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Forced Migration Studies Programme

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**Title: Zimbabweans in Moletši: A Rural Alternative**

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A Thesis submitted to the Faculty of Humanities, University of the Witwatersrand, Johannesburg, in fulfillment of the requirements for the degree of Master of Arts by Coursework and Dissertation. Academic Year 2010

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# DEDICATION

# I dedicate this thesis to the following:

Matumelo Tintswalo Wilkin-my loving wife who has supported me throughout this entire process. Your loving support has enabled me to complete this research.

Rorišang Lulwa Lehologonolo Wilkin-my daughter for whom I hope to set a positive example.

# DECLARATION

I declare that this dissertation is my own unaided work. It is submitted for the degree of Masters of Arts in Forced Migration Studies, Faculty of Humanities and Social Sciences, University of the Witwatersrand, Johannesburg. It has not been submitted for any other degree or examination in any other university.

Richard Lee Wilkin, III

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# ABSTRACT

The thesis investigates the reasons for the decision made by many Zimbabweans to self-settle in remote villages in Limpopo. It shows that while significant literature exists on Zimbabweans in border and urban areas, there are several inter-related factors that are drawing Zimbabweans to rural areas. Thus, this study challenges many common assumptions about cross-border migration while supporting the idea that migrants settle in areas where economic stability can be achieved. This study also shows that the existence of parallel government structures and policy frameworks plays a major role in the ability of Zimbabweans to settle in these areas.

This is a case study of Zimbabweans settling in a rural area where there are no pre-existing ethnic or kinship ties. Utilizing empirical qualitative data, this study outlines how Zimbabweans have achieved a degree of stability in one area of Limpopo through a series of rights procurements and access to parallel government structures. This has legitimized their presence within the village while their presence in South Africa outside of this village is precarious at best. The legitimacy created by accessing these parallel structures has created de facto denizenship within the village as Zimbabweans have access to services that are not accessible to them outside of the village. This denizenship, and the security it bestows, is an instrumental factor in the decision making process that had led many Zimbabweans to self-settle in rural areas.

Key Terms: Pluralism, migrant, denizenship

# INTRODUCTION AND THEORETICAL DISCUSSION

According to the World Bank, more than 215 million people, or slightly more than 3% of the world’s population, live outside the nation of their birth (World Bank 2010). This statistic falls on the lower end of the spectrum in terms of estimates because it does not include several categories of migrants including undocumented workers, those seeking asylum, and refugees (Page J. and S. Plaza 2006: 3)**.** Yet this represents a statistical increase from 2000 when the estimate was 2.9% of the world’s population or 175 million migrants (Deutsche Bank Research 2003: 18). To place this in perspective, the current number of migrants is roughly the same as the combined populations of Portugal, France, Germany, and the United Kingdom (World Bank 2010). In general, migrants are individuals, who have make a rational and well thought out decisions to move based upon the assumption that such a move will improve their standard of living (Deutsche Bank Research 2003: 16). Often this decision is triggered by a decision to flee from misery such as war, famine, or a natural disaster (Deutsche Bank Research 2003: 17). The situation with Zimbabweans in South Africa is no different. The continuation of the economic, political, and health crisis within Zimbabwe, despite recent efforts at reconciliation, has led to a steady increase in the number of people fleeing the country since the crisis began over a decade ago. Despite the fact that the crisis in Zimbabwe began over a decade ago, the Zimbabwe-South Africa migration corridor is tied for 25th globally in terms of the numbers of people migrating if the former Soviet Union is excluded (World Bank 2010: 6). Zimbabweans are crossing the Limpopo River and entering South Africa, in hopes of procuring jobs, access to services no longer available in Zimbabwe, an improvement in living conditions, health care, and political asylum. The South African state has put in place several restrictions, including deportation and increased border policing; in a half-hearted attempt to curb the number of migrants from Zimbabwe, yet these measures remain largely ineffective. This thesis contributes to the discussion on immigration to South Africa, particularly from Zimbabwe through the use of a case study on Zimbabwean migration to one rural area of Limpopo Province. While significant research on Zimbabwean migration to South Africa has focused on xenophobia **(**Misago et al 2008) and urban migration, particularly in Johannesburg and Gauteng Province (Johannesburg City Survey Project 2006), relatively little research has centered on rural migration. Significantly less literature exists on Zimbabwean migrants who self-settle in rural areas of South Africa and what precipitates such a choice within the South African context. Furthermore, this type of choice is rarely documented in migration and refugee studies generally. This choice questions commonly accepted explanations for migrant and refugee settlement choices, including ethnic affinity (in cases of rural settlement) or seeking economic opportunities (in cases of urban settlement).

The hypothesis of this study revolved around the reasons for this rural settlement choice and the extent to which this choice involves the presence of parallel governance structures and policy frameworks in these rural areas, which protect (largely undocumented) Zimbabwean migrants from the restrictive policies of the South African state. These parallel structures enable Zimbabweans to access services which they would not be able to access in urban areas with stronger ‘mainstream’ government presence and have created de facto denizenship for Zimbabweans living within the confines of these rural areas. I argue that in fact Zimbabweans in Moletši are in fact accessing these services with the blessing of the local Tribal Authority, which is itself a branch of the South African government. The initial research question sought to explore the role the presence of parallel structures played in creating denizenship in Moletši. This study tested this hypothesis by asking: To what extent does the presence of parallel structures and policy frameworks in rural South Africa affect the way in which Zimbabwean migrants access services and to what extent is this different from how South Africans in the same geographic space access the same services?

This research started based on the premise that the key issue attracting Zimbabwean migrants to settle in Moletši was service access. It was also believed that service access in three key areas was available because of the presence of legal pluralism and that Zimbabweans made choices about where to settle based upon their access to these services. During the course of the research, this hypothesis did not measure up for several reasons. First, though there is legal pluralism in the area of judiciary, this does not exist in the case of health care and education. In the latter two areas, the empirical research shows that Zimbabweans are accessing the same services and delivery points as South Africans living in the same geographic space. Instead, the key issue affecting the decision on where Zimbabweans choose to settle is security. Further empirical research showed that the security stemmed as a direct result of policies and practices emanating from the Tribal Authority that sanction the presence of Zimbabwean migrants in Moletši. These policy dictums are accepted by the various service providers and serve to prevent the service providers from placing barriers denying Zimbabweans access to service. Zimbabwean migrants and South African citizens alike feel as though they have recourse and mechanisms to address issues of security. This frames how both groups discuss issues such as justice, health, and education. Rather than discuss whether or not service is available, discussions tended to revolve around the quality of the service provided. This is very different than many urban areas where discussions revolve around whether or not migrants can actually procure service rather than around the quality of the service.

The sense of security was cited by all Zimbabwean migrants who participated in this study. Through empirical research in Moletši, I found that the majority of Zimbabweans who have settled in this area feel safe, have procured a degree of de jure protection, are gainfully employed, and have access to most services available to South African residents of the village. In short, Zimbabweans have acquired enough entitlements to procure denizenship status for themselves. Further empirical research shows that the presence of Zimbabweans within this community is widely known and accepted by South Africans living within the same community. South African residents of Moletši do not see Zimbabweans as citizens of the village but do feel as though they should have rights. This is a situation that equates to denizenship as defined by Hammar (1994).

The remainder of this thesis looks at how Zimbabweans themselves have helped to facilitate the process of creating their own denizenship. I examine how Zimbabweans have created an entitlement bundle that allows them access to services within the village as de facto residents. Amartya Sen’s work on entitlements is critical to this discussion. In his work Sen discusses entitlements bundles and how one’s entitlement bundle enables him/her to survive a famine (Sen 1981). Though it might be argued that hunger and lack of food is one of the causes driving some Zimbabweans south of the Limpopo, Zimbabwe is not widely viewed as a nation suffering from famine. However, Sen’s points about entitlement and entitlement bundles are highly relevant. Thus, this thesis further draws on Sen’s work around entitlements (Sen 1981) and social exclusion (Sen 2000) and uses this work to explain how Zimbabwean migrants derive legitimacy for accessing services, especially when the South African government proffers none. I argue that Zimbabweans, after making a decision on where to settle, piece together a large enough entitlement package to enable them, as outsiders, to gain access to available services in a specific geographic space. I argue that the major reason this occurs is because Zimbabwean migrants have pieced together an entitlement package that allows them access to national government services offered at the local level: justice (albeit from the Tribal Authority), education, and health care. The fact that these services are offered from local providers in spite of the national government's directives and policies (which generally discourage non-South Africans from accessing some of these services) illustrates the dis-connect between what is intended by government policy and the actual implementation of these policies on the ground.

No coherent policy exists within South Africa on how to deal with Zimbabwean migrants entering the country. Zimbabweans have been harassed by vigilante farmers on the border, arrested by police, and deported back to Zimbabwe without a hearing. Since many of those Zimbabweans deported were not actively seeking asylum, the South African response is not in violation of the South African government’s own Refugee Act of 1998, which upholds the principal of non-refoulement for those seeking political asylum. Many Zimbabweans are now arriving in South Africa and applying for asylum, in accordance with the Refugee Act, effectively giving them legal residence within South Africa, albeit temporarily. Thus, the refoulement of Zimbabweans without a hearing is in direct violation of the government's Refugee Act. The fact that the South African government allows for the deportation of economic migrants and the temporary settlement of legal asylum seekers is not inherently problematic and is in line with global norms. However, the existence of different policies for different kinds of migrants has created confusion amongst those enforcing and implementing these policies on the ground. This confusion stems from the government’s desire to placate different groups with competing interests.

Zimbabwean migrants face continuous harassment and a lack of protection. Previously, one of the ways of procuring protection was to claim asylum. However, the backlog of asylum cases within the system at the Department of Home Affairs (DHA) means that a copious amount of time can pass between applying for political asylum and actually being granted a hearing to determine one's status. Compounding the problems faced by migrants to South Africa, the DHA has begun to focus on trying to make life as difficult for migrants as possible and thus force them to return home (Vigneswaran 2006: 6). The results of this are two-fold. First, the interim period between applying for asylum and the possible granting of asylum is a time of limbo for asylum-seekers in South Africa. Many employers will not recognize the asylum-seeker document as legal, thus making it difficult for Zimbabwean asylum-seekers to procure work in the formal sector. Furthermore, some South African law-enforcement officials seem to be oblivious to what these documents mean and harassment of Zimbabweans, awaiting an asylum hearing, by the South African Police Service, has become common. Zimbabwean asylum seekers also have difficulty procuring financial services, which leaves them unable to easily maintain employment in the formal sector of the South African economy (Landau 2004). Secondly, law enforcement organizations, seeing the futility of trying to allow each applicant a hearing, have simply begun to deport Zimbabweans carte blanche, without allowing a proper hearing to take place. Though most Zimbabweans migrating to South Africa are not claiming political asylum, the legal options available to Zimbabweans seeking to flee the chaos of their homeland are thereby limited because of a lack of documentation. One effect of this limitation is that Zimbabweans seek refuge in areas where parallel structures exist that offer a degree of protection and deem the asylum system irrelevant. Since these migrants are no longer seeking areas where opportunities for skilled labor exist, a shifting of settlement destination has occurred. In this case, settlement in rural area in Limpopo Province is preferable to the precarious existence migrants face in South Africa’s larger cities.

Who are the migrants settling in rural Limpopo? Are these migrants that reflect an ongoing pattern of urban-urban migration that drew millions to mining areas in search of work or are these migrants reflecting a pattern of migration that is largely rural and moving to another rural area? Significant volumes of literature have also been published on Zimbabwean migration to areas around the globe (Sinclair 1979, Bloch 2005). This research focuses largely on skilled workers leaving Zimbabwe and settling in urban areas. Other research focuses on unskilled workers settling near commercial farms (Addison 2010). Historically, the catastrophic effects of brain drain in Zimbabwe have been well-documented (See Sinclair 1979, Nhundu 1992). It is clear that this pattern has continued over the past decade. Skilled Zimbabweans have fled en masse from Zimbabwe ever since the current economic and political upheaval began in 1998 (Hill 2004, Bloch 2005). Since 2000, 16% of the physicians trained in Zimbabwe have left the country (World Bank 2010: 11). However, this exodus now includes not only Zimbabwe’s educated, and largely urban, elite, but also its lower and middle classes, many of who are from more rural areas (Human Rights Watch 2006, Kirk 2004: 15).

My own empirical research confirms this trend. Conducted in Moletši, a rural area, approximately 40km from Polokwane, I found that an overwhelming majority of the Zimbabwean migrants who have self-settled in Moletši are indeed from rural areas of Zimbabwe and have a level of education that would preclude them from most highly skilled employment opportunities. Eighty percent of the Zimbabweans interviewed were from rural areas of Zimbabwe while only 20% were from urban or peri-urban areas. In addition, the highest level of education completed by the Zimbabweans I interviewed was 11th grade. Thus, a new pattern seems to be emerging amongst Zimbabweans migrating to South Africa: many Zimbabweans migrants are choosing to settle in rural areas, especially in Limpopo Province, vis-à-vis urban areas. These areas are not located near large commercial farms and there are few opportunities for gainful employment in the formal sector.

Despite this, Zimbabweans are finding employment and making a living in Moletši. Sixty percent of the Zimbabweans interviewed were remitting money on a regular basis. There has been relatively little research conducted on migration to rural areas of South Africa. This is because of assumptions that have been made about economic opportunities that are much more prevalent in urban areas and the assumption that only those who could not compete in these urban areas would be motivated to move to a rural area. Yet Zimbabweans are finding gainful employment in rural areas as 80% of those interviewed had procured some type of meaningful employment, and were working on a regular basis.

