multicultural’,<sup>119</sup> with a mutual awareness of cultural incompleteness. Similarly, when Spivak proposes to ‘suture’ rights-based and responsibility-based systems, she insists that ‘supplementation is needed by both sides’.<sup>120</sup> Only through such supplementation can the claim to hegemony by the universal human rights framework and its dangerous globalized localism<sup>121</sup> (masquerading as universality) be productively disrupted. Instead of other systems of meaning being appropriated or even absorbed into each other, their unstable and tentative attachment must continuously alert us to mutual incompleteness.

Supplementation is, however, not easy, precisely because the complementarity of different systems of human dignity is not based on compatibility. The *umma* can neither exactly be mapped onto the Judeo-Christian-inspired Western human rights community nor onto the Hindu *dharma*. Nor is there, in Spivak’s words, a ‘continuous line from rights to responsibilities’.<sup>122</sup> Responsibilities are in a different ethical register, unlike duties, which do directly derive from rights. With both sides already fractured, rights thinking would need to be sutured into ‘the torn cultural fabric of responsibility’.<sup>123</sup> Moreover, the ‘contact zone’ between different ontologies has been marked by power hierarchies and violence, and encounters have often been confrontational rather than constructive.<sup>124</sup>

What Spivak has called suturing can be likened to de Sousa Santos’ notion of ‘cross-cultural dialogue’ in the form of a ‘diatopical hermeneutics’.<sup>125</sup> Such a hermeneutics works from and with ‘the incommensurable universes of meaning’<sup>126</sup> to help identify ‘the reciprocal limitations of alternative conceptions of human dignity [thereby] opening the possibility of new relations and dialogues among them’.<sup>127</sup> What is needed, he proposes, ‘is not relativism, but rather a new relationalism’.<sup>128</sup> Throughout her work, Spivak has emphasized the significance of humanities education for learning to imagine other worlds, other subjectivities and desires. This need to imagine ‘the other as imaginative actant’<sup>129</sup> for a reconfigured ethics extends to those who are constructed as the ultimate Other, those against whom wars on terror are waged in the name of saving the rights of some. If we do not do or risk this, ‘we end up talking to ourselves, or to our clones abroad’.<sup>130</sup>

A new relationalism would also require of those used to doing the speaking, teaching and dispensing of rights, to learn to listen and to imagine otherwise. Spivak, therefore, suggests that any reconfiguration of human rights would require making ‘unstable’ the division between rights dispensers and rights receivers, the latter being repeatedly wronged.<sup>131</sup> This ‘unlearning of one’s privilege’ as an act of ethical responsibility<sup>132</sup> also requires an unlearning of the desire for the subaltern.<sup>133</sup> Such a desire for the subaltern as a site for alternative knowledges looms large in some of de Sousa Santos’ work,

especially when writing about the World Social Forum, and it is here that tensions between his and Spivak's work become most obvious.<sup>134</sup> In his writing, for example, de Sousa Santos uses section headings and chapter subtitles affirmatively, such as 'Learning from the South',<sup>135</sup> which run counter to Spivak's caution that such learning and teaching is severely compromised because the register in which the subaltern enunciates herself is unrepresentable in hegemonic discourse.

Elsewhere, however, de Sousa Santos' writing at least acknowledges that access to knowledges from the South is compromised by centuries of denigration of other knowledges. Paradoxically, both de Sousa Santos and Spivak use the term 'unlearning' yet do so in opposite ways, to arrive at similar conclusions. Spivak has famously called for 'learning to learn from below'<sup>136</sup> and a 'necessity of unlearning one's privilege'<sup>137</sup> as a precondition for ethical encounters. In de Sousa Santos' formulation, by contrast, learning *follows* unlearning: 'Learning from the South is only a starting point, and it may actually be a false starting point if it is not borne in mind that the North has been actively unlearning the South all along'.<sup>138</sup> Thus, while de Sousa Santos uses the term 'unlearning' to make visible the hegemonic process of epistemicide and denigration of other knowledges, and Spivak employs 'unlearning' to describe the painstaking counter-hegemonic effort to decentre the privileged self as the centre of knowledge, both alert us to the fact that opening up to other ways of being and thinking first requires conscious and careful attempts to work against long-standing epistemic violence. This would be the necessary foundation for de Sousa Santos' 'new relationalism' and Spivak's supplementation of Western with other notions of human dignity.

