

**FOREIGN NATIONALS, DUTIES TO COMPATRIOTS,
AND THE RIGHT TO WORK IN SOUTH AFRICA**

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Introduction

In August 2001 King Goodwill Zwelithini spoke at the launch of the Illimo Network, a support forum for those engaged in local corporate social responsibility. His remarks, as reported in *The Star* on 26 August 2001 (and copied by IOL, the online news site of Independent News and Media), included the statement that “[Foreigners] contributed to poverty and unemployment in South Africa by 'taking our jobs'”.¹ *The Star* reported further that “King Zwelithini also lashed out at people who employed immigrants instead of South Africans.”²

Another speaker at the same function is reported as offering this insight: “South Africans are fearful that the opportunities they now enjoy would be taken away by foreigners. The misconception of refugees taking our jobs is unfounded. Most of them do work we don't want to do, such as car-guarding. You hardly find them working at factories.”³ This statement, although superficially mollifying, does not substantially differ from King Zwelithini's sentiment inasmuch as it doesn't question the assumption that certain kinds of employment should best be enjoyed by citizens. Rather, it simply points out that public impressions of the degree to which foreigners have intruded into the workplace of citizens are over-inflated.

Sudeshan Reddy, associate public relations officer at the UNHCR, reportedly found these comments “unfortunate” and responded, “Such a position requires careful analysis of the facts. I hope it does not lead to attacks on foreigners, but responses are difficult to gauge.”⁴

Those words ended up being horribly prophetic, as violence against foreigners did indeed erupt in years to come, and the threat of xenophobic violence remains a real element of current South

1 Lorraine Kearney, “Zulu king slams foreigners for 'taking jobs'”, Independent Online, 26 August, 2001, www.iol.co.za/news/politics/zulu-king-slams-foreigners-for-taking-jobs-1.73778

2 Ibid.

3 Ibid.

4 Ibid.

African political tension.⁵ Given that King Goodwill Zwelithini is an influential political figure, and given that his statements at least partially express the mindset of the people he rules, his comments may arguably be reflective of the motivation behind at least some of the xenophobic violence which has since occurred.

If this may be taken to be the case then there is value in understanding and interrogating the underlying ethical premises of this motivation. For the claim either summarizes an ethical truth, which would indicate the need for greater protection of the employment opportunities of South African citizens, or it contains ethical flaws necessitating the greater education of South African citizens in order to avoid the further trampling of the legitimate rights of foreigners living within our borders. This essay will argue for the latter position.

The scope of this essay will be limited to exploring the legitimacy of “foreigners are ‘taking our jobs’” as a justifiable moral position. The intention, in other words, is to assess whether the perceived grievance of some South Africans against foreigners, on the grounds of a loss of employment opportunity to those who have a lesser claim to it, is ethically sound.

The basic premise underlying King Zwelithini's statements presumably runs along these lines: If “they” can be understood to be taking “our” jobs then there is a legitimate distinction between citizens and non-citizens living and working within a country. One particular expression of that legitimate distinction lies in the differing rights which citizens and non-citizens may claim. One such differing right is that to employment.

The understanding implied by King Zwelithini's statement is that there should be no equal right of

5 For a list of press releases relating to ongoing xenophobic attacks in South Africa, see <http://www.xenophobia.org.za/press.htm>

access to employment opportunities between citizens and non-citizens. It is unclear from his short statement whether this differential access should be of the form that 'all jobs be reserved for citizens first, with no non-citizens being employed until all citizens have work'; or whether he means that 'certain (presumably higher status and higher paying) jobs should be reserved for citizens first (or even exclusively)'. It is also unclear whether he intends that non-citizens should have access to specialised employment opportunities when no suitably qualified citizens are available to fill them, or whether such positions should be frozen (or only temporarily available) pending the training of citizens.

While the above possibilities may serve to change the scope of King Zwelithini's statement, they do not undermine its basic principles, a defence of which requires answers to these core questions: “What might be the ethical basis for distinguishing citizens from non-citizens? What might be the ethical basis for limiting the rights of non-citizens in favour of citizens? Do these arguments sufficiently neutralise any notion of a foreigners 'right' to work?”

Section I

As a starting point to this discussion it is helpful to note that there are various expressions of a basic human right to work already in existence. A core document of the United Nations, and the foundation of several agreements binding under International Law, is the *Universal Declaration of Human Rights (UDHR)*.⁶

The *UDHR* preamble begins with the assertion that “the recognition of the inherent dignity and of the equal and inalienable rights of all members of the human family is the foundation of freedom, justice and peace in the world.”⁷ Specifically, as relevant for the discussion at hand, the *UDHR*

6 *Universal Declaration of Human Rights*, as found at <http://www.ohchr.org/EN/UDHR/Pages/Language.aspx?LangID=eng>

7 *Ibid.*

makes the following assertions: that “all human beings are born free and equal in dignity and rights”⁸; that “everyone is entitled to all the rights... in this Declaration, without distinction of any kind... such as national or social origin”⁹; everyone has the right to “freedom of movement and residence within the borders of each state”¹⁰; everyone has the right “to work, to free choice of employment, to just and favourable conditions of work and to protection against unemployment”¹¹.

The *Universal Declaration of Human Rights* was ratified at a meeting of the General Assembly of the United Nations on 10 December 1948. It does quite specifically, however, take the form of a declaration of rights. As such it has no signatories, and exists simply as a statement of intent amongst the United Nations. It describes no legally recognised nor binding agreement between any nations. Neither does it place any legal obligation upon any nations.

Recognising both the value of the rights which the *UDHR* proclaims, and the importance of giving legal expression to those values, more formal United Nations agreements have been drafted for ratification by member nations. One example is the *International Covenant on Economic, Social and Cultural Rights (CESCR)*¹². This covenant was opened for ratification on 16 December 1966 and entered into force on 3 January 1976. Amongst other things, article 6 of the covenant obliges those states party to it “to... recognise the right to work, which includes the right of everyone to the opportunity to gain his living by work which he freely chooses”¹³; and to take steps “to achieve the full realisation of this right... under conditions safeguarding fundamental political and economic freedoms to the individual.”¹⁴ To date this document has been ratified by 69 member states of the

8 *UDHR*, article 1

9 *UDHR*, article 2

10 *UDHR*, article 13

11 *UDHR*, article 23

12 *The International Covenant on Economic, Social and Cultural Rights*, adopted by the United Nations on 16 December 1966, as recorded at <http://www.ohchr.org/Documents/ProfessionalInterest/cescr.pdf>

13 *CESCR*, article 6 paragraph 1

14 *CESCR* article 6 paragraph 2

United Nations, including the Republic of South Africa, which became a signatory on 3 October 1994¹⁵.

The Republic of South Africa likewise became a signatory to the *African Charter on Human and People's Rights (ACHPR)*¹⁶ which came into effect on 21 October 1986 (although South Africa only became a signatory in 1996).

The preamble to this charter specifically recognises those international statements of human rights which preceded it, calling on those states which are party to it to reaffirm “their adherence to the principles of human and peoples' rights and freedoms contained in the declarations, conventions and other instrument[s] adopted by the Organisation of African Unity, the Movement of Non-Aligned Countries and the United Nations.”¹⁷

The *ACHPR* deliberately locates the rights which it proclaims in the individual, and proclaims that individuals are entitled to those rights, within the states party to the charter, regardless of their nationality, stating that “every individual shall be entitled to the enjoyment of the rights and freedoms recognised and guaranteed in the present Charter without distinction of any kind such as race, ethnic group,... national and social origin”¹⁸.

Thus, even while it may be argued that agreements such as *CESCR* only oblige states to protect an agreed minimal set of rights for their own citizens, and within their own borders, the *ACHPR* clearly obliges states to protect such rights as described in *CESCR* (and expanded upon in the *ACHPR* document) for locally resident nationals of other member states as well.

15 United Nations Treaty Collection, http://treaties.un.org/Pages/ViewDetails.aspx?src=TREATY&mtdsg_no=IV-3&chapter=4&lang=en

16 *African Charter on Human and Peoples' Rights*, as found at <http://www.hrcr.org/docs/Banjul/afrhr.wpd>

17 Ibid.

18 *ACHPR* article 2

Regarding the right to work the *ACHPR* states: “every individual shall have the right to work under equitable and satisfactory conditions, and shall receive equal pay for equal work.”¹⁹ The *ACHPR* further states that “peoples shall... pursue their economic and social development according to the policy they have freely chosen”²⁰. It allows that:

all people shall dispose of their wealth and natural resources... in the exclusive interest of the people. In no case shall a people be deprived of it. ... The free disposal of wealth... shall be exercised without prejudice to the obligation of promoting international economic cooperation based on mutual respect... . State Parties to the present Charter shall individually and collectively exercise the right to free disposal of their wealth... with a view to strengthening African unity and solidarity.²¹

It is important to note that the Charter does distinguish between individuals and citizens, noting that certain rights are properly inherent to citizens exclusively – particularly “every citizen shall have the right to participate freely in the government of his country.”²² This is relevant as it supports a reading of the Charter which understands that those rights ascribed to individuals exist and apply, at the very least, and unless explicitly limited, across the region represented by the African Union (successor to the Organisation of African Unity within which the charter was originally ratified), and independently of citizenship.

To summarise, the starting point for a discussion of the right of non-citizens to equal employment opportunity within the Republic of South Africa is rooted in the following understanding of the human right to work: that all individuals have this right; that it includes the right to freely choose

19 *ACHPR* article 15

20 *ACHPR* article 20

21 *ACHPR* article 21

22 *ACHPR* article 13

the work that one will do; that it includes the right to equal pay for equal work; that it includes the right to protection against unemployment; that employers have the right to hire whomsoever they choose (and have an obligation to do so across the region represented by the African Union); and that these rights exist independently of the national origin of any individual, and independently of the citizenship status of any individual.

