

The “Right to Have Rights”:
Citizenship, Legal Identity and Political
Community in Johannesburg



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Declaration



I hereby declare that this dissertation is entirely my own work and has not been used in any previous research project, thesis or dissertation at any other university.

A handwritten signature in black ink, appearing to read 'Marion Holaday', positioned above a horizontal line.

Marion Holaday
May 24, 2010

Abstract



The objective of this study is to identify the factors that enable “the right to have rights” in the South African political community, as well as to understand the way that community members perceive the meaning and value of these factors, during and following the 2008 xenophobic attacks. In order to understand political community, I draw heavily on Hannah Arendt and Michael Walzer, theorists who emphasise the importance of shared values, the right to self-determination and the influence of relationships with outsiders and outside forces on the changeable nature of the political community. By focusing on shared values rather than quantitative demographics and statistics, this study recognises that the South African political community that either contributed to xenophobic rhetoric or engaged in the 2008 xenophobic violence is neither confined to nor limited by indicators like neighborhood, social class or ethnicity. In order to identify the shared values of the South African political community and understand their meaning and value, I rely primarily on transcripts from interviews with citizens and migrants conducted by FMSP researchers three months after the 2008 attacks, research reports published in the year after the attacks and semi-structured interviews that I conducted with citizens and migrants from September through November 2009.

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INTRODUCTION

The Right to Have Rights



INTRODUCING THE QUESTION

The cover of the April 2009 issue of *Forced Migration Review* shows a Bihari woman with dark wrinkled skin crouching against a wall, head bowed. The text above the photograph reads, “No legal identity. Few rights. Hidden from society. Forgotten.” The theme of this issue is “statelessness”, and the nine words on the cover suggest that having few rights and being hidden from and forgotten by society are byproducts of having “no legal identity.” The phrasing captures the widespread assumption that a legal identity, such as citizenship or refugee status, guarantees direct and equal access to rights. Empirical evidence certainly shows that a lack of legal status prevents people from experiencing rights that are both fundamental, such as working and accessing the justice system, and also necessary to functioning in modern society, such as opening bank accounts and registering births and deaths. What empirical evidence does not show, however, is that the reverse is true: that the acquisition of a legal identity will automatically enable a person to experience rights.

The assumption that legal status will enable the rights of the poor and underprivileged in countries that are poor and underprivileged is of concern. For one thing, the assumption – and the policymakers and theorists who support it – works from a top-down, state-centric perspective. If states are the sole arbiters of rights, and legal status confirms an individual’s relationship with the state, then it follows that those with legal status will experience state-granted rights while those without it will not. The problem with such state-centric logic,

however, is that instead of critiquing the existing rights protection framework for its inability to protect the rights of certain vulnerable populations, it seeks solutions within the framework.

The result is that the voice of the individual has been largely absent from debates about the meaning and value of citizenship, other forms of legal identity and the factors that enable them. This ground-level, citizen-centred point of view sheds light not only on the everyday meaning of citizenship, but on the everyday experience of being part of – or, just as importantly, excluded from – an “inclusive society” (Kabeer 2005: 1). This perspective is significant because instead of “sustaining and legitimizing” (Turton 2003: 2) the existing rights framework, it allows for the possibility that factors other than legal status enable rights and, therefore, that solutions to rightlessness may extend beyond granting legal status.

Empirical studies that employ a ground-level perspective have found that there is indeed a twofold gap between legal status and an everyday experience of rights. First, individuals who already have legal status – such as citizens – do not necessarily experience the rights that they are entitled to. Even a cursory survey of underprivileged citizens in developing countries shows that those with legal citizenship do not have equal access to fair housing, water and other legally guaranteed social services (see Aukot 2009; Blitz 2009; Gibney 2009; Gibney 1999; Goris et al 2009; Komai & Azukizawa 2009; Lewa 2009; Lynch & Teff 2009; Mehta 2005; Wheeler 2005; White 2009; Williams 2005). In these cases, factors like social class, neighborhood location and gender play a larger role in enabling rights than legal status does. Second, both citizens and non-citizens may access rights through more informal channels, such as community-level politics or socially institutionalised bribery (see Jacobsen & Landau

2003; Portes 1978; Turton 2003). As Misago (2005) argues, we must recognise that, “the most significant responses to the protection of forced migrants” do not necessarily involve “officially organised domestic and international mechanisms” (2).

ASKING THE RIGHT QUESTION

The proven gap between a state-centred perspective of citizenship, in which legal status enables rights, and a citizen-centred perspective, in which legal status does not necessarily enable an everyday experience of rights, leads us to ask: what are the factors that *do* enable rights? For all we know, there may be widespread strategies and structures that vulnerable populations use to access rights in lieu of legal status. In August 2009, I set out to identify these strategies and structures – in particular, the ones that that Zimbabwean migrants used to access the right to protection from xenophobic violence in Johannesburg.

As I conducted interviews and analysed data, however, two themes began to emerge. First, it turned out that Zimbabwean migrants did not engage in any sustainable strategies to protect themselves from xenophobic violence. Instead, vulnerable non-nationals overwhelmingly believed that, “the only way to solve the problems is to go back home” (Interview, Anonymous, 28.09.09). When it became evident that migrants were not using informal channels to access protection, I began to wonder whether there were factors that provided protection that migrants either did not control or did not know about. After all, the xenophobic attacks did stop, and they have not returned with the same ferocity exhibited in May 2008.

So, I interviewed South Africans, asking them why they thought that the attacks stopped and whether they would return. To my surprise, South African citizens identified themselves as the reason that the xenophobic violence ended and the reason that it would not continue. More specifically, a discourse was emerging around the image of a moral, mature South African citizen whose basic humanity both put an end to the attacks that left over 100,000 displaced and would quell any future attacks.

These two themes – the lack of migrant mobilisation and the emerging discourse of a moral, mature South African citizen – limited the nature of the study while suggesting new areas of interest. On the one hand, it became difficult to discuss the factors that enabled rights when migrants claimed that they would only experience rights if they left South Africa. Furthermore, citizens' claims that their sense of morality enabled rights protection was at odds with the fact that incidents of xenophobic violence have continued throughout 2009 and 2010. Combined with the fact that citizens initiated the attacks, it appeared that it would also be difficult to discuss citizens themselves as a factor that enabled protection.

On the other hand, citizen and migrant reactions to the attacks steadily became more interesting, in light of what they suggested about political community. For example, migrants used linguistic strategies to avoid being targets of xenophobic violence. Considering that the attacks were centred on the question of who was entitled to rights, these strategies suggested that this type of person who had “the right to have rights” spoke a certain language. This idea resonated with the fact that South African citizens were also victims of the xenophobic attacks: one-third of the victims who died were South African (IOM 2009).

What is more, the type of person who had the right to have rights changed in the year following the xenophobic attacks, as South Africans began to profess a deep remorse and emphasised their morality and maturity following the attacks. This discourse actively excluded the corrupt cops, criminals and cabinet members who were blamed for inciting the violence. This new exclusion suggests a new set of shared values that characterise the South African political community. Of course, the meaning and significance of the discursive exclusion is complicated by South Africa's place in the international spotlight as the host of the upcoming World Cup – a position that frequently worked itself into conversations with interview participants.

As these themes began to emerge, I realised that I had been asking the wrong question. At the risk of sounding flippant, I would like to credit *The Hitchhiker's Guide to the Galaxy* (Adams 1995), a popular science fiction novel, with helping me to understand this. The following passage describes the reaction when a computer, called Deep Thought, announces that the meaning of "Life, the Universe and Everything" is "forty-two".

"Forty-two," said Deep Thought, with infinite majesty and calm.

"Forty-two?! Is that all you've got to show for seven and a half million years' work?"

"I checked it very thoroughly", said the computer, "and that quite definitely is the answer. I think the problem, to be quite honest with you, is that you've never actually known what the question is."¹

As my data results became less relevant to the question that I thought I was asking, I realised that I, too, had been asking the wrong question all along. Instead of asking what factors enabled rights, I needed to be asking what factors enabled the *right* to have rights.

¹ See <http://ideas42.iq.harvard.edu> for the full passage.

THE RIGHT TO HAVE RIGHTS

Advocates, policymakers and theorists frequently cite Hannah Arendt's term, "the right to have rights", in arguments for human rights protection (see Gibney 1999; Gibney 2009; Kabeer 2005; Wheeler 2005). The two observations that are central to Arendt's rights theory are, first, that humans are not inherently equal to each other and, second, that rights only exist when a political community exists to protect them (Isaac 1996; Parekh 2008). Arendt (1951) observes that,

Equality, in contrast to all that is involved in mere existence, is not given us, but is the result of human organization insofar as it is guided by the principle of justice. We are not born equal; we become equal as members of a group on the strength of our decision to guarantee ourselves mutually equal rights.
(301)

Unlike human rights essentialists, who believe that rights exist naturally by virtue of being human (see Donnelly 2003), Arendt argues that, "we are not born equal" and that equality "is the result of human organization". In other words, the key to enabling the "right to have rights" is membership in a group of people who have made the "decision to guarantee [themselves] mutually equal rights". This group of people is known as the political community.

For Arendt, there is one fundamental component of a political community: it must recognise something more than "mere existence" (301) in its members by attaching meaning to their actions and thoughts. This distinction is the difference between being rightless and being a protected member of a political community. There are two other fundamental characteristics of political communities that concern this study, which Michael Walzer helps us understand. First, political communities are "communities of character" (Walzer 1983: 60), drawn together to practice and protect shared values. Walzer (1983) describes political communities

as, “historically stable, ongoing associations of men and women with some special commitment to one another and some special sense of their common life” (60). Second, political communities have the right to self-determination. That is, they can exclude outsiders in order to protect the community’s shared values. Walzer (1983) explains that, “The distinctiveness of cultures and groups depends upon closure and, without it, cannot be conceived as a stable feature of human life. If this distinctiveness is a value, as most people...seem to believe, then closure must be permitted somewhere” (39). In other words, acts of exclusion – of “closure” – are necessary to preserve the character of the political community and, as such, can be especially revealing about the nature of that character.

POLITICAL COMMUNITY: THE SOUTH AFRICAN CONTEXT

The idea that members of a political community are free to include and exclude outsiders based on the community’s shared values is especially compelling in the context of South Africa’s xenophobic violence. On May 11, 2008, the “xenophobic attacks” began in Alexandra, a township outside of Johannesburg. A report describes the outbreak:

An armed mob breaks into foreigners’ shacks, evicting them and then looting and/or appropriating their homes. Two men are killed (1 Zimbabwean, 1 South African) and two women are raped, one by four men. 60 people are injured. (IOM 2009: 24)

This violence escalated dramatically and spread throughout the country over the next two weeks. It was not until May 25 that South African president Thabo Mbeki publicly condemned the violence in a national radio and television address. On May 26, Safety and Security Minister Charles Nqakula declared that, “the situation is under control...the violence has subsided” (SAPA 2008). The final statistics showed that 1,384 suspects were arrested, 342 shops were looted and 213 shops were burned down. At least 100,000 people

were displaced, 62 people were reported dead, 670 were wounded and dozens were raped. (BBC News 2009; CoRMSA 2008; IOM 2009; SAPA 2008)

The 2008 xenophobic attacks, considered the most violent act in South Africa's post-apartheid history, are a hugely relevant subject both domestically and internationally – not least because of the country's international position as the host of the 2010 FIFA² World Cup. Many theories have been offered to explain the attacks. They range from theoretical explanations of “Negrophobia” and a “culture of violence” to more practical explanations such as poor service delivery and lagging immigration laws (see Landau 2009b: 4). However, these theories “falter when faced with empirical or logical interrogation” (Landau 2009b: 6). Furthermore, empirical research has been primarily policy-oriented and focuses on practical causes, reactions and recommendations. Empirical research is currently being conducted on the conditions that led to the attacks (FMSP 2009d), and recent reports have captured the humanitarian, public health and civil society response to the attacks (FMSP 2009a; FMSP 2009b; FMSP et al 2009).

This study addresses two gaps in existing literature on the 2008 xenophobic violence. First, literature has only minimally connected empirical research and theoretical analysis. This study offers a theoretically grounded, empirical examination of the attacks. It views the attacks as a public, widespread, violent act of exclusion by a political community and examines the shared values and meaning of membership that the act of exclusion was meant to protect. Second, existing explanations of the attacks have tended to make generalisations about the nature of the attacks and the people involved. This study looks at the specific

² International Federation of Association Football.

factors that enabled the right to have rights in the political community in question, as well as the changing nature and value of these factors. By focusing on shared values rather than quantitative demographics and statistics, this study recognises that the South African political community that either contributed to xenophobic rhetoric or engaged in the violence is neither confined to nor limited by indicators like neighborhood, social class or ethnicity.

RESEARCH OBJECTIVES

The objective of this study is to identify the factors that enable “the right to have rights” in the South African political community, as well as to understand the way that community members perceive the meaning and value of these factors, during and following the 2008 xenophobic attacks. In order to understand political community, I draw heavily on Hannah Arendt and Michael Walzer, theorists who emphasise the importance of shared values, the right to self-determination and the influence of relationships with outsiders and outside forces on the changeable nature of the political community. I recognise that a political community is not synonymous with a state, and that while the South African political community in question includes much of the underprivileged sector of society, it cannot be assumed to either include everyone in this demographic or exclude those in other demographics. In order to identify the shared values of the South African political community and understand their meaning and value, I rely primarily on transcripts from interviews with citizens and migrants conducted by FMSP researchers three months after the 2008 attacks, research reports published in the year after the attacks, as well as semi-structured interviews that I conducted with citizens and migrants from September through November 2009.

OVERVIEW OF DISSERTATION OUTLINE

In order to examine the factors that enable membership in the South African political community in question and the way that members understand these factors, this dissertation has been organised into four parts. Chapter One establishes the importance of a political community and a citizen-centred perspective in today's context, and gives special consideration to challenges to the conventional study of citizenship that are emerging in light of the gap between legal citizens' guaranteed and experienced rights. Chapter Two operationalises political community theory in the context of South Africa, discusses the methodology of the study and describes the interviews, limitations and ethical considerations. Chapter Three discusses and analyses the study findings, looking specifically at the shared values that were professed during the 2008 xenophobic attacks, the new discourse that has emerged since the attacks, which imagines the model community member as a moral, mature South African, and the new targets of discursive exclusion. Finally, the conclusion considers the dramatic change in the political community's shared values in light of South Africa's very public position as the host of the upcoming World Cup.

CHAPTER ONE

Inclusion and Exclusion: Political Community and Legal Citizenship



INTRODUCTION

This study is concerned with the South African political community that supported and engaged in xenophobic discourse and violence, its shared values and its understanding of membership in the community. This chapter will lay the theoretical foundation for the rest of the discussion by explaining why the idea of political community is important, and why I am talking about political community and not citizenship. This chapter begins with a close reading of the “stateless”-themed issue of *Forced Migration Review* in order to discuss the weakness of citizenship: namely, that even those who are legally entitled to rights can be excluded from the everyday experience of those rights. After establishing the gap between guaranteed and realised rights among underprivileged populations, I will discuss the importance of a citizen-centred perspective to rights issues. Next, I will highlight some of the recent challenges to the study of citizenship that have been influenced by a citizen-centred perspective. These challenges are of particular interest to this study, both because they resonate with the situation of underprivileged citizens in South Africa and also because they are consonant with features of a political community. Finally, this chapter will draw on Hannah Arendt and Michael Walzer to further discuss the concept of political community and how it fits into the emerging conceptions of citizenship.