Seemingly similar patterns of migration exist across Africa where it is common for cross-border communities to heavily interact (Zlotnik 2006:15). Typically, this migration generally takes place where kindred groups exist on either side of a political border and share a common ethnic or cultural identity (Adepoju 2006:26). This migration blueprint has been somewhat followed in other rural migration patterns to South Africa, especially that of Mozambicans. The fact that many self-settled refugees from foreign countries are living in Limpopo and Mpumalanga Provinces in former apartheid era homeland areas provides further evidence of this pattern (Rodgers 2002:15). This new migration pattern for Zimbabweans entering Limpopo is emerging for several reasons. In pre-1994 South Africa, a legislative assembly comprised of village chiefs administered much of rural South Africa, including the rural African homelands (Rodgers 2002: 115). There is a history of these chiefs encouraging immigration to their realms as an act of protest against the national government, and, it can be argued, as a means of asserting their own autonomy. It is generally accepted that in order for a state to have sovereignty, it must be able to control its periphery (Herbst 2000: 14). Resistance to state sanctioned immigration policies, on the part of either sending or the receiving communities, challenges the state’s hegemony over what is internationally recognized as its demarcated space (Oliver-Smith 1996: 78). The acceptance of refugees into rural Limpopo could be construed as an act of protest, which challenged the sovereignty of the South African state. Thus, there is a historical precedent of acceptance by traditional authorities of refugee and “migrant” populations despite the opposition of the national government (Rodgers 2002: 14).

Despite the history of acceptance of migrants within rural South Africa, the migration of Zimbabweans to South Africa's rural areas is peculiar in that not all Zimbabweans and South Africans can be constituted as a cross-border community. Aside from Ndebele migrants moving to the small enclaves of the former kwaNdebele homeland, it could be argued that very little kinship or interaction between communities existed and certainly not before 1994, when the end of apartheid ushered in a new openness within South Africa. This model of cross-border migration does not apply for Zimbabweans settling in Moletši. Moletši is an area dominated by BaPedi who have virtually no cultural affiliation with the two ethnic groups containing the vast majority of Zimbabwean migrants: Ndebele and Shona. Though there are closer ties between Ndebele and BaPedi in areas of where the apartheid era homelands intersect, this does not explain the increasing number of Zimbabweans who have settled in and around Moletši. We know from the literature that historically migration and integration occur within rural Africa (Black and Mohamed 1998). This integration takes place when one group of people decides that they wish to become part of another group and are taken in by the latter (Khama 1951:451-452). The current state of Zimbabwean refugees in Limpopo bears some similarity to the state of Namibian Hereros in Botswana who fled into Botswana seeking and finding protection from members of a different ethnic group and less similarity to the situation of Angolan refugees in Zambia or Mozambican migrants in Eastern Limpopo who migrated to an area inhabited by groups of kindred cousins since Zimbabwean migrants to Limpopo have little, if any, cultural connection to the BaPedi amongst whom they are settling.Assumptions are often made that migrants move because of factors pulling them to a specific area: better employment opportunities and availability of improved service delivery are two examples. Furthermore, it is assumed that these only exist in urban areas. Thus the self-settling of Zimbabwean economic migrants into rural areas of Limpopo where no cross-border community previously existed warrants further scrutiny, study, and analysis.

Since the crux of this thesis focuses on the situation of Zimbabwean economic migrants in rural areas of South Africa to focus on the presence of parallel structures and policy frameworks existing in rural South Africa which allow them access to service delivery usually reserved for South African citizens, it is necessary to examine the historical reason for the existence of these parallel structures. During apartheid, urban and peri-urban areas in South Africa were the domain of the centralized government and were controlled from Pretoria. The South African government encouraged the existence of parallel structures in rural areas as part of the government policy of separate development. It was during this time that local tribal authorities and their structures of power were formally codified within South African apartheid law under the Bantu Authorities Act of 1951. After 1994, the current government kept these structures intact despite the ANC’s belief that these systems were puppets of the apartheid regime (Mbeki 1984: 40). Thus, at present, there are areas of society in which government services can be accessed through two service providers: the local tribal authority or the South African government service point located within the same geographic space.

The rationale behind this study is to fit into other, larger studies conducted on migrants in rural areas, especially within South Africa. Some scholars, are beginning to research Zimbabweans in Limpopo in greater detail. (An entire issue of the *Journal of Southern African Studies* was recently devoted to Zimbabwean Displacement. Lincoln Addison has also carried out research on numerous farms in Venda that employ Zimbabwean migrants and Francis Musoni is currently researching the history of illegal immigration from Zimbabwe to South Africa.) Several scholars have also conducted extensive research on self-settled Mozambican communities in rural areas of Limpopo, which at first glance seems to be a similar situation to that of Zimbabwean migrants currently settling in Limpopo. Mozambican migrants to rural Limpopo in the 1980s and 1990s have experiences that resonate when examining the current situation amongst Zimbabwean migrants also settling in rural Limpopo. Mozambican refugees fleeing the civil war in Mozambique were encouraged by traditional authorities to self-settle in the apartheid homeland of Gazankulu, while they were considered illegal residents by the national government (Rodgers 2002: 15) (For more on these communities see Polzer 2007, Rodgers 2002, Ritchken 1995). Similarly, the South African government considers Zimbabwean migrants to be illegal aliens, yet many traditional authorities are allowing the self-settlement of these Zimbabweans within their realms.

Yet Zimbabweans settling in rural South African villages is fundamentally different than Mozambican migration to Eastern Limpopo. Zimbabweans are not settling in a cross-border community amongst people of the same ethnic and linguistic group as Mozambicans did. They are not settling in an economic hub or urban area, nor are the Zimbabweans in this study settling near commercial farms, where they would likely find employment as have numerous other groups, and indeed other Zimbabweans (Addison 2010), who have migrated into South Africa. Instead, Zimbabweans are settling in an area where the South African government's authority is present at a lower level than in urban and peri-urban areas. What is the reason for this decision? Clearly, Zimbabweans in Moletši are not following a recognized pattern of migration. Therefore, this pattern of migration and settlement begs an explanation. This thesis argues that the main reason for this choice is the existence of parallel structures that enable service access.

# RESEARCH DESIGN AND METHODOLOGY

Seeing then that truth consisteth in the right ordering of names in our affirmations, a man that seeketh precise truth had need to remember what every name he uses stands for, and to place it accordingly, or else he will find himself entangled in words, as a bird in lime twigs—the more he struggles the more belimed. And therefore in geometry, which is the only science that it hath pleased God hitherto to bestow on mankind, men begin at settling the significations of their words; which settling of significations they call ‘definitions,’ and place them in the beginning of their reckoning. (Thomas Hobbes)

Research on migrants, refugees, and displaced persons must constantly bear in mind the inherent dual imperative in such research that requires the researcher to be both scientifically sound and conduct research that is policy oriented (Jacobsen and Landau 2003: 202). Any social research involves the process of engaging in a critical dialogue between ideas and evidence (Ragin 1994: 55). This thesis is no different and seeks such a dialogue, while trying to maintain a balance between the dual imperatives. Having lived in Moletši from 2002-2004 and still maintaining close contacts there, I witnessed the onset of the influx of Zimbabweans in the area and have sought to examine the extent to which the access to and provision of service delivery influences Zimbabwean migrants’ decisions on where to settle necessitated the use of qualitative methods. Since the desideratum of this thesis was to undertake qualitative research that would examine the root causes of Zimbabweans choosing to settle in Moletši and critically examine both these causes and the impact that these individual decisions have had on the village, a naturalist approach to my research was adopted as the baseline position. Because a naturalist approach attempts to understand “phenomena in a context-specific setting” (Golafshani 2003: 600), I felt that this would be the most appropriate approach to follow. Since the nature of qualitative research involves findings that are not arrived at using quantitative statistical methods and instead rely on naturally unfolding events, it was difficult to completely exclude other approaches in this thesis. Thus, there are undoubtedly elements of other approaches ensconced within this work which I will discuss further in the section entitled “Reflections on the Researcher”.

Since social research seeks to highlight things that have happened, explain how these things happen, and draw conclusions about why it has happened, the use of qualitative research methods was deemed the most appropriate research method to use for this study. The term qualitative research methods is an all-encompassing term that refers to research that uses several techniques (Silverman 1993). Since qualitative research methods are generally more effective in gathering data requiring the researcher to gain an ‘experience’ (Patton 1990: 9), the use of this form of research was necessary. In this context, qualitative research offered the best opportunity to examine complex social relationships and to social processes that define social relationships, which is an inherent component of social research (Vidich and Lyman 1994: 23). In order to maximize the efficiency of this research, which in effect is a case study, data was gathered using systematic collection of materials, organization of these materials, and interpretation of this material in the context of interviews or by observation. This is in line with methods and standards of solid qualitative research (Palmary 2005, Palmary 2007). Although a quantitative approach with a statistical analysis was considered at one point, this method was deemed too cumbersome due to limitations of time and the lack of surety in locating the requisite number of Zimbabwean migrants, living within the boundaries of the village, necessary to complete a reliable quantitative study. Instead qualitative research methodology was selected due to the ability of the researcher to access information relating to the cultural and social contexts of the experiences lived by the population studied. Understanding this context is crucial to understanding these experiences and making meaning from them (Guba and Lincoln 1998).

Qualitative interviews were chosen as the primary method of research. These interviews were formatted using narrative techniques that followed a clear sequential order and were categorized into four distinct groups (discussed in more detail below). By using in-depth, open-ended interviews as the primary source of data collection, I was better able to gauge opinions, feelings, and knowledge (Patton 1990: 10) about each individual and his/her experience with service delivery within Moletši. I chose to conduct individual interviews with members of each group, as well as key service providers, for several reasons. First, the alternative, focus groups, would have been logistically difficult to arrange. Many South Africans as well as Zimbabweans are employed in and around Moletši thus making it difficult to coordinate and facilitate potential groups. By choosing to meet each individual interviewed, I, as the researcher, made it incumbent upon myself to be as flexible as possible with the interviewee, rather than request the interviewee to do so. Also, by allowing each individual interviewed to narrate his or her own story, within the structure of an open-ended interview, I allowed each interviewee to connect events and explain these events themselves. Though this method is not a pure naturalist approach since it incorporates many components of constructionist approaches, I felt that this was in line with what Terreblanche describes as allowing interviewees to construct meaning to their own experiences and social occurrences by understanding the meanings and practices and then allowing the participants to construct their reality (Terreblanche and Durrheim, K. 1999: 151). In addition, there was some concern that participants in a focus group would not speak freely. Regardless of the demographics of each potential focus group, there exists a real possibility that some do not share the views of others within a focus group and there would have been myriad opportunity for intimidation. Thus it was decided to conduct individual interviews for all participants in this study.

To explore the concepts of legal pluralism within the Moletši community necessitated discussing at length the viewpoints of Zimbabweans and South African residents alike in terms of their attitudes and perceptions relating to service delivery within the Moletši community. Along this vein of thinking, there were three categories of service delivery that needed to be explored. The first category of questions centered around the theme of justice and access to any form of legal system within the village. This series of questions sought out differences in how the justice system was accessed by both South African citizens and Zimbabwean migrants residing in the village. The second series of questions delved into access to health care. This line of questioning focused on both perceptions of access to health care and also the quality of health care available. The third series of questions focused on access to the education system present within the village. This series of questions again dealt with access to and availability of educational services within greater Moletši for both Zimbabwean migrants and South African citizens. There was one additional category, basic demographics, which also had to be interrogated to enable comparisons between South Africans and Zimbabweans but also to interrogate differences in time of stay, migration patterns, gender, age, and level of education.

* 1. **Participants in the Study**

There were three distinct target groups for this research. The first group was comprised of South African citizens residing in Moletši. Participants were specifically selected to account for a wider demographic array in terms of gender, socio-economic status, and current employment status. These selections were made based on my knowledge of the village having lived in the village from 2002-2004 and still maintaining close contacts with numerous people living there. There were six South Africans interviewed. These South Africans ranged in age from 32-65. Four of the participants were women while two were men. Three had some sort of tertiary education and were working as professionals or had retired while three had completed no education further than grade 12. All six were born and raised in Moletši. Three of the participants are married while three are single. Three have lived in areas outside of Moletši for a period in their lives, while three have never lived anywhere other than the village.

The second target group was comprised of Zimbabwean migrants living within Moletši. Five people were interviewed in this group. Four of the participants were men and one was a married woman (Respondent 5) living in Moletši with her husband and newborn baby. All of the individuals were gainfully employed or had been employed within the past three months. The duration of time spent in Moletši ranged from 7 months to 2.5 years. Four out of the five participants had lived in other locations within South Africa before settling in Moletši. Only one of the five Zimbabwean migrants moved directly from Zimbabwe to Moletši (Respondent 5). Types of employment varied but included working at a factory manufacturing bricks, construction and/or building, self-employed contractor, and working in the “catering industry” (Respondent 5). There was a cross-section of ethnicities represented with two Zimbabweans who are ethnically Ndebele while three others are Shona. Amongst the Zimbabwean participants, the youngest participant was 19 years old while the oldest was 31 years old with the average age being 24.2 years old. While two participants felt uncomfortable disclosing their average monthly income, three other participants, unsolicited, volunteered this information during the course of our conversation. Salaries ranged from R800-R1300 per month. In two cases, accommodation was included in addition to the salary received.

The last group interviewed including those deemed responsible for the provision of alternative or primary service delivery within the village. Three people were included in this group. Originally, Kgoši Kgabo Moloto was interviewed to request his permission to conduct research within the village and also to interview various Indunas serving the Tribal Authority. This meeting to request permission turned into the lengthiest interview conducted during the course of this research. The reason for interviewing Kgoši was to gauge the level of acceptance Zimbabweans have within the greater Moletši area as well as to ascertain to what extent Zimbabweans accessed justice through the Tribal Authority and Tribal Courts. The head nurse at the only clinic in the village was also interviewed. This was done to gauge the types of service offered at the local clinic and to inquire about any differences in treatment or care between Zimbabweans and South Africans. During the course of trying to gain access to the local clinic, I had to request permission to conduct research from the Department of Health’s Capricorn District office. While there, I was able to interview the District Manager. The last person interviewed who serves as a head of a department potentially helping to provide service to Zimbabweans within Moletši was the principal of one of the schools in the village. I had worked in this school during my tenure in the village. Thus, what I had planned as a one-on-one interview turned into a focus group and a lengthy discussion involving the chairperson of the School Governing Body (SGB), the school secretary, two teachers, as well as the principal. In total, I conducted 14 interviews in addition to the focus group.

