Refractions: social theory, human rights and philosophy

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This speculative article endeavours to highlight the polemics and disputations of knowledge transformation, while simultaneously demonstrating the productive possibilities of such disputations via three examples of refractions. The latter are generated within the crises and critiques of the discourses within which Social Theory, Human Rights and Philosophy are located. They are further cultivated and sharpened by the interplays between these discourses, suggesting the possibility of self-transforming knowledge constellations. The article concludes that the political import of refractions allows the prospects of just social practices to come sharper into view.

Refraction,[1] in physics, refers to the change in direction of a wave passing from one medium to another – the bending of the angle of light as it passes from one substance to another. Employing this light-ray metaphor, Russian philosopher Bakhtin (1895-1975) designates refraction as the "distances between discourse and intentions" that are always changing; in other words, the angle of refraction is always changing (Bakhtin1981: 419). As words try to grasp the meaning of an object (meaning itself is refracted by the occupied territory surrounding the object), a "semantic spectral dispersion" occurs (Emerson & Holquist 1981: 432). Although Bakhtin was interested in authorial and artistic discourse, I am importing refraction into my analysis as a generative concept that designates how meanings and practices may be regenerated as functions of the interplays between the discourses of Social Theory, Philosophy and Human Rights (hereafter referred to as SoTHuRP).

In fidelity to Foucault, I am aligned to a definition of discourse as "ways of constituting knowledge, together with the social practices, forms of subjectivity and power relations that inhere in such knowledges and relations between them" (see Pinkus 1996); it articulates the rules for what counts as knowledge. Along these lines I refer, in this article, to a social theory discourse, a human rights discourse and a philosophy discourse. These discourses include their associated paradigms and disciplines as well as the knowledge and praxes movements within and between disciplines. Disciplines are not simply regarded as apparatuses for the organisation of knowledge. They are viewed as "the institutional mechanism for regulating the market relations between consumers and the producers of knowledge [...] disciplines are political structures that mediate crucially between the political economy and the production of knowledge" (Lenoir 1993: 72). Disciplines and paradigms are constitutive of each other, but they are not the same. Paradigm "stands for the entire constellation of beliefs, values, techniques and so on shared by the members of a given [scientific] community" (Kuhn 1970: 175); it is the "fundamental image of the subject matter within a science" (Ritzer 1980: 1). It follows then that a discourse, as the notion is employed in

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1   I am aware that this notion may overlap with the concept of (**de-/re-)territorialisation.** Deleuze & Guattari's (1987: 508-9) notion of deterritorialization is defined as "the complex movement or process by which something escapes or departs from a given territory, where a territory can be a system of any kind, conceptual, linguistic, social, or affective". The escape from a system presupposes changes of meaning within the system, and changes to the something that escapes. Change is inscribed in deterritorialization, and deterritorialization is always "inseparable from correlative reterritorializations" (Deleuze & Guattari's 1987: 508-9). "Reterritorialization does not mean returning to the original territory, but rather refers to the ways in which deterritorialized elements recombine and enter into new relations in the constitution of a new assemblage or the modification of the old" (Patton 2010: 52).

this article, is linked to disciplines, paradigms, knowledges and social practices interior to the discourse itself.[2] And, in Bakhtinian terms, it is also networked externally with its own occupied territories and those of others. Discourses, on disciplinary and other levels, generate counter-discourses and thus both engender and navigate refractions.

Substantive interplays between the discourses related to SoTHuRP suggest continuous refractions of knowledges as transformative movements that encounter the social with the aim of having material effects in reality through justice-oriented social practices. I pursue this overall argument in this article by first setting out the crises and critiques within the discourses of SoTHuRP. This is followed by analyses of three archetypical examples of refractions that emerged from these crises and critiques, one in each of these discourses. I round off my course of thought with positing these exemplars as a demonstration of the creative and productive possibilities related to the promises of knowledge revolutions that inhere in the exchanges between and within the discourses of SoTHuRP.

1.   Crisis and critique[3]

> *Critique interrogates the norms, institutions and practices of society that generate crises.*[4]

In his seminal *Crisis and critique,* Koselleck (1988: 9) suggested that, during the eighteenth century, the critical process of "enlightenment conjured up the crisis in the same measure in which the political significance of the crisis remained hidden from it". This crisis, the transfer of morality to history and politics, was processed within the philosophy of history. The role of the bourgeoisie, historically, was defined in critical terms. This allowed the middle classes to, in the process of critique, thus answer for themselves. As such, conceptions of progress always sided with the bourgeois judges, and the philosophy of progress, within which the critical was home, came to simultaneously conceal and intensify the crisis (Koselleck 1988: 9). Bourgeois criticism had an interest in itself as part of

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2   See Foucault (2002) on the boundaries and non-boundaries between discourse, disciplines and genres of science

3   *Crisis and Critique* is the title of a new journal launched in 2014 with the same name as a "projected journal of Bertolt Brecht and Walter Benjamin" that was planned for in 1930 (Ezcurra 2012), "but never came into existence" (Bejerre & Hamza 2014: 5). *Crisis and Critique* is a combination of concepts with a rich history in Social Theory (see Koselleck 1988, Lebowitz 2009, Holloway 2012, Kompridis 2006).

4   Cordera on Habermas (2014: 498).

the critical within the enlightenment. The philosophy of history thus postulated resolution of the crisis as the predictable and inevitable "end of a moral process beyond politics" (Koselleck 1988: 185). Herein lies Kosselleck's warning: the concealment and intensification of crises may be located in critique itself.

