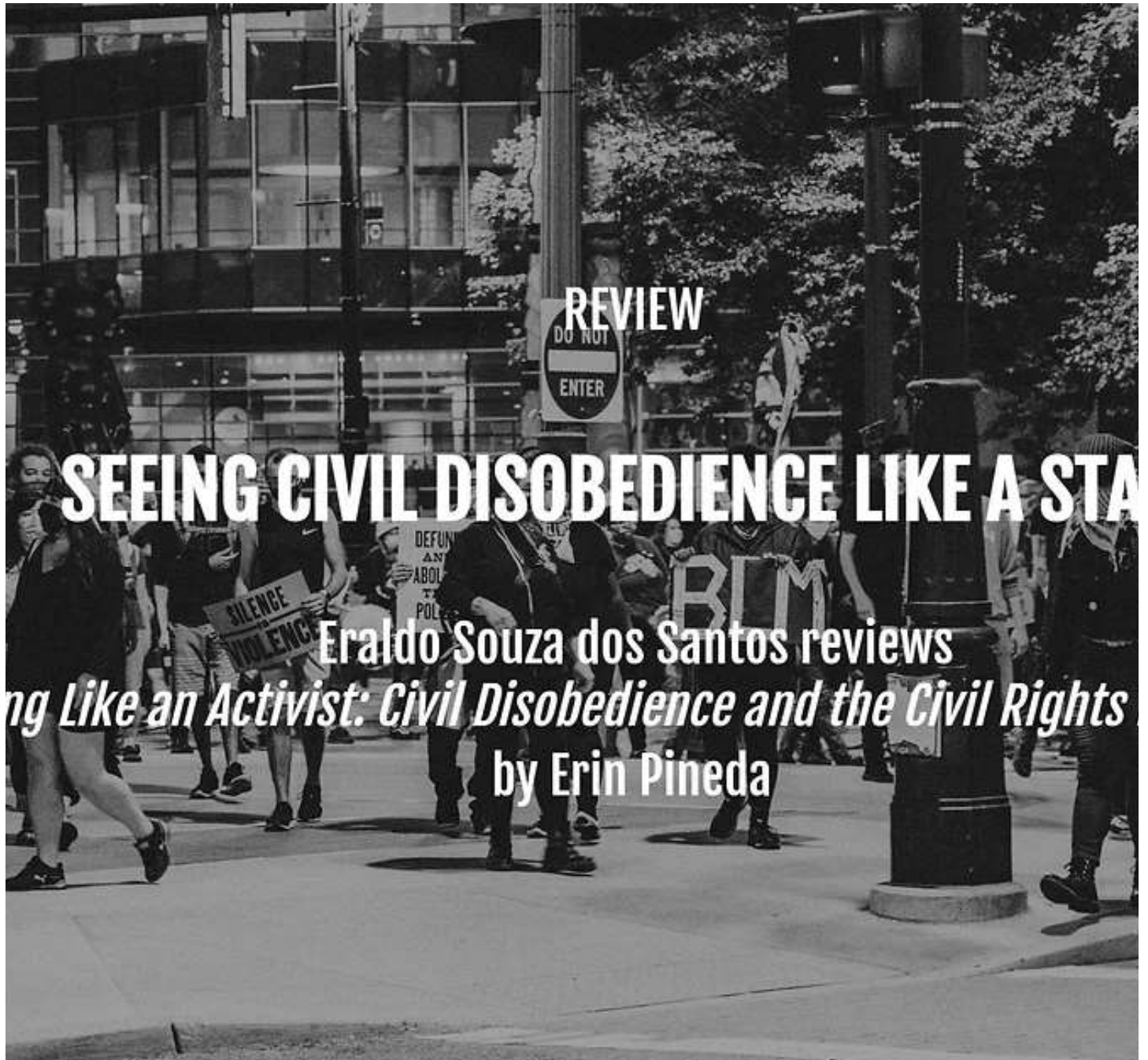


Eraldo Souza dos Santos

"SEEING CIVIL DISOBEDIENCE LIKE A STATE": A REVIEW BY ERALDO SOUZA DOS SANTOS



Seeing Like an Activist is a new philosophy of civil disobedience. It is a refusal to see civil disobedience in the ways liberals, inside and outside academia, have taught us to do since the 1960s. It is a refusal to see civil disobedience – and, more broadly, politics – like a “white state”. It is not only a new theory; it is, as Erin Pineda announces right at the beginning of the book, a new *vision*.