* + 1. **Path to Moletši**

All of the South Africans interviewed for this study were either born in Moletši or moved to Moletši at a very young age. The Zimbabweans participants in this study followed a slightly different path. Only one Zimbabwean, Respondent 5, had come to Moletši as a result of following a known individual. This was the wife of a man who had already settled in Moletši after having lived in numerous other places around South Africa including Pretoria, Johannesburg, and Pogietersrus (Mokopane). One respondent had lived in Polokwane for only one month before settling in Moletši, where he has lived for over two years. Another interviewee (Respondent 2) showed a migration pattern that inched geographically closer to Moletši with each subsequent move. He had previously resided in rural areas of Limpopo as well as around Pretoria. He had already resided in Moletši longer than all of his previous places of residence (in South Africa) combined. The final Zimbabwean respondent (Respondent 3) heard about a job in Moletši making bricks while working in brickyard in a village approximately 30km north of Polokwane. Thus Zimbabweans arrive in Moletši looking for work after hearing of jobs from fellow Zimbabweans working in similar industries in various regions of the country. Some come from Gauteng while others come to Moletši from areas in and around Polokwane.

* 1. **Site Selection**

This research was conducted in the village of Moletši in and around the area of Moshate. Moletši is ruled over by the village chief, Kgoši Kgabo Molto III. Moletši is located approximately 35 kilometers from Polokwane, the provincial capital of Limpopo Province. The village is tucked around several geological mountain-like rock extrusions. Between Polokwane and Moletši is Seshego, the largest township in the province. Though there are members of other South African ethnic groups smattered in the population of Moletši, an overwhelming majority of the population are BaPedi. Sepedi (Northern Sotho) is the predominant language within Moletši. Unemployment is extremely high in the village, despite the relative geographic proximity to Polokwane. There are significant numbers of individuals who live and work in and around Gauteng and Northwest Province. Employment within the village is divided into two sectors: formal and informal. Most individuals who work in the formal sector are teachers, police officers, and nurses, though because of the geographic proximity to Polokwane some individuals have been able to procure employment in the formal sector working in retail stores or as administrative support staff in offices. Those employed within Moletši in the informal sector include taxi drivers, informal (spaza) shop owners, brickmakers, and builders. Despite this, most of the citizens of Moletši rely on some sort of government social grant. Transport in and out of the village is accessed mainly by taxi.

Some infrastructure does exist. Previously, a tar road ran from Seshego past Moletši and to further outlying villages. This road touched the periphery of Moletši. A branch of this road turned into the village itself and bisected the village for approximately 6 kilometers. This road has now been extended, and connects with another main road to Dendron. There is a local library in the village that was completed in 2005. W.F. Knoebel Hospital is located west of the village approximately 15 km while the Moletši Clinic is located approximately 2km from the Tribal Authority compound. The education system consists of three secondary schools, two middle schools, and two primary schools. In addition, there is a fledgling private school located on the periphery of the village.

Moletši was selected primarily because of my firsthand knowledge of the village. Having served as a Volunteer Education Resource Trainer in the village from 2002-2004, I am very familiar with the layout of the village, influential people, politics, as well as shifting demographic trends. Though I had not lived in the village full-time for over six years, I had kept in touch and have spent parts of my holiday each year staying with the family with whom I lived during my time as a full-time resident. In addition, I have helped with several key projects at one of the middle-schools and have maintained contact with many of my former work colleagues. Members of the Royal Family know me and I am in semi-regular contact with mother of the chief, visiting her during most of my visits to Moletši. Finally, and perhaps most importantly, I am conversational in Sepedi, which allowed me much greater access to individuals within the community and helped facilitate the ease of communication during the course of conducting this research.

**2.3 Data Collection and Sampling Method**

I had no set number of interviews I wanted to conduct and instead used common sense approaches advised by Stephan (1950: 373) to interview a sample that would represent a cross-section of the population studied. The participants in this study were identified and chosen using two methods. I started with convenience sampling with the main thrust of this sampling being to interview key informants in service provision within the village in the hope that they could identify Zimbabwean migrants for me to interview. In addition, there were high school children, who attended the schools I taught from 2002-2004, who knew the location of numerous members of Moletši’s Zimbabwean population and were invaluable in helping me gain access to Zimbabweans. These children knew where Zimbabweans were living primarily through family connections. The second method used was purposive snowball sampling. After identifying several Zimbabweans through convenience sampling, the remaining interviews were conducted using snowball sampling of individuals known to the Zimbabwean previously interviewed. The selection of purposive sampling was chosen because this technique has the inherent advantage of helping the researcher quickly identify the requisite number of participants necessary to conduct the study. I purposefully started with the service providers in an effort to diversify the population of Zimbabwean participants in relation to their social networks, employment, and geographic location within the village. This allowed me to get a better representative sample across the Zimbabwean population within Moletši and enabled me to make look for comparisons both within the Zimbabwean population and between the Zimbabwean and South African populations within the village (Landau and Jacobsen 2005: 46). Because of possible differences and a desire to compare across groups living within Moletši, South Africans were also selected with this principle in mind. I interviewed South Africans across an array of demographics including gender, age, marital status, and occupation.

The actual data collection was done through face-to-face semi-structured interviews conducted in Moletši between July and August 2010. Interviewees were placed within three categories: Zimbabwean migrants residing in Moletši, South African resident of Moletši, and key informant based on position within service provider in Moletši. At one point a larger survey was considered, however it was determined that by conducting an interview with in depth open-ended questions, respondents were more free to express themselves without the imposition of my point of view which would have been the case had quantitative surveys been used (Strauss and Corbin 1990). Additionally, semi-structured interviews have numerous inherent advantages personal interaction, effective for obtaining depth in data, obtaining data quickly and being able to probe for answers that will elucidate responses would not otherwise be discussed during a more structured interview (de Vos et al 2005: 298; Patton 2002: 344). These open ended questions yielded in-depth responses that enabled respondents to discuss their feelings, opinions, and views about reasons for the increased migration of Zimbabweans to Moletši.

The data was all collected by me using English and Sepedi as a medium of communication. No interpreter was used during the course of the interviews. I found that my knowledge of the village when coupled with my linguistic ability enabled me to access the village and improved the level of comfort of the respondents, including somewhat surprisingly, the Zimbabweans interviewed. However, because of the very nature of qualitative research, the researcher involves himself in the research process. This study is no different and in the next section I attempt to reflect on my involvement in this study and determine the effects my presence had on it.

**2.4 Reflections on the Researcher**

Rodgers describes ‘hanging out’ with migrants as an indispensible tool in social research if the researcher is to reveal something about the lived experience of forced migrants Rodgers further argues that research in migration cannot be conducted as though the locations where migrants are living are science laboratories (Rodgers 2004: 49). Thus, a researcher has an effect on the data collected in any research setting requiring the researcher to have significant interaction with respondents (Breakwell et al 2000: 247; Burgess 1984: 194). On the positive side, qualitative research that is systematically carried out can help identify pre-conceived notions and ideas and help assuage many of the concerns that these might unduly influence his research findings (Brink 1996: 20). While my background and position undoubtedly affected this study’s framework, methodology and the construction of conclusions, I do not believe that it made the study reflexive or pre-determined the findings (Malterud, 2001).

Many of the effects were very obvious while others were less obvious. For example, my background as an educator led me to take a historical approach to this research. During the course of my interviews with Zimbabwean migrants, I was very interested in their migration history, time spent in each location, and overall amount of time spent outside of Zimbabwe. This was easily mentally compared with mental notes of significant events such as elections, which have occurred during the past decade. Another obvious example in approach is my use of communal constructivism. This is an approach, found in education circles, in which individuals construct their own knowledge through interacting with their environment (similar to social constructivism). Additionally, individuals actively engage in a process of constructing knowledge for their community through reflection on their own experiences (Holmes et al 2001). Both of these methodological choices were made by me and are reflective of theories in which I feel comfortable researching.

At times my Sepedi abilities reached their limits and South African respondents either slowed the discourse of the conversation or the conversation switched to English. Since it is the objective of the researcher to establish a safe environment for conversation and to encourage the respondent to continue speaking during the course of a conversation (Burns and Grove 2005: 540), quite clearly my limitations in Sepedi at times hampered the ebb and flow of conversing. Language is the vehicle through which a qualitative researcher can begin to understand an individual’s experiences. Language is also a vehicle that helps an individual ‘frame their reality’ (Johnson and Baumann 2002: 602). Thus using the respondent’s first language can be crucial to research such as this. However, I found that the South Africans interviewed were more than willing to be interviewed in English. I also always tried to engage Zimbabwean interviewees by first greeting them in Ndebele, Shona, and Sepedi and making light of my lack of skills in the former two. Though all of the respondents possess a reasonable understanding of Sepedi, when asked if they preferred to be interviewed in Sepedi or English, all selected English.

**2.5 Ethical Issues and Limitations**

Aside from linguistic differences there were several other limitations. It was more difficult to identify and interview single Zimbabwean women. Though I was informed on several occasions, by both Zimbabweans and South Africans, that single Zimbabwean women were present in the village, I was unable to locate and interview any. This represents a large gap in my research as single women are increasingly migrating into South Africa to procure work and to earn a living in the informal sector as traders (Addison 2010).

Another limitation is that by beginning with key informants, who are part of the established hierarchy within the Moletši community, and asking them to identify Zimbabweans to interview, I accessed Zimbabweans who are more established and well-known within the Moletši community. This may have led to concerns about endogeneity because the results of this research may reflect the perceptions of Zimbabweans who are already somewhat included and have been able to piece together a large enough entitlement bundle to gain a modicum of acceptance while excluding those Zimbabwean migrants who have not accrued entitlements necessary to give them the same degree of inclusion. Furthermore, the use of snowball sampling may have compounded this issue. However, I do not feel as though validity or reliability were compromised because it was quite clear from the research that Zimbabwean migrants in Moletši rarely, if ever, access the Tribal Authority and do not seem to rely on it for entitlements within the village.

A final limitation is that of origin within Zimbabwe. I had initially wanted to research and compare differences in experience and views of Zimbabweans who are Ndebele and those who are Shona. The reason for this is twofold. First, given the Mugabe government’s history of political violence targeting the Ndebele community that pre-dates the current decade long crisis, it is logical to query whether migrants from Zimbabwe’s Ndebele community have had significantly different experiences before migrating than those from the Shona community. Secondly, because Ndebele, unlike Shona, is one of the official languages of South Africa, it is reasonable to assume that Ndebele migrants might be able to access service and entitlements much easier than their Shona compatriots by simply posing as South Africans. However, due to constraints of sample size and time, I feel that it is impossible to make generalizations and distinguish between the experiences of Shona and Ndebele migrants. Furthermore, I did not feel comfortable pursuing this line of questioning doing the interviews. Perhaps because of the 2008 xenophobic attacks as well as lingering divisions between Zimbabweans themselves, some of the Zimbabwean respondents were uncomfortable discussing the topic of ethnicity. When asked if his experiences as an Ndebele in Moletši were different from his roommate’s (who is Shona) experiences, one respondent explained:

Xenophobia is not here (said while pointing at his heart). We are still free here but I am not 100% comfortable here in South Africa so I don’t want to talk about it. (Z Respondent 1)

Though I initially sought to pursue this line of questioning in order to distinguish differences ethnicity may have caused in procurement of social entitlements, this type of distinction proved impossible to make. Therefore, generalizations are made in terms of Zimbabwean migrants but it proved impossible to generalize based on ethnicity.

**III. LITERATURE REVIEW**

Since the purpose of this study is to contribute to and expand on existing research on legal pluralism, decentralization of African states, denizenship, and entitlements this chapter is divided into sections that seek to define and discuss each of these concepts. This chapter then explores these concepts and other causal factors that may have contributed to and help explain the self-settling of Zimbabwean migrants in Moletši.

**3.1 Government Frameworks-A South African History**

Several related themes are addressed during the course of the literature review: historical structure of government frameworks within South Africa, decentralization of African states, pluralism, and entitlements. When looking at access to services in rural South Africa, one needs to examine the different policy frameworks that exist. Historically, at the local level, there are multiple levels of government and control of the land is a point of contention between tribal authorities, municipal governments, and the national government (Ntsebeza 2000; Cousins 2001). Since the tribal authorities claim to represent the communities they govern, this is at present, the most viable outlet for communities to make their voices heard. This is because the tribal authorities derive power from an amalgamation of traditional practices and culture as well as from power bestowed upon them first by British colonial governments (Ntsebeza 2000: 285). The power of the tribal authority was expanded during the apartheid era (Tapscott 1997) when the government sought to legitimize white rule in South Africa by confining the African population to limited spaces in which they could claim land (Botha 1967: 134). Currently, the power possessed by tribal authorities is constitutionally guaranteed. Despite ANC ambivalence towards the tribal authorities post-1994 (Ntsebeza 2000), tribal authorities continue to influence the national government through legal mechanisms such as the House of Traditional Leaders and the Congress of Traditional Leaders of South Africa (CONTRALESA) (Khan et al 2006: 85). As a result of both these derivations of power, both legal and traditional, tribal authorities have a significant impact on the governance of rural areas of South Africa inhabited by various African ethnic groups. Though colonialism and apartheid played a role in the formalization of the structures of the tribal authorities, many indigenous Africans still use these traditional structures and recognize these authorities as valid. The tribal authorities have acted as the primary source of local government for generations and as such have become the de facto means of accessing service within Moletši. An overwhelming majority of the South Africans interviewed indicated that they accessed some type of service delivery through the local Tribal Authority on a regular basis.