This understanding of a right to work inherently subsisting in individuals by virtue of the inherent and universal dignity of human individuals may be usefully summarised as an expression of the doctrine of Cosmopolitanism. David Miller describes Cosmopolitanism thus: “originally a doctrine of world citizenship, [it] has come in recent political philosophy to mean simply an ethical outlook in which every human being is equally an object of moral concern.”²³ In a similar vein Thomas Pogge describes a working definition of Cosmopolitanism based on three core elements. Firstly, Individualism – that it is human beings who are the “ultimate units of concern”²⁴ and not any aggregates of them (be that family, tribe or nation). Secondly, Universality – that every human being is equally an ultimate unit of concern.²⁵ And thirdly, Generality – that this recognition of the universal status of human beings has a global scope, in other words that human beings are “ultimate units of concern for everyone”.²⁶

It is clear that the outline description of the human right to work within South Africa, which has been taken as the starting point for further discussion within this essay, falls neatly within the scope of Cosmopolitanism as defined by both Miller and Pogge. It also needs to be noted that, while Cosmopolitanism may or may not be a universally accepted doctrine, the Republic of South Africa is already a signatory to legally binding agreements rooted in Cosmopolitan principles. It may

23 David Miller, “Cosmopolitanism: A Critique” *Critical Review of International Social and Political Philosophy*, 5/3 (2002), pp. 80-85

24 Thomas Pogge, “Cosmopolitanism and Sovereignty” *Ethics* 103/1 (1992): 48-75, p.48

25 Ibid.

26 Ibid., p.49

possibly be the case that Cosmopolitanism is itself a flawed foundation on which to build national and international policy and that the government of South Africa should distance itself from those agreements it has previously entered into. I will leave it to others to explore that possibility. For the purposes of this discussion, given that the government of South Africa has not yet done so, the Cosmopolitan principles those documents describe will be considered at least to frame the local working context within which debate on the right to work is currently taking place. I will, therefore, not be questioning the merits of Cosmopolitanism *per se*, as they are already *de facto* the principles which govern the rights of employment within the country.

As long as that remains the case then what is relevant, in terms of further exploring King Goodwill Zwelithini's assertion in this essay, is whether there may be any coherent moral grounds on which Cosmopolitans may, or perhaps even should, favour their fellow citizens above their fellow human beings in certain circumstances (the more general claim), and whether those circumstances are applicable to the right to work (the more specific claim).

In other words: is it possible to remain a Cosmopolitan and still seek to uphold the rights of a fellow citizen in such a way that the exercise of those same rights by foreign residents (and specifically, by nationals of countries which are also signatories to the ACHPR) are compromised? For King Zwelithini's position to hold ethical water (within the South African context described previously) the answer to that question would need to be "Yes!" However, in the context of this discussion, it would not be sufficient merely to show that Cosmopolitans could sometimes treat the rights of people differently and still remain Cosmopolitans. It is, as will be seen, fairly easy to argue for the right to vote to be understood in this manner. It would also need to be shown that the right to work specifically could be treated in this manner. Thus supporters of King Zwelithini would need to show both that valid exceptions to Cosmopolitanism can exist without negating the broad principles upon

which certain elements of South African foreign policy depend, and that the right to work is one such exception. This essay will seek to show that even when sound argument for certain kinds of exceptions may be made, the grounds for such exceptions do not specifically allow for the the right to work to be so treated.

There are a number of approaches which do seek to assert the more general of these claims. Robert Goodin proposes a view of the nation-state as the means by which universal human values are locally expressed, and in which compatriots must thus promote one another's good.²⁷ Andrew Mason proposes the view that special obligations to compatriots exist, and derive from the intrinsic value of citizenship itself.²⁸ Christopher Wellman, in turn, denies the value of association *per se* but grounds a defence of special consideration for fellow citizens in the social nature of consumption within the state²⁹. Richard Vernon, by contrast, proposes that compatriots have special obligations to one another by virtue of the shared risks which they accept on one another's behalf rather than by virtue of any particular benefits which they may enjoy in association.³⁰

On another tack completely, it is argued by some that Cosmopolitanism (at least in a form such that “agents... should acknowledge equal duties or equal responsibilities to everyone in the world without exception”) is inherently opposed to the very notion of an autonomous nation state.³¹ Miller argues that, if any inherent good can be demonstrated in nation states (and he makes a case for states having value at least as guarantors of a valuable cultural diversity), then it is only possible that a weaker form of Cosmopolitanism can stand. This weaker form, as he proposes it, requires that agents be treated as having equal moral worth. As such, agents are required to engage in fair

27 Robert Goodin, “What is So Special about Our Fellow Countrymen?” *Ethics* 98/4 (1988), pp. 663-686. Parenthetical references in the text to Goodin will be to this article.

28 Andrew Mason, “Special Obligations to Compatriots.” *Ethics* 107/3 (1997), pp. 427-447

29 Christopher Wellman, “Relational Facts in Liberal Political Theory: Is There Magic in the Pronoun 'My'?”, *Ethics* 110/3 (2000), pp. 537-562. Parenthetical references to Wellman will be to this article.

30 Richard Vernon, “States of risk: should cosmopolitans favor compatriots?”. *Ethics and international affairs* 21/4 (2007), pp. 451-469. Parenthetical references to Vernon will be to this article.

31 Miller, *op.cit.*, p.84

dealings with one another. But these fair dealings can only exist within the kinds of interactions which agents actually share. Thus, if I engage with you in trade I am bound not to cheat you, but I have no obligation to look after your right to trade as well. In other words, autonomous states can only exist because at least the general case of exceptions to strict Cosmopolitanism is taken for granted, and the specific case is implied. Miller, of course, is arguing a scenario in which agents of different states come together for trade and then return to their own states, which each look after their own citizen's right to work. The scenario of an agent resident in a foreign land is somewhat different and, as will be demonstrated, it can be shown that the notion of autonomous states is not incompatible with the idea that a state should fulfil the role of 'protector of rights' to a foreigner within its borders. Indeed, the notion of autonomous states may well require that states act in proxy for one another in such circumstances.

An exploration of these representative positions will demonstrate that none of them require a version of nation states incompatible with Cosmopolitanism (if, as it will be argued, it is allowed that a certain freedom of movement of economically active individuals is compatible with both Cosmopolitanism and the existence of autonomous nations.) It will also be shown that the kinds of exceptions to Cosmopolitanism which these various positions propose in order to promote certain kinds of 'goods' which may be lacking within a broadly Cosmopolitan framework (where those exceptions are justifiable), do not coherently extend to the right to work as well.

Finally, there is one further argument for the reservation of jobs, particular to South Africa, which may need to be explored. The disparity of wealth resulting from decades of apartheid has seen the widespread implementation of Broad Based Black Economic Empowerment policies in the South African marketplace. It may be implicit in King Zwelithini's original statement that those to be considered first for employment should be those who have previously been the victims of apartheid.

While this claim may have some validity when held against those who have previously benefited from apartheid, it can be shown to be problematic when held against minority groups of migrants arguably fleeing persecution in their own country. As will be argued, the best notions of what 'states' are must include a sense of their global and cooperative responsibility for the protection of those rights owing to all humanity – and even more so within those states with the means to do so, over against those states which are unable to do so.

It will thus be shown that there is no compelling justification for South Africa to undermine the existing ethical code in effect across the African Union with respect to the basic human right to work, and thus no defensible justification for a xenophobic condemnation (on the grounds proposed by King Zwelethini) of those who seek employment here.

Section II

To explore this assertion, let us begin with a broad question and ask, “Are there any circumstances in which Cosmopolitans should favour their fellow citizens above their fellow human beings in general?”

Goodin begins his own response to this question by reasserting a foundational principle for this discussion, namely that 'impartiality' is a necessary and core element of the moral treatment of others. This is true regardless of whether one prescribes to the 'Benthamite' calculus of “everyone counts for one, no one for more than one” (Goodin, p.664) or the Kantian Categorical Imperative which allows that:

Treating people as ends in themselves, and respecting the rationality embodied in others, may require us to do different things to, for, or with different people. But that is not a

manifestation of any partiality between different people or their various projects. It is, instead, a manifestation of our impartial respect for each and every one of them.

(Goodin, p.664)

With that said, however, he immediately concedes that most, if not all, people are also subject to special claims and obligations toward those to whom they owe 'special duties' (Goodin, p. 665). Thus he offers the broad statement that, in general, theories which claim special duties toward fellow countrymen make the standard assumption that what we owe to them is a greater good than what we might owe to a foreigner. And there are instances where these special privileges are routinely exercised: citizens may vote; citizens abroad have recourse to the protection of the state – and none of these privileges apply to foreigners (Goodin, p.670).

And yet, as he points out, this is not always practically the case. For example: citizens can have their goods commandeered for state purposes; citizens can be called for military duty; citizens residing outside of the state can be taxed – all states of affairs which one may not experience as a personal greater good, and none of these instances apply to foreigners either (Goodin, p.668). So the treatment of citizens, as against foreigners, cannot simply be a case of, as originally assumed, 'special relationships magnify positive duties' – in other words, “it is wrong to let anyone starve, but it is especially wrong to let... compatriots starve” (Goodin, p.671). For while it is true that one should not let one's compatriot starve (or the foreigner in one's land, for that matter), it is also true that more demands may sometimes be made on one's fellow countrymen than on foreigners. Thus it seems *de facto* to be the case that the special relationship enjoyed between compatriots doesn't just require an increased high regard for them, but actually creates duties between them which would not otherwise exist, and which may result in a decreased perceived individual 'good' for them, e.g., the requirement in many states that citizens give a number of years to military service.