Against the backdrop of this caution, we can now consider the contributions to critique made by Kant, Hegel, Marx, Arendt, Derrida, Foucault and others (see Kompridis 2006) over the past centuries. At the heart of critique, as constituted within Critical Theory, is renewal: the transformation of our cultural traditions, institutions, knowledges and practices in a world in which current social, political, cultural and economic arrangements only further serve to structurally anchor inequalities, discrimination and exclusion. In the case of the discourses on SoTHuRP, it is plausible to argue that they are constitutive of both crisis and critique. Therefore, on the level of the academy, a reflective process of self-clarification is required that "demands a complex cognitive and affective engagement" with our forms of life, cultural traditions, academic dispositions and social practices Kompridis 2006: 8), so as to escape Koselleck's warning.

Holloway (2012: 515) defines critique as "the opening of categories that are closed, to reveal the antagonism within them, to reveal the crisis that they conceal". In the opening of categories, we find the way in "which human activity is organised"; in the case of human rights, for instance, we will find that, although equality and dignity are promised, governmentality is offered; we will find, further, the organisation of human activity around legal and rights categories (Holloway 2012: 515). The cognitive self-clarification required is driven by the fact that "our categories of thought are expressions of the social relations that underlie them [...]. When we criticise the categories, we criticise the social relations that give rise to those categories. We open both" (Holloway 2012: 515-6). Thus critique "aspires to find emancipatory alternatives to the conditions that block free human existence and damage social relations"; it can be viewed as a praxis (Cordero 2014: 498, Butler 2001).

Demanding reflective processes of self-clarification that can reveal how social practices are mirrored within mental and cognitive images have not taken shape, in general, in respect of the discourses of SoTHuRP. The power and truth indexes of these discourses reproduce varieties of intellectual, material, cultural and political economies within which scientific authorities are established and maintained, aided by a set of credentials that "help define the contemporary social order" (Waquant 1996: x). It, thus, has little interest in its own disruption. Against this backdrop, one can argue that both the intensification and concealment of the crises in SoTHuRP are entrenched. The denunciation of the crises, a general trend of the authorities and the disciples of the disciplines within SoTHuRP, is

related to the fear of disturbances within these economies. However, if we are to be true to the scholarly project, instead of denunciation, we should rather ask this question: What conditions, economies, politics and practices allow crises to attach themselves in various ways to the discourses of SoTHuRP? In our response to this question, we would find that it is in these discourses where critique should be at home. For instance, Foucault views the humanities "as the future of critique itself", while Derrida suggests that the new humanities "should consist in a series of both critical and deconstructive works and actions […] the Humanities should remain the ultimate place of critical resistance" (Malabou 2013: 2).

Let us accept, against the grain of our self-interest-driven economies, that SoTHuRP are in crises, and part of the crises is the denunciation of the crises. This is not surprising, given the customary intellectual state of the academy and universities worldwide.[5] Social Theory is generally regarded as being in a crisis; a double crisis: a crisis of the social and a crisis of its theory.[6] This is the overall premise of the Jacklin & Vale (2009) compilation, *Re-imagining the Social in South Africa.* It is also the basic assumption of the *The New Blackwell Companion on Social Theory* (Turner 2009b: 5). Turner (2009b: 5-6) questionably links the crisis to "significant changes in modern philosophy which have in large measure influenced the ways in which sociologists now think about social theory; the rise of postmodernism; the collapse of world communism; the globalization of neoliberal economics; and the attendant transformations of social life". My view is that these crises cannot be connected to the transformation of social life and factors in such a deterministic way. A Social Theory proper is meant to be rooted in social reality from where these transformations should be viewed

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5   There are thus not simply external influences working on the 'crisis of the humanities', but rather an internally constituted 'crisis' of intellectual stagnation. However, the intellectual challenges are not limited to the humanities, but afflict the vast majority of disciplines in different ways, as expressed in works such as Readings 1996, Mamdani 2007, Giroux 2010, Bloom 2008, Rorty 1999, and Bok 2006, 2009. One can argue that the 'legitimation' crisis of the humanities is simply the most protruding articulation of a series of structurally anchored challenges within higher education globally.

6   Social Theory includes sociological, cultural and political theories and is generally concerned with the "nature of the social in modern society" (Turner 1999: 2). It is the outcome of "the rise of a common realm of theory" (Vale & Jacklin 2009: 11) between the humanities and the social sciences. Social Theory is "abstract, systematic thought that, through rational argumentation, fashions general accounts of the character, development and organisation of social life" (Schatzki 1999: 36). Turner (2009b: 2) suggests that "as a preliminary distinction, let us say simply that 'sociological theory' is a subset of this more general characterization of 'social theory'". Social theories are also viewed as objects of sociological research (Mik-Meyer 2009: 139), and sometimes the notions of social theory and sociological theory are collapsed into one another (King & Rettie 2009: 191).

as fertile developments for enriching theory's interpretive schemes. That is, social transformations should not logically generate crises within social theory; instead, they should enrich conceptual frames in the moments of the knowledge elucidations that attempt to grasp these social transformations. On this score – a social theory incapable of interpreting social transformations – I suggest that Social Theory suffers from an internally constituted crisis anchored in humanities and social sciences scholarship. This crisis can be tracked with reference to the disciplines of Philosophy and Sociology as axiological to the discourse of Social Theory.

In the case of Philosophy's crisis, what is "true is that academic philosophy has become rather stale […] it is obsessed with its own past, suspicious of radically new insights, inward-looking, largely removed from worldly concerns, and therefore of hardly any help in tackling most of the issues faced by ordinary people; hence the word '*crisis*' in the title of this book" (Bunge 2001: 9). Over fifty years ago, Adorno ([1962]/2005: 6) put it succinctly: "Philosophy has denied its own constitutive concept: the intellectual freedom that does not obey the dictates of specialized knowledge".