Forced Migration Review is a well-known, reputable source that is representative of current issues and debates in the larger forced migration field. The journal is backed by powerful international players: it is published by the Refugee Studies Centre at the University of Oxford, and it has received funding from both the European Union and the United States Department of State. Contributors to the April 2009 issue have decades of experience working in the field and contributing to discussions on stateless issues; they range from UNHCR officers to human rights lawyers to academic researchers. While this issue of *Forced Migration Review* draws long overdue attention to the issue of statelessness (Blitz 2009), it also encapsulates a problem that is endemic throughout the larger policymaking sphere: it assumes that recognised legal status is the solution to statelessness simply because a lack of recognised legal status is the reason that people are stateless in the first place. It is worth noting that the term “statelessness” is synonymous with “rightlessness” in the April issue; accordingly, I use the two terms interchangeably throughout this section.

The April 2009 issue of *Forced Migration Review* features articles on the theme of “statelessness”. Couldrey & Herson (2009), editors of *Forced Migration Review*, define a stateless person as “someone who is not recognised as a national by any state” (2). This includes *de facto* stateless people, who “lack an effective nationality” (Blitz 2009: 25) and “are often characterised by an inability to draw upon state protection to guarantee even their basic rights” (Gibney 2009: 50). As such, stateless people range from those who lack citizenship altogether to undocumented economic migrants to vulnerable citizens. In the editors’ note, Couldrey & Herson (2009) explain that because stateless people have no

recognised legal status, they are “unprotected by national legislation, leaving them vulnerable in ways that most of us never have to consider” (2).

While it is undeniable that stateless people are vulnerable, it is important to draw attention to a problem with the logic of the editors’ note, which sets the tone for the articles to follow: by arguing that a lack of legal status means a lack of protection by national legislation, the editors are assuming that a state’s legal framework actively protects those with legal identities – which empirical evidence denies. The people I am speaking of are not privileged citizens in first-world countries, but unprivileged citizens who live on the margins of developed countries; in short, the very people that most of the stateless would become if offered legal status in their current country of inhabitation. Before we delve further into the gap between legal status and the everyday experience of the law, however, let us examine the “stateless”-themed issue of *Forced Migration Review* in greater detail.

Forced Migration Review: a close reading

Contributors to *Forced Migration Review* put forth powerful arguments in favor of legal status for stateless people. The practical dilemma of indefinite detention for stateless deportees is one of the issue’s most compelling arguments for recognised legal status. Because stateless people “are not recognised as a national by any state”, it is near impossible to deport them. The result can be indefinite detention. In Bangladesh, for example, hundreds of Rohingya who have entered the country illegally from Burma are awaiting trial. They have been waiting for years, and even those who have been tried and completed their sentences remain in jail, because they can neither be released into Bangladesh since they have no entry paperwork, nor deported back to Burma, which does not recognise them as citizens. (Lewa 2009)

The situation is similar in Japan, whose detention facilities house many “Indochinese refugees” – refugees from Vietnam and Laos who fled to Thailand during the first Indochina War (1946-54) and are not recognised as citizens of Vietnam, Laos or Thailand. The detainees include children of Indochinese refugees who, legally speaking, should inherit Vietnamese or Laotian citizenship based on their parents’ citizenship. However, a combination of lost documents, separated families and a lack of birth registration means that entitlement to citizenship is almost impossible to prove. Because Thailand severely restricts the rights of these Indochinese refugees, many have been tempted to enter Japan – illegally, since Thailand will not grant them documentation for traveling purposes. The result is that the children of many Indochinese refugees have been arrested in Japan and face indefinite detention, as neither Thailand, Vietnam nor Laos will accept them as citizens. (Komai & Azukizawa 2009).

The urgency of the situation stems not only from the practical dilemma that countries like Bangladesh and Japan face when detaining stateless people, but also from the unilateral power that such countries have in deciding the fate of these individuals. In 2004, for example, the High Court of Australia ruled that indefinite detention for Ahmed Ali Al-Kateb, an unsuccessful asylum applicant from Palestine, would not be unlawful (Perks and Clifford 2009). Considering the wide legal berth that states have regarding the fate of stateless migrants and the inadequacy of the international legal framework to protect stateless persons, the possibility of indefinite detention in any country is a very serious matter and presents a strong practical and ethical argument for the importance of legal status.

Another powerful argument for legal status for stateless people involves children who are born stateless. For the most part, states assign citizenship based on one of two principles: *jus soli* and *jus sanguinis*. The former evokes the “law of the soil” and grants citizenship to those born in a country’s territory; the latter calls on the “law of blood” to endow citizenship upon those born to citizens. South Africa, for example, confers citizenship primarily on the basis of *jus sanguinis*. According to the Department of Home Affairs, children with at least one South African parent can claim citizenship, regardless of whether or not they were born in South Africa (South African Citizenship Act 1995). While most countries employ a mix of these two principles to determine citizenship, a number of children can fall through the legal cracks – when their family migrates away from a *jus soli* country to a *jus sanguinis* country, for example, or if a child is born to a single mother in a country where citizenship is determined by the father’s nationality.

The issue of stateless children is especially compelling because of the way that children are portrayed and perceived. Children and minors tend to be seen, first, as blameless for their stateless condition and, second, as powerless to correct it. As Lynch & Teff (2009) argue, “In the end, perhaps the most obvious reason why children become stateless is that they cannot act for themselves” (31). The perception of children as helpless victims, though not always accurate, is certainly a legitimate and ethically compelling reason to advocate for legal protection. This type of image crafting does not just stop at children; other contributors to *Forced Migration Review* argue for legal status by casting stateless adults as victims and appealing directly to readers’ sense of morality.

Consider Lewa's (2009) rhetoric in describing Rohingyas' migration flows: "Stateless and undocumented, they have no other option than relying on unsafe illegal migration channels, falling prey to unscrupulous smugglers and traffickers, or undertaking risky journeys on boats" (13). In a single sentence, Lewa manages to portray Rohingyas as victims on four levels. First, they are victims of the existing legal framework, which demands legal status and leaves stateless people with "no other option" than illegal immigration. Second, they are victims of society, "prey to unscrupulous smugglers and traffickers" who take advantage of their precarious situations. Third, they are victims of the natural world as they "undertake risky journeys on boats", placing their lives at the whim of the dangerous ocean. Finally, the Rohingyas' threefold victim-hood can be attributed to one source: being "stateless and undocumented". This is not to say that stateless people are not victims or that their options are neither few nor dangerous. Rather, the point here is that the language used in some *Forced Migration Review* articles paints stateless people so thoroughly as victims that it does not allow readers to question their agency or image without feeling morally obligated to sympathise.

It is not only rhetoric that makes *Forced Migration Review* arguments morally compelling. Some of the contributors themselves are stateless and offer moving and articulate insights into what it means to be stateless. Such firsthand accounts of discrimination and firsthand opinions of how to address the issue of statelessness are difficult to ignore and pose a powerful argument for legal status for stateless persons. Aukot (2009), for example, discusses the Ateker nation, which is made up of pastoral nomads and is largely removed from the central governments of the four bordering countries that it inhabits – Sudan, Ethiopia, Kenya and Uganda. Aukot (2009) explains that in his experience, "Were any one of

the governments to have a stronger presence in the Ateker region and assist in its development, it would make a difference” (18). Though he does not elaborate on how government intervention would help, it is difficult to discount his opinion because of his status as a stateless person; instead, his argument appears all the more valuable.

Likewise, it is impossible to ignore Adam’s (2009) account of the professional difficulties he has faced as an ethnic minority in Kenya. He describes that, “Between 1992 and 2000, I applied unsuccessfully for a passport five times, losing jobs in the process. One manager asked me why I did not have a recognisable ethnic identity and [said] that this was why I could not be promoted” (2009: 19). Again, the point here is not to suggest that firsthand accounts of statelessness are invalid or flawed, but to draw attention to the powerful reverse *ad hominem* effect: Aukot and Adam’s arguments are made stronger because of who they are.

Challenges to Forced Migration Review

While arguments like these undeniably demonstrate that stateless people are in need of rights protection, they do not prove that gaining legal status will improve or even affect the way that people experience rights in their everyday lives. Let us return to the woman on the cover of *Forced Migration Review*. The photograph caption reads, “After confirmation of their citizenship, Biharis in Bangladesh can now have hope of leading a normal life after decades of exclusion” (2). However, it is difficult to reconcile the simple equation of legal status and hope for a “normal life” with the article inside on Bihari statelessness, which states that, “Despite recent developments in voter and ID registration, they continue to live in slum-like conditions, facing regular discrimination” (Hussain 2009: 30). Even this statement is more positive – almost misleadingly so – than the reality. While Urdu-speaking Biharis who were

either born after 1971 or were a minor in 1971 were granted citizenship in 2007 and entitled to vote in the 2008 elections (Hussain 2009), the Sindh High Court determined that Biharis were not eligible to vote because they did not have the necessary identification – despite the fact that the government was at fault for not issuing the identification (Pakistan Newswire 2008). While obtaining citizenship after thirty-six years of indeterminate status is certainly a victory, it is specious to think that it elicits an immediate and direct change of social or political circumstance.

There are two main reasons that citizenship is conflated with rights protection in *Forced Migration Review*. First, legal status has been mistakenly equated with social wellbeing. Stateless people tend to be among the most underprivileged groups in the world and the result is that, “In many parts of the world statelessness has become closely linked to the treatment of minorities and the right to non-discrimination” (Blitz 2009: 25). A quick glance at *Forced Migration Review*’s photo captions supports this argument. In just a few words, the captions manage to convey the plight of stateless people, claim that their situations are caused by their lack of legal status and imply that their suffering would be less if they had legal status.

Consider the following. On page 12, a photograph of a woman and her children reads, “Unregistered Rohingyas in Bangladesh must fend for themselves. This mother gave birth 40 days previously and has not been able to feed her baby properly”. Page 30 shows a dirty slum where children and chickens mingle amongst the trash and explains that, “The lack of basic services, such as toilets, washing facilities and garbage disposal and drainage systems, contribute to the appalling conditions faced by Biharis living in the Dhaka settlements”.

Finally, page 34 features a woman bent over a heavily embroidered piece of fabric and reads, “The Urdu-speaking community in Mirpur in Dhaka, Bangladesh, lives in poor housing conditions with families of 6-8 people living and working in a single room. Men and women work long hours – the men weaving saris at a factory and the women embroidering at home”.

The implications are that with legal status, the Rohingya woman on page 12 could feed her baby and would not have to “fend for herself”, the Bihari children on page 30 would have access to basic social services and the Urdu-speaking woman on page 34 would not have to work such long hours. The reality, however, is that unless these individuals’ socio-economic status changed along with their legal status, their everyday experience of rights would not change. As Adam (2009) observes, “legal links are important for anyone belonging in contemporary society; however, without addressing the *social acceptability* of any community of a people, groups like the Nubians will continue to live from one crisis to another” (20, emphasis added). In other words, legal status is just one of many obstacles that stateless people must face in the struggle for equal rights. Both “social acceptability” and socio-economic status tend to play greater roles in the experience of rights than legal identity does.

The second reason that *Forced Migration Review* contributors seem to conflate a legal identity with access to rights is because they overlook the gap between formal law, which guarantees rights, and local practices, which can interpret and implement these laws arbitrarily. The following example illustrates the slippage between state laws and local implementation. The Citizenship Act of 2006 greatly expanded Nepali citizenship, yet some 800,000 who are eligible for citizenship remain stateless because of problems converting their right to legal

status into a reality. Even though laws have been passed that are aimed at ensuring that marginalised people do not fall through the cracks, there is no guarantee that the legislation is implemented at the community level. For example, married women need the approval of their husband or father-in-law to apply for a citizenship certificate, and women married to foreigners cannot pass their Nepali citizenship to their children (White 2009). Despite a 2005 Supreme Court ruling that children whose mothers are Nepali and whose fathers are either absent or unknown must be registered as citizens, White (2009) notes that the “judgment was not widely circulated and some local authorities are reluctant to implement this law citing a lack of procedural directives...” (29). Furthermore, a citizenship certificate, once obtained, only “proves access” (White 2009: 28) to rights; it does not guarantee them. Thus, even legal citizens with legal documentation must bridge the gap between having access to rights and enjoying those rights.

As demonstrated by *Forced Migration Review* articles, which are generalisable to the larger policymaking and theoretical sphere, arguments in favor of legal status for stateless people seem to be fueled by the assumption that, because the problem is that people who are not members of a state do not enjoy rights, the solution is to make them citizens. Yet the fact that legal citizens do not always enjoy the rights that they are constitutionally entitled to cannot be emphasised enough. For one thing, a lack of “social acceptability” and a lack of access to socio-economic equality mean that underprivileged people are easily marginalised, even if they have legal status. For another, both citizens and legal migrants can be overlooked or excluded from formal channels of rights protection. While a legal identity may indicate the right to have rights in a state, it does not necessarily elevate already vulnerable people to a status where they enjoy equality or consequence as members of the community.

A CITIZEN-CENTRED PERSPECTIVE

Perhaps the most fundamental reason that *Forced Migration Review* articles conflate legal status with access to rights is because they are working from a state-centred perspective. From the state's point of view, legal citizenship and a ground-level experience of rights are one and the same; therefore, it makes sense that legal status is seen as the solution to rightlessness. The problem with this perspective, however, is that it does not take citizens' experiences of rights and citizenship into account. Kabeer (2005) explains that,

...what is...clear is that a great deal of the theoretical debate about citizenship today is taking place in an 'empirical void,' where the views and perspectives of 'ordinary' citizens are largely absent. We do not know what citizenship means to people – particularly people whose status as citizens is either non-existent or extremely precarious – or what these meanings tell us about the goal of building inclusive societies. (1)

As Kabeer notes, one of the major problems with the theoretical conception of citizenship today is that “the views and perspectives of ‘ordinary’ citizens are largely absent”, which means that there is a disconnect between the meaning of citizenship at the state level and the value of citizenship at the local level. In order to further emphasise the importance of a citizen-centred perspective, this section will briefly discuss the impact of a ground-level perspective on two of the classic debates in citizenship studies.

One of the fundamental debates about the nature of citizenship and rights protection involves the question of whether or not governments are obligated to protect and provide access to social and economic rights, which are often seen as distant cousins to civil and political rights. Civil and political rights include political freedoms, such as speech, opinion, movement and religion, as well as political protections from violence and forced labor, and are considered the cornerstone of liberal democracies. They are also known as “first generation” rights, indicating their paramount position, and also “negative” rights, indicating

that they require inaction on the part of others. Social and economic rights, on the other hand, are considered “second generation” rights, or “positive” rights because they require action or provision of some kind from governments or other citizens, as in the case of health care or education.