For Goodin, these examples suggest that the best way to understand current common practice is to locate the duties of citizens toward one another within an understanding of 'mutual benefit'.

Within the conventional wisdom about international relations, nation-states are conceptualised as ongoing mutual-benefit societies. Within mutual-benefit-society logic, it would be perfectly permissible to impose sacrifices on some people now so that they themselves might benefit in the future; it may even be permissible to impose sacrifices on some now so that others will benefit, either now or in the future. (Goodin, p.675).

If this is indeed the prevailing ethical mindset as regards the treatment of nationals and foreigners, then it is at least consistent with the kind of examples already given, detailing their differential treatment. For it is clear that national states can operate as discrete 'mutual benefit' groupings, in which nationals may be called to make sacrifices for a greater good, such that the benefit to the society is increased; and foreigners may not be asked to make sacrifices for the sake of a society from which they will not be able to reap the benefits.

If, however, the implication of a 'mutual-benefit' model is that states describe the boundaries around communities which operate on a reciprocal give-and-take basis for the ultimate benefit of all within the state, then there is at least one group of people who fall outside the scope of that care and yet who are dependant on it – and that is those who are unable to make a material contribution to the good of the greater society. If one considers, for example, the unemployed then it can be argued that even though they may require welfare support at a particular point in time, the potential exists for their status to change in the future, and for them to thus become contributors to society in a way which supports the ethic of mutual-benefit as the foundation for a successful society. But what of

those who are handicapped, or who will never be nett contributors to society? For such people to find a place within society is for society to not operate on a purely mutual-benefit basis.

Also, of course, there is nothing in the formulation of a mutual benefit model which requires that foreigners who are able to make a positive contribution to society (for the purposes of this discussion, by being gainfully employed) should not be given an opportunity to do so. This point raises the very relevant question of where the boundaries around mutual-benefit societies should exist, and how they may be crossed. However, since Goodin, for the above reason, proposes to significantly adjust the mutual-benefit basis on which international relations are understood, that question will be dealt with in answer to his modified model.

Goodin's approach, therefore, is not to see nation-states as a protected arena in which existing duties are magnified, nor to see them as an arena in which duties are added and magnified, but as an arena in which the general duties which all people owe to one another may be assigned to those best able to perform them on behalf of the rest. Thus "special duties are... merely devices whereby the moral community's general duties get assigned to particular agents. For this reason I call mine an 'assigned responsibility' model." (Goodin, p.678)

Goodin's basis for proposing such a model begins with the assumption that all people have certain duties toward one another, and that those duties will be both negative and positive. But he also asserts that, in a sufficiently complex society, those duties will not fall equally on every member of that society in all situations. They are allocated to particular people in different ways, and according to rules which will be socially constructed to serve the best interests of that society. So, for example, if one happened alone upon a drowning child whom one was able to save without suffering some personal and non-trivial consequence, simple human morality would demand that one act to do so.

If, however, the same scenario unfolded on a crowded beach, in which people would likely be injured if all stormed the sea at once, and at which a lifeguard was on duty, then it would fall to the lifeguard to perform that duty and to everyone else to allow the space for the lifeguard to do so. In this instance the lifeguard has a special duty to perform, which under other circumstances would revert to anyone to perform, on the basis that he was appointed by society to fulfil that function (Goodin, p.680).

It seems to me that at first reading this model accomplishes that which Goodin sets out to achieve. It allows for particular people to exercise special duties toward others (on the basis of being assigned those duties by the society in which they exercise them); and it allows for the care of those who cannot materially contribute to society (by founding those duties upon the more basic and general ethical duties to be concerned with the autonomy of others). Those general duties are not, by definition, limited to the members of any particular grouping. One does not request of the drowning child to see his passport before fishing him out of the water. But in the same way that a lifeguard is a better saviour of drowning people than anyone else; or a doctor is a better carer for the sick than anyone else, so Goodin suggests that the concept of a Nation enables the focussed and specialised care for those who are its citizens. The kind of care referred to in this model is exactly that which every citizen of the world should enjoy, founded upon the moral duty of every citizen of the world to respect every other citizen of the world – but given to the state to more ably carry out in special and particular ways.

Goodin makes this point quite deliberately, to distance his model from the shortcomings of Associative and Mutual-Benefit approaches: “the ease and efficiency of administration... [and] deep psychological attachments... are [both] considerations that bear on the drawing and redrawing of [social] boundaries; [but] they are not, in and of themselves, the source of special responsibilities

toward people with those shared characteristics.” (Goodin, p.682).

What is important to note, and is of special relevance for this discussion, is that Goodin's model rests upon the assumption that states may exercise special duties toward their citizens only because every person has a state exercising these special duties on their behalf. Since these special duties represent simply the focussed obligations to serve the general rights to which all are entitled, it follows that any person who has no state, or whose state is not performing that duty, becomes again the responsibility of humanity in general, or of the community of states which make up the world – in much the same way that a child drowning off a beach with no lifeguard should expect the general public to take an interest in his plight.

Goodin recognises this point himself: “it would be wrong for any state to press the claims of its own citizens strongly, to the disadvantage of those who have no advocate in the system; and it would not be wrong (as, perversely, it would be on the mutual-benefit-society model) for any state to agree to give refugees a home.” (Goodin, p.684). But there is a deeper implication to Goodin's understanding of states as agents for general duties owed to all people as well. Under the mutual-benefit model people could move across national boundaries only if that move would result in a nett benefit for the new hosting state. Job-seekers without skills of any value would have to be turned away. The state might have leeway to consider foreign workers with special skills, but not if it could be shown that local workers with those same skills would thereby be disadvantaged. The mutual-benefit model perfectly underpins the implied assertions of King Zwelethini, and undermines the existing foreign policies of the Republic of South Africa.

However, the model which Goodin suggests to replace it – on the grounds of its other inherent shortcomings - does not. Goodin is insistent that states exist as administrative agents, tasked with

special responsibility to ensure that the duties owed to all people are effectively carried out. Implicit in this model is the understanding that, if particular states fail to carry out this duty, other states must! In Goodin's own words, "If there has been a misallocation of some sort, so that some states have been assigned care of many more people than they have been assigned resources to care for them, then a reallocation is called for." (Goodin, p.685). In other words, if citizens of another state are unable to find work in their home country, and if they are able to find work in a new host country, then the host country should welcome them with open arms – and view the occasion as a necessary righting of the global balance, and a just discharge of the global duty which all states share. For the fact that people need to move out of a region which cannot support them and into a region which can is a sure sign of an original misallocation of state responsibility.

Thus Goodin lays a strong foundation for the acceptance of the general claim to be explored in this discussion – that the concept of nations does serve an inherent good and that this good is served by nations exercising special duties with regard to their citizens which they do not necessarily need to extend to foreigners (and thus, implicitly, that citizens have special duties toward one another inasmuch as they are required to uphold the state – the same kinds of duties as all citizens of all states have toward one another). And yet, at the same time, implicit in Goodin's model is the assertion that the specific claim of King Zwelithini, that citizens should have preferential access to employment, can not be linked to the general claim. For those who seek to move between states (and in this case, particularly for the purpose of seeking employment) need to be free to do so. If they cannot then the good which states serve (ensuring that all people do have their basic general rights served) is not able to be achieved. Thus, for the purposes of this discussion, Goodin's model becomes a convenient yardstick against which alternative models must needs be compared.

Section III

This being the case, it is important to note that Goodin's model is not universally accepted. A number of authors recognise gaps in his model which they try to plug either by making his model more comprehensive, or by proposing alternative frameworks within which to explore the rights and obligations (and limits thereof) of citizens toward the state and one another. It is thus worth examining those objections to Goodin, particularly with an eye to ascertaining whether any of those objections undermine the crucial thesis of this essay – that the existence of special duties of citizens toward one another does not necessarily override the right of foreign nationals to work. The following discussions will show that no such alternatives convincingly make this case.

Andrew Mason challenges Goodin on the grounds that his model of statehood can not compellingly account for the full scope of special duties which citizens should owe one another, by virtue of being members of one state. Nor does it address the duties which citizens owe to the state in return. Mason proposes that there are at least two kinds of duties which citizens owe which need to be accounted for. The first are those duties which citizens owe to one another as compatriots of the same state to “give priority to each others needs”³²; and the second are those duties to “participate fully in public life” (Mason, p.427).

Mason recognises that there are both more and less contentious expressions of these two sets of duties (Mason, p.428). In the case of the former it might be postulated by some that the duty of citizens to “give priority to each others needs” implies taking care of all of one's compatriots needs, even if not urgent, before one even begins to look at the needs of those outside of one's borders, even if urgent. This view could possibly also be extended to taking care of one's compatriots trivial needs before one begins to look at the more urgent needs of non-citizens resident within one's borders. But Mason does not himself attempt to defend this more extreme interpretation of citizen's

³² Mason, *op.cit.*, p.427. Further references to this paper will be indicated in the main text.

duties toward one another, noting that this is a less plausible formulation (Mason, p.428), and Goodin's model does include at least a minimal recognition of the need to care for one's compatriots – so there is no necessary conflict between these two positions. The *raison d'être* of Goodin's model is, after all, the protection of the basic rights of every individual, based on the assumption that it is within a healthy state that this best takes place. Only once a state fails does Goodin understand that the responsibility for the welfare of those who thereby become 'uncared for' reverts to global society. While his model perhaps does not explicitly call compatriots to exclusively care for one another, it certainly insists that they care at least for one another, and so is compatible with Mason's requirement. Where Goodin's view remains incompatible with Mason's, of course, is on the issue of the inherent good of citizenship. Mason rightly points out that Goodin's model really doesn't require any sort of differentiation between citizen and non-citizen at all (Mason, p.437). Resident and citizen are treated alike by Goodin, even to the point that some residents may be considered *de facto* citizens (Mason, p.435). Mason sees potential problems with this approach inasmuch as residents may wish not to accept the responsibilities of citizenship, implying that there is a relevant distinction to be drawn between the two (Mason, p.436). Even drawing this distinction, however, Mason does not thus argue for a restriction of a resident's access to various opportunities. He explores instead the obligations which citizens have toward the state and one another to create the kind of milieu in which citizenship becomes an important constituent of one's own identity (Mason, p.437). Mason quotes Bhiku Parekh on the nature of this obligation:

[Citizens are obligated] to take an active interest and to participate in the conduct of public affairs, to keep a critical eye on the activities of government, to speak up against the injustices of their society, to stand up for those too demoralised, confused and powerless to fight for themselves, and in general to help create a rich and lively community.³³

33 Bhiku Parekh, "A Misconceived Discourse on Political Obligation," *Political Studies* 41 (1993), pp.236-251, p.243, quoted by Mason, op.cit., p.428

Exploring the notion of statehood arising from general moral principles, Mason notes that such an approach permits states to exist, and justifies why they must provide certain services to their citizens which they are not required to extend to citizens of other states, who are resident in their own countries (obviously, all else being equal). He notes too that the fact that states treat their citizens with some kind of special consideration in turn justifies the special consideration that citizens have toward their state, and in turn toward the fellow citizens who enable the state to function effectively (by paying their taxes, or, I presume, by making themselves available for the kinds of specialised duties which Goodin proposes). As Mason himself notes, however, there is a significant gap between that which is permissible and that which is required (Mason, p.431).

It might be argued that the special considerations with which citizens regard the state are required in order for the state to function as intended. Citizens, in other words, have to provide the state with the resources it requires in order to function as a state (and that is perfectly compatible with Goodin's assertion that the functions of state are to promote the general rights of all people). Getting one's trousers wet in order to save a drowning child can conceivably scale up to paying one's taxes in order to provide social welfare. But what this argument fails to address is the key distinction between the rights and obligations of citizens as opposed to those of foreigners who are sufficiently long term residents.

The obligation of citizens to participate in the life of the state is well grounded. And under Goodin's model, long term residents are both expected and allowed to exercise the same kinds of obligations toward the state and toward fellow residents in a territory as citizens are expected to show – for those obligations derive from the general duties which all people owe to one another. However, the models which Mason explores begin with the assumption that duties to participate in public life are a given only for citizens, and are in some crucial instances restricted only to citizens. Obviously, if

this must be the case, then foreign nationals are automatically excluded from the possibility of engaging in some levels of public life within their adopted countries (commonly, for example, by being unable to vote).

This potentially creates a problem for Mason: If states have a duty first to citizens, then it is partly because citizens are performing some duty toward the state which enables it to function effectively, and partly because citizens require the state to act on their behalf for the welfare of their fellow citizens who are also contributing members of society, and to whom they are thus also in some kind of debt. It is good that this kind of social dynamic exists between citizen and state, and between citizen and citizen. But citizens are not the only contributors to society, for long term foreign residents also contribute toward the functioning of the state and may also be social pillars of their communities. And yet, their obligation to be so results in no reciprocal obligation from the state. They contribute to the good of the state, and yet are denied the good of participation in the state and of comprehensive state protection and support.

Faced with this challenge Mason himself seems to question whether that assumption, as made by Parekh and others, may be as safe as originally thought - "it is implausible to suppose that the fulfillment of this obligation [to participate fully in public life] is required in order to secure basic well-being, or indeed well-being in its other levels." (Mason, p.432). But here Mason seems to find himself in somewhat of a catch-22. For now his predicament has become this: states treat citizens differently because citizens have obligations toward, and carry some cost for, the state. But not all citizens are required or are able to exercise those obligations, and it is not necessarily good that they should try; thus those obligations can be definitive neither of citizenship nor of healthy state functioning. But then on what basis does one distinguish between the citizen and the resident when it comes to the protection of rights?

It might be argued that this supposed obligation be viewed as the 'best means' of achieving good government, without necessarily being a requirement for it, or that “the obligation to participate fully in public affairs is an obligation to participate when not enough others do.” (Mason, p.432). Granted, states can continue to function with only a relatively small proportion of the populace actively engaged in political affairs – activist groups will form, opposition parties will heckle, candidates will be elected to office. But it does seem that if the distinction between citizen and foreign resident is the rather relative obligation which citizens have to “participate when not enough others do so” then there is less and less to distinguish the resident who cannot participate from the citizen who chooses not to.

This being the case, there is less reason to turn so quickly away from Goodin's proposed grounding of states. For his model is built upon the notion that, while the duties and obligations of states and citizens derive from general moral principles, the exercise of those duties and obligations are best performed by specialists on behalf of the general population. If society can empower and support lifeguards to protect people on beaches, then there is no reason why society cannot empower and support politicians to protect them in parliament. This seems to be effectively the point to which Mason must eventually come. Mason would, no doubt, require that it be citizens who elect these politicians to office. But that does not, of itself, contradict the model of statehood (and state duties) which Goodin proposes. Goodin's model is based on the notion that people exercise specialist duties toward one another on behalf of the state and of one's fellows. There is no reason to reject the idea that one such specialist duty could be the election of political office bearers. There is no good reason why that specialist role should not be labelled 'citizen'. Thus Goodin's model easily accommodates Mason's practice of citizenship. But Mason's practice of citizenship does seem to undermine his ability to move away from Goodin's model of state – as the universal privileges of citizenship are no longer able to be coupled to any universal obligations of citizenship.

And if, in practice, the privileges of citizens are not consistently linked to the ways in which they live out their obligations, then on what basis should productive, long-term residents be excluded from similar privileges? Mason asks this question himself: “Why isn't the most effective way of discharging general moral obligations to assign states and their officials special responsibility for those living within their territories over a sustained period, irrespective of whether they are citizens?” (Mason, p.435). This is, of course, the key question which keeps arising – “What is so special about citizenship?” Why must it be the case (other than existing practice) that citizens receive benefits that other contributing members of a geographically bounded society do not?

It is interesting that Mason comes finally to the point of recognising that if the distinction must be drawn then it can likely only be done on the grounds that it is something intrinsic to the notion of citizenship which requires that citizens owe special duties to their fellow citizens. Any attempt to base such distinction in the practices of citizens leads ultimately back to Goodin's already discussed 'assigned responsibility' model of society – a model which allows that citizens may have special duties and obligations, but not at the expense of the exercise of the rights of those who are not citizens. Thus Mason posits that, if the distinction must be drawn, this distinction is likely only defensible on the basis of a “particular ideal of citizenship” (Mason, p. 447). And although he makes no absolute claims as to what that might be, he does suggest that the work of Joseph Raz on the inherent good of friendship might bear fruit in this regard, if the idea of 'friendship' can be made to meaningfully apply on a national scale.

Section IV

If, however, the grounding for a defensible justification for the preferential treatment of citizens is going to move away from the need to defend any universal rights, and toward an assumption of special obligations arising out of the inherent good of certain relationships, then a digression needs

to be made at this point. The starting point for this discussion has been that South Africa must work within a broadly Cosmopolitan framework, simply because that is the framework which has been inherited. One can imagine King Zwelithini perhaps asking the question, “So what?” And if, as Mason argues, there is a good which may simply be assumed in certain preferential relationships (citizenship included), then it is worthwhile to briefly consider that position. For if that is demonstrably the case then it may well be that a fundamental premise of the thesis of this discussion is false.

It is arguably the case that most people will find that the idea of 'special relationships' resonates in some way with them. Presented with the traditional test case of having to choose between saving one's own mother from a burning building, or some other great benefactor of humanity who is otherwise a stranger, would most people not choose to save their kith and kin first? It is probably not hard to find numerous groups of people in various degrees of relationship to us, from family to neighbours to fellow golf club members, to whom we would want to extend some sort of special and particular good. This is arguably the case that King Zwelithini wishes to instinctively argue – that compatriots fall into these kinds of relational groups in a way that foreigners do not, and it is certainly compatible with the line which Mason wishes to pursue.

The question is, “Why might this be a valid position?” Obviously, the answer to that question lies in what I imagine would be the universally uncontested assertion that people generally wish well toward those whom they know and like. But that statement contributes nothing toward the more important underlying ethical question which must also be asked: Is it morally significant that people would choose to act in favour of those to whom they feel close, or are the factors which influence such a decision not necessarily connected to any consideration of what is ethically right at all? Does the fact that I will choose to save my own mother imply that I must have been morally obligated to

save my own mother? There may be good reasons for believing that special duties are owed to mothers, but the point of asking the question is to highlight the principle that moral decision making, and ethics as a discipline, must serve a deeper purpose than simply finding justification for that which I would like to do, especially when the reason I may like to do something may well be rooted in emotional responses rather than sound moral judgement. The entire advertising industry exists in order to exploit the fact that the desire to act in a certain way can be uncoupled from rational decision-making. The corpus of legislation against nepotism exists for the same reason, on the basis that society needs protection from those who would otherwise act in favour of family first.