I access the Tribal Authority often. They can solve any type of problem that I have. I am very satisfied with the service I received and I would consult them (the local Tribal Authority) first if I have another problem. (SA Respondent 1)

The next level of government in the local government hierarchy is the municipal government. All tribal areas ostensibly governed by tribal authorities also fall under a municipality. The presence of local municipal governments, which are elected, represents a significant shift away from traditional rule. Some have argued that the presence of unelected tribal authorities in many rural areas undermines the ability of the elected municipal government to incorporate rural areas into their development framework (Ntsebeza 2000: 281). Theoretically, municipal governments incorporate rural areas into the framework of their development and governance plans. Practically however, in many areas, municipal governments focus on the urban centers within their domain, while the outlying rural areas are left to function largely on their own under the direction of the tribal authorities. The degree to which the different tribal authorities interact with local municipal governments varies significantly. In some rural areas, there is virtually no identifiable presence of local municipal government, while in villages such as Moletši, the municipal government does interact with the tribal authority resulting in extremely localized development such as the new library recently built in the village.

 Further up the hierarchy of government structure in South Africa is the provincial government. The provincial government has very little to do with the tribal authorities in any official capacity. However, many high-ranking provincial government officials are originally from rural areas. The former Premier of Limpopo Province, Sello Moloto, is himself from the Moletši area. During the recent wedding of Kgoši Kgabo Moloto III, numerous high-ranking provincial and national ANC officials attended (S Respondent 6). Provincial governments have in some cases have sought to differentiate between traditional and political functions of government. This differentiation was sought to ostensibly relegate the tribal authorities to functions dealing with traditional roles while reserving maintaining the political functions for the provincial government. Yet, when it comes to certain issues such as development and land-rights, it is difficult to disentangle the political and traditional roles. The issue of land-rights and usage delves into issues of migration, belonging, and legitimacy within a certain area.

The highest level of government hierarchy is the national government. The structure of the national government renders the provincial governments somewhat redundant since they are largely dependent on the national government for funding and make policy decisions in line with national government directives. There are exceptions to this, such as Western Cape, where the ruling African National Congress (ANC) does not control the provincial government. Generally though, the national government generally has the real power in determining policies of the country of South Africa.

**3.2 Setting the Stage for Legal Pluralism**

Legal pluralism is loosely defined as a situation in which two or more legal systems coexist in the same social field (Griffiths 1986; Moore, 1986; Poposil, 1971). Smith's definition of pluralism suggests that this occurs when culture and society are not inherently congruent (Smith 1960: 767). Essentially, plural societies have stratifications within the society that enable some groups within the society access to power but prevent other groups within the same society from accessing this power. There are three conditions which are necessary for pluralism to work. First, one coherent legal system has to be present. However, this legal system must have two or more sets of laws and legal rules. These laws are usually based on principles of customary law and received law. In order for legal pluralism to thrive, the judicial system has the power to combine the two systems. Since both systems are equal, individuals can choose which legal system they will access. Second, the legal systems in place both must conform to international norms and protect the populace that subscribe to the systems. These legal systems have to both strive to uphold national interests, meet the requirements of the national constitution, and protect individuals against unfair practices and discrimination. Third, participation from the community is required for planning as opposed to top-down planning (McAuslan 1998).

These three conditions are all present in the rural areas of South Africa formerly classified as Bantustans. There are two systems in the place with both the tribal authority and national government having some influence on service access and delivery. The influence of the national government is primarily felt in the areas of law, education and health where all teachers and health care professionals working for public service providers are under the direction of one of the various national law enforcement officials, the Minister of Health or Minister of Education respectively. However, because of the remoteness of many service access points from the urban centers where these access points are highly prevalent, at times the national government can do little more than issue formal policy proclamations, while other factors determine the access to service provision, and a parallel framework exists through which individuals can access both state and non-state services.

Before engaging in a discussion of parallel frameworks and access to services, first one must review and discuss local government. Local government has many meanings and connotations globally. In South Africa, this level of government includes both the municipal government and tribal authorities, both of which control many aspects of its citizens’ daily lives including education, law enforcement, and health care. Though the national government provides funding for an array of services, the local government implements these services in a manner befitting the norms and standards of the community served. Thus the local government officials, both the elected and appointed officials in the municipal government and the hereditary leaders of various tribal authorities, ostensibly represent the national government but implement the policies of this government on a local level. These officials' decisions on who receives services, and conversely who does not, significantly affect the daily lives of people who fall under their jurisdiction. Historically, tribal authorities played a role in determining who could access land and by extension services.

The right to represent rural communities in South Africa has recently become a major point of contention with some arguing that the tribal authority model is antiquated and should be replaced by civic organizations.South African law sets forth a government structure that in many ways mimics the set of norms laid out in democratic societies globally. The national government handles macro-policy (economy, defence, security) whilst the local government is theoretically supposed to control aspects of society most pertinent to the local population and most likely to be affected by geography and normative cultural and traditional factors. Public servants, including teachers and nurses, are employed by the national government. Thus, though the local government is supposed to manage many aspects of service provision, the national government retains a high degree of structural control. However, ambiguity around the legitimacy of traditional authorities from the ruling ANC and the inherent contradiction evident in having hereditary modes of government simultaneously existing next to democratically elected modes has contributed to creating misunderstandings as the institutions of resource access in rural South Africa, patterns of movement, livelihood production and governance systems in the former homelands. This complication is further exacerbated by tribal authorities and traditional leaders who purport to represent their communities when dealing with the municipal, provincial and national governments yet continue to govern these areas often with little consultation outside of the ruling elite (Cousins and Kepe 2004: 47). Organizations such as the South African National Civic Organization (SANCO) have been at loggerheads with members of CONTRALESA over who legitimately represents the people and the community (Cousins and Kepe 2004: 46).

Since South Africa currently has local government structures that are simultaneously relics of a repressive government and historical structures that existed before colonialism, rural areas in South Africa encompassing former apartheid era homelands generally have two local government structures: Tribal Authorities and Municipal Governments. There are myriad historical and geographical reasons for this that are rooted in the racial policies of the past and persist because of a continuation of the legal structures from this era as well as the geographic isolation of many rural areas from areas providing access to service points. The tribal structure of South Africa, though in existence long before apartheid, was codified and strengthened during apartheid. The Department of Native Affairs attempted through bureaucratic means to make tribal authorities into “administrative factotums of apartheid” (Evans 1997). Thus Tribal Authorities in South Africa derive some degree of power from the colonial and post-colonial history of South Africa. Additionally, Tribal Authorities have a large degree of legitimacy amongst those living in rural areas. Villages are broken down into family units. Large family units form wards led by a headman. The headmen are usually the descendants of the eldest male of the generation founding the ward. Large wards form villages and a conglomeration of villages form a tribe (Khama 1951: 451) and a chief derives his local authority not only from the national government but also from his lineage and descent from the eldest male, and ruler, of a generation past.

In theory, the fact that South African tribal authorities derive some of their power from the national government should serve to limit the power they possess by bringing these authorities into line with national government policy. The reality is that the situation is much more complex. The fact that a significant portion of the South African population recognizes the historical and cultural power of the tribal authorities allows these institutions to maintain a high level of influence at the local level.

Mamdani’s book entitled *Citizen and Subject: Contemporary Africa and the Legacy of Late Colonialism* is a key work on the topic of local government in Africa. Mamdani delves into “the structure of power” in colonial and post-colonial South Africa. In his book, Mamdani charts the institutional legacy created by the subjugation of a large indigenous population by a small settler community. He describes the tribal authority as a clenched fist that contained all government function within it:

Not only did the chief have the right to pass rules (bylaws) governing persons under his domain, he also executed all laws and was the administrator in ‘his’ area, in which he settled all disputes. The authority of the chief thus fused in a single person all moments of power, judicial, legislative, executive, and administrative. This authority was like a clenched fist, necessary because the chief stood at the intersection of the market economy and the non-market one. (Mamdani 1996: 23)

Mamdani’s central point is that owing to the fact that indigenous chiefs governed rural populations under customary law using a system of “decentralized despotism” (Mamdani 1996:17), these citizens were not prepared to participate in post-colonial African democracy. Using the British system of indirect rule as his guide, Mamdani argues that only two possibilities existed for post-colonial African governments: a radical reform of the government through centralized despotism or to maintain the same decentralized system of chiefs within a system of “non coercive clientalism.” South Africa, despite being viewed as a model of functioning government by the rest of the world, and an exception to the stereotype of poorly governed African nations, falls distinctly into the latter category.

Thus, viewing the case of Zimbabwean migrants, which does have national ramifications within South Africa, from a local level not only contributes to a larger debate about migration within South Africa, but also provides illumination on much larger debates about decentralization within post-colonial African states. The influence that tribal authorities have retained despite the existence of city councils and municipal governments is directly attributable to a combination of the lack of participation of the local populace in local municipal politics and the desire of municipal governments to be fully participatory democratic structures. Municipal government structures legally possess the right to govern rural areas and the policies and the laws of the national and municipal government affect these rural areas. Yet, in practice, parallel structures exist, and have been encouraged to continue, that allow citizens of the South African state legal, and sometimes contradictory, alternatives to service access. A prime example of this occurs in the court structure where village residents have the choice of using the traditional courts, run by the chief and indunas, or using the magisterial court structure that is in place, usually in the nearest city or town. Though the traditional courts can only rule on certain types of cases, their existence alone provides the Tribal Authorities with de jure power and many South Africans with an alternative to accessing justice through the national judiciary.

**3.3 Effects of Pluralism in Moletši**

The Tribal Authorities have constructed power from a multitude of sources, including legitimate recognition of chieftainship by the local community and recognition by the national government. This has led to pluralism within South Africa as a whole. This case study however seeks to examine the policy of Tribal Authorities in relation to the national government. In so doing, the policy surrounding Zimbabwean migrants is examined from a local level and in a local context. The policies put forth by the national government are theoretically put into practice at the local municipal and Tribal Authority level. Yet in reality, these practices often conflict with what the national government mandates. For many rural areas, the Tribal Authority decides upon the actual implementation of these policies.

The national government has bestowed upon Tribal Authorities a certain amount of autonomy within the larger framework of government. Since the creation of African homelands under the presidency of Verwoerd, tribal authorities have been a part of the national political system (Botha 1967: 87).This recognition continued under the new dispensation post-1994 and is framed in the current constitution. Nelson Mandela met with tribal authorities in the run up to the 1999 elections (Hlongwa 1999: 4), as have numerous other national leaders seeking support from tribal authorities in exchange for recognition of legitimacy. Thus Tribal Authorities are an ingrained part of the national political structure of South Africa.

Due to the fact that multiple sources form the power base of traditional leadership structures, one can hypothesize that pluralism exists within these structures. The transplantation of entire legal systems across cultural boundaries has had the effect of creating tension within a given society (Hooker 1975). Tension exists in two forms: between different levels of government, as argued in this work, or within an individual who subscribes to one level of government but not to another, thereby creating tension when the societal norms of a community are ignored by certain members. The stratification of South African society has meant that entire areas of the country operate outside the auspices of the national government and at some level utilize the Tribal Authority as the de facto source of government. The expected effect of this would be the marginalization of people within these areas and their being ostracized from access to power and services within the country (Mamdani 1996). Because of the lack of services and competition for resources, one might expect the effect of this legal pluralism to cause hostility from members of the ostracized group towards outsiders who were equally (or in this case more so) marginalized from power than themselves. However, when viewing the case of Zimbabweans settling in rural South Africa, this does not seem to be the case. Zimbabweans are settling in rural South Africa and gaining a measure of acceptance within the local community in which they settle.

This situation exists in most villages in South Africa whel leadership structures, it ie his authority stems from tre the national government has a policy that is only implemented on the local level if the municipality follows the directives from the national government. Because South African law allows two centers of power at the local level- the tribal authority and the municipal government- legal pluralism exists at this level of government and the only way for a national policy to be fully implemented in a village such as Moleši is if there is a high degree of cooperation between a municipal government and a tribal authority. Thus, in implementing national government policies, the municipal government and tribal authorities need to consult but rarely do. This results in the marginalization of the tribal authorities (and further marginalization of the people the tribal authorities ostensibly represent). However, the municipal governments are also undermined when tribal authorities simply ignore directives from them.

The tension within the different strands of government is exemplified by the fact that villages are hosting cross-border migrants in direct conflict with stated national policies and norms: The national government has a codified policy (Immigration Act) that is opposed to acceptance of illegal immigrants. All of the Zimbabwean migrants to Moletši are undocumented and thus illegal immigrants. There is a process that immigrants have to go through in order to obtain legal residency. This process is being skirted in rural Limpopo. In addition, the Refugee Act makes it requisite for asylum seekers to apply for asylum and refugee status. Once a hearing is conducted, a determination will be made on whether or not the asylum seeker is legitimate and whether or not he/she will be allowed to stay in South Africa. Therefore, if Zimbabwean residents of rural Limpopo are trying to settle in South Africa on the basis of seeking political asylum, they have not followed the procedures properly and are in violation of South African law and the South African government's policies.

Despite these policies, the self-settlement of Zimbabweans within South African territory is occurring daily across Limpopo. Zimbabweans continue to enter South Africa despite huge obstacles and vulnerability to abuse at the hands of South African government officials, particularly in the South African Police Service (SAPS) and the Department of Home Affairs (DHA) (Human Rights Watch 2006: 8). There are two possible explanations- not mutually exclusive- for the reason that this is occurring. The first is the inability of the government to enforce its policies in outlying areas when coupled with the continued decade long economic crisis in Zimbabwe. Second, migrants may actually be welcomed in rural areas of Limpopo (Rodgers 2002), or at least able to construct a large enough set of entitlements to enable them to gain a large degree of acceptance within the village (Sen 1981). This acceptance of clandestine migrants illustrates the tension between national government policies and the practices implemented on the ground, which needs to be explored.

**3.4 Entitlements in Moletši**

Amartya Sen’s work on entitlements is critical to this discussion. In his work Sen discusses entitlements bundles and how one’s entitlement bundle enables him/her to survive a famine (Sen 1981). His conclusions have been widely discussed and debated with many arguments being put forth that his work has many limitations related to famines in general (Devereaux 2001) or that his work does not take into account specific circumstances of a specific unique famine (Dowlah 2006). Sohlberg (2006) argues that Sen’s work on entitlements is a useful framework from which to discuss issues related to famine as long as the limitations are recognized (such as the exclusion of illegal practices from the discussion.) It is my position that Sen’s work around entitlements (Sen 1981) and social exclusion (Sen 2000) is a useful framework from which to explain how Zimbabwean migrants derive legitimacy for accessing services, especially when the South African government proffers none.