In the two-volume *Right to philosophy*, Derrida (2002, 2004) engages with philosophy as an institution. Volume 2, *Eyes of the university,* brings together many of his key texts on the university and the institutions of philosophy. Aligning himself with Kant's injunction that there is no philosophy and no philosopher, and only philosophising, Derrida (2004: 62) argues: "Saying 'Here I am, me the philosopher, I am a philosopher' is not merely the arrogant manifestation of a 'braggart'; it is to understand nothing of the difference between an ideal type and an individual example". Derrida has always been sceptical of philosophy conventionally understood and was determined, with others in *Le Groupe de Recherche sur l'Enseignement Philosophique* (GREPH),[7] to "question themselves about the philosophical institution, its history and current functioning, but also to intervene in it by posing new questions and behaving differently within it" (Derrida 2004: 188).

The challenges – posing new questions; behaving differently, and interrogating philosophy as institution – that Derrida had in mind in 1980,[8] predictably, had not

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7   From the methodological vantage point of *Deconstruction*, Derrida's commitment to philosophy and its teaching inspired him in becoming a founding member of GREPH, a research group on the teaching of philosophy. This group was officially founded in 15 January 1975 (see translator's foreword, Jan Plug and others in Derrida 2004: x).

8   *Who's afraid of philosophy* was originally published in 1980. It forms part of Volume 2 of the *Right to philosophy* (2004).

been taken up systematically within the philosophical institution. Twenty-three years later, McCumber (2013) observes the trifold form of the crisis in philosophy:

> First, there is the timeworn separation of philosophers from the wider culture [...]. Next, there is a separation from each other [...]. Finally, there is the split that alienates philosophers from philosophy itself, as internal and external alienations drive philosophers to populate their philosophy departments only with philosophers who share their micro-allegiances, and to dismiss refreshing new voices and arenas of thinking that might give new life to their discipline (Hamblet 2013: 1).

A cursory glance at structurally anchored challenges faced by women in philosophy departments not only indicates widespread sexual harassment as part of "its seamy underside [..., but also philosophy,] the oldest of the humanities, is also the malest (and the whitest)" (Saul 2013: 1), and allegations of sexism and racism abound (Gordon, 2008). Lewis Gordon (2008: x) argues that in "spite of philosophical demands on the category, it continues to be a stretch for many white philosophers to see Africana philosophers as human beings [...] This form of polite racism, in which Africana philosophers are often more tolerated than engaged, has occasioned an almost neurotic situation for Africana philosophers". The discipline seems to suffer not only from intellectual stagnations, but also from a non-diversification of its knowledge base, and knowledge generators. These two challenges, I suspect, are linked into one another.

Sociology's crisis is also linked to that of Social Theory: "Social theory is in an intellectual crisis, and furthermore this intellectual crisis has important consequences for sociology as an academic discipline as a whole [...] This crisis of sociology is in fact part of a larger issue within the social sciences and the humanities" (Turner 2009b: 5).[9] Sociology has been accused of intellectual self-impoverishment by sidestepping major social theoretical developments such as "postcolonialism" (Go 2013). Others have simply charged that sociology is a "thought-style that is most in need of anti-Eurocentric dismantling"; "sociology is a powerful obstacle to epistemic decolonisation" (McLennan 2012: 4). Another set of criticisms relate to observations that contemporary Sociology does not compete very well with other sciences in providing important perspectives on human behaviour; it seldom has original sociological explanations to offer (Skirbekk 2008: 1). It is important to note that it is incapable of situating its own "crisis around an ontological argument about changing social formations and vastly increased mobilities" (Hollands & Stanley 2008: 1).

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9   Hollands & Stanley (2008) provide a thorough analysis of the crisis in Sociology.

It will become clearer as the argument unfolds that the crisis of human rights collapses into that of Social Theory and the disciplines of Philosophy and Sociology.[10] Gearty & Douzinas (2014: 6) submit that "[h]uman rights are an inescapable fact in the world. They are the ideology after 'the end of ideologies', the only set of values left now that we have arrived at 'the end of history'' (Gearty & Douzinas 2014: 6). Similarly, Baxi (1997: 1) observed that the "language of rights nearly replaces all other moral languages [...] Further, even as the alleged end of ideology is being proclaimed worldwide, a human rights socio-dialect emerges as the only ideology-in-the-making, enabling both legitimation and delegitimation of power and anticipatory critiques of human rights futures". As human rights spread into and over the globe, permeating social praxes, steering localised and global struggles, as well as furthering and challenging the neo-liberal project, it presides over massive human rights violations. The late entry of social and sociological theory into the realm of rights gave rise to forms of human rights developments that are incapable of self-critique. It lost out on the intellectual elegance and practical force that generally result from knowledge contestations and critique.

Deflem & Chicoine (2011: 101-15) argue that "human rights have only recently begun to move sociologists in any noteworthy degree [in the quest for a] truly sociological sociology of human rights".[11] This late ingress is almost intellectually tragic, driven by a sociology that is "generally inhospitable towards the adoption of human rights as a sociological subject matter" (see Morris 2006). Deflem & Chicoine (2011) in a useful tracking of movements that can barely be regarded as contributions to "a sociology of human rights", suggest that sociologists such as Bryan Turner (1993, 2006, 2009a) and Gideon Sjoberg (2001) have discerned that "classical social theorists [typically] declined to adopt rights as a legitimate area of study". This is in consonance with its historical distance from the critical theoretical tradition that allowed, in my estimation, the legalism of human rights to become discursively dominant. That is, human rights legalism became domineering in