This point is worth stressing as there is an established body of thought known as Associativism which posits that relationships, and the obligations they imply, contain an inherent moral good which exists quite distinctly from, and without requiring any foundational recourse to, more basic moral principles. Wellman quotes Ronald Dworkin:

Associative obligations are complex, and much less studied by philosophers than the kind of personal obligations we incur through discrete promises and other deliberate acts. But they are an important part of the moral landscape: for most people, responsibilities to family and lovers and friends and union or office colleagues are the most important, the most consequential obligations of all.³⁴

Wellman quotes Alasdair MacIntyre on the reason why:

It is not just that different individuals live in different social circumstances; it is also that we all approach our circumstances as bearers of a particular social identity. I am someone's

³⁴ Ronald Dworkin, *Law's Empire*, (Cambridge, Mass., Harvard University Press, 1986), p.196, quoted by Wellman, *op.cit.*, p. 539

son or daughter, someone else's cousin or uncle; I am a citizen of this or that city, a member of this or that guild or profession; I belong to this tribe, that clan, this nation. Hence what is good for me has to be good for those who inhabit those roles. As such, I inherit from the past of my family, my city, my tribe, my nation a variety of debts, inheritances, rightful expectations and obligations. These constitute the given of life, my moral starting point. This is what gives my life its moral particularity.³⁵

At the heart of MacIntyre's argument seems to lie this train of thought: that what is good and right must be good and right for every individual; that what is good and right for every individual must include some recognition and respect for the self identity of every individual; that the self identity of every individual exists, or is formed, within a complex social web from which it cannot, and should not, be removed; and thus that what serves the good of the individual must be that which also serves the good of the social complex within which the individual exists. This argument demonstrates a fundamental characteristic of associativist thought, namely that it represents foundational principles for ethical reflection. In other words, the fact that certain kinds of relationship are fundamentally a part of who people are is a good enough basis to honour those relationships in certain ways, and trying to evaluate those relationships in terms of more fundamental interactions (for example, I have obligations to my parents *because* they fed and clothed me) is effectively self damaging, inasmuch as it strips away important constitutive elements of one's own being. David Miller, quoted in Wellman, puts it thus:

relations between persons are part of the basic subject matter of ethics, so that fundamental principles may be attached directly to these relations. It [associativism] invokes a different picture of the universe, in which agents are already encumbered with a variety of ties and

35 Alasdair MacIntyre, *After Virtue*, (Notre Dame, Ind., Notre Dame University Press, 1984), p. 220, quoted by Wellman, *op.cit.*, p. 538

commitments to particular other agents, or to groups or collectivities, and they begin their ethical reasoning from those commitments.³⁶

If this perspective is valid then there is a clear case to be made for one's compatriots to indeed receive one's care and attention to a greater degree than foreigners, and in a way which requires one to always place the needs of one's compatriots first. This perspective is not, however, one which goes unchallenged.

Beginning with the argument implicit in MacIntyre's formulation of the underpinning of associativism, there are two questions which need to be asked immediately: To what degree does the ethical treatment of others require that their self identity be respected? Can limits be placed on the social identities which form a part of one's personal identity?

The underlying assumption of the associativists explored in this essay is that the relationships they describe are inherently good for the individual born into them. It is easy to acknowledge that one has an obligation toward one's mother when one's mother has had a positive influence over the person one becomes. But what if that is not the case?

What if one's mother has been abusive? I find it difficult to imagine that even the most ardent associativist would insist that I have a special obligation (by virtue of a special association) to the welfare of a person who damaged me first and with whom I might thus have no relationship at all. Clearly Miller's "ties and commitments" need to be something more meaningful than mere labels describing biological relationships empty of any other content. And even more so if MacIntyre is right that the value of associativist thinking stems from the realisation that one's own sense of self is partly constituted by one's identity and involvement with certain key groups (such as family). So the

³⁶ David Miller, *On Nationality*, (Oxford: Oxford University Press, 1995), p.50, quoted in Wellman, *op.cit.*, p.539

similarly misserved. Perceived obligations arising out of the perceived loyalties inherent in certain relationships may be misplaced. And the fact that they may be misplaced requires associativists to answer exactly the kinds of questions about relationships which make the good of those relationships dependant on more fundamental considerations.

It needs to be said too that the kinds of relationships which associativists value cannot easily be arbitrarily bounded. It is easy to claim that one inherits obligations to one's parents, but how are those obligations weighed against obligations to extended family, or clan, or tribe, or nation? When obligations conflict, does one come down on the side of the mother one loves against the stranger benefactor, or one's favourite uncle against one's abusive mother? Does one side with the stranger who is a fellow citizen against the cousin who travels under a foreign passport? And why stop at the level of Nation? Does one side with the fellow BRICS national against one's visiting professor from Canada? And if, in a thousand years, humanity has colonised the planets does one side with Earth citizens against Martian? If so, why not start to identify with fellow citizens of planet Earth now, and simply seek the best good for the most people? If it really is true that six degrees of separation are all that exist between any two people on the planet, then practically everybody is a part of the network of those I am especially obligated to care for, and is arguably worthy of that same consideration (ie if A is obliged to care for B's wellbeing, and B can only be well if C is well, then A arguably has some obligation to C too).

But the most fatal flaw in associativist thought must ultimately be this: that self identity is not a static social construct³⁸. It grows as we do, maturing and becoming more inclusive as we do. And if this shifting sense of self-identity becomes the basis for one's ethical obligations toward others, then

Syndrome" *FBI Law Enforcement Bulletin*, 76/7 (July 2007), pp. 10-15

38 Defending this statement is outside the scope of this article. For one discussion of the ways in which a sense of self is dynamically created within shifting social contexts, see: Nancy Bell and Anindita Das, "Emergent organisation in the dialogical self: Evolution of a 'both' ethnic identity position" *Culture & Psychology* 17/2 (2011), p.241

practical ethics has been reduced to the mere expression of one's psychological state at a particular moment of one's ongoing moral and social development – effectively, “I will help those I feel like helping today (and presumably no one at all if I don't feel like it)!”

Dworkin himself is aware that associativism cannot rest securely upon either a psychological or emotional foundation³⁹ – and that it is particularly susceptible to these kinds of objections – and so proposes a scheme of principles, adherence to which creates an objective basis for describing the responsibilities which members of associative communities must exercise toward one another.

Specifically, these are quoted by Lucan Gregory as follows:

- (1) Their responsibilities toward others are contingent on reciprocity
- (2) Their obligations are special (ie they hold solely between members of the group).
- (3) Their obligations are personal (ie they hold between individual members of the group and not between members and the group)
- (4) Their specific obligations flow from a more general responsibility of concern for the well-being of each individual member of the group
- (5) The practices of the group reflect an equal concern for each individual member.⁴⁰

Dworkin says of these attitudes that they are “not a psychological property of some fixed number of actual members.”⁴¹ They are thus, as Gregory notes, “not contingent on the member's real feelings and thoughts. They are attitudes that, given the best interpretation of the practices found within the community, define the character of individuals who participate in those kinds of practices.”⁴²

39 Dworkin, *op.cit.*, p.47

40 Lucan Gregory, “Ronald Dworkin, T.H.Green and the Communal Theory of Political Obligation”, *Social Theory and Practice*, 32/2 (2006), pp.191-212, p.196

41 Dworkin, *op.cit.*, p.201

42 Gregory, *op.cit.*, pp.196-197

Defined in this way, associative communities automatically exclude the abusive mother discussed above, and address the question of conflicting obligations between members to whom one might not feel equally close. Both are disallowed by definition. But this framework does not address the case of the cell of neo-Nazis who could well form an exclusive community adhering to these principles – but a community which others would struggle to define as having an inherent good worth protecting. Also, this definition of associative communities narrows the scope envisaged by other Associative theorists, as the kind of community described above by Dworkin can not feasibly be scaled up to operate at the level of nation. It would be nonsensical to claim that one was equally concerned for the personal well-being of every individual in the country. It would be just as nonsensical to imagine a country in which every citizen was able to reciprocate the good actions of every other citizen toward them – some will be taxpayers, and others they have never met will be beneficiaries of the social welfare they enable! Certainly, as Gregory notes, Dworkin's “de-psychologised account of associative obligations does not require him to show that individual members actually hold genuine affective concern for one another”⁴³, but it should at least demonstrate “how one's fate is substantively tied to the fate of that other person. Identifying a shared conceptual playing field on which to lead one's life does not ground moral obligations. It provides a descriptive account of the moral climate in which one lives, but it does not provide the requisite normative link.”⁴⁴

While associativism may thus have real benefit as a lens through which to explore the value of local communities, the constraints under which it must inevitably operate make it an irrelevant lens through which to view matters concerned with global and international dynamics. Thus, if one does owe some special duties to one's fellow citizens, in a way which precludes one from offering work to the foreign national seeking local employment – even in the face of the legislation allowing such

43 Ibid, p.197

44 Ibid, p.198

employment - there must be some more fundamental justification for that duty than simply “He is my countryman”.

Section V

If that is so, then the above discussion of associativism becomes an important lens through which to critique Mason's attempt to ground a special consideration for compatriots within a framework of inherently good special relationships. In beginning his exploration of this idea, Mason describes three basic assertions of Raz's claims about friendship: that friendship is an intrinsically valuable relationship; that sharing friendship includes the taking on of certain obligations (which are justified by the good which friendship is); and that these obligations are a fundamental part of what makes friendship good.⁴⁵ To express this in other words: friendship is good; friendship implies accepting certain obligations; fulfilling those obligations enables friendship to be what it is (which is good); so fulfilling those obligations is good. The point which Mason (through Raz) seems to be trying to get to is this: that certain kinds of obligations are inherently a part of intrinsically good relationships – and if those relationships are intrinsically good then their attendant obligations are justified by those relationships without needing recourse to any more fundamental ethical principles. Clearly, by incorporating Raz into his thinking the way he has, Mason is hoping for a tentative correlation between the special obligations which his 'ideal of citizenship' would entail, and the kinds of obligations which Raz' friendship entails. The immediate problem which this approach faces, however, is that Mason has simply re-created another form of associativism, with all the attendant challenges which have already been discussed.