For Pineda, a “white state” is a state that centres “the white citizen as the normative ideal” (4). In this sense, “Political theory sees like a white state when it adopts the state’s interests in maintenance and stability as its own normative end, when it centres the white citizens by treating racial injustice as aberrational rather than constitutive, and when it obscures racial hierarchy behind the language of constitutional democracy” (18). Seeing “from the perspective of a *white state*” thus means “taking for granted the legitimacy of the constitutional order” (25).

Pineda ultimately leaves open the question of whether there is something inherently problematic about “seeing like a state” *tout court*, of whether even a *Black* state (or, more generally, a *non-white* state) would pursue the normative ends and reproduce the institutional processes that are typical of states and of state formation, such as the tendency to repress groups that refuse to live under it and under the forms of life it imposes on its members. Her main conclusion primarily concerns the limits of civil disobedience as a tool for transforming our fellow white citizens and thereby for fundamentally reconfiguring the ethical and political life of a society anchored in white supremacy. As a result, it remains unclear how radical Pineda’s critique of the state is and what kind of democratic theory (if any) she espouses.

That said, Pineda’s powerful and original philosophical approach is, or at least suggests, a radical interpretation of civil disobedience: one that sees it as a form of political action that not only challenges statism but more fundamentally points toward forms of life *beyond* and *against* the state.

Despite the clear reference to James C. Scott’s 1998 book, *Seeing Like a State*, Pineda highlights that her work is a “substantial modification” of what Scott means by “seeing like a state” (207). What is key, for Pineda’s purposes, is “Scott’s evocative claim about the ways modern-state projects seek to rationalize, standardize, and make citizens legible subjects in pursuit of ambitious projects of social transformation” (40). Unlike in Scott’s work, however, the key actors that interest Pineda are not state planners and political officers, but liberal philosophers of civil disobedience such as John Rawls and Michael Walzer as well as the civil rights activists that are made exemplary in their philosophical theories (41).

These philosophers “adopt the ends of the constitutional nation-state as their philosophical starting point”, assuming that the constitutional order is mostly legitimate and that, for this reason, individuals have a *prima facie* obligation to obey the law. If the legal and political systems are fundamentally just, the liberal argument runs, breaking the law “becomes normatively troubling and requires special justificatory work”. After all, citizens of a fundamentally just society have an interest in maintaining what is, despite a few (and even grave) flaws, a legitimate political order (41).

As Pineda compellingly and passionately shows, what is troubling in this framework is the assumption that the United States during the 1960s and early-1970s was (or indeed has

ever been) a fundamentally or basically just or legitimate regime, especially, but not only, for its Black citizens. Seeing the civil disobedience of the civil rights movement as an effort to “fix” the imperfections of an otherwise just constitutional order is to *actively* ignore how the maintenance of this order is entangled with the maintenance of white supremacy. That is a form of what James Baldwin, Charles Mills, and Elizabeth Spelman have conceptualized as *white ignorance*. To see civil disobedience in this way is to *see civil disobedience like a white state*.

Seeing Like an Activist is, in this regard, a powerful denunciation of the ways in which Anglo-American political philosophy and theory see racial oppression and politics from a fundamentally white supremacist standpoint. But in denouncing “the ways theorizing can itself perform racial power” (17), the book is also an invitation to see and theorize otherwise.

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To see civil disobedience like an activist – or, more specifically, as a civil rights activist – is to see civil disobedience as a *decolonizing praxis*. By drawing extensively on available studies on Black internationalism and transnationalism, Pineda explores the ways in which Gandhi’s conception of civil disobedience as decolonizing resistance travelled from India to Ghana and South Africa. Inspired by the victories of civil disobedience movements in these places, African American activists became from the 1930s onwards progressively more confident about the transformative potentials of civil disobedience in the United States.

As Pineda shows, civil rights disobedience was part of this incipient global tradition, for which anti-imperialism and anti-racism were key political values. In this sense, civil rights disobedience was rooted both in self-liberation, understood as “the cultivation of fearlessness in the face of domination” as well as liberation at a more systemic level through “the practices of solidarity building, structural critique, and cost levying” – not, as in the liberal playbook, about repairing a fundamentally just constitutional order (99).

From a theoretical perspective, to see like an activist is “to ask about the meaning activists attributed to their actions and the effects those actions had” (103). Pineda compellingly demonstrates not only that the practice of civil disobedience by civil rights activists resisted the liberal codification of it, but also that they developed theories of civil disobedience that are philosophically much more sophisticated than the ones advanced by the philosophers who intended to give philosophical form to their activism.

But what is exactly the relationship between civil disobedience as a decolonizing praxis and the constitutional nation-state? Does the problem with adopting the ends of the constitutional nation-state reside in how liberals have conceptualized the relationship between civil rights activism and constitutionalism? Or is the problem constitutionalism and the constitutional nation-state per se?