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10   Conventionally understood, "Human rights are rights inherent to all human beings, whatever our nationality, place of residence, sex, national or ethnic origin, colour, religion, language, or any other status. We are all equally entitled to our human rights without discrimination. These rights are all interrelated, interdependent and indivisible. Universal human rights are often expressed and guaranteed by law, in the forms of treaties, customary international law, general principles and other sources of international law. International human rights law lays down obligations of Governments to act in certain ways or to refrain from certain acts, in order to promote and protect human rights and fundamental freedoms of individuals or groups." <http://www.ohchr.org/en/issues/pages/whatarehumanrights.aspx>

11   I am aware of Sen's (2004) article Elements of a theory of human rights, and of Baxi's (2009) critique of it in *Human rights in a post human world: critical essays*. There is not sufficient space in this article to pursue their respective arguments.

the absence of sociologies of human rights. Despite the seminal work done by sociologists such as Turner (1993), Connell (1995) and Sjoberg (2001), by the time social and sociological theory suitably woke up to human rights during the 2000s, the legitimacy of the human rights discourse was already under severe strain, and the most productive philosophical and sociological analyses came to reside within human rights critiques. Although publications such as the special journal edition on *Sociology and human rights: confrontations, evasions and new engagements* (Hynes et al. 2010) and books such as *Human rights and social theory* (Morris 2013) are becoming more commonplace, intellectual treatments of human rights within social theory are unexpectedly uncritical, as evidenced by the work of Blau & Moncada (2009). The zealotry, intellectual conservatism, pragmatic sterility and idolatry, against which human rights practitioners have been fighting over the past two decades, are now reincarnated and reinvented in Sociology's late 'discovery' of human rights. Over the past fifteen years, various analyses have forwarded productive human rights critiques: the ways in which human rights are aligned to already existing relations of power and interests, including prevailing economic relations (Mutua 2002); the relationships between human rights, globalization and markets (Falk 2002: 61-76); the commodification of human suffering within "human rights markets" as a regulated service industry (Baxi 2002: 119-31), and the inherent conservatism of human rights that tend to entrench the status quo because of their historicity (Hamilton 2003). Douzinas (2010: 3) suggests that human rights are Janus-like, "they can emancipate and dominate, protect and control". They "have become a means for regulating human life, and so have become tools of public power; [...] [they] provide the justification for a new configuration of political, economic and military power" (Douzinas 2007: iii). Hopgood's (2013: 2) provocative contemporary treatise dismisses rights as "imperialism in the guise of moralism". He suggests that human rights function as an "ideological alibi to a global system whose governance structures sustain persistent unfairness and blatant injustice [; ...] it reveals that human rights and liberal capitalism were allies, not enemies" (Hopgood 2013: 13).

Chatterjee's (2004b) analysis on protests and revolts in India provides a far-reaching twist to human rights critiques. His arguments, in particular, bring the critiques of Social Theory, Human Rights and Philosophy together. The familiar pairing concepts of Social Theory are revisited: civil society and state; citizenship and rights, as well as universal affiliations and particular identities. Chatterjee (2004a: 8) suggests that, "while philosophical discussions on the rights of citizens in the modern state hovered around the concepts of liberty and community, the emergence of mass democracies in the advanced industrial countries of the West in the twentieth century produced an entirely new distinction". That is, between citizens and populations. Citizens, a notion with normative content, refer to

bearers of rights engaging in democratic practices on the basis of these rights. Populations, a wholly descriptive and empirical notion, designate a group mostly made up by the poor; "it does not carry a normative burden" (Chatterjee 2004a: 8). It consists of groups that "transgress the strict lines of legality in struggling to live and work [...] They may live in illegal squatter settlements, make illegal use of water or electricity facilities, etc." (Chatterjee 2004a: 13). Their "very livelihood or habitation involves violation of the law" (Chatterjee 2004a: 13); they want to be outside of rights if rights are the Law. They demand the right not to have rights; to escape, at least, a small part of the totalising system of governmentality that is served by the popular purchase on human rights.

For Foucault, governmentality is the "movement through which individuals are subjugated in the reality of a social practice through mechanisms of power that adhere to a truth" (Taylor 2011: 179). Sokhi-Bulley (2011: 139) has shown how an analysis of the drive towards human rights measurement indicators reveals "that statistics operate as technologies of governmentality [...]; statistics both govern rights and govern through rights". Rights became a "discourse of governmentality; [that is], a normalizing and regulating discourse" (Sokhi-Bulley 2011: 139). Human rights, as judicial and non-judicial practices, co-construct governmentality by providing a language and a dominant discourse through which peoples' daily struggles are streamed and normalised, while masquerading as a form of justice-seeking.

If we take the crises and critiques inherent to the discourses of SoTHuRP as productively constructed, the academy, as influential agents within, and producers of discourses, are required to reflect on knowledges, academic behaviours, disciplines and genres of sciences to make visible the power relations that constitute them, so as to resist them. This, of course, suggests a self-disruptive enterprise with regard to the material, social, intellectual and cultural economies that powerfully set up the academy in its present hierarchies and everyday fascisms. Among all the options, the long-term and permanent project of knowledge transformations is probably our best chance at deep changes in higher education. These possibilities are always already present in the crisis and critiques that presupposes refractions within and between the discourses of SoTHuRP. I will now turn to a demonstration of these possibilities, using three examples.