By what right does the Tribal Authority violate national government policy and provide refuge and legitimacy to undocumented Zimbabwean migrants in Limpopo? Is this merely decentralization as defined by Mamdani or is there something fundamentally different that underlies eligibility determination for services? Are these services offered based on money, personal sympathy for migrants, or a fundamental understanding of the South African constitution, which guarantees rights for everyone to education, health care, and legal protection? Again, Sen's central theme of entitlement is crucial. Clearly tribal authorities believe that they are well within their right to make decisions regarding who can and cannot settle on tribal land. This belief is based on historical precedents, which began well before apartheid but took on a protest slant during the apartheid era.

**3.5 Supporting Migration as a tool of Protest**

Traditionally, there are three basic ways for refugees to assimilate into a local community (Hansen 1979:370-371). The first is by activating traditional kinship ties. In the case of both Angolan migrants to Zambia and Mozambican migrants to South Africa, this is essentially what occurred. However with the current case of Zimbabwean migrants, this would be an impossibility, since the Zimbabwean migrants cannot claim BaPedi, VaTsonga, or generally VhaVenda ancestry. Therefore, these migrants can make virtually no claim of traditional kinship ties to any area of Limpopo Province. Hansen’s other two ways do resonate within the Zimbabwean community in Limpopo: incorporation into a local polity and re-attainment of some sort of economic self-sufficiency. The fact that Zimbabweans cannot access claims of kinship ties makes the provision of services by the tribal authorities in Limpopo all the more interesting since the Zimbabweans residing there are not traditional clients of these authorities.

It is problematic to view the pluralism between national government policy in South Africa and local implementation of that policy by tribal authorities as yet another instance of the dysfunctionality of an African state, and in particular the South African state. According to Chabal and Daloz, the weak institutions of the African state propagate “a political framework that is beneficial and logical” and the apparent disorder of pluralism is really “a different order and the outcome of different rationalities” (Chabal and Daloz 1999: 141). However, in light of Hansen’s point that migrants, in order to be accepted, ascribe to and are incorporated into a local polity, when coupled with the history of tribal authorities accepting outsiders into their realm for political gain or protest (Rodgers 2002), one can understand why Zimbabwean migrants might find acceptance in rural Limpopo communities. Though this model may be somewhat dated and tend towards illustrating how homeland governments resisted apartheid, one ramification of this resistance endures: a desire to exert autonomy and quasi-independence. Furthermore, tribal authorities have a vested interest in maintaining the land tenure system which appointed the chiefs as custodians of the land during the colonial and apartheid eras (Levin and Mkhabela 1997). Is this simply an ad hoc practice or a practice fraught with corruption? Perhaps it is both. Tribal authorities are still subscribing to a system of patron-client relations, to which they can relate. Thus, migrants are gaining acceptance into the community, not as refugees, but as people who are subscribing to the same polity as local South Africans within the same community. By allowing Zimbabwean migrants access to rural areas of Limpopo, tribal authorities are continuing their claim to being the sole arbiter in deciding who has can access land rights within its realm. This is in direct opposition to the sovereignty of the national government which claims the sole right make decisions on access to land rights. Therefore, the mere presence of Zimbabweans within the village, with the blessing of the tribal authority can be construed as a continuation of a historical trend of protest against the national government by tribal authorities.

**3.6 Denizenship-The History of the Concept**

The emergence of the Westphalian concept of the nation-state brought with it ideas of citizenship at the national level. Roughly speaking citizenship is defined as the arrangements made for participation by a defined category of individuals in the life of the state. These arrangements are legal and often constitutional (Evans, A., 1991). This idea had previously existed in cities around Europe and dated back to ancient Greece. The idea of citizenship within European cities brought with it exclusionary practices and the concept that not all residents within a location had the same rights. Foreigners living within city gates did not have the same rights as those who had been born in the city with citizenship rights. As the need arose to determine inclusion in the state, this involved the exclusion of others. This too is not a new concept. Ancient Greece also had a class of sub-citizenry known as *metics.* *Metics* were residents of Greek city-states but were not fully fledged citizens (Boeckh 1817). The level of inclusion and exclusion of non-citizens varied from city to city and depended on myriad factors. In much the same way that modern nation-states seek skilled migrants but often exclude unskilled manual labor; these Greek cities sought some migrants who were viewed as advantageous to the prosperity of the city while other migrants were excluded for various reasons (Bitros and Karayiannis 2006: 16).

As the concept of the nation-state grew, it became incumbent on the state to determine who should be included as a citizen and who should be excluded. According to Benhabib (1999), one of the key concerns of nation-states became the inclusion of people into systems that were already in existence. Denizenship status within nation-states can be found as far back as the early as the 1200s when residents of England who were not citizens were allowed to own land in the same manner as citizens. Similarly, many European nations still place few or no restrictions on foreign land ownership and usage. While land ownership is not prohibited, other entitlements such as the right to be appointed to or run for a public office are specifically forbidden for non-citizens. The Constitution of the United States for example, places restrictions on the offices that can be held by foreign born migrants. This is similar to the plight of Zimbabweans in Moletši.

The modern usage of the term denizenship stems from Thomas Hammar (1994) who used the term to describe migrants to Western Europe. These migrants often stayed and settled in their host-country and yet never achieved full citizenship rights. Therefore, they were perpetually in a state of quasi-citizenship. Furthermore, the development of the human rights regime in Western Europe has never required or sought to connect the entitlements bundled into human rights with the entitlements bundled into the concept of citizenship. Since all independent nation-states regulate movement into and out of their territory and try to control access to social benefits derived from full membership of a welfare state the existence of those members of a society who are not fully fledged members implies some degree of exclusion. Essentially, in any definition of citizenship, there will be those who are excluded. Thus, while denizens are accumulating rights and are finding increasing inclusion, their denizenship is becoming more and more diametrically opposed to citizenship rights which are supposed to exist only for citizens and exclude these same denizens. These rights are increasingly moving away from concepts of *jus sanguinis.*

**3.6.1 Emergence of Denizenship in Europe**

Denizenship in Western Europe stems from two underlying trends over the past few decades, which are not fundamentally dissimilar to the trends influencing the emergence of denizenship in Moletši. First, the arrival of millions of immigrants into Europe over the past 50 years was welcomed for economic reasons. These immigrants filled a gap in the labor force and contributed to the economies of countries such as Germany, England, and France by increasing productivity at minimal cost. These migrant workers however were not expected to put down roots. Second, this process coincided with the emergence of a human rights regime in post World War II Western Europe as well as the eventual emergence of supranational organizations of the continent culminating in the European Community/European Union. During the past 50 years, the European Union and Council of Europe have designed rules regarding how immigrants are treated and what rights they can procure. These rules are codified but crucially do not use ethnicity and race to define ‘other’. According to Soysal (1997), this is because to define who belongs and who does not belong based on race and ethnicity would evoke memories of World War II and the holocaust. Similarly, Zimbabwean migrants are filling gaps in the South African labor market (Addison 2010) and are not expected to stay in South Africa for long periods of time. In addition, the African Union has designed rules that ostensibly provide protection for migrants and outline their rights. Furthermore, the use of codified laws does not discuss race or ethnicity because to do so in South African parlance would evoke memories of apartheid.

Since all but the heart of citizenship rights are available to non-citizens, this has led to the fundamental question of exactly who is European. In order to be considered European, one must have membership within a recognized European nation-state. Thus, each nation must engage in a process of self-definition and analysis to determine its own identity. However, because of its history, European leaders are cautious and overly conscious of the inherent pitfalls associated with culturally specific definitions of ‘European’ and ‘Europe’ (Dunkerly et all 2002: 124). This political ambiguity has led to a blurring of the line between the categories of citizen and non-citizen and the emergence of denizenship (Atikcan 2004: 4).

For concrete evidence of this blurring, one only has to look at legal decisions made by European courts of the past two decades. For example, in 1990 a European Union Court of Justice in Luxembourg ruled that Turkish workers residing within the European Union were, due to bilateral agreements and treaties, almost identical to workers from fellow European Union countries (C-192/89 1990). This ruling and others like it have allowed Turkish citizens residing in European Union countries to legally call upon rights that are normally reserved only for citizens (Rosas 2005). Since Turkish citizens are the single biggest group of immigrants to the European Union this particular case has had major implications across the EU and has ensconced the concept of denizenship within the legal framework of supra-national European institutions (Peers 2004).

It is not only European Union courts that have created the category of denizenship. A 2003 European Commission directive on immigration also helped to redefine the relationship between citizens and non-citizens. This directive was based upon two previous initiatives of the European Union. The first initiative was a study started by the European Union in 1998. This study examined the laws in member countries as they pertained to the rights of foreign nationals living within the borders (Groenendijk et al 2000).

The second initiative was the Tampere Council of 1999. Some derided the Tampere Council for being undemocratic based on the exclusion of civil society. The Council’s conclusions stated that non-European Union citizens living in Europe for a prolonged period of time were entitled to integration and that once integration had been achieved, foreigners should be able to gain the nationality of the state within which they were living (SN 200/99: 1999). The Tampere Council was seemingly ambiguous about whether or not foreigners should gain fully fledged European Union citizenship or whether they should only gain citizenship of the country in which they were living. The additional possibility existed that foreigners would procure quasi citizenship based on the fact that they were living in a particular place. This quasi citizenship would be comparable ‘to the rights and obligations of European Union citizens’ (SN 200/99, paragraph 18). Furthermore, the conclusions of the Tampere Council do state that foreigners should be treated be treated as non-second class citizens and have the right to secure residency. Thus, the Council of Tampere concluded that non-European Union nationals living in European Union countries were not equal participants in the society since their status was only ‘comparable’ to that of European Union citizens but that these comparable residents should also have secure residency rights. This is seemingly the very essence of denizenship. In Moletši, there have been rulings by the Tribal Authority within the village that have found in favor of Zimbabweans.

“Zimbabweans come to the Tribal Office often. We try to help them if their case is right. This is almost always about money. These Zimbabweans are coming here and are working and some of my people do not pay. Sometimes if my people are wrong, it is my duty to tell them. I send out someone to investigate to see if the work is done. If it is done, I order the Zimbabwean to be paid.”

The fact that Zimbabweans are not citizens of Moletši is not in question. However, they do have residency rights and their clear access to the Tribal Courts has granted them *de jure* residency rights within the village.

While the Tampere Council’s stated objective was to create a uniform legal code relating to foreigners and immigration to Europe, the ambiguity and lack of a clear directive served to ensconce denizenship within the legal code of the European Union. The aforementioned directive that came out of the Tampere Council and the comparative study of the rights of foreign nationals within Europe had three key components. The first component created a legal status for long-term residents of member countries. This status was directed towards long-term residents who did not otherwise have citizenship, and who could meet a host of other criteria outlined in the directive. Thus, this component targeted foreigners without legal status and gave them a certain legal status (less than nationalization and citizenship) if they could meet certain requirements. Second, the directive outlined what rights recipients of this particular status could expect for themselves. These rights were obviously bundled with this status. Included within these rights were rights that had previously been the exclusive domain of citizens of the European Union as well as the right to reside in their current country of residence. The second component left open the possibility of legal ambiguity in that non-citizen residents of one European Union country might have rights within that country but not in another European Union country. The directive thus clarified this possibility with the third key component which stated that those procuring this new legal status not only procured these rights within the nation in which they reside but also across these rights in all member nations, assuming certain criteria could be met. In essence, this third component gave those procuring this legal status the right to live, study, and work in another European Union country as long they have put down long-term roots in their (European) country (Council Directive 2003/109).

**3.6.2 Tensions: Denizenship-vs-Sovereignty and Denizenship-vs-Citizenship**

At the core of the conflict between citizenship and denizenship is the belief that denizenship undermines the rights of citizens, as defined by the Westphalian model, by giving virtually the same rights to non-citizens. This is in line with traditional views of citizenship that connect rights with membership among the citizenry with each defining the other (Flores 2003: 295). A further discussion of citizenship rights is therefore necessary.

From a theoretical perspective, the rights of citizens are based upon three rights of the nation-state: to exclude outsiders from membership, to create laws within its territory that cannot be overturned by another nation-state, and the state’s right to political authority within its boundaries or sovereignty. There are two pervading models concerning citizenship rights: post-national membership and transnational membership. Soysal (1997) is perhaps at the forefront of the model of post-national membership. In her view of post-national membership, she argues that there are challenges to the nation-state on all three levels and that as the viability of the European Union has gained traction, it has undermined the state’s rights on all three fronts. Transnational membership is described as the development of an individual’s affiliation with more than one society spanning national borders. The development of these affiliations can happen concurrently or can occur one after the other. Generally as non-autochthonous individuals become more rooted in a society, the host society becomes more open to these former outsiders. At the same time, in a transnational membership model, the hosting nation-state maintains its right to create laws and its sovereignty.

Sen defined multiple rights that individuals are entitled to. Included among these ‘exchange entitlements’ is a social security program offered by each state (Sen 1981: 6). This is similar to Kymlicka’s argument that citizenship rights (read entitlements) that have traditionally been bundled together are now being unbundled. These unbundled rights include residence rights, some social rights, and the right to participate in the political process of liberal democracy (Kymlicka 2006: 138). According to Kymlicka’s model, there are two models of unbundling that occur. In the first model, residents of the nation-state are placed into categories of belonging. The different categories have access to and qualify for different rights. Thus, in order for this process to occur, unbundling and redistribution of rights based on these categories must occur. The second model Kymlicka discusses, and seems to prefer, deals with how these unbundled rights are eventually reassembled and re-bundled “in the form of full and equal citizenship” (Kymlicka 2006: 139). It would be naïve to believe that the re-bundling of citizenship rights would be the same for everyone. In Kymlicka’s second model it is only natural to assume that different levels of denizenship can emerge during this phase due to different re-constructions of rights. Where both the transnational and post-national models agree is that the first tenet of the Westphalian nation-state model is challenged by supranational citizenship because this citizenship inherently creates subclasses of citizens that can access national citizenship but not supranational citizenship.