For even though Mason presents Raz as particularly concerned with friendship specifically, any of the special relationships which associativism values would work just as well as a foundation for his basic assertions. Nothing stops the proponent of associativism from simply replacing the word 'friendship' with the phrase 'parent-child bond' and making Raz's same claims for special

⁴⁵ Joseph Raz, “Liberating Duties,” *Law and Philosophy* 8 (1989), pp. 3-21, pp. 18-21 quoted by Mason, op.cit., p.439

obligations, in a way which is fully consistent with the principles of associativism. And the same is true in reverse. Returning for a moment to Dworkin, Raz' postulated friendships involving individuals in relationship with other individuals probably works very well as a basis on which to develop a framework for special, inherently good obligations. These kinds of friendships satisfy all Dworkin's criteria (as discussed already) for special obligations: they are rooted in personal interaction (i.e. relationships are between members of a group and not between members and a group); they are special (i.e. they exist between group members and not the entire population); they flow out of a sense of concern for the wellbeing of every group member; they result in a practice which reflects equal concern for every group member. It is not difficult to accept that these kinds of relationships are valuable to those who share in them, and that doing so entails the acceptance of certain obligations which partially constitute the good of those relationships. But, just as has been seen for associativism, friendship breaks down when it is applied to the theoretical relationships between members of a country, for this very important reason. Personal relationships may well be understood as intrinsically valuable (there may be scope to debate this point with Mason and Raz, but doing so serves no purpose within this essay), but theoretical relationships may not. The good of friendship is directly experienced when one is in relationship with particular people. It can be experienced as special and personal and resulting in that sense of wellbeing which comes from being personally valued by those for whom one is an object of concern, because that is what friendship inherently is. The good of citizenship is not experienced in this way in that it is not personal and it does not practically make one an object of concern in the same way that every other citizen might be (but in a way that friendship can). It is difficult, therefore, to imagine that the relationships between citizens can be analogous to those between friends in a way that makes citizenship analogous to friendship.

But Mason would certainly argue the point that citizenship can still at least play a role in one's general wellbeing in a way that is not instrumental. He suggests that citizenship creates a cultural environment with which one may interact, and which has its own value. If that is the case, then – analogously to friendship – two consequences follow: citizens must have some obligation to preserve the 'good' of that culture, which implies some set of obligations to the fellow members of that cultural group; and being part of such a culturally defined community (at least in the sense that such a group shares meaning and value) enables the sense of 'belonging' which wellness requires (Mason, p.440).

Certainly, being a citizen in this sense can cause certain 'goods' to accrue to one, but only through the benefits which accrue through being part of a collective. As discussed previously, these include the advantages of sharing in a society governed by mutual benefit (from social welfare to civil defense), the advantages of a society governed by 'fair play' (and therefore by reduced personal risk), and so on. The point to note here is that the kinds of 'goods' inherent in being a citizen of a country in this way are those goods which come to one out of being a citizen amongst other citizens, not out of being a citizen *per se*. Citizenship in this sense is an instrumental good – and recognising that drives one back to this perennial dilemma: It is difficult to demonstrate the instrumental good of citizenship in a way which does not also recognise that non-citizens contribute meaningfully to that good as well, and thus deserve the same fruits of that contribution as citizens. If one thus wishes to argue for citizens to have exclusive obligations to other citizens, then one has to show an intrinsic good to citizenship which residents do not share. That good cannot be relational, for citizens do not exist in actual relationships with all other citizens. If that good is rather conceived in terms of self-identity, then one is seeking to ground ethical obligations in dynamic psychological states. At the same time, as Mason himself notes, even if a good case could be made for valuing citizenship on the basis of the cultural framework within which it allows its

members to express their own identity, “it is difficult to see how it could justify any further special obligations” (Mason, p.441). For the purposes of this discussion, therefore, even allowing Mason the analogy between friendship and citizenship doesn't imply that those who are not citizens should thereby expect to lose their protected right to work. Thus, one struggles to root the exclusive obligations of citizenship in anything but associativism, but associativism, as has already been argued, makes a poor grounding for ethical principles of this sort.

Mason does attempt to get around this dilemma by redefining citizenship as a moral notion rather than a legal notion – in other words, citizens are not defined by being members of any particular state, but as those who comply with the obligations of citizenship in such a way that they experience the good inherent in fulfilling the obligations which define citizenship (Mason, p.442). Specifically, “Citizenship has intrinsic value because in virtue of being a citizen a person is a member of a collective body in which they enjoy equal status with its other members and are thereby provided with recognition.” (Mason, p.442) This collective controls, amongst other things, the cultural milieu of its members, the laws which govern them, and the opportunities one has to contribute to the formation of those laws. It also inherently includes the obligations to participate in the above processes, and to be concerned for the needs of one's fellow citizens. (Mason, p.442)

I do find myself asking, at this point, whether Mason's definition of citizenship has not become an instance of the rather broader group of mutual-benefit societies? For it seems to speak of a well-defined and exclusive group of people who are expected to commit themselves to contributing to the good of that group, so that membership of that group does, in fact, constitute a good for those who are its members. If so, then citizenship is something akin to membership of the Freemasons rather than friendship *per se*.

But that being the case, it is unclear exactly how 'foreign residents' as a class are catered for in Mason's proposal. Since he claims to have uncoupled citizenship from any notion of state, and tied it rather to a commitment to the obligations of citizenship, does that imply that good, honest, tax-paying, club-joining foreign residents are included in this new notion of citizenship? For as a group, at least some such long-term foreign residents arguably intend to integrate into the life of their adopted communities. If it is the case that such people are intended by Mason to be considered 'citizens' in terms of their commitment to furthering the 'good' of being members of such communities, then unexpected though it may be Mason has come to support the thesis I am arguing for, namely that such people should not be discriminated against in the marketplace. Indeed, if they are citizens in the sense which Mason seems to want to move toward, then Mason's insistence on the equality of 'citizens' has made that notion impossible.

But if this is not what Mason intends (and indications are that it is not, as he specifically mentions political equality as one of the defining characteristics of citizenship) then his description of citizenship seems to try to blend what I suspect should rather be kept as two distinct elements. On the one hand he speaks the language of collective, recognition (presumably a sense of self identity), and cultural milieu. If he means for foreign residents to remain outside of such a group simply because they are foreign then he is effectively using the notion of citizenship to describe a social grouping which might better be described as 'tribe'. That being the case, and having uncoupled these social groupings from a notion of state, it becomes feasible to imagine a variety of tribes occupying the same geographic space (as is the case in South Africa). But there is then no meaningful way to also talk the language of 'controlling the law and its formation' (the second element in his definition of citizenship) unless one intends either a state in which one tribe maintains dominance over the rest, or a supra-tribal coalition to manage the laws which govern all tribes. Given the size of the immigrant population in South Africa (or, in Mason's own context, the growing immigrant

population of Great Britain) there is an argument to be made for such a group to be considered as a significant cultural community in its own right. The challenge raised by Mason is to consider how the obligation of members to serve the good of fellow members of their own group affects the obligation which they might owe to members of another group sharing the same physical space with them. Should any one exclusive group have the power to dictate the laws which govern, to their detriment, the ways in which other groups may live? In the case of apartheid South Africa I am simply going to assume that a negative answer can be agreed. In contemporary South Africa one has to wonder whether immigrants do not find themselves in the same plight as 'non-whites' previously found themselves?

This problem, of course, falls away if either of two cases are true: that dominant groups are not exclusive, or that there are no dominant groups. Mason himself seems quite open to the latter possibility. He quotes Pogge:

persons should be citizens of, and govern themselves through, a number of political units of various sizes, without any one political unit being dominant and thus occupying the traditional role of the state. And their political allegiance and loyalties should be widely dispersed over these units: neighborhood [sic], town, county, province, state, region, and world at large. (Pogge, p.58)

Mason is quite happy that this kind of political organisation can be maintained without detracting from the intrinsic value of citizenship as he defines it, and on this point I suspect that he is right. Of course, in this kind of world, the question of one group limiting the rights of another to work in any given region does not arise. If Mason is right, therefore, and there is a way to understand 'citizenship' as both intrinsically good and implying certain obligations amongst fellow citizens to

serve that good, then that understanding is properly exercised within a political reality which can only support the thesis of this discussion – that the kinds of special obligations which citizens owe one another do not require (and, in Mason's formulation, cannot be) that the rights to work of those who are not citizens should be curtailed. In fact, given Mason's support for Pogge, it hard to imagine that anyone is not a 'citizen' in Mason's sense wherever they may have settled – especially since Mason also insists that long-term foreign residents cease to be citizens (in the way he defines the concept) of the places they have left behind. In Mason's words, citizenship is: “inconsistent with permanent absence from the state's territory, since part of the point of the notion of citizenship is to pick out a relationship in which an individual is part of a collective which shapes his or her conditions of existence.” (Mason, p.443)

Section VI

Thus far, then, two complementary and defensible understandings of the 'good' of citizenship have been discussed (and several others rejected), both of which allow for the preferential treatment of citizens in certain circumstances. One model has demonstrated a possible instrumental good in citizenship, based on the ways in which citizenship allows people to carry out in specific circumstances the obligations which are generally owed to all humanity. The other model has demonstrated a possible intrinsic good in citizenship (although defined quite differently), in a way which implies a certain ideal political world of mutually supportive relationships. Both models seem to be incompatible with the idea that a foreigners right to work can be justifiably restricted – and thus seem to support some notion of global justice. But it is not universally accepted that an outcome of global justice should be that the citizens of every state should necessarily find themselves living in exactly the same circumstances as the citizens of every other state. While that would certainly make for a just global society in terms of division of resources, there are important differences between making sure that every person has sufficient to meet their basic needs, and

sufficient to satisfy their deepest desires. Wellman does hold that critique against Goodin's model: while it does allow for special duties between compatriots, its grounding in the drive to ensure that all people have their general rights met in the most efficient manner seems to blur the distinction between the poor of one's own country and the poor of one's neighbouring country. Wellman asks whether, if one's own country is generally wealthy, one does not have some sort of obligation (as to compatriots) to ensure that the poor of one's own country are lifted higher out of poverty than the poor elsewhere (assuming that one has at least met their basic survival needs)? (Wellman, p.545). The question is relevant as, within the context of this discussion, the objection to the right of foreigners to work in South Africa has been framed as a wealth issue. King Zwelithini speaks largely for those whose anger toward foreigners is the result of a sense of threat that opportunities to work and lift oneself out of poverty will be taken by those who are fleeing poverty elsewhere.