The distinction between the two types of rights became especially sharp during the Cold War, when the Western bloc emphasised civil and political rights and the Eastern bloc emphasised social and economic rights (see Donnelly 2003; Mehta 2005; Nyamu-Musembi 2005). Although the Universal Declaration of Human Rights (1948) does not distinguish between these two types of rights and almost all states have signed both the International Covenant on Civil and Political Rights and the International Covenant on Economic, Social and Cultural Rights, the hierarchy and categorisation of rights as positive or negative, first or second generation, continues to exist.

However, a citizen-centred perspective recognises that citizens do not experience rights separately in their daily lives and argues that positive and negative rights should therefore not be categorised separately. As Nyamu-Musembi (2005) observes, “The reality, of course, is that people do not experience rights – or their deprivation – in a bifurcated manner, distinguishing between rights of a civil-political nature and rights of an economic-social nature” (42). In Burma, for example, the political freedom of movement is heavily restricted for Rohingyas in Burma; this directly affects their ability to seek social rights such as health care and education (Lewa 2009). In South Africa, the ruling in the 2000 Grootboom case brought social rights like housing to the forefront, “thus making the transformation of society become seen as a necessary condition for the efficacy of political rights” (227).

Donnelly (2003) further argues that rights can change from positive to negative and vice versa, depending on the historical and social context:

For example, the right to food is more of a negative right in the wheat fields of Kansas than in Watts or East Los Angeles. Equal protection of the law is somewhat more positive in the South Bronx than in Stockholm. In Argentina, protection against torture was a very positive right indeed in the late 1970s. Today it is a much more negative right. (30)

These examples clearly illustrate that there is a disconnect between the way that rights and citizenship are theoretically conceived, and the way that they are actually experienced.

In response to the main liberal objection to social and economic rights, many authors argue that all rights require both action and inaction. Kabeer (2005) argues that in order to enjoy the freedom that rights are supposed to provide, people need freedom from political coercion as well as freedom to access material resources. Mehta (2005) adds that the neo-liberal notion that socio-economic status should be determined by the market, and not by the state, is inconsequential because negative rights – such as the right to a free trial or the right to vote – require state resources. The ground-level experience of rights, therefore, does not separate or prioritise civil and political rights over social and economic rights; instead, they are seen as intertwined and having consequences for the other.

Since the Universal Declaration of Human Rights in 1948, a second long-standing debate has revolved around the question of whether rights are universally applicable to all humans, or whether they are particular to different cultures and states. The universalist position is supported by both normative and formalist arguments. On the one hand, natural law theorists like Immanuel Kant and contemporary theorists like Donnelly (2003) and Schachter (1983) argue that all humans have rights by virtue of being human and, therefore,

that human rights are universal (see Nyamu-Musembi 2005). Article 1 of the Universal Declaration of Human Rights, which states that, “All human beings are born free and equal in dignity and rights” (1948), supports this essentialist position. So does the Vienna Declaration on Human Rights, which declares that, “all human rights derive from the dignity and worth inherent in the human person” (1993). On the other hand, formalists argue that human rights standards are universal because most states have ratified international human rights law, and that the Universal Declaration of Human Rights is so widely recognised that it is customary international law, even though it is not a binding agreement (Nyamu-Musembi 2005).

The position that rights are particular to cultures and states is supported in varying degrees by cultural relativists. At one end of the spectrum, radical cultural relativism argues that a universal perspective on human rights is not possible. The American Anthropological Association’s (1947) response to the Universal Declaration of Human Rights captures the spirit of this argument, stating that,

Standards and values are relative to the culture from which they derive so that any attempt to formulate postulates that grow out of the beliefs or moral codes of one culture must to that extent detract from the applicability of any Declaration of Human Rights to mankind as a whole (qtd Nyamu-Musembi 2005: 35).

At the other end of the spectrum, weak cultural relativism argues that a universal human rights discourse is possible if all cultures contribute to the existing discussion. Because it is important to consider all perspectives on human rights, however, existing human rights documents and laws are not legitimate because they originated from Western ideas about human dignity and social justice.

Cultural relativism can be seen more recently in the Bangkok Declaration of 1993, when Asian leaders agreed to:

Recognize that while human rights are universal in nature, they must be considered in the context of a dynamic and evolving process of international norm-setting, bearing in mind the significance of national and regional particularities and various historical, cultural and religious backgrounds.

Considering that the 1993 Bangkok Declaration preceded the 1993 Vienna Declaration on Human Rights, which was cited above as supporting the universalist argument, it is evident that this debate is significant and current. (See Nyamu-Musembi 2005)

However, recent literature suggests that rights can be simultaneously universal and particular. Mamdani (1990) argues that rights are defined through struggle, and rights struggle is universal because oppression is universal: “Without the experience of sickness, there can be no idea of health. And without the idea of oppression, there can be no practice of resistance and no notion of rights” (359). Nyamu-Musembi (2005) draws on Mamdani (1990) to argue that rights are therefore concurrently universal and particular, since oppression and struggle are universally experienced, yet each struggle is unique and relative to the context. In response to the radical cultural relativists, who argue that universal human rights declarations and laws cannot exist, and weak cultural relativists, who argue that existing human rights documents and laws are invalid because they reflect a primarily Western conception of rights, Merry (1993) introduces the concept of legal vernacularisation. Legal vernacularisation argues that local communities appropriate Western rights discourse and thus change the meaning of Western terms so that they reflect local struggles. Like the debate on the primacy of positive or negative rights, the debate over whether rights are universal or particular is grounded by the practical idea that people do not experience rights and laws separately.

The point here has been to show that studying the way that people access rights on the ground changes the theoretical understanding of the way that rights are experienced. As this study moves towards analysing the factors that enable membership in a political community, it will be important keep in mind the value of a citizen-centred perspective. In the following section, I will discuss the impact of a citizen-centred perspective on citizenship studies and introduce five challenges to the conceptualisation of citizenship that have implications for this study.

NEW WAYS OF CONCEPTUALISING CITIZENSHIP

Not only have citizenship studies recognised the gap between guaranteed rights and experienced rights, they have begun to challenge the conventional understanding of citizenship. Generally speaking, citizenship studies tend to focus on both the legal and substantive relationship between citizens and the state: “Often it is stated that what is important about citizenship is not only that it is a legal status but that it involves practices – social, political, cultural and symbolic” (Isin & Nielsen 2008: 2). The very term “citizenship” indicates a relationship of rights and duties that is exchanged between legal members and the state. It is a citizen’s duty to pay taxes and vote, just as it is a citizen’s right to enjoy freedom of speech or protection from violence. Over the past decade, however, citizenship studies have begun to focus on the way that citizenship is experienced and valued by legal citizens, stateless persons and those in between. The gap between theory and practice has led to new ways of conceptualising citizenship, which suggest that neither legal status nor citizenship practices indicate belonging or enable rights. What follows is a list of assumptions about citizenship that are being challenged and a discussion about the implications for this study – in particular, the emerging importance of political community theory.

First, we cannot assume that those with equal legal status experience equal access to rights. This argument was heavily emphasised in the close reading of *Forced Migration Review*; the point here is to recognise that when citizens are excluded from formal politics, their actions have no consequence in the larger community. Wheeler's (2005) work, which focuses on impoverished families in Rio de Janeiro, illustrates this point. In the constitutionally mandated vote for a form of government in 1993, only 66% voted for a democracy; interview participants who voted against a democracy explained that the form of government did not make a difference in their lives. Wheeler (2005) describes that,

One poor black woman, who lives in a city housing project, said that "Brazil would be better off with a dictatorship. At least then things were working". Another poor elderly woman from the suburbs identified "more buses" as the major difference in her life between dictatorship and democracy. (105)

Theoretically speaking, a democratic government should at least enable a wider experience of political rights, but in Rio de Janeiro it only brought "more buses". In other words, when people with legal status are excluded from formal channels of rights claiming, they are also excluded from the formal process of determining the future path of the state that gave them a legal identity.

Second, we cannot assume that the state is the only entity that can protect and provide rights. Rather, both political and social rights may be obtained through informal or extra-legal channels. In Southern Africa, refugees with legal status often receive their primary protection and support not from international organisations or states, but from local communities and other extra-legal – "although not necessarily illegal" (Misago 2005: 2) – sources. For example, Mozambican refugees were integrated into border communities despite the South African government's attempt to confine refugees' political and social integration into the country by restricting them to the "homelands" (Polzer 2007). A 1995

interview with a young Mozambican man working in Johannesburg documents the social, political and legal acceptance that refugees experienced in the homelands:

I was welcomed at Mr. Ndlovu's family who treated me like his son. I was doing everything a man was supposed to do in the family. The following year my family came to South Africa and stayed at Gottenburg next to Manyeleti. Mr. Ndlovu was selling chickens and he helped my family to get South African IDs, and subsequently a stand next to the new stadium. He also helped me to continue with my education as a result of which I completed my matric at Eric Nxumalo Secondary School. All these were very easy because of the surname Ndlovu. (qtd Polzer 2007)

This account of integration into the homelands demonstrates that local families helped refugees find homes and employment, obtain (possibly false) legal identification and encouraged them to exercise the right to education.

Other studies show similar findings. In the South African community of Winterveld, for example, Mozambican and Zimbabwean migrants participated in community politics based on their status as landowners; their ambiguous status as refugees, asylum seekers and economic migrants was overlooked. Reitzes & Bam (2000) note that South Africa's pre-apartheid inability to enforce immigration law enabled this community-level "political space" (99); after the 1994 elections, however, migrants were discouraged from participating in community meetings and approaching civil society organisations with grievances. These two cases demonstrate that it would be a mistake to overlook the informal, ground-level channels that those entitled to rights use to access rights.

Third, we cannot assume that legal status is a necessary condition for claiming rights. Isin & Nielsen (2008) note that the study of citizenship usually focuses on legal status and passive practices of citizenship, such as voting or paying taxes. However, they argue that what should be studied are the non-passive acts of citizenship that occur when the actors see

themselves as having the right to have rights, which may not always correspond to their status as legal citizens.

To investigate citizenship in a way that is irreducible to either status or practice, while still valuing the distinction, requires a focus on those acts when, regardless of status and substance, subjects constitute themselves as citizens or, better still, as those to whom the right to have rights is due. (Isin & Nielsen 2008: 2)

This alternate method of studying citizenship suggests that individuals and groups that are not legal members of a state may see themselves as entitled to rights. As demonstrated above, for example, undocumented Mozambican migrants were able to participate in community politics, obtain legal identity documents and access social services like education in the “homelands” of apartheid-era South Africa. Outside of the homelands, which were themselves marginalised from the body politic, however, the same migrants were seen as illegal aliens and actively deported under the 1991 Aliens Control Act (Polzer 2007).

Fourth, just as legal status is not a necessary condition for claiming rights, we cannot assume that legal status is the only factor that enables rights realisation. As demonstrated in the previous section, empirical research suggests that a citizen’s legal relationship with the state is not as meaningful as is generally thought, considering that citizens do not necessarily experience the rights that they are legally entitled to. Additionally, legal identity may not be the primary indicator of citizenship from a citizen-centred perspective. In Kenya, for example, Adam (2009) observes that ethnicity is more powerful a marker of citizenship than legal status is: “In Kenya nothing defines your citizenship more than your ethnicity” (19). For poor legal citizens in Rio de Janeiro, the most important component of citizenship is the feeling of dignity. Dignity is achieved through struggles for – though not necessarily realisation of – access to social services (Wheeler 2005). In this case, active participation –

the struggle for rights – can be more important in claiming citizenship than the realisation of formal rights. Isin & Nielsen (2008) define such “acts of citizenship” as a creative break or rupture in the everyday practice of citizenship: “Whereas citizenship practices like voting, paying taxes or learning languages appear passive and one-sided in mass democracies, acts of citizenship break with repetition of the same and so anticipate rejoinders from imaginary but not fictional adversaries” (2). In other words, citizens who are excluded from formal politics can enact citizenship through struggles for the rights they feel entitled to, such as education and adequate housing.

Finally, we must recognise that new types of citizenship are emerging that do not necessarily involve legal status, the exchange of rights or exclusive membership. Over a decade ago, Sassen (1996) argued that a new type of citizenship could be conceived along “financescapes” (see Appadurai 1996) and observed that investors “vote with their feet” (40). Today, new types of citizenship include “ecological-citizen, aboriginal-citizen, market-citizen, consumer-citizen, cosmopolitan-citizen, global-citizen, intimate-citizen, youth-citizen and many more” (Isin & Nielsen 2008: 1). Despite the fact that, “environments, markets, lifestyles and sexes are not things for which you can hold legal membership” (Isin & Nielsen 2008: 1), individuals are increasingly claiming citizenship and rights through these multiple and overlapping groups. Thus, it is important to keep in mind that under a citizen-oriented perspective, individuals without a legal relationship to the state can still be entitled to and claim rights, whether it be from the state, a private body or informal channels. In other words, emerging citizenship studies recognise that in addition to states, where citizens hold legal membership, people are forming communities that transcend state boundaries in practicing and protecting certain shared values.

These challenges to the conventional study of citizenship are consonant with the fundamental aspects of a political community. During the following discussion of political community, it is important to keep in mind the following observations about citizenship, as influenced by a citizen-centred perspective and the empirically proven gap between guaranteed rights and experienced rights. First, those who have a legal identity but do not have everyday access to their legal rights are also excluded from formal decision-making processes. In other words, their actions and thoughts are not considered consequential. Second, the state is not the only entity that can provide access to rights; informal and extra-legal channels may be just as – if not more – important. Third and fourth, legal status is not necessary to claim membership, nor is it the only factor that enables belonging. Instead, factors like ethnicity may be more effective enablers of the right to have rights. Finally, new types of communities are emerging around shared values, not necessarily the exchange of rights. Now, let us turn to Arendt, Walzer and political community.

THE IMPORTANCE OF POLITICAL COMMUNITY: ARENDT AND WALZER

Hannah Arendt's conception of the political community was largely influenced by the experience of World War II refugees, who found that they had no basis upon which to claim rights once they were territorially displaced and literally stateless. The context has certainly changed since Arendt's time: rather than stateless Europeans fleeing international war and oppressive regimes, today's displaced people are primarily victims of civil war, poverty and development; may be internally displaced; and tend to come from Southern countries (Barnett 2002; Castles & Miller 2003; Gibney 1999; Martin 2001). Perhaps the biggest change has been the emergence of a permanent, international refugee regime, mandated to protect the rights of the stateless. Yet the new regime has not tackled the fundamental issue of state

sovereignty (Barnett 2002; see Isaac 1996), and the tension between human rights protection and sovereignty that colored Arendt's time still remains (see Toole & Waldman 1997).

Arendt's central argument is that a political community is necessary to guarantee rights, because naturally occurring human rights do not exist. Reflecting on World War II, she writes,

We became aware of the existence of a right to have rights (and that means to live in a framework where one is judged by one's actions and opinions) and a right to belong to some kind of organized community, only when millions of people emerged who had lost and could not regain these rights because of the new global political situation. (1951: 296-7)

Arendt's main concern here is the "right to have rights", which is secured by membership in a community that recognises each others' actions and thoughts as meaningful. It is significant that Arendt does not identify this community as a state; instead, she argues that all humans have the "right to belong to some kind of organized community". This community is essential to ensuring that people are not made to exist simply as human beings without rights, and it must be "willing and able to guarantee any rights whatsoever" (Arendt 1951: 297). The idea that the political community can guarantee rights resonates with the emerging recognition in citizenship studies that the state is not the only entity that can provide and protect rights.