**3.6.3 Denizenship and Belonging**

One of the key attributes of citizenship is a sense of belonging. The lack of citizenship denies this sense to those not possessing citizenship. Since security is one of the main reasons Zimbabweans are settling in Moletši, it is important to understand the historical context behind denizenship and its effect on belonging. While the historical context of denizenship is European, I argue that the denizenship is highly relevant framework within the context of Moletši.

Arendt points out how the ‘internal disintegration of Europe began with the appearance of minorities’ within Europe that were felt to belong to another state (Arendt 1979: 270). Thus the question begs asking about how the policies of citizenship can be changed. There are two main principles by which individuals can derive citizenship rights at birth: *jus soli and jus sanguinis. Jus sanguinis* refers to the Latin phrase meaning right of blood. In a citizenship sense, this means that an individual can claim citizenship through their ancestral roots and parental lineage. *Jus soli* refers to the Latin phrase meaning right of the soil. This means that an individual can claim citizenship rights based upon being born on the soil of a particular nation. There are other participatory factors that can lead to the acquisition of citizenship as an adult such as residing in a country for an extended period of time, marriage to a citizen, having children with citizenship rights, and having money or achievements that grant access to citizenship. These are all generally about participation.Benhabib (1999) argues that a dichotomy exists in liberal democracies. On one side, democracies require contributions from the populace in the form of participation. Implicit in the active participation is active consent. At the same time, the principal of *jus sanguinis*, subscribed to by all but a handful of nations, requires that citizenship be granted at birth. Therefore, this principal of citizenship is rather passive and goes against the very nature of the principal of liberal democracy based on active participation (Benhabib 1999: 10). Arendt might have agreed with this as minorities in Europe between the World Wars were denied rights and only the principal of *jus solis* was applied. Thus since both *jus sanguinis* and *jus soli* were not applied, totalitarianism emerged.

Since a large portion of people who have lived and worked in certain liberal democracies still have not obtained citizenship, they are excluded from total participation in liberal democracies. This calls into question the legitimacy of the democracy if the people living under *jus soli* are excluded. According to Benhabib, the easiest solution for this problem is to allow participation of foreigners in the civil society of their host nation. The inclusion of foreigners would be based on their active participation and not on principals of *jus sanguinis* (Benhabib 1999: 11)*.* Essentially, Benhabib’s argument is that the level of participation should determine status of citizenship and not where someone is born. There are debates about the logic of Benhabib’s arguments which are too large for the purposes of this paper. However, generally her views challenge liberal views that the state is the primary participant in the domain of the political world.

The European Council directive referred to above (2003/109/EC) firmly placed into law the concept of ‘legal’ denizenship within the European Union. While the directive fell in line with the belief that the best way to encourage integration of foreign residents into the host-country by providing a sense of security, the directive is in direct violation of the spirit and principles of the Maastricht Treaty of 1992, which stated gave European Union citizenship to every person holding the nationality of a member state but also stated that there did not have to be an alignment of naturalization rules and policy between European Union nations. Rather than allow each nation the right to determine its own naturalization laws and by extension who was included in its definition of citizenship, this right was recentralized when a ruling from the European Court of Justice found that issues surrounding who is and who is not a national is in fact European Community law and therefore the European Union should have a say in determining the rules surrounding who can and cannot apply for naturalization within member states.

Because of the involvement of supranational organization law in Europe, the concept of denizenship also serves to undermine national sovereignty. In 1992, the European Court of Justice heard the case of an Italian orthodontist who was also a citizen of Argentina (1990 ECR I-4329). Mr. Micheletti had applied for a permit to reside in Spain. He based his claim on the fact that he was an Italian citizen and therefore a citizen of the larger European Union and as such, he was entitled to reside in Spain. He also based his claim on the fact that he was a professional (orthodontist), and as such he would be able to fully participate in Spanish society. This latter fact is in line with one of Benhabib’s arguments that one’s participation should determine citizenship. Since clearly Mr. Micheletti would engage in his profession, he would participate in society. While Benhabib may not have intended the argument to be taken this far, one’s ability to participate in civil society may be determined by one’s profession. Thus, what one does in terms of profession may determine citizenship and not just one’s participation.

Spanish law however has provisions for dual citizenship that take into account the location of the last residence in determining eligibility for Spanish residency. Because Mr. Micheletti had, immediately prior to moving to Spain, been residing in Argentina, he was ineligible to apply for residency in Spain based on Spanish law. Though, Micheletti sued in Spanish courts, the European Court of Justice was asked to rule on the issue of whether or not Spanish law was in compliance with the European Community Law. The European Court of Justice issued a two-part ruling. The first part stated Spain had a right to decide about loss of nationality within its own borders. However, European Court of Justice also ruled that Spain could not violate any citizens right to settle where he wished because of an additional test or requirement of citizenship that was in addition to the requirements of citizenship laid out in European Community Law. The Court stated that if this was allowed to happen, the right of a European citizen to settle and establish oneself in any country would be violated and the application process could vary significantly between different countries within the European Union. Thus, the European Court of Justice ruled that Mr. Micheletti could settle in Spain if he could prove that he was planning to put down roots.

What the Court’s ruling did not do was challenge the right of each European Union member nation to determine citizenship within its own borders. The case did set a precedent for determining the nationality of other European Union nations’ citizens. The implication of this is that nation-states within the European Union are forced by the larger EU community into compliance with guidelines that apply equally to all members (Hall 1995: 112-114). The impact of this ruling set a precedent that means that countries which are members of the European Union cannot change their own immigration and naturalization laws without consulting other member nations to ensure compliance with the European Union community law (O’Leary 1995: 45).

Using Kymlicka as a guide, it is possible to construct many different types of denizenship and place them on a continuum. On the one hand, the continuum will have placed denizens on a level slightly below citizens and on their way to citizenship. At the other end, denizens will be a separate category amongst and will possibly destroy the concept of citizenship by destroying the idea of belonging to only one political institution (Kymlicka 2006: 138-139). No matter where the concept of denizenship eventually falls on the continuum, the fact is that the construction of the European Union has coincided with the construction of denizenship as a legal identity. In doing so, long held Westphalian concepts of citizenship have been undermined, perhaps irrevocably. As seen in the recent French eviction and deportation of Roma from France, many of whom were born in France, the process of procuring citizenship rights for denizens is an ongoing process and support Flores assertion that citizenship rights are not ‘bestowed by the simple act of birth but must be fought for and achieved (Flores 2003: 295). The debate on who should be included will not easily go away but the arrival of the European Union and greater mobility amongst migrants themselves who may claim rights in multiple states (Musoni 2011) may have signaled the beginning of a revolutionary way of constructing identity and senses of belonging within the global polity. Furthermore, the idea of belonging to one nation-state may have forever been altered.

If Benhabib’s model was applied to South Africa, what effect would this have on Zimbabwean migrants to Moletši? On a theoretical level, if citizenship is constructed based on a scale of civic participation, this will have profound implications for Westphalian ideals of citizenship in Moletši. No longer would one simply be able to claim South African citizenship by virtue of his/her birth. Instead, one would claim citizenship through his or her own actions and participation. Thus, denizenship would become more and more ensconced within a society as there would be multiple levels of citizenship based upon one’s participatory level. In theory, Zimbabweans in Moletši would have as much of an opportunity as South Africans residing in Moletši of claiming citizenship rights within the area. By virtue of participating with the local Tribal Authority through reliance on the Tribal Authority for justice, registering with the Tribal Authority, and the payment of land taxes, Zimbabweans would entitle themselves to the same citizenship rights as South Africans.

Since no supra-national organization, similar to the European Union, exists with *de jure* recognition within South Africa, African states have been free to make laws as they see fit. The issue of the security of denizens within the European Union is important and highly transferrable to Moletši. Since the primary reason Zimbabweans have begun settling in Moletši is security and stability, it should not be surprising to see how Zimbabweans have been able to integrate themselves into the community. What separates the situation in Moletši from the situation in Europe is the fact that these decisions are not being made by supra-national organizations and instead are being made at the local level by the local government. While not explicitly stated, Zimbabweans, through their patronage of the Tribal Authority are making a claim that they are willing to acknowledge the right of the Tribal Authority to govern and thus are putting down roots in the Moletši area. Additionally, Benhabib’s model is relevant to Moletši because the profession of Zimbabweans in the village and their willingness to engage in industries such as security, brick making, and building is filling a niche in the Moletši marketplace and increasing the utility with which they are viewed by the larger Moletši community.

**IV. DATA PRESENTATION AND DISCUSSION**

In this chapter, I discuss the findings of the research and focus on the different types of services accessed by Zimbabweans residing within Moletši. Zimbabweans were found to have settled in Moletši largely because of access to these services, which are more difficult to procure in urban areas. This chapter also delves into the reasons for the favorable attitudes demonstrated by various community leaders towards Zimbabweans. Lastly, this chapter examines inter-related themes of migrant discourse such as xenophobia, legal status, assimilation, culture, denizenship, and discrimination from the perspective of Zimbabwean migrants.

**4.1 Understanding Legal Protection**

There are three elements to understanding themes of legal protection in South Africa that need examination before a similar discussion can occur about legal protection in Moletši: the pluralization of governance, parallel structures for protection, and that of leadership. Since the outbreak of the 2008 xenophobic attacks across South African townships, the idea that citizens have rights of protection has gained merit. The ‘pluralization’ of governance is a relatively new phenomenon that has occurred as governments operating under a Westphalian model have sought to devolve government functions to other agents (Shearing and Wood 2003: 403). In South Africa, this has occurred in multiple areas, including security and policing. As a result, within South Africa there are 5-7 non-state policing officers (private armed response officers and security guards) for every state police officer (Irish 1999; Schonteich 2000). This has had huge ramifications for the security of individuals in certain areas without a viable police presence. In these areas, local leaders have often sought to create neighborhood watch groups and community policing forums to regulate security in their area. Thus, the devolvement of traditionally government security structures to non-government policing has created opportunities for local community leaders to exert their influence and determine the security of an individual residing in an area.

In 2008, there were violent xenophobic attacks, mainly in townships, across South Africa. Too often, local leaders made decisions that did not deter these attacks and resulted in the gruesome deaths of numerous individuals. Some have argued that these xenophobic attacks were rooted in the efforts of locally organized groups’ attempts to “claim or consolidate the authority and power needed to further their political and economic interests” (Misago et al 2008: 2). Typically, when such violence occurs, local leaders are reluctant to intervene on behalf of foreigners living within their communities and are thus unlikely to respond to the threat of violence. The lack of a viable mechanism to redress social exclusion, inequality, and conflict is yet another contributing factor that led to the xenophobic outbreaks of 2008 (Misago et al 2008: 4) and continues to lead individuals to seek protection from sources outside the framework of the traditional policing structures. This is the precisely the mechanism that is present in Moletši.

When ensconced in the above reasoning, one can understand why xenophobic violence did not occur in rural areas across South Africa in 2008, and more specifically, why this violence did not spread to Moletši. The leadership provided by the Tribal Authority in Moletši has sought to curb threats of xenophobia and provide a modicum of legal protection for Zimbabweans living within the village. During the interview with the Chief of the village, he offered several reasons for this. One statement summed this up succinctly. When responding to a question about what he thought about Zimbabweans settling in Moletši knowing that many were considered illegal immigrants by the South African government, the Chief stated that:

“Zimbabweans are our African brothers. If a Zimbabwean brings a case to the Tribal Authority, he has the same right to be heard. Sometimes there are Zimbabwean criminals and we do not want them. Zimbabweans must register at the Tribal Authority. This is in order to fight crime, most of which is committed by Zimbabweans. Sometimes my people try to cheat Zimbabweans…and it is my duty to tell my own people when they are wrong. So any Zimbabwean can come to the Tribal Authority.”

 While on the surface, this attitude seems to exude many of the same xenophobic tendencies exhibited in an around townships, the first and last sentence offers a significant contrasting view. Zimbabweans are seemingly allowed access to services based on the Chief’s belief in supranational pan-Africanism. This statement is in line with Kymlicka’s views that denizenship can be accessed through supra-national organizations and ideology. This statement also illustrates the fact that village leaders intervene on behalf of Zimbabweans. When pressed further about how exactly the Tribal Authority in Moletši has intervened, I was told the procedure for dealing with disputes as well as an example of how one such dispute had been resolved.

“Zimbabweans are free to come to offices here (Tribal Authority office in Moletši.) We will hear their cases. If we feel there is a case, one of the indunas will investigate the issue. He will go to the place where the work was done and see if it was completed and well done. I have ruled in favor of Zimbabweans. We have to follow-up with our people to make sure the Zimbabweans are actually paid.”

Aside from Pan-African rhetoric which was oft-repeated by the Chief, a second reason emerged. There are several Zimbabweans employed by the Chief, either directly or indirectly. The purpose of my visit to the Tribal Authority had been to seek an appointment with Kgoši, but also to seek permission to conduct the study. During the course of the interview, I asked if he personally knew of Zimbabweans living within Moletši and if he could direct me to them. He responded in the affirmative and told me where several were residing and their places of work.

Migration is often a response to imbalances between two countries (Adepoju 2006: 26) and these imbalances can strongly influence migration patterns (Arango 2000). Moletši is no exception. The imbalances in the relative strengths of the economies of South Africa and Zimbabwe are stark and well-documented. Zimbabwe has seen catastrophic economic collapse over the past decade while South Africa has seen a period of sustained economic growth. This has created an imbalance in terms of opportunities. Because of this, Zimbabweans have entered South Africa looking for employment. It should also not be surprising that because of limited opportunities at home, Zimbabweans are often willing to work for less (Misago et al 2008: 20). This was a view supported by the Kgoši and other community leaders who also employ Zimbabweans.