2.   Refractions

The first example of refraction relates to postcolonial theory and postcolonial studies. In this instance, refractions are inscribed on two levels. First, in relation to what it stands for as against the dominance of social theories from the North

and, secondly, as critique against its own receivable categories. On the first level, postcolonialism involves "the argument that the nations of the three non-western continents (Africa, Asia, Latin America) are largely in a situation of subordination to Europe and North America, and in a position of economic inequality" (Young 2003: 4). It names a politics against Western hegemony and its cultural analysis "has been concerned with the elaboration of theoretical structures that contest the previous dominant western ways of seeing things" (Young 2003: 4). It further asserts the dynamic power of the cultures of colonised peoples (Young 2003: 4). The engagement of the indigenous with the colonial in its material, cultural, geographical and political repercussions are central to postcolonial studies. To Ashcroft et al. (1995: 3), the postcolonial "represent(s) the continuing process of imperial suppressions and exchanges throughout this diverse range of societies, in their institutions and their discursive practices". Thus, at the heart of the postcolonial is a project of resistance against the dominant Western epistemological frames that author our paradigmatic research assumptions and the rationalisations we forward in order to resolve the challenges of the South. There is no doubt that postcolonial studies and postcolonial theory generated varieties of refractions as authoritatively attested to by Ashcroft et al. (1995).

The second level of refraction relates to critiques of postcolonial theory and the political and intellectual projects of postcolonial studies. In this regard, Ndlovu-Gatsheni (2013: 45) argues as follows:

> While some of the theoretical interventions of postcolonial theorists have extended the frontiers of knowledge on the African condition and deepened our understanding of the postcolonial world, the main problem is that the focus on hybridities, negotiations, blending, syncretism, mimicry, and borderlands end up overshadowing the deeply negative and violent structural rather than agential processes that were unleashed by the spreading of European modernity through mercantilism, imperialism, colonialism, neo-colonialism and neo-liberalism. These processes were never peaceful to the extent of inscribing themselves on the African continent through sharing of cultures and negotiation of discursive spaces.

Zeleza (2003: 1) argues that postcolonialism "w[as] named as discursive system[s] in northern institutional locations"; as intellectual fads with a "distinctly Western accent, if not grammar". It emerges in the Anglo-American academy in the mid-1980s in "the wake of the rise of post-structuralism and postmodernism" (Zeleza 2003: 1). Despite Zeleza and Ndlovu-Gatsheni qualms, useful analyses surfaced from postcolonial theory, as they themselves acknowledge. One example is that, even if postcolonial theory has a Western

grammar, the decentred Self, in relation to human rights, nevertheless emerges with the capacity for self-renewal (see Nayar 2009: 2). Another example is how, within postcolonial analysis, the suffering of victims of human rights violations may be represented to disrupt hegemonic interpretive human rights horizons in, for instance, the case of women's rights, or the rights of refugees. In my view, Cistelecan (2011: 2) erroneously concludes that the postcolonial critiques of human rights of Kapur, Baxi and Spivak focus on the gap between formal rights and their actual bearers. Rather, postcolonial critiques of human rights have an interest in the very framing of rights and the expression of such framing in social reality. For instance, as argued earlier, rights as mechanisms of governmentality are certainly not distanced from rights bearers. In fact, they are expressed in practice, violently and with material effect, as the opposite of its promise. Nevertheless, Cistelecan's (2011: 5) views do link up with Zeleza's and Ndlovu-Gatsheni's critique of postcolonial theory via Žižek's assertion that "colonization was never simply the imposition of Western values, the assimilation of the Oriental and other Others to the European Sameness; it was always also the search for the lost spiritual innocence of *our own* civilization". Thus, the focus on the suffering of the excluded in the global South is "not so much ways to break free from the colonialist legacy, but rather a way to prolong it" (Cistelecan 2011: 5).

> The postcolonialist particularist resistance in the name of the genuine authenticity of the 'bon sauvage' is already inscribed in the colonialist discourse: [...] it is its obverse, the retroactive illusion of a fatal loss of particular substance, an illusion which is spontaneously generated by the imposition of the abstract universal frame (Cistelecan 2011: 5-6).

The implications of these social theoretical sorties are staggering, and the refractions are enlivening as interplays between and within the discourses of Philosophy, Social Theory and Human Rights as they come into view on the back of postcolonial analyses and their critiques. Not only is postcolonial theory summoned to engage with its entire varieties of logics and to review its political project, it also has to re-examine its coordinates of justice itself. If we turn to our universities, the questions generated by the interplay between postcolonial theory and African studies loom large; in the negative. In his reflections on African studies and postcolonial theory, Zeleza (2009: 129) warns about the "mischievous celebration of hybridity and borderlands [; ...] which encourage the sanitization and depiction of imperialism and colonialism as 'shared' cultures, negotiated discursive spaces". The hazards of postcolonial theory, in his assessment, are that it fails to sufficiently maintain the following distinctions: "the fact that imperial power was upheld by physical force (not simply by ideas and images); and that it was underpinned by material structures (not simply ideological constructs),

and by political economy (not simply discursive economy)' (Zeleza 2009: 129). Postcolonial theories may already have turned into "legitimating ideologies of contemporary global configurations of power and production" and thus disallows a political project that can "mobilize counter-hegemonically" (Zeleza 2009: 129). It is, therefore, not surprising that, instead of dismantling the very foundations of a colonising epistemological order, African studies find it difficult to escape "the Eurocentric coding, the seductions and sanctions of writing Africa by analogy" (Zeleza 2009: 131). Easily predictable, Acheraïou's (2011: 144) call to reveal the neo-colonial complicities of postcolonial theory will progressively gain higher degrees of traction within demands to decolonise postcolonial discourse (Acheraïou 2011: 188). On this score, an infinite number of productive refractions are already approaching us from the future.