The most important aspect of Arendt's political community is that its members attach meaning and significance to each other's actions and thoughts. For Arendt, this is the key distinction between being rightless and enjoying the right to have rights. In order to distinguish between freedom, which any rightless person may have, and consequence, which only community members enjoy, Arendt (1951) employs the following example:

If a Negro in a white community is considered a Negro and nothing else, he loses along with his right to equality that freedom of action which is specifically human; all his deeds are now explained as ‘necessary’ consequences of some ‘Negro’ qualities; he has become some specimen of an animal species, called man. Much the same thing happens to those who have lost all distinctive political qualities and have become human beings and nothing else. (301)

In this example, the “Negro” is excluded from the political community because he is not recognised as anything more than a Negro. The political community – in this case, the white community – does not recognise his acts as meaningful; they are simply a “necessary consequence of some ‘Negro’ qualities”. One of the fundamental aspects of a political community, then, is that members guarantee each other’s equality by recognising consequence in each other’s actions and thoughts. This idea resonates with the emerging recognition in citizenship studies that those who occupy the gap between having legal status and not having rights are excluded from formal avenues of decision-making; in other words, their actions and opinions are not recognised as consequential within the state.

In a lecture in 1955, Arendt advocates for the right to “citizenship” that is internationally guaranteed. At first glance, this seems very similar to citizenship in a state that grants rights. Speaking about the potential for rightlessness that is inherent in the existing state-based framework of rights protections and guarantees, Arendt (1955) argues,

If we do not stop this by having – not a bill with innumerable human rights which only the highest civilizations enjoy – but one internationally guaranteed right to Citizenship – whatever this citizenship may happen to be –, we shall have more and more people who with respect to their legal status no longer are human, who have no longer a place within humanity. (5)

Although Arendt uses the term “citizenship”, she makes it clear that she is using the term vaguely when she says, “whatever this citizenship may happen to be”. Furthermore, she distinguishes between states that grant rights, or “the highest civilizations”, and a larger,

vaguer community. In other words, Arendt was advocating for membership in a new form of a political community – not the existing form of a state.

It is also important to recognise the fact that Arendt was heavily influenced by the inherent tension between rights and sovereignty that became apparent in the wake of World War II.

She observes that,

The Rights of Man...had been defined as ‘inalienable’ because they were supposed to be independent of all governments; but it turned out that the moment human beings lacked their own government and had to fall back upon their minimum rights, no authority was left to protect them and no institution was willing to guarantee them. (Arendt 1951: 292)

For Arendt, the problem of rightlessness stemmed directly from the fact that states were the only entity able to protect rights in World War II. She argues that, “Only with a completely organized humanity could the loss of home and political status become identical with expulsion from humanity altogether” (1951: 297). Arendt is careful not to place rights safeguards in the hands of states, and it is highly doubtful that she would condone human rights or immigration policies that identified citizenship as the solution to statelessness.

The difference between membership in a political community and citizenship in a state may seem negligible, considering the reality that wherever a person lives, they are on the territory of a nation state, and nation states only grant full rights to citizens. In this real-world situation, Gibney (2009) is justified in arguing that, “The primary injustice the stateless experience...is not that they cannot find a state to grant them citizenship but that the state which should grant them citizenship will, for various reasons, not do so” (50). In other words, the “primary injustice” that those without legal status experience is that states exercise the right to exclude them. What is missing from this discussion, however, is the

individual's right to be actively included in a community. This is what Arendt means when she speaks of the difference between mere existence, which a rightless person suffers, and having meaningful thoughts and actions, which members in a political community enjoy. In order to better understand the subtle distinction between citizenship, which has been proven to exclude and ignore certain pockets of citizens, and political community, which emphasises shared values and mutual guarantees of equality, let us briefly consider the debate between universalists – represented by Joseph Carens – and communitarians – represented by Michael Walzer.

Universalists stress the importance of the individual over the community and, to varying degrees, believe in the right to free movement and open borders. These arguments tend to be centred on the theme of exclusion – that is, why migrants should not be excluded from foreign territories or communities, rather than why they should be included. In an argument for open borders, Carens (1987) asks, “On what moral grounds can these sorts of people [immigrants] be kept out? What gives anyone the right to point guns at *them*?” (251, italics in original). In answering these questions, Carens (1987) refutes Nozick's (1974) argument that property rights justify a state's right to exclude immigrants, by claiming that this theory “provides no basis for the state to *exclude* aliens and no basis for individuals to *exclude* aliens that could not be used to *exclude* citizens as well” (253, emphasis added). Based on the type of questions that Carens poses, as well as the logic of his argument, it is clear that his primary concern is to prove that states have little, if any, justification for excluding those who want to come in.

For Carens, the right to freely enter a community is separate from the right to membership in that community. He notes that while open borders are “a goal toward which we should strive” (1987: 270), there is still a distinction between members and non-members.

To say that membership is open to all who wish to join is not to say that there is no distinction between members and nonmembers. Those who choose to cooperate together in the state have special rights and obligations not shared by noncitizens. (Carens 1987: 270)

As he notes above, members “have special rights and obligations not shared by noncitizens”. Though Carens (1987) offers that, “If people want to sign the social contract, they should be permitted to do so” (270), it is clear that political belonging is only a possible, but not necessary, component of open borders. It is significant that Carens acknowledges a separation between freedom of entry and political membership, because this is precisely the distinction that concerns Arendt. If those who are free to enter are not given meaningful membership in the community, then they are “beyond the pale of the law” (Arendt 1951: 288) and simply exist within the geographical borders of the state.

Unlike Carens, Walzer (1983) links the right to entry with the right to political belonging. For Walzer, a community’s right to self-determination means that territorial entry and political membership are essentially one and the same. He explains that, “One might insist, as I shall ultimately do, that the same standards apply to naturalization as to immigration, that every immigrant and every resident is a citizen, too – or, at least, a potential citizen. That is why territorial admission is so serious a matter” (1983: 52). In other words, a community’s right to exclude immigrants is justified by the fact that there is no gray area between territorial inclusion and political inclusion. Although Walzer argues this point by using the example of guest workers who, according to Hobbes (1988), must give consent in order to be ruled over, he extends this argument to “every new immigrant, every refugee taken in, every

resident and worker” (1983: 62). Once an immigrant enters a territory, then, political inclusion must follow. The idea that a community has the right to self-determination in order to protect its shared values resonates with the emerging recognition in citizenship studies that shared values may be more important to claiming membership than legal status.

Walzer’s communitarian position is based in the belief that the community comes before the individual. Communities are created around certain shared values, and they enjoy the right to self-determination in order to practice and protect those shared values. This means that inclusion depends on the existing members’ “understanding of what membership means in our community and of what sort of community we want to have” (Walzer 1983: 32). This suggests that membership can change and criteria for membership can change. Walzer (1983) continues:

But we don’t distribute it among ourselves; it is already ours. We give it out to strangers. Hence the choice is also governed by our relationships with strangers – not only by our understanding of those relationships but also by the actual contacts, connections, alliances we have established and the effects we have had beyond our borders. (32)

More importantly, Walzer attaches meaning to the way that members understand and value membership in their community, relationships with outsiders and the actual experiences and effects that a community has beyond its borders. In other words, members’ subjective understanding of the political community directly influences the present and future admissions policies.

The primary difference between citizenship and political community, as made clear by the above debate, is that members in a political community are included the self-determination of that community, meaning that their actions and thoughts have consequence within the

community. It is important to note that this section has compared empirical studies of citizenship with the theoretical concept of political community. However, empirical studies of citizenship have begun to challenge conventional citizenship theory and suggest a new conception of citizenship – which resonates with Arendt’s and Walzer’s conception of political community. Thus, it is highly apposite to discuss the theoretical aspects of political community.

What is more, an evaluation of Arendt’s rights theory in today’s context is particularly significant because her work has become what Kohn (2007) calls “increasingly provocative” (xiv). Academics and activists frequently cite Arendt’s argument for “the right to have rights” in their advocacy for equal rights and explanations of the dimensions behind rights protection (see Gibney 1999, 2009; Goris et al. 2009; Kabeer 2005; Parekh 2008; Tsao 2004; Wheeler 2005). Yet these citations are worrisome, because they mistakenly interpret Arendt’s political community as the state, and membership in the political community as citizenship in the state.

In the introduction to a collection of essays on the theme of “inclusive citizenship”, for example, Kabeer (2005) conflates the “right to have rights” with the right to “full” citizenship. She writes, “The search for recognition by such [vulnerable] groups often first takes the form of demand for what Hannah Arendt called the ‘right to have rights’, to be recognized as *full persons*, despite their difference, and *hence* as full citizens” (2005: 4, emphasis added). Kabeer correctly identifies the “right to have rights” as the right to be recognised as a “full person” – or, as Arendt (1951) would say, the right to “a place in the world which makes opinions significant and actions effective” (296-7). This place in the world is

membership in a political community. The problem with Kabeer's interpretation is that she continues by conflating a "full person" with a "full citizen", thus assuming that a political community is a state and membership in the political community is citizenship.

Considering the increasing acknowledgement among academics, aid workers and policymakers that states determine the quality, extent and type of human rights protection (see Barnett 2002; Gibney 1999; Helton 2000; Parekh 2008; Zetter 1991), it is not surprising that recent citations of Arendt have equated the right to a political community with the right to citizenship. When even a powerful international body like the UNHCR is considered "a creature of the state alone" (Barnett 2002: 260), it is difficult to imagine a type of political community that both protects rights and exists outside of the nation-state framework. Furthermore, there is a tension within forced migration studies between producing work that is both academically sophisticated and politically relevant (Jacobsen & Landau 2003; Turton 1996). However, these interpretations of Arendt are problematic because they assume that legal status enables rights, while empirical evidence shows that legal status does not enable rights. This leads policymakers and academics to cite Arendt in arguments for a faulty solution that her work does not even condone.

CONCLUSION

This chapter began by demonstrating that there is an empirically proven gap between legally guaranteed rights and actual, experienced rights. The citizens who fall into this gap tend to inhabit underprivileged sectors of society in underprivileged states. This gap has not gone unnoticed by those who study citizenship, and new ways of conceptualising citizenship have emerged, which do not necessarily rely on legal status or the exchange of rights. These

emerging ideas of citizenship resonate both with the theory of political community, as well as the situation leading up to the 2008 xenophobic attacks in South Africa. Having established the importance and relevance of the political community, we will now turn to the South African political community and its public and violent act of exclusion during the xenophobic attacks. In the next chapter, we will discuss the South African context and how to operationalise and measure political community.

CHAPTER TWO

Measuring Political Community: Operationalising Theory in South Africa



INTRODUCTION

The purpose of this chapter is to continue the discussion of political community in the context of the 2008 South African xenophobic attacks. The goals are to operationalise the theory of political community and establish a method for measuring it in the South African context. The chapter will begin with a brief background on the xenophobic violence and its relationship to the South African political community. Next, I will consider the fundamental aspects of a political community as established by Arendt and Walzer and work to operationalise these characteristics. One of the factors necessary to a political community is members' ability to guarantee each other mutually equal rights; in view of this factor, I will consider the importance of a citizen-centred approach to measuring political community. I will then discuss the research design and, finally, the interviews themselves as well as the limitations and ethical considerations of the study.

2008 XENOPHOBIC ATTACKS: BACKGROUND INFORMATION

Xenophobic violence is not new to post-apartheid South Africa. Major xenophobic incidents were documented in Gauteng province in 1994, 1998 and 2000. Starting in 2005, the frequency of xenophobic incidents increased and spread from Gauteng to the Free State and Western Cape. The four violent xenophobic incidents in 2007, mainly aimed at foreign shop owners, took place in the Eastern Cape, North West, Mpumalanga and Gauteng. From January 2008 through April 2008, there were ten xenophobic incidents, aimed at foreign

shops and homes and frequently resulting in displacement, in all of the provinces listed above with the addition of Kwa-Zulu Natal. (CoRMSA 2008; IOM 2009)

In May 2008, a spate of xenophobic attacks echoed across South Africa. Spreading from Alexandra to Cape Town over the next two weeks, the attacks resulted in over 100,000 people who were displaced, an estimated 30,000 who fled to neighboring countries, 62 people killed, dozens raped and millions of rand destroyed as property and belongings were looted and damaged (CoRMSA 2008; IOM 2009). The South African Defense Force was eventually brought in to stop the violence, but not before irreparable damage had been done to individuals, communities and South Africa's reputation as the host of the 2010 FIFA World Cup. At the heart of the attacks was the question of who – that is, what kind of person – was entitled to rights and resources in South Africa.

This is a question that has shaped South Africa's history of exclusion. The national project of bringing all South Africans together at the end of apartheid meant that the government had to unify “a deeply divided society characterised by strife, conflict, untold suffering and injustice” (Tutu 1998). Because South Africans shared neither a cultural, ethnic nor national identity, “the ‘imagined community’ of the new South Africa focuses on citizenship; the participation of all citizens, regardless of difference, in the rights and obligations of citizenship, is a unifying force” (Peberdy 2001: 28). In other words, legal citizens are the primary beneficiaries of state-allocated rights, and this distinction is used to define who belongs to the South African nation-state and who does not.

It is significant that Peberdy (2001) emphasises the “participation” of citizens as a unifying force, rather than actual realisation of rights. After all, it is common knowledge that, citizens or not, South Africans – and particularly poor ones – do not receive the rights that the Constitution guarantees them. The meaning of citizenship, then, is not necessarily that legal citizens enjoy certain rights and privileges that non-citizens do not; it is that legal citizens *can* access rights and have obligations, while non-citizens cannot and do not. Murray (2003) explains that because the question of legitimate membership has plagued South Africa’s history, citizenship in the post-apartheid era has become “a symbolic marker of affiliation with the body politic and a crucial source of ‘rights chauvinism’” (449). In other words, since the 1994 election, in which all South African citizens were entitled to vote, citizenship has come to be more of a symbol of belonging than an enabler of rights.

Citizenship has proven to be a weak symbol of belonging, as numbers of South Africans have found themselves without the rights and resources that the state provides. The result is that citizens have been more successful in demonstrating their national belonging through excluding foreign nationals than in claiming legal rights. By casting the non-citizen as an outsider, state and citizen fears have easily come to centre on black Africans.

Now that all South Africans are members of the nation, entitled to all the benefits that accrue to citizens, South Africa’s immigration anxieties focus on all those nonnationals who could become members of the nation, and claim access to state resources. Black Africans have thus become the focus of the new state’s fears. (Peberdy 2001: 30)

Indeed, *de facto* post-apartheid South African national identity has been primarily based on excluding black African migrants and all that they symbolise. For example, Reitzes & Bam (2000) found that before 1994, immigrants were integrated into civil society and participated in community decision-making in the Winterveld community. After the 1994 election,

however, citizens viewed immigrants as “immigrants” and not community members, which led to their exclusion from the community and national identity.