Goodin's approach does not require that, for example in our local context, South Africans be significantly better off than Zimbabweans looking for employment before space is made to accommodate them (as it is global humanity who is the first subject of his concern), but Wellman suspects that this should be the case nonetheless. And he proposes a novel justification for this idea, traced back to Rousseau. The key point of his argument is this: "social humans derive satisfaction from their assets... in relative, rather than objective, terms." (Wellman, p.547). In other words, there is no absolute amount of social welfare which will leave the beneficiary feeling significantly better off – one will only feel better off if one is demonstrably doing better than one's neighbour. For example, to feel like a good athlete one has to run faster than everyone else; to feel like a financial success one has to own more widgets than everyone else. And so on.

In essence, what Wellman is describing is the difference between an objective measure of the status of any individual, and the subjective experience of that status by the individual – the difference

between 'standard of living' and 'quality of life'. So, for example, if I live in a country where the average citizen lives on a handful of dollars a day, sufficient to buy the daily rice to feed his family, adding a couple of potatoes would be all that was required to make him feel great – and it might never occur to him to desire a Lamborghini. By contrast, a man living in a country where the average income was several thousand dollars a day would feel like a lesser human being eating his rice and potatoes and watching everyone else feasting on lobster. The standard of living of both men would be the same, but the perceived quality of their lives would be very different.

Wellman's point would be that our duty to our compatriots requires us not only to meet their needs for basic nutrition, but also their needs for validation and self worth (as part of the complex which makes up a whole person). Inasmuch as these might be considered 'higher order' needs, and just as binding on our obligations, Wellman is concerned that Goodin's model only addresses the 'lower order' needs for basic physical survival.

And I suspect that Wellman is right – Goodin's model doesn't seem to require these kinds of considerations. The question is, “Does that matter?” It is worth pointing out that Goodin's primary concern was not to find a way to justify the special consideration of compatriots for one another; it was to find a model for statehood which allowed a basic level of human rights and obligations to be realised. His model has the advantage that it allows for special duties of citizens in a way which also recognises the role of non-citizens and the need to care for them, as well as the need for some kind of global justice, all within a consistent framework of respect for the human dignity of all.

Wellman's approach, by contrast, is to assume the need for a differential treatment of citizens and non-citizens, and then seek for a way to ground that in some consistent principle. He certainly has found one in the notion that people's duties to one another require the satisfaction of their subjective

desires rather than their objective needs. The question is whether that is a useful base from which to work?

This model does make a few assumptions which need to be challenged. The first, and most basic, is whether a human sense of self worth really does depend on being demonstrably better than one's peers. That this can be the case is self evident. That this should be the case is not. It might just as well be argued that real satisfaction is only born of the maturity which expresses itself in self actualisation rather than external validation. A more detailed exploration of human psychology than is relevant for this essay would be required to answer the question. But open ended aid to the point that the recipient feels psychologically at peace is surely a shaky foundation on which to base morally binding obligations. And so, for the context of this discussion, meeting the relevant 'higher order' needs of South Africans, simply because that would make South Africans feel better, does not necessarily have to be a higher priority for the South African state than ensuring that economic refugees from neighbouring states find protection and employment locally.

The second assumption is that the state giving aid is richer than the state receiving it. Yet Wellman's formulation relies on the perceived status of beneficiaries, not their actual level of wealth – thus are those Ethiopians having rice, potatoes and yams required to forgo the yams in order to send money to Americans who won't feel at peace until they can buy Mustangs? Clearly not. And finally, Wellman's formulation of one's obligations to compatriots actually ends up requiring that states must exist in order to entrench and magnify the wealth differentials which occur between them. If citizens in wealthy nations are required to act more generously toward their own compatriots than citizens of poorer nations then wealth can only ever become more concentrated in those states! If states, as global entities, serve global disparity then it is difficult to imagine a reason for global peace to ever be an ideal. Every nation would better be served by taking whatever it could get. And

if global peace is not a desired result of international relations, then it is difficult to imagine that states can serve the intended interests of their citizens at all, for war is very rarely in the best interest of those who occupy those levels of society which rely on the aid of their compatriots.

Thus, of those theories asserting the special duties of citizens toward their compatriots, on the basis of the good which can be shared, it is Goodin's which most consistently supports common practice and common sense. It is also true that Goodin's formulation of states as 'agents of general duties' leaves the door open for refugees and job seekers to exercise their rights to work in a foreign land, and even requires that this be allowed when those states from which they are fleeing are unable to provide for the fulfilment of those rights themselves.

Section VII

While Goodin's model seems to manage to walk the line between differentiating insiders from outsiders, and justifying the relative goods they receive in a way which does not unjustly exclude outsiders, many similar models do not. Richard Vernon thus proposes a final and somewhat unique model for exploration. It is a model which, like those previously discussed, recognises that the collective enterprise which defines a state has value because it reduces human vulnerability. But his somewhat novel take is that what really binds the members of a state to one another in terms of their identity and obligations are not the benefits they share, but rather their shared exposure to the risks of statehood (Vernon, p.460). If Vernon can make a convincing case for this then some of the previously discussed objections to the special obligations of citizens to one another may well fall away. It is one thing to argue that working foreigners are unfairly excluded by special obligation from receiving the benefits of the state to which they have contributed. It is quite another to argue that the special obligations of citizens are not extended to foreigners in order to protect them from the risks of statehood.

This is a somewhat novel approach for, as Vernon acknowledges in common with other thinkers, there are various benefits to statehood, not the least of which have to do with matters of security. But he is one of the few to acknowledge that statehood has a second facet – that in becoming a nation we also “trade the risks of isolation for the risks of association” (Vernon, p.462) For as much as being a member of a nation reduces one's vulnerability to certain external forces, it actually increases one's vulnerability to internal forces. Vernon notes quite dramatically that states have been known to exercise the most enormous atrocities against their own citizens – beginning with the genocide which prompted the Nuremburg trials. Vernon points out that slaughter on this scale is only really possible when supported by the machinery of the state, for it takes an incredible amount of resources and administration to conduct killings on such a scale (Vernon, p.462).

Acknowledging the above as an extreme case, Vernon also describes more basic risks which states subject their citizens to. For example, members of states experience “the progressive loss of independent capacity” (Vernon, p.463) – as labour becomes more specialised and people thus become more interdependent. Citizens also become increasingly reliant on the state as the guarantor of the restraint of our fellow citizens, with respect to our own safety (ibid). For example, the state licenses drivers to operate automobiles, provides the infrastructure for them to do so, and keeps them in basic compliance with the rules of the road under threat of punishment. But individuals nonetheless take their life in their hands every day, entrusting their safety to the capabilities of complete strangers on the roads, in a way which introduces real and significant risk into their lives. And finally, Vernon also points out that, as members of a common state, citizens are to a large degree bound to the views and agendas of the majority of their fellow citizens, thereby placing their own self determination at risk (Vernon, p.464).

All of this brings Vernon to this key ethical consideration: “If one is part of a set of arrangements that enhances the vulnerability of others to damage, then one has a special reason to adopt measures to avert that damage. “ (Vernon, p.465). To return to the case of the aforementioned road users: the way I drive puts others at risk; thus I drive more carefully in order not to cause an accident involving others. Of course, I don’t wish to be in an accident myself either – so there is an element of self preservation at work in this caution, which Vernon notes can open this line of argument to the same kinds of objection faced by mutual-benefit models (ibid). Although Vernon does not elaborate on this any further, it seems to me that the defining feature of mutual benefit models is that good must accrue to all those parties who have made some contribution to the common pot, and that the right to take from the common pot is bestowed by one's previous contribution to that common pot. This being the case, self-interest is certainly a characteristic of mutual-benefit models. But I suspect that Vernon may be over-cautious to fear that any action with a component of self-interest must force one into the mould of a mutual-benefit contract. It may be true that an act which does harm to others may also do harm to oneself, and that in this instance one might be especially keen to avoid a mutually harmful act. But avoiding harm for oneself cannot create any obligation either toward another, or for another – and so is not part of the social contract implied within a community which acts to minimise harm to others, even though one will no doubt benefit from living in a community in which others take that responsibility seriously. What mutual-benefit models cannot do is accommodate those who are unable to make their expected contributions to the common good. And so any social contract which has as its prime motivator the intent to 'cause no harm', which must include the intent to care for those who will always be dependant on others for such care, can never be a strictly mutual-benefit arrangement. Other examples will make this clear.

Consider the house builder who is obliged to work carefully and accurately so that the house he builds does not collapse on its occupants, regardless of whether he will be one of them or not. Thus

it is not difficult to argue for the practice of a due level of concern with which agents should regard one another in those cases when the welfare of the other depends on one's own integrity and capacity. The question is: how do these examples practically translate to that of compatriots tied together by their common state?

Vernon suggests that this happens in several ways. On one hand, as collective 'state' living exposes people to increased risks (for example, in their automobiles) so the state needs to implement those measures which will also mitigate those risks (for example by funding traffic officers and vehicle testing centres), requiring concerned citizens to, for example, pay their taxes. Similarly, as society subjects people to the political will of the masses, so individuals need the opportunity to participate in those political processes to have the opportunity to mitigate the effects of the risk they are thus exposed to – again motivated by the same concern which one would exercise building a house for another to live in.