However, unlike in townships around South Africa, the South Africans interviewed in Moletši did not have a problem with the Zimbabweans who reside in the village.

 Zimbabweans here are good workers and very active. They are fast and don’t give us problems. They work until they are finished. People here don’t do that. They (Zimbabweans) put their shoulder to the wheel and get the job finished. (South African Respondent 2)

Andrews’ discussion on migrants’ struggles to create any form of legitimacy in space and time is pertinent to this discussion. According to Andrews, daily interactions with the host-community play a crucial role in determining how settled migrants feel they have become (Andrews 2003: 3). This is true in Moletši where Zimbabwean migrants are interacting with the local community on a regular basis and have become somewhat settled. Zimbabwean migrants are allowed to settle on rural tribal land, and authorization for this settlement is derived from the local Tribal Authority. Since the Zimbabweans interviewed are residing in homes owned by South Africans, they do not technically need approval of the Chief to reside in Moletši. However, each Zimbabwean interviewed had made contact with the Tribal Authority either directly or through their landlord and informed the Tribal Authority of their presence. Because of this the migrants interviewed feel as though they have a sense of security, and thus feel more entitled to pursue service access, especially in the field of justice when the service is provided by the very same entity doling out the legitimacy.

 I would use it. No problem. I have investigated to see how they (the Tribal Authority) handle problems in case I have some problems later. We live under Mošhate. They will recognize what to do before bringing a police case, so I would go to them before the police. The Tribal Authority is a good thing. They protect us. (Zimbabwean Respondent 3)

 The Tribal Authority is nice. They are very understanding people. I would use them before I would go to town to use the court. I would use them because I am staying in this village. (Zimbabwean Respondent 2)

Almost all of the Zimbabweans interviewed said that they would have no problem going to the Tribal Authority to resolve a dispute. Though none of those interviewed had actually used the Tribal Authority for adjudication purposes, one interviewee did report knowing a fellow Zimbabwean who had used the Tribal Authority and reported that the service was satisfactory in resolving the dispute. There was a dissenting voice amongst the Zimbabweans interviewed:

The King (Kgoši) has no power so I would go to the police if I had a problem. (Zimbabwean Respondent 1)

The general positive sentiment towards the Tribal Authority discussed by Zimbabweans migrants was echoed by South African respondents.

The Tribal Authority is good as it resolves community disputes. I use it once or twice a month for services such as certifying documents, applying for identity documents, and to file applications to build. (South African Respondent 5)

I go to the Tribal Authority to make an application to add to my house, to get electricity and to file papers. (South African Respondent 1)

The Tribal Authority is nice and they attend to us. They try to give us information and are trying their best to improve this area. Look at the new library. They have installed water pipes and boreholes to help us with water. It is next to us. (South African Respondent 2)

It is better to go to the Tribal Authority to solve a dispute than to go to the police. The police can solve nothing but the Tribal Authority can help you solve your problem with your neighbor. (South African Respondent 4)

I use the Tribal Authority each month to get the grant for my child. The service is good and it is close. It is always there. (South African Respondent 3)

Though the overall feedback from South African respondents was positive, South Africans were also much more likely to access justice through the Seshego Magistrate Court than their Zimbabwean counterparts and also had some harsh criticisms of the Tribal Authority.

I have used the Seshego Magistrates Office and the Small Claims Court there. They are better able to deal with labour infringements. The service there was terrible though but I think it will get better with time. The concept ‘Batho Pele’ (People First in SePedi) has paid dividends since its inception. Everybody seems to be working now. This was a labour problem I had that the Tribal Authority could not help me with. If I have a choice, I will use the Tribal Authority. (South African Respondent 5).

I have nothing negative to say about the Tribal Authority but the employees are really unskilled. The Tribal Authority hires anyone. This causes us problems sometimes when things I send there go missing and the service is not delivered. (South African Respondent 1)

What is interesting in these responses is the way that the Tribal Authority has effectively managed to frame itself as the legitimate government within the area. Though identity documents, childhood grants, and the library are all services stemming from and funded by either the national or municipal government, the Tribal Authority is given the credit for bringing these things to the village and/or providing the access point through which service can be accessed. Bearing in mind that historically Tribal Authorities were seen as reinforcing the antithesis of democratic process (Levin and Mkhabela 1997: 160) and were thus feared and accessed out due to a lack of alternative access to service (Ntsebeza 2000) it is interesting to note that South African residents of Moletši, even those with means to access services in other ways, are choosing to continue to utilize the Tribal Authority. This has bestowed the Tribal Authoirty with a certain amount of legitimacy that has made it the *de facto* choice of many residents when it comes to accessing legal services. Since Zimbabwean migrants do not necessarily have the option of accessing legal services through any other means, they too are accessing this service through the pluralistic structure that is locally available and accessible.

**4.2 Accessing Medical Care**

One of the few access points for service in Moletši, aside from the Tribal Authority, is the clinic. Before gaining access to the clinic, permission had to first be procured from the Capricorn District office to interview nurses at the clinic in Moletši. While this proved to be a bureaucratic hassle, it resulted in extra interviews with higher ranking officials in the Capricorn District Department of Health. After discussing my research with these officials and receiving a written letter to interview staff members at the clinic in Moletši, I was able to discuss with these officials their views on the provision of service to Zimbabwean migrants living within the whole of Capricorn District. Two interesting points emerged from this conversation. First, official sanctioning of the provision of medical care to Zimbabweans exists at the district level. According to the district officials interviewed, there is nothing preventing Zimbabweans from seeking medical care at public clinics and hospitals. The largest concern emanating from the district officials was that Zimbabweans were straining already scarce resources. One example that was cited involved a report that had been received by district officials of Zimbabweans repeatedly coming to clinics for medicines. The request for medicine far exceeded what was viewed as reasonable for the individuals making the requests. The assertion made by district officials was that Zimbabwean migrants were receiving medication and saving it in order to take it back to Zimbabwe. According to the officials interviewed, this placed undue stress on resources, diverted needed medication from South Africans who needed the medicine, and placed medical personnel in the awkward position of having to make decisions on the legitimacy of symptoms. It was pointed out that because of the lack of medical equipment in rural clinics; these decisions were often made along personal lines and not based on a complete diagnosis. This added to the stress on the service providers and placed them in the position of having to reject some patients’ requests for medicine while prescribing it for others.

**4.2.1 Medical Service-The Rural Context**

To frame the study on access to medical care within Moletši, members of staff at the Moletši clinic were interviewed. The services offered at the clinic were outlined. These services include: family planning, chronic illneses, ante-natal care, post-natal care, geriatrics, child health, tuberculosis treatment, treatment of sexually transmitted diseases, and the delivery of babies. Consultations are done in private in consultation rooms. There are also rooms for screening and collection of “vital data”.

Though the district office had insinuated that medicine was dispensed to Zimbabwean migrants at a much higher rate than it was dispensed to South Africans, the staff at the clinic in Moletši disputed this. According to them, the clinic offered “services for all.” The clinic staff members stated that one did not need to present identity documents in order to access the clinic and that patients could request to keep their own records, which was what most Zimbabweans seen at the clinic opted to do. In order to procure chronic medication from the clinic in Moletši, a patient needs a prescription from a hospital. Since hospitals in Seshego and Polokwane are less likely to be visited by Zimbabwean migrants, this too calls into question the claims of the district office that Zimbabweans are disproportionately receiving prescription medication.

The clinic staff claimed that they had seen a drastic increase in the number of Zimbabweans seen at the clinic.

 We used to treat 1 or 2 Zimbabweans in a month. Now we sometimes have ten in a single day. Not every day. Most days we do see a few Zimbabweans here. (Nurse 2)

When queried how individuals were identified as Zimbabwean, language was given as the explanation. This seems perfectly plausible. Moletši is a community that is over 95% BaPedi, members of other South African ethnic groups present (mainly Tsongas, Vendas, and Ndebeles) have learned to speak Sepedi while the Zimbabweans interviewed for this study were largely unable to speak Sepedi. Another interesting point made by the clinic staff members was that while an overwhelming majority of the South African patients seen at the clinic were women, the ratio of Zimbabwean men and women seen at the clinic was almost even.

 “South African men do not want medical care. When they come, they give us problems. We see more South African women here. But when Zimbabweans come, they don’t give us problems. Even the men don’t give us problems.” (Nurse 1)

According to the nurses, the reason for this was that Zimbabweans appreciated the free medical care and that everything, including medicines dispensed, is free.

**4.2.2 South Africans and Medical Care**

In order for a complete program of medical care to succeed, traditional healers need to be factored into the health care equation. A high percentage of African health care patients in Limpopo utilize traditional healers as their primary source for accessing health care (Khoza and Peltzer 2002: 31). There are traditional healers in Moletši and a high percentage of South Africans living in Moletši do consult these in addition to using the clinic. However, only one of the South Africans interviewed acknowledged visiting traditional healers.

 “Yes! I use a traditional healer. The clinic has no medication that is useful. So we use traditional healers to cure us.” (South African Respondent 2)

Another respondent, rather euphemistically referred to traditional healers as “private practitioners.” This was an interesting and somewhat surprising development considering that there are ongoing academic studies conducted in Moletši on the provision of medical service by traditional healers (see Moloto 2008). It is hypothesized that some South Africans will not admit to visiting and utilizing traditional healers because this goes against the beliefs and teachings of local churches. Yet, because the researcher is well-known, the denial was somewhat surprising.

South Africans in general were highly dissatisfied with the level of service available at the local clinic.

I use the clinic because it is close. For basic things it is okay. Now the lines are long and they are only open 11-hours each day. They should be open 24-hours per day. (South African Respondent 1)

They keep me waiting for 4-5 hours and don’t follow their timetable. Those ones, they are not organized. They leave for tea all the time. The problem here is there are no doctors around. All they do is check my blood pressure and sugar level. If there were doctors, dentists, or eye doctors around, I would use the clinic more. (South African Respondent 2)

The only reason I go there is because it is close. (South African Respondent 3)

I can’t afford to go anywhere else. The taxi ride is too expensive. I have no choice. They need to have more people working there. I wait a long time and then they have no medicine. (South African Respondent 4)

**4.2.3 Zimbabweans and Medical Care**

In contrast to the views expressed by South Africans, Zimbabweans were much more satisfied with the medical service provided at the village clinic. All of the Zimbabweans interviewed stated that they had used the clinic and positive things to say about the service or said that they had not been sick but would use the clinic if they needed medical attention. None of the Zimbabweans interviewed acknowledged having accessed medical care through traditional healers. Though one Zimbabwean did say that she had been seen at a hospital located in another village approximately 30km away, it was interesting to note that only Zimbabwean had accessed medical care in a hospital in Seshego or Polokwane, while five out of the six South Africans surveyed say they have done so. The primary reason Zimbabweans stated for accessing the Moletši clinic was its proximity.

The clinic in Moletši is close. I had my baby there. They (the staff at the clinic) are nice. They are ok and treated me nice. I had not problem there being Zimbabwean. I go back there with my baby when she is sick. (Zimbabwean Respondent 5)

If I have got a problem, I can report it there. I know Moletši and would use the clinic. It’s close, but I have never been sick. (Zimbabwean Respondent 3)

**4.3.4 Summary of Medical Care**

Based on the empirical research conducted in Moletši there is little evidence that Zimbabweans are accessing medical care through plural forms of service provision. In fact, Zimbabweans seem less likely to access alternatives to health care, such as traditional healers, than South Africans. What emerged out of the research on accessing medical care is that Zimbabweans are freely accessing the clinic in Moletši. The one Zimbabwean woman interviewed gave birth at the clinic. She had all of her pre-natal and post-natal care as well as vaccinations for her child. The actions of the clinic personnel are in line with legal and professional norms for health care professionals are also in accordance with the South African Constitution that guarantees access to basic health care. Thus, these actions would not merit discussion except that they are in stark contrast to urban areas where this service is more regularly denied. The degree of confidence with which Zimbabweans in Moletši talk about accessing health services within the village is striking. Based on the migration histories of the various Zimbabweans interviewed it was quite clear that part of the reason for their satisfaction with medical service in the village stemmed from the fact that the service is actually proffered and that they are entitled to receive this with little fear of harassment or rejection.

What perhaps needs further investigation is why medical care is provided so freely to Zimbabweans in Moletši yet denied to those in other locations and spaces. There are systematic discrepancies between law and practice in many medical service provision points within South Africa. According to Médicins Sans Frontieres, Zimbabweans were denied access to hospitals and medical workers were turning away Zimbabweans at other service points (Bryson 2009). Why is the Moletši clinic different? There are at least four reasons for the willingness (or unwillingness) of an individual to provide a service: legal, customary/traditional based on the ethics of one’s profession, a reward (or conversely to avoid punitive action), and social pressure. When one examines these four possible reasons for the provision of medical care, it is easy to see that there is only one area of difference between rural and urban areas: social pressure. South African law is the same across both urban and rural areas. Nurses receive the same training and in order to work in a primary health care facility, such as a clinic, must take the same oath of service. There is a system of reward in place in terms of salary and also the threat of legal action should one not receive proper treatment. Therefore, the only aspect that may be different would be the social pressure. Since there is widespread xenophobia, as evidenced by the xenophobic attacks in 2008, in urban and peri-urban areas it is safe to assume that service providers would feel social pressure that is anti-immigrant in nature. The fact that the Tribal Authority in Moletši is openly allowing Zimbabweans to settle in the village and is located in close proximity to the clinic might make one hypothesize that it is social pressure that is allowing Zimbabweans access to these services. Additionally, my entry point into the clinic was a relative of the Chief who is also a nurse. Her insights into the inner workings of the clinic were crucial. While I cannot claim that she is influencing the clinic based on the direction of the Tribal Authority, it is safe to assume that there is some interaction between the Tribal Authority and clinic based on relationships that quite clearly exist. This needs further research and conclusions cannot be stated with any certainty. What can be clearly stated is that Zimbabweans are accessing this service and are doing so freely and that this is evidence of the security that is felt by Zimbabweans residing within Moletši.