There are some features of post-apartheid belonging that resonate with the previous discussion on political community and citizenship. First, there is a shared value present: legal identity. As demonstrated, citizenship has become a symbol of belonging; its value lies not in its use for claiming rights, but for signifying membership in an exclusive community. There are also shared resources, which citizens – or members – are entitled to. In order to protect these resources, the political community – particularly the subset of South Africans who were most forcefully excluded from the community prior to apartheid; that is, poor black South Africans – is engaging in exclusionary practices. These practices include imagining that there are only enough resources for South Africans and that migrants are illegally gaining access them and depleting the finite supply. These exclusionary practices are common throughout South African society. As Landau (2009b) observes, “What separates non-nationals is the degree to which exclusion is both bureaucratically institutionalized and socially legitimate” (13). With this background, we can read the 2008 xenophobic attacks as a public, violent, widespread act of exclusion that included not just those who engaged in the attacks, but also those who supported it through their discourse.

MEASURING POLITICAL COMMUNITY

Let us now operationalise the definition of political community in the South African context. In the previous chapter, we identified four fundamental features of the political community:

- (1) The political community guarantees its members equal rights

In order to operationalise the definition of a political community, it is necessary to reconcile theory with real-world circumstance. In an ideal – or theoretical – world, we make decisions about membership, resource distribution and such under a “veil of ignorance” (Rawls qtd in Carens 1987: 255). That is, we make moral decisions about who should be entitled to certain rights without considering the existing power relations and institutional structures. In an ideal world, a “political community” can guarantee rights to its members. But this is not an ideal world; instead, we are concerned “with what existing agents ought to do here and now, and normative prescriptions cannot be formulated independently of the character of the agents we are aiming to direct” (Gibney 1999: 175). In the existing nonideal world, rights are granted through legal structures, and the state is the only entity that can provide legal access to legal rights.

Considering the above, we can speak of South Africa’s political community as a rights-granting community by recognising two boundaries. First, we are looking specifically at the underprivileged sector that actively excluded outsiders through xenophobic discourse and xenophobic violence. There were certainly pockets of underprivileged communities that did not engage in the xenophobic attacks of 2008, but it is universally recognised that the underprivileged South African community engages in – and has even propagated for political gain – the xenophobic idea that outsiders are gaining illegal access to resources that rightfully belong to South African citizens. Second, this underprivileged South African community is made up of legal citizens who have rights guaranteed by the state. The acts of exclusion that they engage in have the purpose of protecting the rights that they imagine themselves to have – and, thus, the act of exclusion can be thought of as an act of protection of rights, and therefore, a guarantee that there will be more rights to go around.

(2) Members recognise each other's actions and speech as meaningful

Arendt's political community is determined by its members' willingness to recognise equality and consequence in each other. However, it is beyond the scope of this study to determine whether a political community exists by measuring the political subjectivities of vast numbers of individuals and mapping overlapping subjectivities. Instead, we will focus on the practice of recognising "meaningful" action and speech in each other by working from a citizen-centred perspective. As previously noted, Arendt uses the example of a "Negro" in a white community to demonstrate that when his actions are not considered meaningful, then the white community sees them simply as a "necessary consequence" of his Negro-ness. This example is useful in the context of South Africa, which tends to stereotype non-nationals and attribute characteristics like high rates of crime and poor education to the simple fact of being "Zimbabwean" or "Nigerian".

(3) The community is characterised by shared values

There are three functional features of shared values that have implications for this study. First, the whole community does not need to engage in an act in order for them to share values with the actors. In other words, the political community that committed the act of exclusion is not limited to the people who were acting; it also includes the people who shared the values being made public. That being said, it is important to note that political communities can be overlapping. This means that people can be part of the *de facto* disenfranchised South African community, but that does not mean that they are automatically considered part of the political community that excluded migrants. Finally, the values that a political community centres around can change. This means that political communities themselves can change. Factors that may affect change include new subjective

understandings of the value of membership, experiences with outsiders and events outside the community.

- (4) The community has the right to self-determination through the exclusion of outsiders

It is important to recognise that the right to protect shared values through exclusion does not justify the violence that took place in 2008. Theorists like Arendt and Walzer would certainly not condone the violent determination of a community. However, by recognising that this is a legitimate right, we can more easily see the 2008 attacks as a massive act of exclusion that sheds light on the political community at the time of exclusion.

ANSWERING THE QUESTION & COLLECTING DATA

The object of this study is to identify the shared values that make up the South African political community and understand the value and meaning that members attach to them. Working from a communitarian standpoint, we accept that the community has the right to self-determination and that the act of exclusion has significant implications for “the decisions they [a political community] make in the present about their present and future populations” (Walzer 1983: 31). The 2008 xenophobic attacks were a massive act of exclusion, and it is against this backdrop that we ask who was excluded and what this signifies about the South African political community, both in the present as well as the future. In order to answer the question, we need three types of information.

First, it is necessary to identify the factors that enabled the right to have rights prior to the xenophobic attacks. While I agree with Walzer (1983) that the concern is “not with the

historical origins” (31) of the political community, but with the way that acts of exclusion shape its membership, it is also important not to assume that the South African political community was static before the 2008 xenophobic attacks. Considering the history of apartheid and the movement towards a “rainbow nation”, it is very possible that the xenophobic attacks were actually a reaction, or a rejection, of an earlier form of political community. Thus, it is important to investigate the discourse around membership in the South African political community prior to the xenophobic attacks.

Phase One

This first stage of research was desktop research, studying the period from 1991 to 2008. It also included quantitative analysis of the African Cities Survey from 2006, which captures relationships between non-national migrants, South African citizens and social and governmental structures in inner city Johannesburg. Key information includes:

- (1) How was the provision of rights understood in the political community?
 - How did members understand and value rights provision?
 - How did non-members understand and value rights provision?
- (2) Did the political community engage in acts of exclusion, either through discourse or actions?
 - Who participated?
 - Who was excluded and how?
 - Was any group of people denied meaningful actions and speech?
 - What does this say about the community’s shared values?

Phase Two

Second, it is important to understand the nature of the 2008 xenophobic attacks, particularly as an act of exclusion. This information sheds light on the way that members understand membership in the political community, as well as the way non-members understand it. Key information includes:

- (1) What were the quantitative descriptors of the attacks? For example:
 - Who was attacked and who did the attacking?
 - Who was excluded through the attacks?
 - What does this tell us about the shared values of the South African political community?
- (2) What was the discourse that explained the attacks in the immediate aftermath? For example:
 - What were the reasons that political community members gave for the attacks?
 - What were the reasons that outsiders to the political community gave for the attacks?
 - What does this say about members' and non-members' subjective understanding of the political community and value of membership?
- (3) What actions were taken against the attacks? For example:
 - Did members and/or non-members engage in strategies to protect themselves from the attacks?
 - What were these strategies, and how did the users understand them?
 - What does this tell us about the makeup of the "political community" that engaged in and supported the attacks?

This second phase of research was conducted primarily by going over quantitative and qualitative data that had been collected in the immediate aftermath of the xenophobic attacks. In the quantitative analysis, I relied primarily on the FMSP Vulnerability Pilot Survey, conducted in February 2009, which identifies and compares vulnerability levels among migrants and non-migrants in Alexandra and inner city Johannesburg following the xenophobic attacks. The survey interviewed 2,028 respondents, was stratified to reflect a comparable amount of citizens and non-citizens, is heavily representative of Zimbabwean migrants and includes undocumented migrants.

For the qualitative analysis, I relied primarily on four sources:

- (1) The 200+ transcripts conducted in the fall of 2008 by FMSP for the Vulnerability Pilot Survey
- (2) The 2009 IOM report which documented the causes of the 2008 violence, titled “Towards Tolerance, Law, and Dignity: Addressing Violence against Foreign Nationals in South Africa”
- (3) The 2008 CoRMSA report which also documented the causes of the 2008 violence, titled “Protecting Refugees, Asylum Seekers and Immigrants in South Africa”
- (4) Interviews by FMSP faculty members Tara Polzer and Aurelia Wa Kabwe-Segatti on grassroots migrant organisations created in the wake of the 2008 attacks

Phase Three

Finally, it is important to know what the political community looks like one and a half years after the massive, violent, and public exclusion. This perspective allows us to reevaluate the

political community's shared values and targets of exclusion, and also determine whether the community's admissions policies have changed and whether members' and non-members' understanding of the meaning and value of membership in the political community have changed. Key information includes:

(1) How do members and non-members make sense of the 2008 violence?

- What do members and non-members identify as the root causes of the attacks?
- What do they identify as the reason that the attacks stopped?
- What does this say about the political community's perception of its shared values during the attacks?

(2) How do members and non-members make sense of the period between 2008-2009?

- How do members and non-members think that other South Africans reacted to the attacks?
- How do members and non-members think that the international community reacted to the attacks?
- What does this say about the political community's relationship and experiences with the outside community?
- Do members and non-members think that the violence will return?
- Do members and non-members think that xenophobia aimed at other groups will return?
- What does this say about the shared values of the political community?
- What does this say about whether the shared values have changed?

(3) How do members and non-members understand the provision of rights the political community?

- Who do members and non-members see as entitled to rights?
- What are the main challenges in providing rights?
- What are the main challenges in accessing rights?
- How do members understand and value rights provision?
- How do non-members understand and value rights provision?

(3) Does the political community continue to engage in acts of exclusion, either through discourse or actions?

- Who participates?
- Who is excluded and how?
- Is any group of people denied meaningful actions and speech?
- What does this say about the community's shared values?

For the third phase of research, I conducted thirty-one semi-structured interviews with both migrants and citizens. By using mixed methods, I was able to identify trends captured in existing quantitative data and develop my qualitative instrument based on gaps and suggestions in the existing data (see Greene et al 1989; Johnson & Onwuegbuzie 2004; Johnson & Turner 2003; Madey 1982; Sieber 1973). As Banister et al (1994) explain, qualitative research is “the voice that carries through the sense of the phenomena under investigation, while the quantitative research component circumscribes the scope and intent of the topic” (15). After identifying the “scope and intent”, it was important to “have the respondents construct for the researcher the relevant categories of experience” (Calavita & Seron 1992: 768). The interviews were the most important part of the research project, as they shed light on how members and non-members made sense of the political community, its shared values and its acts of exclusion.

The interview sampling frame and stratification follows:

- (1) Respondents must have a relationship to the political community in question. That means that they must either be part of the community, have actively chosen to not be a part of it or be excluded by it. As discussed earlier, this study generally considers the South African political community in question to be the underprivileged sector of society that was previously excluded from the national identity under apartheid, gained legal citizenship post-apartheid, but does not have an equal experience of everyday rights. Within this stratum of the South African population, the members of the political community under examination either supported the xenophobic rhetoric or engaged in the xenophobic violence of 2008.
- (2) In order to fully understand the meaning and value behind membership in the political community, those who engaged in the xenophobic attacks and those who were targeted by the attacks must be interviewed. This study looks at South African citizens – both those who were involved in or supported the attacks, and those who did not – as well as Zimbabwean migrants who were targeted by the attacks. Zimbabwean migrants were chosen because they were the main targets of the xenophobic violence.
- (3) Considering that this study works from a communitarian understanding of political community, which places the community before the individuals, the community must be the unit of analysis. Individuals were interviewed, but each participant's understanding of the meaning and value of membership will contribute to the overall

understanding of the South African the political community. In order to get a sense of community dynamics, group interviews of two to three participants will be implemented.

INTERVIEWS: DESCRIPTIONS, OBSERVATIONS AND CHALLENGES

The interview site

Interviews were conducted at the Methodist Church in downtown Johannesburg, located at the intersection of Pritchard Street and Small Street. The Methodist Church is a well-known, publicly contested space, called “a horror” and “a ticking time bomb” by lawmakers (Dixon 2010). It provides housing and other social services to approximately 3,500 people, most of whom are Zimbabwean. Referring to the overcrowded, squalid nature of the Church, Molebatsi Bopape from the Health and Social Development Committee stated in October 2009 that, “If I could have it my way, I would close it down today” (Dixon 2010). Neighborhood shopkeepers also complain about the presence of thousands of migrants “loitering” during the day; those who stay at the Church vacate the building during the day, often moving through the city looking for “piece work”. While the Church is undeniably an unsustainable, unsanitary solution to the numbers of migrants – both internal and external – who come to the city looking for work and a better life, there is simply no other alternative.

In addition to the Methodist Church, which I gained access to as a researcher for FMSP’s *Migrant Mobilisation* report (2009c), I tried to conduct interviews in townships that had been sites of xenophobic violence, as well as townships that had resisted the violence. However, it was much more difficult to gain access to these areas. A researcher affiliated with Wits gave me the contact information of the leader of the Sector 6 Alexandra Community Police

Forum, which is the largest in the township. The leader put me in touch with a community leader, who took me to the house of a Community Police Forum member in a sector of Alexandra where the violence had not occurred. She donned her Community Police Forum uniform, which consisted of a jacket and a baseball cap, both of which read, “Community Police Forum.” Then the three of us took my car to various spots around Alexandra, including the Pan Africa Market, which is where the xenophobic violence began.

While it was easy to gain physical access to Alexandra, there was miscommunication between the community gatekeepers and myself. Though I made it clear that I was interested in speaking with small groups of people in a private space for an extended period of time, the community leaders took it upon themselves to chaperone me between vendor stalls, introduce me and ask questions on my behalf. When we came upon vendors who did not speak English, my contacts would translate for me. They also became very involved in the conversations – if a respondent mentioned xenophobic discrimination, the Community Police Forum member would immediately encourage the respondent to contact the Forum. While it was interesting to observe the interactions between Alexandra residents and local authorities, it was also clear that the community leaders’ presence were perversely affecting the interviews. Not only was I unable to ask the questions that I wanted to, but it was also clear that the dynamic of the interviews and the responses to sensitive questions about xenophobia were hugely impacted by the presence of a Community Police Forum member and a community leader.

Before leaving South Africa, I tried to conduct interviews in both Alexandra and Soweto once more. The same dynamic occurred in Alexandra, where miscommunication with my

contacts led to interviews where the participant-interviewer dynamic was clearly impacted by power relations. As for Soweto, I was unable to make contacts there. Of the groups that I reached out to, the most responsive was the Soweto Backpackers, who I assumed had good relations with the community, seeing as how they led tours through the township. They had offered to set me up with a local guide, but the appointment remained unconfirmed after several weeks of back-and-forth e-mailing and phone calls. Thus, interviews were confined to the Methodist Church in downtown Johannesburg.

The interviews

I conducted interviews on six days between 28 September 2009 and 3 November 2009. These were group interviews, mainly comprised of groups of two or three. The first two group interviews had four and five participants respectively, but it became clear that participants with larger personalities overshadowed others in bigger groups. Almost all interviews were conducted between 5:00pm and 7:00pm on weeknights. One interview was conducted in the late morning, but I learned that the Church empties out in the day; my contact at the Church walked me around Pritchard Street and Von Brandeis Street to look for Church residents to interview.

All interviews with migrants were conducted in both English and Shona. I learned from the first interview that even though the respondents had asserted that the interview should be conducted in English, they were more likely to respond if the question was asked in Shona. In all following interviews, I asked questions in English and the interpreter translated them into Shona. Participants were free to respond in whichever language they were more comfortable in; the vast majority of responses were in English. There were also times when

respondents did not understand my American accent and it was helpful to have the interpreter repeat the word or phrase in English with his Zimbabwean accent. The limitation of working in two languages, of course, was that responses in Shona were subject to translation and responses in English were subject to the participant's command of the English language.