The second example of refraction resides in the new *Philosophy of plasticity*, as forwarded in the work of Catherine Malabou. Plastic is a medium for refraction; plasticity is its condition. This logic is pursued with great analytical perspicuity in Malabou's overall corpus (Malabou 2008, 2011, 2012a, 2012b, 2013). In *What should we do with our brain,* Malabou (2008: 9), in combining the Hegelian notion of plasticity with advances in neuro-biological sciences, excavates, in the social theory of Boltanski & Ciapello (2005) as reflected in *The new spirit of capitalism,* the fact "that our neuronal and social functioning inter-determine each other and mutually give each other form (here again the power of plasticity), to the point where it is no longer possible to distinguish them". This connectionist world is the neo-liberal world: the "principal transition point between the neuronal and the political, is also the principle transition point between neuro-scientific discourse and the discourse of management, between the functioning of the brain and the functioning of a company" (Malabou 2008: 40-1). The questions presented by Malabou about how our view of cerebral structures links up with the functioning of economic organisation and the new spirit of capitalism are disruptively refractive. In this example, refractions within the engagements between the social theory of Boltanksi & Ciapello, philosophy, cellular biology and the neurosciences generate refractive and refracting spaces where plasticity dwells and where transformations claim their own possibilities. These spaces are vital, because of the challenges facing the humanities, put forward by Malabou (2013: 1) as follows:

> It appears that the Humanities, especially continental philosophy, are no longer able to accurately think their own plasticity and that a dialogue with neurobiology, in which the concept of plasticity (under the name of neuroplasticity) is central. This dialogue is necessary in order for the Humanities to resist the threat that weighs upon them (i.e. their being designated as useless and

unproductive), in order for them to avoid being swallowed, or eaten alive, by science without even being aware of it. How then can a genuine dialogue take place which would both respect the autonomy of each field and redraw their mutual limits and frontiers? How can we think of a neuroplasticity of the Humanities that would bring some plasticity to the Humanities as well as some critical theory to neurobiology?

Johnston (2013: xii), in his collaboration with Malabou, suggests that the refractions on offer by Malabou's sustained philosophical and political projects in her engagement with biology, neurosciences and psycho-analyses, point to the necessity to rethink "philosophical concepts and the categories of contingency, continuity, event, selfhood and subjectivity"; the entirety of the philosophical institution and the intellectual discourse of Philosophy need to be refracted. Malabou carefully builds this logic in a variety of texts. In *The new wounded*, Malabou (2012a: xiv), for instance, explores "identity without precedent" as a consequence of the new subjectivities that emerge after one has suffered brain trauma. The 'new identities' are shaped by the plasticity of the brain: '[M]ight the new neurobiological orientation of my philosophical research on plasticity – the threefold movement of reception, donation, and annihilation of form – make it possible to recognise the importance of the cerebral psyche that is in the process of claiming its rights?', she asks. The ante for the discourses of SoTHuRP is upped considerably. Human rights, already incapable of engaging with existing subjectivities and their rights claims and thus opted to strap the recognisable human within manageable legal categories in service of governmentality, must now be rethought, entirely.

> *The unthinkable is the metamorphosis that makes an unrecognizable subject emerges from an ontologically and existentially secret place. The unthinkable is a discontinuous— most often sudden—transformation, through which a diseased identity deserts its former reference points—which it no longer recognizes as its own—and fixates upon the undecipherable touchstones of an "other world.* Might there be a type of plasticity that, under the effects of a wound, *creates a certain form of being by effacing a previously existing identity*? Might there be, in the brain, a destructive plasticity—the dark double of the positive and constructive plasticity that moulds neuronal connections? Might such plasticity make form through the annihilation of form? (Malabou 2012a: xv, italics original).

'Change', dependent on plasticity, is crucial to Malabou's refractions within the SoTHuRP discourses, because she believes that "now that capitalism, political

liberalism, and techno-science have become the chief modes of thought" (Skafish 2011: xix), a new humanities and social sciences can only engage with these dominant modes if it crosses the borders of its own metaphysics, its own frontiers. Irrespective of the radicality of changes human beings are undergoing (cultural hybridisations, biotechnologies, and so on), they are lined into conformity with techno-capitalism regime and form of value; beings are now tradable equivalents (Skafish 2011: xix). The constitution of new assemblages via refractions is thus not only related to destructive plasticity's revelation of the ontologically new, as is the case in brain trauma. It is also linked to a new ontic approach to ontology: "What beings are, then, is defined neither by an ultimate genre nor a corresponding fundamental form but by the sheer fact that they will always transport each other out of their present genres into other forms" (Skafish 2011: xxi). Working against seemingly inevitable forms imposed upon us by capitalism, Malabou argues for opposing the "ontologico-capitalist form of transformation with a counterform", being-as-change (Skafish 2011: xix). Thus, "not only will the humanities have to stand down from their dominant, effectively ontological position" (Skafish 2011: xix), the ensuing dialogue has to be steered by new categories; new philosophies. A new philosophy of plasticity, for instance, is a real possibility. In Malabou's (2011: 2) terms, this philosophy will revisit Heidegger's triad of change, namely that of *wandel, wandlung and verwandlung* (change, transformation and metamorphosis). The overt purpose of such visitations is to construct a counter to the "ontologico-capitalist form of transformation"; the one so carefully described by Boltanksi & Ciapello (2005) (Malabou 2011: 2). In a world where the only remaining twinned grand narratives are a sterile human rights and constitutional democracy, on the one hand, and capitalism and its injustices, on the other, the political import of Malabou's analysis for justice should be obvious. Equally apparent are the implications of her work for the academy and the discourses of SoTHuRP. As Malabou's insights, as refractions, cut through the discourses of SoTHuRP and its occupied territories, a new intellectual and political economy is chartered. Maybe they can contribute to dislodging the material and cultural economies of knowledge within these discourses.