Thus Vernon proposes a model which gives rise to very similar obligations proposed by others – that people have an obligation to the welfare of their fellow citizens, and that people have an obligation to involve themselves in the public life of their community. But he does so from an unusual perspective – that these obligations arise out of a need to mitigate the communal risks inherent in the nature of communities, as engendered by life in a modern state. Because Vernon stays away from a formulation which inherently denies goods to those who are not citizens, his formulation seems to be immune to the kinds of attacks levelled against mutual-benefit models in general.

In other words, Vernon suggests that communal living comes with certain advantages. But the price of those advantages is that communal living also comes with certain risks. In order to enjoy the

benefits of those advantages, members of the community need to act in an altruistic manner to mitigate the risks which their actions might expose others to. They do this not so that their actions will necessarily produce any direct good in their own lives, but so that the community remains stable, and so that they can enjoy the benefits of living in such a community. Obviously this communal strategy can only succeed if all members play their part to minimise the risks to which they expose others, and thus living in community implies certain obligations toward other members of the community.

There is certainly, therefore, some room in Vernon's model to allow for a distinction between citizen and resident – if Vernon can demonstrate that particular risks are experienced only by citizens. Such may be the case when considering some of the more onerous obligations of citizenship – being available for military conscription for example. But it is difficult to know how this might translate into a duty to act to minimise such risks. Do citizens have a duty to promote world peace in a way which others don't? And this distinction can never be absolute. For residents also share some identical risks with citizens – for example they are no more or less immune to automobile accidents and must needs take the same care on the roads as citizens, and pay the same taxes which fund traffic enforcement.

And even more so, non-citizens are subject to the risks inherent in being members of a minority group living at the mercy of the political will of a more powerful majority – especially given that the minority in this case are ordinarily prohibited from exercising a political voice at all. It would be interesting to hear how Vernon would respond to the risks taken by this group, as nothing in his formulation seems to obviously require their exclusion from the political realm. They share the same risks as everyone else. In the case of legal residents they are present by the consent of the state and thus at some level have entered into some kind of formal community with the greater society. A

case could surely be made, on this basis, for them to exercise a greater role in the public life of their adopted community.

But be that as it may, Vernon certainly does allow that the special obligations which citizens exercise toward one another can never be at the expense of the humanitarian obligations which people owe to one another, regardless of their citizenship. Specifically, Vernon insists that the obligations arising out of the shared risks experienced by fellow citizens can “not multiply to the point of replacing a wealthy society's obligation to respond to deprivation elsewhere, or to support international institutions with a mandate to do so.” (Vernon, p.467).

This is so, Vernon insists, because the goods which are intended by the concern which is exercised toward those who share certain common risks are universal goods (ibid). As much as compatriots of one state should have concern for one another, so it is assumed that the citizens of other states are exercising that same concern for their own compatriots. Thus are all able to experience the universal goods of political stability and personal security. But where this assumption does not hold true – perhaps because other states do not have that political or economic capacity – it falls to those states which are able to provide the protections which all people are due.

Vernon insists that this is the case because, regardless of which particular state one may inhabit, the fact that global humanity shares a common system of nation-states means that all people are subject to the same universal social risks. “What is particularised is not the fact of risk but the responsibility to respond to it. All that relieves us from a direct responsibility to reduce other societies' politically induced risks is the assumption that members of each society have a special responsibility to do it for themselves” (Vernon, p.467). But where they cannot, our shared human condition requires a shared human response.

In the case under discussion in this essay – the protection of the right of foreign nationals to work locally – Vernon's formulation of human obligation seems to positively require that opportunities for residential non-citizens to engage in work are actively protected. For if a consequence of the socialisation inherent in living within a modern state is 'competition for local resources', expressing itself in the risk of unemployment, and if the home nation of any individual is not able to adequately provide opportunities for employment, then it must needs fall to other nations to do so – not only after their own citizens have been catered for, but because the right to work (as well as the risk of unemployment) is common to all.

Conclusion

In conclusion, this essay has demonstrated that the right of foreigners to work in South Africa is best thought of as a genuinely global right, deserving of all the protection which the state can offer. South Africa has subscribed to a number of international agreements which support this notion, upholding a number of basic human rights grounded in the understanding of the inherent dignity and value of every human being. For foreigners to be denied the right to work in South Africa, or even to have that right curtailed, is to deny a fundamental right of all humanity.

Certainly, that is unlikely to have been the intention behind King Goodwill Zwelithini's statement. More likely, his defence of the right of South African citizens to have preferential access to employment opportunities in their own country was grounded in the understanding that the right to work in any particular country is somehow located in the special relationships which citizenship represents, rather than in the individuals who may enter into such relationships. But such an approach fails for multiple reasons.

Firstly, and simply from a practical perspective, existing agreements guarantee the right of at least some foreigners to work within South Africa, on the basis of their inherent right to work. This is not proof *per se* of the ethical strength of this position, but simply an acknowledgement that until the state acts to reform such agreements it cannot act in contravention of them and is thus bound to defend the assumed employment rights of foreigners in South Africa.

Secondly, to hold King Zwelethini's position is to subscribe to the idea that citizens do have particular rights and obligations with respect to one another that do not belong to foreign residents. This position is easily defensible within a number of ethical frameworks – effectively supporting the idea that citizens do enjoy some kind of special relationship with one another. What is not so easy to show, however, is how these special relationships imply a particular obligation to value a citizen's right to work above that of a foreigner – not without, in the process, damaging other rights which citizens arguably also enjoy.

Robert Goodin is able to locate this special relationship of citizens within a broadly instrumental framework. For him, citizenship is good because it is within the structures of a state that people are best able to have their individual needs met and individual rights protected. This is so because it is within the kind of community which statehood enables that particular individuals are able to be assigned specialist duties (and receive the specialist training which enables them to fulfill those duties). A society which allows that some will be assigned responsibilities which others are not is a society which is able to accommodate the care of those who would struggle to make any material contribution to that society. And such a society is a necessary requirement if human dignity and value exist intrinsically within every individual. As Goodin points out, however, it is an implication of such a society that the rights of residents in general are respected, not just citizens – which has the consequence of negating King Zwelethini's position. Alternate attempts to root the special

relationships of citizenship within an understanding of intrinsic human rights, but which also seek to enforce boundaries around the communities which should enjoy the protection of those rights, fall into variations of a 'mutual-benefit' society. Since these kinds of societies ultimately end up excluding groups of people who, if their intrinsic value were truly acknowledged, would not properly be excluded, these kinds of models become ultimately self-contradictory and thus a poor basis on which to understand citizenship.

Alternative explanations for the special relationships between citizens, grounded in an understanding of the intrinsic value of citizenship itself, also fail to make King Zwelethini's case. Attempting to locate the special obligations of citizenship within a broadly associativist framework ultimately requires that ethics become a function of psychology. Attempts by Ronald Dworkin to 'de-psychologise' associativism result in a well thought through set of principles which can locate associative obligations within the relationships extant in certain well-defined social groups. But such groups can not scale up to the level of nations for the simple reason that Dworkin's groups require personal and reciprocal interactions between all members of such groups, expressing equal regard for all members of such groups, in a way which is impossible for all citizens of a country to experience.

Andrew Mason proposes a fruitful alternative which nonetheless still manages to retain a sense of the intrinsic good of citizenship - but only by radically redefining what citizenship is. His 'moral' citizenship uncouples itself from any notion of state and is considered purely in terms of a set of relationships and obligations which further the 'good' of being a member of such a relational group. By doing this Mason clearly demonstrates an inherent value in citizenship, but also creates a space to imagine a number of quite distinct groups, each consisting of its own citizens, yet sharing one physical space – perhaps something more akin to tribes cohabiting one multi-cultural country than a

traditional notion of citizens being members of one state. In this case, while preserving a sense of the special relationships which citizens can share, Mason has to insist that no one group of 'citizens' may dominate another – making the idea of preferential access to employment opportunities nonsensical.

With this avenue to defend King Zwelethini's assertion thus closed, two final explorations of an instrumental basis for defending the special obligations of citizens becomes possible – neither of which begins with the need to recognise the universal human rights which make his position so difficult to maintain. The first is that proposed by Christopher Wellman, which explores the relative obligations of the members of different states toward one another, in the light of citizens obligations to meet their compatriots needs for 'validation' as much as their basic needs for nutrition or work. This model runs at least into the same problem as associativism – making ethical practice a function of a dynamic psychological state, and thus a shaky ground for consistent moral living. Richard Vernon, alternatively, seeks to locate the special duties of citizens not within any need to promote particular rights, but within the need to protect one another from certain risks. But even this formulation does not ultimately defend King Zwelethini's position, since Vernon recognises that there are a number of global risks which humanity must share. Amongst these is the risk of unemployment – and it being the case that any one nation is unable to meet the needs for employment of its citizens, it falls to the wider community of states to make such opportunities available.

Thus this proposal has been defended by critically exploring a number of theories of statehood and citizenship, particularly those representing the view that the state and its citizens owe special obligations to one another which are not owed to foreigners. This essay has demonstrated that the most coherent and comprehensive (and thus the most compelling) of those theories, while most

certainly allowing for the differential treatment of citizens and foreigners, do not require that the right to work be so treated. In point of fact, they seem to require just the opposite – that the right of foreigners to work be actively defended. Thus the proposal is shown to be sound, giving to all the opportunity to strive for the ideal proclaimed by Theodore Roosevelt, “Far and away the best prize that life has to offer is the chance to work hard at work worth doing⁴⁶.”

46 Theodore Roosevelt, “*The Square Deal*” Labour Day speech, to the New York State Agricultural Association, Syracuse, New York, 7 September 1903, as recorded at <http://theodore-roosevelt.com/trspeeches.html> on 27 February 2012

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