**4.3 Education in Moletši**

Education in Moletši is unique among service provisions in that pluralism is much more difficult to gauge and measure. There is no alternative service provider within the village that provides a viable alternative to the education offered at the government schools scattered throughout the village. There are private schools located further afield both in Seshego and Polokwane, but the school fees in these schools far exceed the resources available to the vast majority of residents living in Moletši. However, increasingly more and more South Africans in Moletši are sending their children to these private schools in hopes of procuring a better education. In addition, during the time the researcher resided in Moletši, he worked in several of the local public schools. There were cases in these schools whereby Zimbabwean students were allowed to attend school. Despite the fact that the Zimbabwean students did not possess the paperwork necessary to legally enroll in the school, allowances were made to let them attend classes. This is in line with the Constitutional right to basic education but violates the policy of the Department of Education that requires documentation. This again highlights the systemic discrepancy that exists between law and actual practice. There is ambiguity because in order to enroll a student, certain identification documents and birth records must be presented. Since Zimbabweans without documentation cannot present these documents, they should be prohibited from enrolling in schools. However, this would violate their Constitutional right to basic education. Thus, the research is relevant in this sector since individual service providers made decisions that contravened some established rules and regulations and allowed service delivery to individuals who were perhaps ineligible depending on the set of regulations to which one subscribes.

**4.3.1 Local School Administration**

Along with other areas of service provision, a key person responsible for the provision of the service, in this case the principal of the key school in the village, was interviewed. This was a school in which the researcher worked from 2002-2004. The principal of this school confirmed that there had indeed been Zimbabwean children attending the school. They were allowed to enroll and attend classes. All parents enrolling children in village schools are required to produce a South African identity document as well as the child’s birth certificate. According to the principal, the Zimbabwean parents were unable to produce the requisite documents and were asked to return with proper documentation in order to formally register. At the end of the year, the students were withdrawn from the school and no formal transcripts were issued. However, the principal did say that she wrote a letter of support for the child indicating the grade that the child had completed. Furthermore, she indicated that she would have no problem repeating this should more Zimbabwean children seek to enroll. In effect, the school has a policy towards Zimbabweans, which is contradictory to its stated policies and rules for registration. This policy allows Zimbabwean children to attend school without documentation while South African children are required to produce these documents.

**4.3.2 Residents and Local Schools**

Questions about education were addressed to both Zimbabwean and South African respondents. However, since only one Zimbabwean respondent lived with her child, and this child was only one year old, no Zimbabweans interviewed had tried to access local educational services. The one Zimbabwean with her child did say that she anticipates enrolling her child in crèche when she is old enough and did not foresee any problems in doing so. However, in light of the principal’s claims that no Zimbabwean child had tried to enroll in her school since 2004, it is within the realm of possibility that most Zimbabweans are not migrating to Moletši with children. Most of the Zimbabweans interviewed had lived in the village for 1-2 years and were either unmarried, had no children, or had not lived in the village long enough to establish themselves well enough to send for their families in Zimbabwe. Thus, investigating differences in access and accumulation of entitlements in terms of this service proved futile.

There were interesting findings to emerge from the South Africans who participated in this study. This was an area of service in which the South African interviewees were often highly engaged. There was positive feedback across the board for the schools yet there were concrete ideas for improvement of the school system. While the choice of school varied within the village, all of those surveyed either currently had children enrolled in village schools or previously had their children enrolled. There was a common belief that teachers were trained and that the overall level of education was solid.

“The teachers are trained and their methods are good. I think that teachers were even better in the past. But these schools are close by. No transportation is needed. They are free now. We only need more discipline in the schools.” (South African Respondent 2)

“The development of my child has been very good at her school. The teaching is excellent. The only problem is they don’t have water at the school. We are poor but we are trying.” (South African Respondent 3)

“The children in our schools are taught to read and write. The education is good. It is a family tradition that we use this school.” (South African Respondent 4)

“The extra-curricular activities are good. The school is well-resourced and it is close by. They do need a functional library. The administration needs to address the concerns of the parents about the lack of books.” (South African Respondent 5)

While the choice of private school in town was not an option for most, it was interesting to note the frequency with which family tradition of attending a particular school within the village determined which school a child attended. Several individuals interviewed sent their children to schools that were not the nearest school. While praising the schools, paradoxically, everyone acknowledged that the schools are not the best. However, unlike the clinic, the South African respondents were unwilling to call the service poor and blame the providers operating within the institution. This was in stark contrast to the clinic, where nurses were accused of taking excessive breaks, talking down to people, and not maintaining their time schedule of operating hours.

Due to the lack of participation from the Zimbabweans in this service provision, it is quite difficult, if not impossible, to draw meaningful conclusions about access to service within Moletši.

**4.3.3 The Role of the Tribal Authority in the Schools**

During the course of my stay in Moletši (2002-2004), I was able to witness firsthand the role the Tribal Authority plays in the school. No large school function could take place without inviting the Tribal Authority. Representatives were always present at these functions and were always given an opportunity to address the gathering. The school is named after the royal family and when the decision was made on where to build the local library, a site was selected next to this school rather than schools further away. Thus, the Tribal Authority definitely has influence within this school. Even though there are currently no Zimbabwean children enrolled in the school, the fact that they were previously enrolled and have the ability to enroll again, according to the principal, demonstrates both the influence the Tribal Authority has as well as how the school’s administration subscribe to this influence. The combination of these factors leads to Zimbabweans being entitled to utilize this service if they so choose.

**4.4 Entitlements and Denizenshp**

Sen’s work on entitlements is crucial to understanding how Zimbabweans access denizenship status. Sen (1981) discusses entitlement relations in terms of ownership and the exchange of different components one’s ownership bundle. The ownership bundle allows one to exchange what one owns for a commodity he does not. Everything that can be acquired in ‘exchange for what he owns’ is called the ‘exchange entitlement’ (Sen 1981: 3). Sen further outlines four types of entitlement relations: trade-based entitlements, production-based entitlements, own-labour entitlements, and inheritance and transfer entitlements (Sen 1981: 2). Zimbabweans in Moletši would be able to rely on two, and perhaps three, of these entitlements. The exchange entitlements referred to by Sen (1981: 4) include factors such employment, wages, security of employment, cost of living, and social security benefits one is entitled to. Using this theory as a framework, one can easily see how Zimbabweans have pieced together an entitlement bundle that allows them to access to services within the village. First, Zimbabweans are using their own-labour entitlement and to a lesser extent their trade-based entitlement. Since Moletši, like the rest of South Africa is a market economy, Zimbabweans can exchange these two entitlements which they do own for other commodities. In the case of Moletši, their labour and trade is procuring protection and security. This protection is an inheritance entitlement which the Chief of the village owns and is exchanging for own-labour entitlements (in cases where he or his family has directly hired Zimbabweans) and indirect production-based entitlements (which are gained from owners of businesses where Zimbabweans are employed and serve to placate business owners in Moletši who can pay Zimbabwean migrants less). This placation further enhances the position of Zimbabweans in Moletši and allows them an even greater entitlement. Since security is the commodity exchanged, this bestows on the recipient a degree of belonging and standing within the community, albeit on a standard lower than that of fully-fledged citizen which epitomizes the concept of denizenship. Thus as Zimbabweans procure a greater degree of security through their entitlement exchanges, they also procure *de facto* denizenship and certain rights to services which they would not have in urban and peri-urban areas of South Africa.

**V. SUMMARY OF FINDINGS AND CONCLUSIONS**

In this qualitative case study, I have attempted to demonstrate the effect which pluralistic government structures, existing in rural areas of South Africa, have on the ability of ability of Zimbabwean migrants to self-settle in these areas and claim de facto denizenship. This research has tried to show how Zimbabweans, usually using security and employment as the two largest factors, decide to settle in a particular area and piece together a large enough entitlement package to enable them, as outsiders, to gain access to available services in a specific geographic space. Furthermore, this research tried to describe how the local Tribal Authority attempts to protect Zimbabwean migrants as much as possible thus allowing Zimbabwean migrants to piece together an entitlement package that allows them access to national government services offered at the local level: justice (albeit from the Tribal Authority), education, and health care. The fact that these services are offered from local providers in line with the national government's directives and policies, yet differing significantly from urban areas, illustrates the dis-connect between what is intended by government policy and the actual implementation of these policies on the ground. The hypothesized outcome of this research was that Zimbabweans have pieced together a large enough entitlement bundle to enable social inclusion at the local level while at the same time being excluded nationally due to lack of citizenship.

I have attempted to focus on this from the perspective of Zimbabwean migrants and given their perspective more voice. This is balanced by the views of South Africans living in the same geographic space as well those responsible for making decisions about the provision of service.

In understanding how Zimbabwean migrants access service, this study draws on research around entitlements, pluralism in Africa, as well as previous migration to rural areas of South Africa. These varying perspectives merge in Moletši and create a unique situation that has multiple viewpoints, meaning, and understandings of the lived experiences of various groups interacting in the same geographic space. This study has not aimed to find a single underlying factual truth as such a finding is often elusive and difficult to construct in a concrete manner. Rather this study has aimed to find the reasons that Zimbabweans are self-settling in Moletši and examine their experiences there, and relate these to larger patterns of migration within both South Africa and the Southern African region.

This entitlement bundle that has been partially carved out through the actions of Zimbabweans themselves and partially been as a result of actions taken by various key providers of service within Moletši, stems from the actions of a local leader who, in continuing a tradition of approving immigration as a form of protest, has sought to re-enforce his power as the sole arbiter in determining who belongs and has access to specified geographic locations. In this study, Zimbabwean migrants drew on discourses based upon current contextual experiences to explain their current circumstances. This is in accordance with how one’s views of a situation change based upon the context of one’s current situation and past lived experiences. For example, all of the Zimbabweans interviewed described Moletši as a safe place where they had experienced no problem with xenophobia. While this may be true, this is also relative as some of the Zimbabweans living in Moletši have previously lived in more urban areas in and around Gauteng where xenophobic violence is much more prevalent. Additionally, many of the South Africans interviewed made statements that were xenophobic in nature and implied that Zimbabweans were stealing medicine, committing crime, and were not fully fledged residents of the area deserving of all of the benefits they were receiving. Despite this, Zimbabweans still described Moletši as a safe and secure place to live.

The results of this study are in line with studies that describe similar phenomena of tribal authority leaders assisting in the settlement of Mozambican refugees (Rodgers 2002). However, the times, groupings, and circumstances are decidedly different than the literature reviewed in four distinct ways. First, most Zimbabweans are holding wage earning jobs in the village and engaging in menial labor that South Africans are unwilling to engage in. This is unlike Mozambican refugees who became subsistence farmers. Second, the height of Mozambican immigration to rural South Africa occurred during apartheid when protest, even if subtle, against the government was seen as a means of legitimizing oneself by going against a corrupt and hostile government. The current situation involves tribal authorities seeking to carve out a niche and exert a right to rule over an area that forms a bastion of support for the current government. Furthermore, the South African government has incorporated traditional leaders into the government, even if in a nominal way. Therefore, tribal authorities are, in effect, protesting against a government of which they are officially a part. Though it can be argued that tribal authorities were a tool of the apartheid regime, they had no *de jure* role in the former government of South Africa whereas they do have such a role in the current government. Third, Mozambican migrants who self-settled in Limpopo and other areas did not access government services until much later; after their immigration status had been formalized. Zimbabwean migrants are accessing services despite the fact that they remain illegal immigrants in the eyes of the South African government. Fourth, tribal authorities did need to use broad based Pan-Africanist rhetoric to justify the inclusion of Mozambicans since they had a generally recognized common history and generally spoke the same language. Therefore the tribal authority in each village could draw on ethnic and sub-national identity to justify inclusion. The Tribal Authority in Moletši cannot use this same claim and therefore is relying on supra-national identity to justify the presence of Zimbabweans in the village.

This study contributes to the discourse on denizenship by examining the historical emergence of this concept and linking this concept to the emergence of a settled population in Moletši that is inherently non-South African, and therefore cannot claim rights as citizens, yet is simultaneously viewed as a fully fledged group within the community. Previous studies have emphasized the role community leadership plays in determining the willingness of South Africans to accept foreigners settling within the community (Misago et al 2008). The interactions that migrants have with a host-community play a role in the level of acceptance the migrants feel. However fully fledged denizenship is not achieved unless the migrants can either purchase their way into membership of communal spaces or are publicly supported by public authorities and institutes (Shearing and Wood 2003: 414). The latter is the case of Zimbabweans in Moletši who are openly supported by the Chief of the village, nurses at the clinic, and officials from the schools all of whom allow Zimbabweans to access services regardless of the position of the South African government. The findings indicate that Zimbabweans have pieced together entitlement bundles that have allowed them to settle and claim a certain level of security and legitimacy within this geographic space despite the fact that their status as illegal residents of the larger country prohibits them from claiming these same rights outside of this limited geographic space.

This study contributes to the literature on topics of denizenship, rights, pluralism, rural migration, and local government in a unique context. Previous studies have focused on the xenophobia and rampant exclusion of migrants from South African society (Addison 2010, Misago et al 2008, Human Rights Watch 2006, Vigneswaran 2006). This study adds to the picture of migration to South Africa by giving a picture of recent migration to less studied rural areas where despite poverty and high levels of unemployment, Zimbabwean migrants have been able to carve out a niche for themselves.

I am making no claim that the themes and findings of this research are universally found across the spectrum of migration situations in South Africa. Other results and conclusions would undoubtedly be drawn by other researchers utilizing different methodological tools and theoretical approaches (Palmary 2005). Though there are issues not completely covered such as the economic benefits Zimbabweans are bringing to homeowners in Moletši through the creation of a rental market for housing structures, discrimination against Zimbabweans, assimilation, and oscillating migration, this study has sought to limit its focus on the access to service Zimbabweans receive and the affect legal pluralism has on the provision of these services. Future studies might wish to engage in the topics not delved into and further expound on these in order to draw a clearer picture of rural migration in Limpopo.

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