Malabou (2012b) further pursues the destructive, dark side of plasticity in the *Ontology of the accident: an essay on destructive plasticity*. She summons Foucault's (1981: 68) framing of 'discontinuity' to her aid: "We must accept the introduction of the *aléa* (chance) as a category in the production of events. There once more we feel the absence of a theory enabling us to think the relations between chance and thought". On this Foucauldian basis, destructive plasticity's generation of accidents becomes for Malabou the 'discontinuity' that should buttress the method that "necessitates recognising strangeness in all social

arrangements" (Kendall & Wickham 1999: 8). In the logical process leading to death, one can only become who one is, without disarming one's explosive plasticity beneath the surface. However, because of serious trauma, a "form born of the accident, born by accident [emerges:] an unrecognizable persona whose present comes from no past, whose future harbors nothing to come, an absolute existential improvisation" (Malabou 2012b: 1-2). This destructive lucidity of 'being-as-change' allows Malabou to rewrite, via refractions, the encyclopaedia on structure-agency as one of Sociology's major themes. 'Being-as-change' does not honour the structure-agency distinction; it is sublated. The 'new' born from brain trauma intimates that, even if SoTHuRP may suffer dementia in relation to its purpose and capacity for renewal, it is the fact of destructive plasticity that affirms the possibility of constructive plasticities, for knowledge renewals of and within the discourses of SoTHuRP via refractions.

The third exemplar of refraction is hosted by Douzinas's critique of human rights. *The meanings of rights* (Douzinas & Gearty 2014) is the most recent thread in Douzinas's longstanding social theoretical and philosophical weaving of human rights. He has, I argue, located his work between and within the occupied territories of the discourses of SoTHuRP to explode the heterogeneous and the radical.[12] Douzinas always had an interest in reconstituting the radical potential of human rights as a mirror to law; not law itself. The collapse of human rights into law, as evidenced in contemporary developments, imprisoned human rights in service of a regulatory law.[13] In the case study of Greece, he suggests another collapse, namely that of classical liberalism and social democracy into what has become known as neo-liberalism (Douzinas 2013: 25):

> It extends the market mechanism to the social state, privatizing public utilities and social amenities. It weakens economic and social rights and turns the law from arbiter of social conflict aspiring to neutrality into a detailed regulatory mechanism. Finally, the state remains strong. But this is no longer the protective state of social democracy (*état providence* is the apt French term) but a state of behavioural controls, extensive surveillance and emergency powers deemed necessary to uphold order and keep resistances in check.

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12   Key examples are *The end of human rights* (2000); *Critical jurisprudence* (2005); *Human rights and empire* (2007), and *Philosophy and resistance in the crisis* (2013).

13   See also Van Marle's (2004) critique of legal fetishism and the obsession with human rights-based legislation in South Africa in 'Meeting the world halfway - The limits of legal transformation', *Florida Journal of International Law*.

The surveillance state, via the biopower and governmentality of which Foucault (1994) speaks, connects with power to create a machine of total regulation, located primarily within the law.[14] Douzinas (2000: 380) argues that human rights have started "veering away from their initial revolutionary and dissident purposes, as their end becomes obscured in even more declarations, treaties and diplomatic lunches". The two collapses, that of human rights into law and that of classical liberalism and social democracy into neo-liberalism, gave rise to the two dominant movements of 'rights' and 'late capitalism', the emergence of human rights markets (Baxi 2002). As "human rights are the necessary and impossible claim of law to justice […], it has become the 'realised myth' of postmodern societies […], a myth realised only in the energies of those who suffer grave and petty violations in the hands of the powers that have proclaimed", ironically, the triumph of human rights (Dounizas 2000: 380). Despite these productive critiques of rights that are presented here as refractions within and between discourses, "political and legal philosophy have remained preoccupied, however, with the premodern themes of sovereignty and right focusing on the mechanisms that make power appear rational and legitimate while neglecting its operation as the 'conduct of others' conduct" (Douzinas 2013: 32). These refractions, which are now emerging in Philosophy and Social Theory's engagement with human rights, has always been part of Douzinas's intellectual and political projects since the publication of *The end of human rights* (2000).

In *The meanings of rights*, Douzinas & Gearty (2014: 1) bring together an "eclectic group of leading philosophers, lawyers and social theorists to examine the foundations, meaning and impact of human rights on the world, and the dynamic inherent in the phrase's use today". A striking analysis by Gearty (2014: 34) concludes that the "power of the idea of human rights is driven by a paradox: it both craves a basis in truth but at the same time it needs to fail to have one in order to maintain its hegemonic power as the progressive ideal of the post-political age". This paradox seems to affirm human rights commitment to justice, and law's assimilation of human rights affirms law's commitment to justice, or so law thinks. Refractions are protruding from the Douzinas & Gearty (2014) compilation; none more so than the directions provided for a form of thinking and doing that places rights within and outside of law, at one and the

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14   Foucault has set the basis for these kinds of analyses as far back as 1973 in 'Truth and juridical forms', published in Foucault (1994). "My aim will be to show how social practices may engender domains of knowledge that not only bring new subjects, new concepts, and new techniques to light, but also give rise to totally new forms of subjects and subjects of knowledge" (Foucault 1994: 2). "Among the social practices whose historical analysis enables one to locate the emergence of new forms of subjectivity, it seemed to me that the most important ones are juridical practices" (Foucault 1994: 4).

same time; the right to have rights, and the right not to have these types of rights. This, one can argue, will provide the means to unburden political actions from the deadening effects of rights-centred constitutionalism (Honig 2006: 170). It is on this score where Habermas's thesis of the co-originality of constitutionalism and democracy, on the one hand, and rights and sovereignty, on the other, attracts severe criticism, because existing constitutional norms and forms, as human rights insides, "might do unacknowledged violence to new forms of life, new textual bodies" (Honig 2006: 170). Human rights outsides, as the function of refractions, are required to embrace these new forms. The very possibility to think human rights outsides, let alone giving it practical political form, would have been impossible, so I argue, without Douzinas's refractive engagements with the discourses of SoTHuRP.