A breakdown of the interviewees follows. Note that participation was voluntary, so some interviewees chose not to answer the descriptive questions below. This means that not all totals add up to thirty-one.

Country of Origin			
South Africa	Zimbabwe	Zambia	Kenya
11	18	1	1

Gender	
Men	Women
19	12

Age Group		
18 – 19	20 – 29	30 – 39
4	20	7

Employment Status	
Employed	Unemployed
18	12

Migrants: Documentation Status		
Asylum	Undocumented	Passport
14	5	1

Migrants: Length of Stay in South Africa	
0 – 1 years	1 – 2 years
14	5

Limitations

One of the limitations of this sample is that it was limited to Zimbabwean migrants and South Africans whose relationship to the political community in question was not immediately obvious. The Methodist Church is seen as a transitory space, where people stay anywhere from a couple of nights to several years. This meant that it was more difficult to screen for a community of origin, length of time in South Africa or even Johannesburg or involvement in the xenophobic attacks. That being said, the main experience I was interested in was that of acceptance or rejection. Everyone I spoke to had been somehow affected by the xenophobic attacks; I just was not able to control the stratification of interviewees as well as I would have liked.

Another limitation of this sample is that it is self-selecting. One of the primary strategies that victims of xenophobic attacks used to protect against future violence was to move away from Johannesburg. Because interviews took place in the inner city, they naturally disregarded those who moved out of the city or across national lines to escape violence. Considering that the instrument was a semi-structured interview, the sample size was only thirty-one respondents and the goal was to understand perceptions of the attacks, this limitation did not concern me.

A third limitation of the study was that I did not have control over how participants were chosen. The Church security guards, who all lived at the Church, guided the interpreter and I to a room as soon as we entered, and then they would go and find people for us to interview. The only parameter that we gave was “Shona-speaking”, based on the interpreter’s abilities. I believe that the guards tried of their own accord to find us even numbers of men

and women. Otherwise, factors such as documentation status, length of time in South Africa, employment status and age were all out of our hands.

Challenges

Though interviews went smoothly for the most part, there were several challenges that had to be addressed. First, although we had been publicly introduced to the majority of the Church residents, not all of the Church security guards had been made aware of the fact that the Bishop had given us permission to conduct interviews. This caused some small problems at first, since the security guards were the gatekeepers to the community. My notes from the second interview on September 29 read as follows:

Once consent had been obtained [from the participants], it seemed that there was some problem with us being there. There was a conversation in Shona between Shingie (the interpreter) and one of the participants, who had left the group earlier to converse with someone (possibly a security guard). It seemed that the security guards, who we had not checked in with, had reported us to the Bishop.

I was concerned because I did not know how much authority the guards had or whether they would abuse their position; respondents had previously told me that the guards take advantage of their authority in other situations, such as when donated supplies arrive. However, the Bishop verified my identity, word somehow passed to the security guards and we were not harassed or questioned at all during any of our following interview sessions.

Another challenge was that the interpreter and I began to be recognised and greeted by Church residents and security guards – most likely because, as a young Asian American woman, I stand out quite distinctly from Church residents. Despite my emphasis on confidentiality, many people who I had interviewed in previous days would greet me from across the room when I arrived. Some previous participants even found ways to stay

involved in the research process. Consider these field notes from September 30, the third day of interviews:

It was also interesting that we had six onlookers [in the interview], including the previous participant who showed us the t-shirts [of a group that had visited the Church earlier]. It felt like we were a spectacle that others wanted to watch (in a respectful way). This certainly had to do with the fact that we had taken over a room that was being used to watch TV (perhaps we were the new entertainment), but it also felt like people were genuinely interested. At any rate, we felt more established on this third day of interviews – everyone seemed to recognize us and know what we were about, and some people even wanted to observe us.

Although I noted that Church residents seemed “genuinely interested” and “we felt more established on this third day of interviews”, it seems in hindsight that I should have been more concerned about becoming a “spectacle”.

A final challenge was that our continued presence raised false expectations among Church residents. This was directly related to becoming a spectacle and losing anonymity in the participant community. While there were several instances where participants asked for payment or demanded that I give them something, the real concern was that I began to be harassed by Church residents who I did not know when I arrived at the Church alone. False expectations pose a risk to the legitimacy of a study, as participants may provide answers that they think are “correct” (see Barnes 2009). As Jacobsen & Landau (2003) ask, “why should a refugee tell a researcher anything that is not in their interests?” (11) However, considering that I made it clear to participants that no material goods would result from participation in the study, and the harassment came from individuals who were not involved in the study, I do not believe that the research itself was affected by these false expectations.

ETHICAL CONSIDERATIONS

As with any study that involves vulnerable populations, there are several ethical issues to be aware of that may put participants at risk or jeopardise the integrity of the research (Jacobsen & Landau 2003; Leaning 2001; Mackenzie et al 2007). This project encountered four primary ethical considerations: confidentiality and consent, illegal behavior, language barriers and jeopardising strategies. This study has done its best to address them in a manner that “does no harm” to either the participants or the quality of research.

First, confidentiality and consent were necessary to protect participants. Names of interviewees were not requested and were not recorded. Several respondents offered their names despite being told that it was not necessary; in these cases, their names were stricken from any written transcriptions. In order to further ensure anonymity, participants were not asked to sign a consent form. Instead, I requested verbal consent, both to participation as an interviewee and to the use of a tape recorder. In order to avoid unintentionally breaking confidentiality by revealing other identifying features in the final report, I have included very few descriptive details.

Second, I expected that in asking marginalised people about sensitive subjects like access to rights and resources, as well as participation in the xenophobic attacks, I might uncover some illegal activity. Because participants were already at risk and experiencing socioeconomic and legal vulnerability, however, I did not plan to report illegal activities without consent. In the event that a truly heinous crime was perpetrated, I planned to break confidentiality and inform the University.

Third, it was important to the legitimacy of the qualitative study that participants were interviewed in a language that they felt comfortable in. However, the use of interpreters can undermine the neutrality of any research project. As in any research that relies on interpreters, it is possible that confidentiality may be put at risk if the interpreter and participant are from the same community, or that the participant may be prejudiced against the interpreter (or vice versa, especially in the case of xenophobia) (Jacobsen & Landau 2003). To address these considerations, I worked with an experienced interpreter who understood the position's emphasis on neutrality. The interpreter was a Shona-speaking Zimbabwean like many respondents, but he came from a different community than the respondents.

Finally, publicising xenophobic rhetoric may unintentionally fan the flames of xenophobic sentiment. Many Zimbabwean respondents told me that they did not believe that xenophobic violence would return, whereas many South African respondents told me that they were sure that it would return after the 2010 World Cup. Publicising the tension between these two perspectives might unnecessarily and unintentionally cause ill will between the groups or even provoke an official, negative response from the authorities. In order to “do no harm” to vulnerable populations, I have tried to make it clear that the qualitative research I collected is being analysed in a purely theoretical context. It is also important to keep in mind the potential benefits that can follow publication of results: local groups may begin addressing the causes of xenophobia, the government may make a more concerted effort to protect those at risk, human rights groups may take more of an interest in urban rights issues and academics will have more practical knowledge about the nature of political community in Johannesburg.

CONCLUSION

This chapter discussed the theory of political community in the context of the 2008 xenophobic attacks and operationalised the concept so that it could be measured. It also described this study's research design, interviews, limitations and challenges. As we analyse the collected data in the next chapter, it is important to keep in mind the four indicators of a political community that we defined in this chapter: guaranteed rights, shared values, consequential actions and the right to acts of exclusion. It is also important to recall that the "South African political community" in question generally refers to the sector of society that was excluded from the larger national identity during apartheid and, in the post-apartheid era, has gained legal status but has not necessarily gained access to everyday rights. However, it is recognised that this demographic neither implicates nor confines the political community; shared values are the real indicator of membership. Leading up to and during the 2008 xenophobic attacks, the political community under examination either supported or engaged in the violence. In the next chapter, I discuss the findings and what they indicate about the South African political community.

CHAPTER THREE

The South African Political Community: From Xenophobic Violence to Moral Maturity



INTRODUCTION

The objective of this study is to determine the shared values of the South African political community that supported and engaged in xenophobic rhetoric and violence, as well as to understand the way that this community makes sense of itself the value of membership. This chapter discusses the study's findings. First, I discuss the shared values – language – that characterised the xenophobic attacks, as well as the way that members understood membership in their community – namely, there was a shared imagination about the availability of rights and resources, as well as how to obtain them. Second, I turn to the shared values and exclusionary discourse that the political community values today. There has been a drastic shift: rather than language and scarce resources, the community is concerned with its morality and brotherly love for African immigrants. Additionally, it aggressively excludes – through discourse – a subset of politicians, police and criminals who are blamed for inciting and encouraging the attacks. In the concluding chapter, I consider the reason behind this dramatic shift.

A CHANGING POLITICAL COMMUNITY: SHARED VALUES

The 2008 violence was dubbed the “xenophobic attacks” because it was seen as an act by South African citizens against foreigners. Considering the previous chapter's discussion of the emergence of citizenship as a symbol of national belonging, as well as any accompanying anti-migrant rhetoric, this reading of the 2008 violence seems to fit. However, Zimbabwean

respondents argued that they would still be discriminated against if they became naturalised citizens, which suggests that at the time of the attacks, the South African political community placed little – if any – emphasis on shared legal status as a factor that enabled the right to have rights. What is more, both Zimbabwean respondents explain that even if they become South African citizens, they will always be seen as “Zimbabwean by birth”. Not only does this demonstrate that legal citizenship is no longer an indicator of belonging, but that the South African political community does not recognise naturalised citizens as having meaningful action or speech – they are first and foremost seen as “Zimbabwean” or some other “other”.

Consider the following quotes from Zimbabwean respondents discussing whether South African citizenship would impact their everyday lives.

I can[t] say it [becoming a citizen] makes a difference because them [South Africans], they will be knowing that these people, they are Zimbabwean by birth. It's only that they are now South Africans by having an identity [book]. But *for them [South Africans], they [naturalised citizens] are Zimbabweans by birth*. So I think it won't make a difference, actually, it won't make a difference. They will be having this mind of saying, those people, they are foreigners, and they will be having the thing of jealousy and you see, it doesn't work. (Interview, Anonymous, 02.11.09, emphasis added)

Something which recognises you, maybe to be a citizen, *you apply to be a citizen, but you cannot adopt someone's language*. Even though you are giving a citizenship – (Outside interruption) I was saying, *even though you are given a citizenship, but you can't change your language*. So it will make no difference in terms of being attacked by xenophobia. Because even you talk your language, you can't be a citizen and then adopt someone's language. Maybe your generation. But for you, as someone who came from another country, it will be very hard, it won't be safe. Just to be a citizen, it won't give you, like you say, now I'm very safe. I totally disagree with that one. *If you be a citizen, it doesn't mean you are safe*. You are still in danger. (Interview, Anonymous, 02.11.09, emphasis added)

The second respondent observes that, “if you be a citizen, it doesn’t mean you are safe” and “even though you are given a citizenship...you can’t change your language”. This suggests that language is a shared value that enables membership and is used as a basis for exclusion.

Both migrants and citizens observe the importance of speaking the right language in South Africa. More specifically, the “right” languages are Zulu and Xhosa. English is an obvious indicator of outsider status; multiple respondents reported that an ambulance would come immediately if the call was placed in Zulu, but that it would take several hours if the call were placed in English. The following respondents explain that sharing a language is important to being included in South African society.

As for our rights here, I think the main problem is the language barrier. Because if you are here, you are a foreigner, they expect you to be able to speak one of their languages so that you can communicate well. (Interview, Anonymous, 01.10.09)

So at times even the police makes us feel nowhere to go when we come to some of these things because they really need you to talk in their language, of which it is very difficult. (Interview, Anonymous, 29.09.09)

One – one of the barrier things that mainly affect us is the language. The people from this community, really, they [South Africans] – they think that *if you cannot speak their language you are not their party*. (Interview, Anonymous, 29.09.09, emphasis added)

I think what – what I want to add is, I see here in South Africa, if you want to live in South Africa, *if you want to be – have good relationship with South Africa, you have to learn language of South Africa*. Otherwise things will be better. (Interview, Anonymous, 01.10.09, emphasis added)

In these cases, speaking a common language is necessary to everyday communication with South Africans, accessing police protection and generally having a “good relationship” with South Africans. While this indicates that language is important to social integration, it is hardly unique; sharing a language is a universal feature of integration in any society.

What makes language interesting to this study, however, is the perception that speaking the “wrong” language results directly in acts of exclusion by those who speak the “right” language. As the following respondents explain, xenophobic attackers will target people who they hear speaking foreign languages like Shona or Ndebele. If they hear people speaking Zulu, they will leave them alone.

Sometimes if you are speaking the language [such as Shona or Ndebele] [...] they [attackers] will catch you. But if you are using South African words it will be difficult for them to catch you. [...] If you are using a South African language you will be safe. You will be safe. (Interview, Anonymous, 28.09.09)

Sometimes I run away from them, sometimes they catch you. They heard you can speak Zulu, they leave you. They heard you can speak – if you can speak a language, a South African language, they will catch. (Interview, Anonymous, 28.09.09)

You don’t have to [should not] talk louder when you are speaking [a foreign language], because they will know that these people, they are foreigners.... (Interview, Anonymous, 02.11.09)

So I think – a language, normally, I speak English all – but I don’t know Zulu, even Xhosa, I don’t know the language – normally I use English. Even – even to quiet, I say “morning,” then I pass – that’s the only thing I can do. (Interview, Anonymous, 30.09.09)

Both South Africans and Zimbabweans agreed with the observation that speaking a South African language indicated membership, while speaking a foreign language indicated an outsider status. For migrants like the last respondent, whose only shared language is English, this means that instead of actively speaking Zulu or Xhosa, they will actively stay silent. These findings suggest that one of the South African political community’s shared values was language capability.

This shared value turned into an instrument of self-determination during the 2008 xenophobic attacks. During this massive act of exclusion, it was widely reported that the perpetrators posed a linguistic test to determine whether or not to attack someone. In

interviews conducted in September 2008, two South African respondents explained that attackers identified foreigners by their language skills.

Anywhere they could find a foreigner, he was beaten till he is not moving. They stopped people in the street, if you failed to respond in convincing Zulu, then you were beaten. It was sad state of affair. People were living in fear. (FMSP Interview, Anonymous, 29.08.08)

They stopped taxis and said they were looking for Khalangas. Those they suspect they would interview them and challenge them to say difficult words like “elbows”. (FMSP Interview, Anonymous, 01.09.09)

The use of language as a means to exclude outsiders is very telling in terms of the shared values that make up the South African political community. By identifying outsiders by whether they could pronounce difficult words like “elbows”, it is clear not only that the South African political community valued language, but that they understood their membership as being comprised of people who could speak a certain language.

This perception of membership had major consequences, as not all South African citizens speak Zulu or Xhosa. The following South African respondents make it clear that legal citizens had no protection against the attacks and were given the same linguistic tests as outsiders.