Before closing, let me return to translation, a precondition for listening, (un)learning and 'cross-cultural dialogue' and a recurrent theme in both de Sousa Santos' and Spivak's work. Taking seriously the efforts of (impossible) translation activates the imagination necessary for ethical relationships. As de Sousa Santos suggests, 'the work of translation is a work of epistemological and democratic imagination, aiming to construct new and plural conceptions of social emancipation upon the ruins of the automatic social emancipation of the modernist project'.<sup>139</sup> Because of its hegemony, de Sousa Santos posits, the language of human rights risks being considered 'a kind of Esperanto',<sup>140</sup> transparently and universally understood. 'English is the language of power', in Spivak words, and translations of the Universal Declaration of Human Rights, therefore, tend to be derivative. As she notes, 'that there are often embarrassing malapropisms in the UDHR translation can be too easily proved'.<sup>141</sup> Terms like privacy, race/colour/sex and community are not transparently translatable, and in fact belie larger incommensurable presuppositions.<sup>142</sup>

In order to access 'the subaltern episteme', Spivak argues, one 'must have the patience and perseverance to learn well one of the languages of the rural poor in the South' and recognize 'the multiplicity of subaltern languages'.<sup>143</sup> De Sousa Santos holds that one needs to be 'curious to listen to what does not fit with my own vocabulary',<sup>144</sup> thereby hinting at challenges of incommensurability. Elsewhere, he complicates this further in highlighting how languages have been exterminated as integral with the colonial project. The South 'was supposed to both have nothing to say and nothing (no language) to say it in'.<sup>145</sup> With this destruction, 'the south has lost the capacity to name itself, which means that there is a double effort required: both 'deconstructing colonial naming and reconstructing it in an emancipatory way'.<sup>146</sup> This brings to mind Spivak's (less literal)

warning that the subaltern cannot speak and be heard within the dominant register of representation.<sup>147</sup> Spivak, however, is distinctly more sceptical than de Sousa Santos about both the possibility and desirability of reconstructing the subaltern, warning against the romantic, purist position of ‘preserving subalternity’.<sup>148</sup> While de Sousa Santos’ work tends to emphasize the reconstructive and Spivak’s the deconstructive, when connecting the loose threads of their work, it becomes clear that neither is de Sousa Santos’ work empty of the realization of the need for deconstruction nor Spivak’s devoid of reconstructive efforts. Indeed, this can be detected in de Sousa Santos’ recognition that ‘there is no guarantee that a better world may be possible, nor that all those who have not given up struggling for it conceive of it in the same way’, and in Spivak’s encouragement towards the inevitable ‘working without guarantees’.<sup>149</sup>

### Concluding threads

This sutured account, which has woven together several strands of de Sousa Santos’ and Spivak’s work, remains incomplete, and is indeed selective. But stitching together Spivak’s and de Sousa Santos’ thought on human rights demonstrates two separate but complementary points. Firstly, their respective engagements with and understanding of rights have significant commonalities. Secondly, their accounts can usefully complement one another. By enriching each other’s conceptual toolbox and, in some cases, approaching the same problems from opposite directions, it is possible to get a glimpse of something richer: the multivalent rights framework that they imagine and work for, without guarantees. The conversation between Spivak and de Sousa Santos is eased not only by their shared commitments and concerns but also by concepts that are central to both, such as translation, listening and (un)learning.

Weaving the work of the two thinkers together rather than reading them separately makes visible new patterns in their work, including their concerns with the limitations of using law as global ethics and the dividing lines produced by human rights – between those who receive and those who dispense, those who are not recognized as human and those who are. Such problems that are immanent within the human rights framework, they agree, cannot be expected to be resolved within the framework itself. Hence, they argue for an imperfect attachment to alternative ways of thinking about human dignity and responsibility that posit a call to the Other before consciousness, knowledge and control. These can serve to disrupt claims to totality, universality and completeness of the hegemonic human rights framework and provide routes to alternative conceptions.

However, both Spivak and de Sousa Santos reject the creation of alternative monolithic ethical hegemonies and counter a politics of separationist delinking. De Sousa Santos has offered the term ‘diatopical hermeneutics’ to describe the process of criss-crossing between incommensurable ethical systems, while Spivak has suggested ‘suturing’ to capture the fragile efforts to attach them to each other. While de Sousa Santos’ and Spivak’s refusal to offer straightforward alternatives can easily be dismissed from a decolonial perspective as yet another instance of postcolonial thought’s lesser radicalism, I have argued against constructing such a postcolonial–decolonial schism. Instead, I have shown that Spivak and de Sousa Santos propose a fragile but promising project for human dignity that is deconstructive as well as reconstructive. Moreover, counter to

anti-modern versions of decolonial, and to a lesser extent, postcolonial thought, both Spivak and de Sousa Santos refuse to relinquish completely the liberal human rights framework and its handmaidens, the state and citizenship. In times when migrants die on their way to the shores where they might exercise their right to claim asylum, where undesired subjects are stripped of their citizenship and the rights of some are violated in the name of the protection of the rights of others, they share a reluctant but inescapable commitment to the hegemonic human rights framework. This commitment does not negate but indeed highlights their shared concern with the violations justified in the name of human rights.

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