These three exemplars of refraction are all rooted at two levels: first, they are anchored by the crisis within the discourses of SoTHuRP; secondly, they are moored by the critiques of discourses of SoTHuRP. Within them dwell intellectual shifts that are keenly conscious of the mechanics of the discursive power it needed to untangle and resist to become the counter-discourses so crucial for knowledge developments and transformation. They provide a glimpse of what is possible.

3.   Conclusion

Let us for one moment imagine that Marcuse (1955 252-3) is right in that Hegel's system "brought philosophy to the threshold of its negation and thus constituted the sole link between the old and the new forms of critical theory, between philosophy and social theory", and between these knowledge formations and human rights, one might add. It may mean that the three cases of refractions discussed in this article retrieve the following question from the future: the possible mergers of disciplines such as Philosophy, Sociology, Anthropology and Political Sciences into the overarching architecture of Social Praxes. The engagement with this polemical question is constrained less by conceptual and pragmatic logics and more by the material and cultural economies that have wrapped themselves around the discourses and their occupied territories. The dilemma is furthered by developments such as the South African National Institute for the Humanities and Social Sciences (NIHSS),[15] that, after reviews and reflections over the past few

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15   The National Institute for the Humanities and Social Sciences (NIHSS) was established on 5 December 2013 as an independent statutory body in terms of Gazette No 37118 vol 582 and in accordance with section 69 read with sections 38A, 38B, and 38C of the Higher Education Act (Act No 101 of 1997). The scope or application of the NIHSS will be to advance and co-ordinate scholarship, research and

years, could only frame, via its catalytic projects, a new vision for the humanities rooted in what was excluded; a kind of filling-up-the-gaps logic. Refractions, within which the epistemological and methodological reconstitution of the humanities could take cogent form, are absent from what has been presented within the space of the NIHSS thus far. In this additive model, the economies of the discourses will remain intact and expand, reproducing the disciplines in their own existing images. Thus, the social structure of the academy will remain untouched, and higher education transformation will continue to be ghettoised within the limits of demographic representation. It appears that epistemological and knowledge transformations are not yet for your time, if the trajectory of the NIHSS is anything to go by.

Ours is the "age of rights" [, a] historical period in whose Zeitgeist human rights perform important social functions […]: this confronts sociologists with a dilemma. How to study rights, an object of inquiry whose growing social relevance is only matched by its unremitting elusiveness to sociology's conventional analytical lenses?" (Silva 2013: 458). As this age gives human rights "deontic powers deriving from status functions [that operate by] collective recognition or acceptance", as Searle (2009: 176) would argue, it stands to reason that contemporary understandings of the 'social', 'the commons', 'the public', and 'politics' are soaked within the dominant interpretive schemes of rights. Social pathologies have become human rights violations, already streamed into governmentality under the ruse of a democratic, social justice-oriented language.

Can counter-actualisations be regarded as consequences of refractions within the discourses of SoHuRP? Fuglsang & Sørensen (2006: 4) suggest that "the analysis of the social has in recent years lost a great deal of its enunciative force". Notwithstanding this trend, they find in Deleuze

> the existence of a viable alternative to the hegemonic history of philosophy, a virtual multiplicity of ideas, accessible by an imaginative, intuitive and counter-common sense reading of the history of thought. Just as philosophy must be counter-actualised to release its real forces, the social sciences are in need of an equivalent re-creation (Sørensen 2006: 7*).*

Turning our receivable categories on their heads, and against the backdrop of crisis and critique, Fuglsang & Sørensen (2006) suggest that the counter-actualisation of philosophy, human rights and the social sciences may be the

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ethical practice in the fields of Humanities and the Social Sciences (HSS) within and through the existing public universities and those to be established or declared in future as public Universities. <http://www.hssi.org.za/>

real philosophy, the real human rights, and the real social sciences. In Deleuze & Guattari's *A thousand plateaus* (1980), the 'thousand plateaux' the authors envision are "the innumerable possible interactions between writers, painters, musicians, philosophers, linguists and sociologists [and human rights practitioners and social theorists I would adjoin] that would bring support and greater self-confidence to creators" (Kirkup 1995). This is where we find the border life of object, subject and social practices as multiplicities: "Multiplicities are not defined by its center, but by the limits and borders where enters into relations with other multiplicities and changes nature, transforms itself, follows a line of flight" (Smith 1998: xxx). The explosions of the heterogeneous at the borders are part of the refractions demanded by the plasticity of the humanities itself. I suggest that orienting our conceptual frames in this direction will open up vast possibilities for refractions to convert into socially just practices.

The arguments of this article are speculative; that is, open in its formulations and unguarded toward critical engagement. It tries to bring the polemics and disputations of knowledge transformation into view, while at the same time demonstrating the possibilities of such disputations via refractions. It further aimed to unhide the powerful intellectual, material, cultural and political economies that constitute and are constituted by the discourses of knowledge in attempting to show how the social structure of academy will, for most part, jettison knowledge transformations to allow the reproduction of these economies to serve purposes steered by self-interests. But, at the same time, as the examples of refraction illustrate, the prospects of these transformations are always already with us. This suggests the availability of options for self-transforming discourses on Philosophy and Social Theory transforming itself in the process of renewing human rights discourses. From here, as one future case in point, the possibility of anti-disciplinarian rights, emancipated from the sovereign and its juridical premises as envisioned by Foucault (1976: 40), are part of the anticipated development of new social praxes via refractions; the counter-actualisation of human rights as the real rights. Other possibilities are limitless.

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