Yeah xenophobic – it was not about, like, foreigners only but it was just – everybody could come across it. Because nobody could even recognise are you a foreigner or not. So it could just accidentally happen to you when you are not, like, anticipating that it can happen. So it could come across to everybody. (Interview, Anonymous, 02.11.09)

Yeah, you know, you cannot say I’m safe because you are a South African. Let’s say you have friends which are foreigners, you learn their language. You are found there talking their language, it means they won’t ask you a paper, they will just attack you. So everyone is not safe from xenophobia. (Interview, Anonymous, 02.11.09)

You see here there is a [ethnic] group that I won’t mention that thinks it owns this place. You see I am Sotho; there is this thing that “you Pedis”. We

have that kind of tension here. If I recall the xenophobic violence, there were statements that “you Pedis are next”. (IOM 2009: 37)

As the above respondents describe, citizens were also victims of the attacks. As the last quote suggests, it seemed that a second wave of violence would be unleashed upon minority citizens. Further evidence of citizens as targets of xenophobic violence can be found in the 21 South Africans who died in the 2008 attacks, making up one-third of the total death rate (CoRMSA 2008; IOM 2009).

Quantitative studies also support these findings, which show that language has replaced legal citizenship, both as a symbol of belonging and as a factor that enables the right to have rights. According to a comparative analysis of South Africans in 2004 and 2007, language and ethnicity have become increasingly important factors in self-identification, while the descriptor “South African” has become less important (IOM 2009).

Comparative analysis (2004 and 2007) of identity-based self description shows that an African descriptor as well as race descriptor have declined along with a constant South African descriptor, whilst a language/ethnic description has increased. Confidence in a happy future for all races decreased from 77% in November 2007 to 38% in 2008. When a sentiment like this weakens so drastically in seven months, it is cause for concern. (IOM 2009: 11)

This finding emphasises the importance of language and ethnicity to the South African political community, as well as the decreasing importance of legal citizenship. Furthermore, the Human Rights Watch finding that 20% of the inmates at Lindela Detention Facility were South African in 1998 (Kihato & Landau 2006) suggests that this trend began at least one decade before the xenophobic attacks. It is interesting that my research found a minimal emphasis on ethnicity, while other qualitative and quantitative studies have found seemingly equal emphasis on language and ethnicity.

This section has established that the South African political community views language as a fundamental enabler of the right to have rights. Language is used to exclude outsiders in daily activities, and it was used to identify non-members during the xenophobic attacks. It also sheds light on the makeup of the political community – that is, that it excludes certain South Africa-born citizens like Sotho-speaking Pedi. The community can be further understood by examining the way that members make sense of what it means to be a member.

UNDERSTANDING THE POLITICAL COMMUNITY: IMAGINED RIGHTS AND RESOURCES

Violent tension between immigrants and citizens is hardly unique to South Africa, especially when it is fueled by competition over scarce resources. However, members of the political community do not imagine the resources as scarce; instead, they imagine that there are a finite amount of resources, the total of which is just enough for all citizens. Furthermore, South Africans imagine that migrants have equal access to rights in their home countries, which heightens jealousy over South Africa's resources. Finally, South Africans imagine that migrants circumvent the system and cheat citizens out of resources that are rightfully theirs. This involves an imagined perception of how the system works and how South Africans themselves access the system. While these findings may not be new or surprising, they highlight the way that the South African political community understands membership and, by extension, how they understand and determine their admissions policies.

A finite amount of resources

Many South African citizens, poor ones in particular, do not actually experience the rights that they are entitled to. Consider the following. Section 26 (1) of the Constitution states

that, “everyone has the right to have access to adequate housing”. According to the Department of Housing, over two million subsidised houses had either been completed or were in the process of completion by June 2006. This means that one decade after the Constitution had been approved, only half of the households in need had accessed their right to “adequate housing”. Consider, too, Section 27 (1) of the Constitution, which states that, “everyone has the right to have access to...sufficient food and water”. In 2000, South Africa established the Free Basic Water policy, which was aimed at poor households and provided for 6,000 litres of free water each month (Hall et al 2006; Mehta 2005). According to the General Household Survey, however, approximately 42% of children in South Africa did not have access to drinking water in 2005. (Hall et al 2006)

The circumstances leading up to the 2000 Grootboom housing case further illustrate the gap between constitutional rights and experienced rights. In the fourteen years following the end of apartheid, only two percent of land was redistributed; this means that white commercial farmers owned 80% of the land, while 13 – 14 million citizens did not have access to land, despite their constitutional right to adequate housing and shelter. The Grootboom case originated in Wallacedene, a township outside of Cape Town, which was characterised by high rates of disease, no health services and little access to water. After the municipality refused to improve living conditions, 900 citizens moved illegally to privately owned land in 1998. The private landowner eventually evicted the community of 900, but they were unable to return to their shacks in Wallacedene, which were now occupied by other families.³

³ In 2000, the Wallacedene community demanded that the government provide them with access to services and housing, as guaranteed in the Constitution. While the court found in favor of the Wallacedene community, the fact remains that citizens did not realise their rights to basic services like shelter, water and health care until they brought a legal case against the government. (Williams 2005)

(Williams 2005) These cases make it even clearer that many poor South Africans are not “full citizens”; they are citizens in name only.

Instead of blaming the government for inadequate access to legally guaranteed rights, however, South Africans developed a discourse that blames illegal black African immigrants for lowering wages, spreading disease and monopolising resources. Murray (2003) explains that this discourse imagines immigrants’ universal illegality and complicity in degrading society:

In the popular imagination, the “infestation of illegal aliens” is responsible for importing foreign diseases, depressing wages, consuming social services, exacerbating unemployment, destroying local parks and recreational facilities, transforming once-stylish inner city neighborhoods into squalid slums, and even causing the depreciation of the rand and hikes in interest rates. (449)

This discourse is rooted in the creation of a post-apartheid national identity. Without a universally shared culture, language or perception of history to draw on, post-apartheid nationalism concentrates on a shared citizenship rather than a shared past (Landau 2005; Murray 2003; Peberdy 2001; Reitzes and Bam 2000). Peberdy (2001) observes that, “By stressing the entitlements of citizens to state resources within the new nation-building project, the emphasis has shifted to keeping out those who do not belong and preventing anyone else from joining, especially those who have the ‘wrong citizenship’” (28). In other words, previously excluded citizens found that the only way to claim their national belonging was to begin excluding others.

In this type of widespread rhetoric, which pits citizens and immigrants against each other in competition for scarce resources, South Africa is imagined as a halcyon state with just enough resources for all of its citizens. Peberdy (2001) observes that,

Despite these inequalities and the enormous problems in delivering services to all, when it comes to immigration the state sees itself as exceptionally well endowed with infrastructure, resources, and services in comparison to other African countries. South Africa is thus represented as a ‘magnet’ or ‘land of milk and honey’ in Africa. (25)

Because citizenship does not provide equality, a necessary discourse has arisen alongside citizenship that imagines that citizens would receive equal rights, were it not for migrants. Mehta (2005) points out that, “broad and all-inclusive notions of citizenship may not adequately question existing power relations, which often benefit the dominant groups” (239). Instead of questioning the extent and value of their citizenship, then, marginalised South Africans cling to the idea of an “all-inclusive notion of citizenship”, which they justify by imagining that outsiders are taking what rightfully belongs to citizens.

Consider that Reconstruction and Development Programme (RDP) houses were one point of contention. Intended to address the inequalities brought about by apartheid, only 5 million of 12.5 million South Africans without adequate housing had been placed in RDP housing by 2001 (see www.metagora.org). By 2008, South Africans were blaming foreigners for cheating the system and taking houses that rightfully belonged to citizens. In an interview following the xenophobic violence, one South African asked, “[H]ow can a person [a foreigner] of my son’s age own an RDP house while old people who have been on waiting lists for years do not? Foreigners who were born in 1985 not even in South Africa own RDP houses in Ext. 7. How old were they when they got here?”⁴ (IOM 2009: 19) This example demonstrates the widespread notions that, first, there are enough houses to go around and, second, that the reason that South Africans do not have access to those houses is because

⁴ In order to qualify for a government-subsidised house, applicants must be either citizens or legal residents of South Africa, and be over 21 years old. (Hall et al, 2006)

migrants have inveigled their way into them first. This type of rhetoric was crucial to the buildup and carrying out of the 2008 attacks.

Migrants have access to the same rights back home

There is also a perception among underprivileged South Africans that there are enough rights to go around in Zimbabwe. This is combined with the perception above that there are a finite amount of resources in South Africa. Taken together, the political community sees little reason to admit Zimbabweans into the South African political community, which would give them access to rights that belong to South Africans.

Consider the following quotes, which capture the South African image of Zimbabweans as having resources – or, at least, access to resources – back home. Based on these imagined resources, the South African political community exercises exclusion. The following participants also indicate that some South Africans see Zimbabweans as “cowards” who “cannot stand up to our own government”. This suggests that South Africans might also value tenacity in its members.

Normally, yes, policies in South Africa is – not for – for normally for not for us, Zimbabwean people. Can I say because – if you want to report there they can say, *go back to Mugabe*. So – for us, it’s very difficult. For – for others here, it’s good. It’s not for us – as people from Zimbabwe is – not treat us well, yes. (Interview, Anonymous, 30.09.09, emphasis added)

And when you are arrested, like if you are a Zimbabwean, they call you names, insults, everything and the like, so these things of saying *go back to your country*, what do you want here, *you chase the – the whites and you know – you gave your land to – to plow, what do you want here?* Actually, it – it contributes a lot. I think three quarters of the Zimbabweans are just being ill-treated because of that – because they are Zimbabweans. (Interview, Anonymous, 29.09.09, emphasis added)

And in their own view *they [South Africans] view us as cowards, you know, that we cannot stand up to our own government, [that] our only solution is to run away, you*

know. And so they just consider us to be people who are inferior to them and sometimes for the rights – especially in workplaces and stuff – it’s very difficult to get a job or to be able to be paid well because they’ll just be considering us, you know, these people, they don’t think well. (Interview, Anonymous, 01.10.09, emphasis added)

These participants have been excluded from the South African political community on the basis that they either have resources back home in Zimbabwe, or that they made a deal with the “whites” and that it is not their fault that the deal did not work out for them. This suggests that South Africans place a high value on their own resources – they will not admit anyone who they think can access basic rights elsewhere.

Zimbabwean interviewees also stressed the fact that South Africans should learn more about the situation in Zimbabwe before judging Zimbabwean migrants. The following participants emphasise that there is a discrepancy between realised rights and guaranteed rights in their home country, but that South Africans are only considering the guaranteed rights.

Because how can you say you have given a child food when you give him or her food that is not cooked when you know that she’s five or ten years – she’s five years or three years, how can she cook? How can she eat dirty food? Automatically you run out to the next door, where she eat cooked food, because if you give that child raw food it will – it will help – it’s nothing – it’s like you have given that child nothing. So it’s just like us. *Of course the land was given to us, we will let accept it was given, but then how can you go and plow the land when you don’t have the seeds, the fertilisers, the – the apparatus are not there. So it’s just like we’ve not been given that land.* (Interview, Anonymous, 29.09.09, emphasis added)

If it was that they [South Africans] needed [wanted] to know why do the people have abandoned all that was given to them by the government run away, it was something better [it would be better if they wanted to know], [but] they don’t, they just say go back to your country. (Interview, Anonymous, 29.09.09, emphasis added)

So they should dig further, they should find out more. And learn more than just accusing the people, saying that you fled [sic] from your country because you are useless, you are what. They should find more and see actually which is the actually causing, where is the reason that people flee from their countries. Because of course it was known – and they will see the people in

TV's being brutalised, everything and the like, people fleeing. Because a mother cannot just run away and leave her child and come to another country and say that that person is lazy and doesn't want to farm. They should dig – they should find more before they accuse people. (Interview, Anonymous, 29.09.09, emphasis added)

These respondents explain that while they have land, they do not have the “apparatus” to farm it. They ask what alternatives they have when their children are hungry, other than migrating to South Africa to look for work. They also say that South Africans do not understand these complexities and instead believe that Zimbabweans flee because they are “useless”. This is particularly revealing about the South African political community, because it shows that Zimbabwean migrants’ actions – of fleeing, of searching for employment – are seen as “necessary consequences” (Arendt 1951: 301) of being “lazy” Zimbabweans. While language is an indicator of inclusion in the political community, the typecasting of Zimbabweans is an indicator of discursive exclusion.

Imagined ways of accessing rights

In addition to imagining that Zimbabwean migrants can access resources in their home country, South Africans also imagine that they access rights in South Africa by circumventing the legal system, thus cheating South African citizens out of their deserved rights. In this imagining, South Africans have cast documentation as a false enabler of rights. One citizen agrees that documentation enables rights, and explains that foreigners cheat the system by purchasing documentation: “[O]nce you have an ID, you qualify for the [subsidised] house. [...] Do you know how much the ID is, it is about R400.” (FMSP Interview, Anonymous, 01.09.08). Another citizen explains that migrants are in cahoots with corrupt government officials at the Department of Home Affairs: “There are migrants who have valid ID documents, because they collaborate with other South Africans who work at

Home Affairs” (FMSP Interview, Anonymous, 01.09.08). Documentation, in other words, is a false enabler of rights that migrants use to cheat the system and illegally access rights that belong to South Africans.

The reality, however, is that migrants have a fraught relationship with documentation. The *Migrant Mobilisation* report (FMSP 2009c) shows that migrants perceive legal documentation as simultaneously necessary and useless. While documentation helps migrants access certain social rights that the Constitution guarantees, money often speaks louder than papers when migrants – whether documented or undocumented – are harassed by the police:

...documentation is necessary for housing, schooling, opening a bank account, employment, medicine and more. But even with documentation, it is easy to be harassed. One respondent explained, “Even if you do have papers, you can still be arrested. Whereas if you have 200 rand, you won’t be arrested. So papers help sometimes and don’t help other times.” (FMSP 2009c: 17)

Police not only ignore documentation and the rights associated with legal papers, but they go so far as to destroy papers or prevent migrants from fetching them from home in order to legitimise their arbitrary arrests (see Landau 2005; www.iss.co.za). A Sierra Leonean man describes his experience, which is hardly unique among migrants:

The police asked me for my refugee paper, which had not yet expired. They say, “f-k you” and they just tear the paper and seize my money and cell-phone...So then, what they do is take me to the police station. I was shouting...[and] one of them just removed something like a little shocker. He was shocking me...say that I was to shut up and if I wasn’t shut up, he was going to shock me until I die. (Palmary et al 2003: 113)

Documentation, in other words, is an arbitrary protector of rights. Even individuals with legal papers are vulnerable to police extortion, harassment and arrest.

What is more, South Africans themselves do not have universal access to documentation. This reinforces the finding that citizens have an imagined sense of the rights that they are entitled to, how to access them and how migrants access them. After all, if migrants are believed to access rights through fake documentation, it should be a given that citizens use real documentation to access them. However, a significant amount of South Africa's population is not registered in the country's census. Kihato & Landau (2006) explain that,

Among both South Africans and migrants, fewer than 40% of people have birth certificates, a primary means by which the state accounts for its population. Even those who do have such documents are unlikely to have filed copies with the South African government. And even children born in South Africa to foreigners are less likely to be registered: only around 20% of foreigners' children had birth certificates compared to 60% of South Africans. (9)

These statistics show that the idea that migrants "cheat" the system by using documentation is imagined, since South Africans would have to have access to the system first in order to be cheated out of it.