I agree with Pineda when she suggests that Kwame Nkrumah and Martin Luther King, Jr. did not understand civil disobedience through adopting the ends of the constitutional nation-state as their starting point. But if this is the case then how are we to interpret the constitutional language in their writings on nonviolent resistance? As Pineda points out, in a 1950 pamphlet Nkrumah expressed the intention to use “all legitimate and constitutional means by which we can cripple the forces of imperialism”, including the “constitutional application of strikes, boycotts, and non-cooperation based on the principle of absolute non-violence” (81). In the “Letter from Birmingham City Jail” (1963), King laments that African Americans “have waited for more than 340 years for our constitutional and God given rights” and contends that “it is wrong to urge an individual to cease his efforts to gain his basic constitutional rights because the quest may precipitate violence”.

While I agree with Pineda that such constitutional language has been used in problematic ways by liberal philosophers to justify their appropriation of King’s theory of civil disobedience, *Seeing Like an Activist* does not offer an account of how strategic or tactical appeals to the Constitution – even if only conceived to denounce a constitutional nation-state’s hypocrisy or as a necessary means for an important end – have historically played a key role in the process by which civil disobedience became a global decolonizing praxis.

More generally, Pineda seems to avoid approaching civil disobedience from the point of view of the law. This theoretical move is, without a doubt, understandable and compelling. The liberal insistence on the compatibility between civil disobedience and constitutionalism has made it difficult or impossible for many liberal philosophers to see that the philosophical problems surrounding civil disobedience cannot be reduced to the justification and legitimation of certain kinds of lawbreaking in fundamentally just constitutional regimes.

For Pineda, civil disobedience was also, and most importantly, about a “multifaceted strategy for decolonizing America’s white supremacy” (161). Such a decolonizing strategy triggered a process of self-transformation that (or so hoped civil rights activists) would lead to the transformation of their white fellow citizens and, eventually, of the American white state.

These transformative dimensions of civil disobedience in a context of white supremacy are mainly ignored by liberals as well as many contemporary philosophers who seek to provide accounts of civil disobedience based on the principles of deliberative democracy or republicanism. Pineda thus successfully avoids the still predominant *legalism* of the

available scholarship on civil disobedience. The risk that civil rights activists took in accepting to go to jail in the South of the United States, for example, cannot be fully and appropriately understood in legal terms (123).

But avoiding and denouncing such legalism, necessary as it is, should not impede us in also considering the role of the law, lawmaking, and lawbreaking in the political dynamics that characterize civil disobedience as a decolonizing praxis. To “see like an activist” also requires, I would suggest, exploring activists’ legal imagination. And within the Black and African American tradition, one of the key philosophical and existential questions for activists concerns the relationship between law and freedom.



Pineda notes at the beginning of her book that “I often use ‘nonviolent direct action’ and ‘nonviolent resistance’ as if they were more or less interchangeable with civil disobedience”

(60). She agrees that adopting a more clear-cut distinction between these terms could be useful “because of the normative conundrum posed by purposeful lawbreaking” (61). In other words, not all forms of nonviolent direct action and nonviolent resistance are unlawful. The right to hold a peaceful march, for example, is usually protected in constitutional democracies. In contrast, civil disobedience traditionally designates the acts of an individual or a group who intentionally breaks the law on moral or political grounds. From a normative point of view, such form of purposeful lawbreaking is more difficult to justify than lawful nonviolent protest.

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But Pineda justifies using the concepts of civil disobedience, nonviolent direct action, and nonviolent resistance interchangeably by arguing that “the individuals at the heart of this story tended to do so”. Moreover, she adds, “Whether their actions were fully legal, began as legal but crossed into a grey area when they were told to leave but did not, or were purposely designed to break the law, activism tended to end in arrest”. From this point of view, “Nonviolent direct action was always, at least potentially, disobedient” (61).

This terminological choice impedes us, however, in asking why in multiple, and no less important, contexts and occasions, the individuals at the heart of civil rights stories sought to conceptualize *civil disobedience* in contrast, and in comparison, to other forms of resistance.

This seems to be the case, for example, for King. In the “Letter”, he not only discussed the power of “nonviolent-but-coercive direct action” (146) but also the ethics, politics, and history of purposeful lawbreaking. It was, in this regard, fundamental for King to differentiate between the “civil disobedience” of civil rights activists and the “uncivil disobedience” of segregationists. On several occasions, he sought to shed philosophical light on the “legal” and “moral responsibility to obey just laws” and, conversely, on the “moral responsibility to disobey unjust laws”. Later in the 1960s, he argued, to the dismay of many liberals and civil rights activists alike, that civil disobedience could also target laws that are not unjust per se but that need to be broken in the fight against capitalism, imperialism, and militarism. More surprisingly, perhaps, he insisted from 1965 onwards that the actions of the civil rights movement should not be characterized as civil disobedience, arguing, alongside many liberals, that one cannot strictly speaking break an unconstitutional law, especially when the law in question has been ruled unconstitutional by the Supreme Court.

King's legal thought shows, in this regard, that debates about the relationship between (un)civil disobedience and the law are also a key part of the history and theory of civil disobedience as a decolonizing praxis.

In view of this complex relationship between civil disobedience, decolonization, and the law, it is perhaps surprising that Pineda does not discuss Mohandas Gandhi's understanding(s) of civil disobedience more extensively. Where Gandhi is discussed (for example, in Chapter 2, "An Entire World in Motion") Pineda focuses rather on the *imaginative transits* – one of her original concepts – by which Gandhi's political thought travelled to, and was reimagined in, Ghana, South Africa, and Black America during the first half of the twentieth century. But Gandhi's own theory of civil disobedience, in its multiple and often contradictory iterations, suggests a more radical understanding of civil disobedience vis-à-vis its American reception: one that is not compatible, as Alex Livingston has compellingly shown, with American constitutionalism.

Despite Gandhi's mixed, always evolving opinions about "anarchy" and "anarchism", he famously suggested in 1916 that he was "an anarchist but of another type", i.e., not of the type that espoused terrorism and violence, as many anticolonial leaders did. The anarchism in which he inscribed his political, decolonizing praxis was anchored in a radical critique of the state, of which his theory of civil disobedience was a fundamental part.

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In his early writings, Gandhi suggested that civil disobedience could be comprehensive to the point that *all* state-promulgated laws must be disobeyed. As he wrote in a letter to Srinivasa Sastri in 1921, "I can clearly see the time coming to me when I must refuse obedience to every single State-made law, even though there may be a certainty of bloodshed. (...) Complete civil disobedience is a state of peaceful rebellion – a refusal to obey every single State-made law. It is certainly more dangerous than an armed rebellion". Confronted with the bloodshed that followed his first mass *satyagraha* campaigns between 1921 and 1922, Gandhi probably realized that the time for complete civil disobedience would never come. As Karuna Mantena has recently pointed out, Gandhi subsequently insisted on the key role of civility, restraint, and self-discipline in nonviolent resistance. But the idea of complete civil disobedience remained until his death, I would argue, the ultimate horizon and ideal of his critique of the state and theory of nonviolent resistance.

As he stated in a 1934 interview with Nirmal Kumar Bose on the prospects of a post-imperial India, “The state represents violence in concentrated and organized form” and could “never be weaned from violence to which it owes its very existence”. From this point of view, one cannot, perhaps, live nonviolently in a state. In her work on Gandhi’s critique of the state, Mantena has shown, in this regard, that Gandhi alternatively conceived of post-imperial India as a federation of villages.

By contrast, in 1949 B. R. Ambedkar argued in his famous speech in the Constituent Assembly that it was time to abandon Gandhian methods: “When there was no way left for constitutional methods for achieving economic and social objectives, there was a great deal of justification for unconstitutional methods. But where constitutional methods are open, there can be no justification for these unconstitutional methods. These methods are nothing but the Grammar of Anarchy and the sooner they are abandoned, the better for us”.

Perhaps one of the most original contributions of African American activists to the theory and practice of civil disobedience has been to show that seeing Gandhian methods in this way fails to grasp the ethical and political importance of civil disobedience. But seeing civil disobedience like an anarchist, as Gandhi did, invites us to ask whether seeing civil disobedience as a civil rights activist does not mean, ultimately, seeing it like a state. And although I profoundly agree with Pineda’s interpretation of civil disobedience as a world-making decolonizing praxis, I cannot but ask, as a sincere and open-hearted question: did not civil rights activists, *too*, see civil disobedience through not only a constitutional but also a fundamentally statist lens? As a *non-white* state perhaps, in the emancipatory horizon of a *constitutional democratic state* in which white supremacy would be definitively abolished – but still as a state.

Perhaps, I ask myself, they felt it was their only option from a tactical and strategic point of view, even if their radical imaginations pointed elsewhere. Or, more counter-intuitively, their goal was a dialectical one: *to use the state against the state*. Is this, perhaps, the ultimate horizon of civil disobedience until today? Pineda’s philosophy of civil disobedience has gone more far than any other in shedding light on this key political question.

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