WHO IS THE POLITICAL COMMUNITY?

These findings indicate key characteristics about the political community in question and the way that they understand and value membership in their community. First, legal citizenship did not necessarily make a person a member of the political community. Second, language was highly valued as a characteristic of included members. Third, members imagined that the community had access to a finite amount of resources. Fourth, outsiders were imagined as illicitly taking these resources, even though they had access to resources in their countries of origin. While these characteristics point to the underprivileged class of black South Africans who had legal status but none of the privileges that accompanied it, it is important to emphasise the fact that this study is not concerned with identifying the

population and demographic statistics of the political community, but with identifying shared values and perceptions about the meaning of membership.

The following respondents give compelling reasons for why we should not generalise about the descriptive statistics of the political community. For one thing, the violence did not break out everywhere and the anti-migrant rhetoric did not pervade all sectors of society that poor black South Africans did. The interviewee below describes one community in which the prevalence of “white people” and “property” meant that community residents did not partake in the rhetoric, despite the presence of poor black South Africans.

I was once in Mpumalanga province, in a city called Malelane. That city I stayed, I stayed in that city, something like for eight to nine months. I haven't even seen any people being robbed of their own things. There, most people, they look for, they only look, focus on look for money and jobs. And that city is too quiet, it's too small. There are plenty of white people, and some colored people, and some few [black] South Africans. So I can say, especially when you are sitting, or when you are living, the places where there are located, where there are a lot of white people and some other people from some other countries, I can say it's too quiet and there's no crime. Because those people have got money. So police is going be strict in that – those areas because they know that those people, they have to take care of their properties and they have to defend them when they're going to work, say, when they are all living places, and also to their children, when they are going to schools and college and something like that. (Interview, Anonymous, 02.11.09)

According to this respondent, communities like Malelane in Mpumalanga province neither supported nor experienced xenophobic sentiments or violence. The Malelane community, which chose not to be a member of the South African political community under examination, is characterised by white people, wealth and a small-town feel. Because “those people have got money” the police are stricter and more active about “defending” their property.

For another, the respondents below take a moral stance and point out that we cannot generalise about South African society as a whole. The first respondent points out that during the attacks, several South Africans visited migrant communities with supplies and aid. The second respondent cautions against making sweeping statements about an entire population.

Not all South Africans are bad. Other ones they are nice, other ones they are not nice. Because if you see like that time of xenophobia, other people they bring us food here and clothes, so I – what can I say, it's only half-half. (Interview, Anonymous, 29.09.09)

You know, if you put eggs in a basket, if one egg breaks – if the one egg broke, the others are safe. (Interview, Anonymous, 28.09.09)

According to these respondents, both of whom are migrants, people who could be assumed to be part of the South African political community based on their demographics, actively distanced themselves from the community.

A NEW POLITICAL COMMUNITY

The xenophobic attacks offered a snapshot into the political community in May 2008. They showed a community, underprivileged and angry, that lashed out at outsiders. A year and a half after the attacks, however, a new discourse is brewing and it reveals completely different values and bases of exclusion. Instead of a political community that jealously guards its finite resources and values language and ethnicity, the emerging political community casts itself as having moral, mature members who accept blame for the attacks but insist that they have become “civilised” and now welcome migrants with open arms. The new discourse excludes those who are immoral from its membership base, primarily through re-imagining the 2008 attacks and blaming the cops, criminals and cabinet members who are seen to have incited, encouraged and profited from the violence.

THE NEW SOUTH AFRICAN: SHARED VALUES

A surprising finding came out of discussions with South Africans about factors that enable protection from xenophobic violence. In addition to the international community, South African respondents identified themselves as enabling protection from xenophobic violence. More specifically, respondents identified a moral, mature South African as enabling protection. The creation of this archetypal citizen occurred in four parts: establishing South Africans first as a collective body, next as a moral body, then as a mature body and finally as a sustainable body.

South Africans as a collective body

South African respondents have developed a language of shared responsibility and guilt for the 2008 xenophobic attacks. Even people who adamantly condemn the attacks and try to remove themselves from association with the attacks perpetuated the notion of a collective South African body, one that simultaneously took responsibility for the attacks and was ashamed by them. For example, the following respondent denied that he participated in the attacks, yet he still refers to those who participated as “us South Africans” and “we”. He assumes a collective guilt on behalf of the entire nation when he says, “So I can’t just point at...somebody I know...[because] all of we, we did it”.

Yeah, you could see many people beating people. Many of them, you couldn’t even recognise who is this or...but you could see even, you could see someone you know, but there were many people. You couldn’t recognise who is he, who is who, who is who. But the fact is, us South Africans, about 75%, we participated in the xenophobic attacks. You can’t deny that one because we are the ones who started it. So I can’t just point at saying, somebody I know or what, just all of we, we did it. (Interview, Anonymous, 02.11.09)

By refusing to point fingers in individuals involved in the attacks, even while condemning them, this respondent’s double message spoke strongly of the fact that South Africans were

accepting a shared guilt and defense of the attacks. Two other respondents also vehemently denied participation in the attacks and insightfully explained the jealousy and lack of understanding that precipitated the attacks, yet they still claimed that, “us as South Africans, I don’t think we quite consider that one [plight of Zimbabweans]” (Interview, Anonymous, 01.11.09) and “we South Africans, we liked it” (Interview, Anonymous, 01.11.09)

Furthermore, South African respondents accepted and placed upon their shoulders the negative stereotypes of South Africans. They claimed collective “laziness” or “jealousy”, even when it was clear that the individual respondents were actively searching for work and did not agree with the xenophobic attacks. Again, respondents assume the mantle and talk about “we” the South Africans as a collective group. Consider the following quotes, in which South African respondents manage to both decry xenophobia and exhibit an understanding of the overall situation while accepting responsibility for the general mindset that caused it.

We don’t want to work. So those people who want to work [such as migrants], they come and get work, get jobs. So we think that they’re the ones causing problems, are [the reason we are] not getting our work. But at the other end, if you look those people, they are boosting, they are also helping to boost our economy. And they are also hard workers than us. We want everything for free. So that’s not good. We have to work to survive. We have to work hard. So I don’t support the issue of xenophobia. I don’t support it. (Interview, Anonymous, 02.11.09)

I want to add on what he says, about the thing of xenophobia thing. You know us people, we are laziest people in the world, we don’t like to work. [...] Yeah, South Africans. We don’t want – we don’t like working. We only need – when we go to work, we go and will work properly. When it is money, when we get money and our salary, we eat whole money. When it is finished, and when the time, during the time when we are eating that salary, we will not be going to work. When that money gets finished, by the time when we will be thinking about go back to work. So when we go back to work, our boss will be saying no, there’s no more work, you have already put another foreigner. (Interview, Anonymous, 02.11.09)

The most interesting point here is that these respondents all denounce the xenophobic attacks and are themselves looking for jobs. They are clearly not the “lazy” South Africans that are universally blamed for being “jealous” and starting the attacks, yet they assume blame and identify themselves with those South Africans by speaking about “us” and “we”.

South Africans as moral

South African respondents established the South African collective body as a moral one by identifying three key indicators. First, respondents focused on the moral values inherent in South African citizens. For example, many participants claimed that the reason the attacks stopped is because South Africans realised that what they were doing was “bad”. Although the attacks officially ended after the South African Defense Force was brought in after two weeks, respondents argued that the police are simply a convenient explanation for the end of the attacks, but not the real reason behind them. The truth is that they were stopped by citizens’ sense of humanity:

Yeah, we South Africans, we can say [...] we were stopped by the police...but as a human being, you can feel a sense that, you know, somebody’s life is not just...easy to take. We could feel inside just a feeling of reconciliation because when you, a person, just thinking and realise that, why am I doing this, why am I beating people, and what-what-what. And you could have an answer in your head that can even stop saying, you know, beating people is not alright. People just stopped on their own, just realising that, you know, it’s not a good thing. [...] But we can’t say the police stopped it or the government. It was just people reconciliating [sic] each other. (Interview, Anonymous, 02.11.09)

As this respondent notes, “people just stopped on their own” after realising that “beating people is not alright”. This sense of morality was not imposed by the government, but by citizens’ inner humanity: “as a human being, you can feel a sense that [...] somebody’s life is not just...easy to take”. Another respondent says, “if you have love, you won’t attack

someone” ((Interview, Anonymous, 01.11.09). The South African collective body, then, is inherently moral and is guided by its love of fellow human beings.

Second, South Africans work to separate the average, moral South African from the corrupt politicians and criminals, who are described as masterminding and carrying out the attacks. Respondents stressed that most South Africans were ashamed of the attacks, whereas the criminals and politicians had no shame and actually benefited from the attacks.

[M]ost of South Africans, most were ashamed but some they just, see like those robbers, they just wish that it could come back again and we could start getting money. And most of us South Africans, we are ashamed because it was something like, you know, beating somebody for no reason just to say foreigners, start beating, and you see him again tomorrow, can be ashamed. So most of us, we are ashamed. But a small number just wish to come again. Mostly people, criminals, and some other like politicians. (Interview, Anonymous, 02.11.09)

In this case, the respondent is careful to draw a line between “most of us South Africans” who were ashamed by the attacks and “a small number” of “criminals” and “politicians” who were “getting money” and profiting politically from the attacks.

Other respondents take it one step further and claim that the government, police and criminals were not only profiting from the attacks, but were in cahoots with each other to start the attacks. In this discourse, the average South African is completely sidelined, and the Cabinet, Cops and Criminals all have control. Because of their agreement with the Criminals, the Cabinet and Cops only step in when migrants begin to flee the country.

So what I can say is, this thing of xenophobia thing, I think it's also those cops people. They're also involved in this thing of xenophobia. Cops people, the Cabinet, and criminal people. I think criminal people, they need to start the thing of xenophobia thing. I think they sat down, they sit down with cops and the cabinet saying no, we have to start the thing of xenophobia thing. And I think they're being given the go-ahead by the Cabinet to start the thing of xenophobia thing. So when they do their thing, they can ignore the thing

of xenophobia thing for something like one week to two weeks. When they see that now, for now, most of the foreigner people, they are fleeing [to] their home country, that's the time when they step in, starting to just stop the thing of fighting and shooting people with rubber bullets. But I think they are involved in this thing, this issue of xenophobia thing. (Interview, Anonymous, 02.11.09)

In pinning the guilt on the cops, the cabinet and the criminals, South African respondents achieve two things: first, they remove responsibility from their own shoulders – as in, they are not responsible for the attacks occurring or for their atrocious length – and, second, they define the average South African against the corrupt criminals, government and police. And in such a light, the average South African stands out as removed, ashamed and, inevitably, moral.

Finally, respondents create a moral prototype of the South African citizen by portraying themselves – that is, the average citizen who did not take part in the attacks and was thoroughly ashamed by them – as productive members of society. Respondents repeatedly explained that the reason the attacks did not spread throughout society was because most South Africans have jobs and were busy working. As one respondent explains, it was the unemployed people in certain townships who do not do anything all day who started and continued the attacks.

...[P]eople are always busy. You know, people, they go to work. So you will find that someone who is going to work did not have time to go and beat people. Then I think these people, they [perpetrators] are unemployed people, that's why I will say, I told you, some of, most of them are *tsotsis*. [...] They don't go away, they don't go to work. So most of the people, they were not interested [in joining the attacks] because they had something to do. And there were many, many things to do. (Interview, Anonymous, 02.11.09)

The respondent draws a line between employed and unemployed South Africans: those are employed “were not interested because they had something to do” – their productivity and

work kept them from behaving immorally – while those who are unemployed were those who had “time to go and beat people”.

Other respondents supported this distinction and took it one step further by relating productivity and morality to urban life and unemployment and immorality with township life. The employed South Africans who did not participate in the attacks stay in town, while the unemployed South Africans who did participate in the attacks stay in the townships.

And I think here in the town xenophobia is far much safer than in the locations [townships] because in the locations, a lot of people are there and usually people who do not have something to do stays in the location, everything and the like, so they have got time to guard that – plot – for things like xenophobia, they can easily get involved in, like most of the people in the town believed that their own business – so it's very difficult to divert your business into another business, especially that will not benefit you, or that will make you lose what you have come for when you come from your place, coming into town. So I think the town, it's far much safer than in the locations where a lot of people are sitting, have nothing to do and they can just organise themselves very quickly and very easily. (Interview, Anonymous, 02.11.09)

The active distinction between “town” South Africans and “location” South Africans is interesting because it is an active distinction between “us” and “them.” In this case, “us” is the respondents who are moral and contribute to society, while “they” are the South Africans who are immoral and either unable or unwilling to contribute to society.

South Africans as mature citizens

In remembering the attacks, respondents also created a discourse of transition and learning in the aftermath of the attacks, thus casting the prototypical South African citizen as not only moral, but mature. For example, respondents frequently cited South Africa as having “learned its lesson” that it should not solve problems using violence. As the following participant notes, xenophobic attacks will not happen again because citizens made the

“mistake” of participating in them and have since become “civilised” people who know better than to “beat each other”.

My point of view, xenophobia, I don't think it will happen again. Because you see, beating somebody who doesn't revenge, it's not very easy to attack him next time. And he – in fact, just beating each other, that doesn't solve anything. [...] So people, they just realised that it was a mistake, being xenophobic or beating. [...] I think the happening of the xenophobia, it civilised mostly us, South Africans, because we could realise that no, this is a good – this is not a good thing. So I don't think it will happen again. Don't think so. (Interview, Anonymous, 02.11.09)

By emphasising the transition between the South African society that engaged in xenophobic attacks and the South African society that knows better, respondents achieve a twofold aim: first, the archetypal citizen is seen as a responsible adult to be trusted rather than an impetuous child and second, citizens are able to chalk up the violence to their “uncivilised”, immature stage as an adolescent.

South Africans in the future

Finally, the prototypical moral, mature South African citizen was also created as sustainable, thereby providing comfort that this citizen that would enable protection would last long enough to actually enable protection from future attacks. In creating the sustainable characteristic of the citizen, South African respondents tended to create shared prescriptions for the future, namely that South Africans must become more moral and South Africa must be seen as a place where morality reigns supreme. The following respondent says that South Africans must learn to love their neighbors in the future:

It's a touching issue which must touch the South Africans and they welcome the foreigners, they give them shelter, accommodation, they help them, or they help them nationally, to protect against the difficulties which they face in their nation. (Interview, Anonymous, 02.11.09)

In other words, the attacks will stop when South Africa becomes more humane. Other respondents say that South Africa as a nation must offer protection and safety to other non-nationals who are fleeing their own countries:

It's not good to fight each other, especially foreigners. Most of them, they are our neighbors. So most of them, they run away from their countries because of this situation, they need a better life. So we have to play our role that we must help them, they need our help, they need our love. So if we are fighting them, we are not showing the world that we love, we have got love, we *are a unit* (?). That's not the freedom. We have to, about the languages – yes, of course, we have to learn all the types of languages, that's good. Because how can we fight for each other? All, we are the same. When God looks at us, we are the same. There's no Shona, there's no Zulu, there's no Xhosa, there's no one. There's same. There's no need for us to fight. (Interview, Anonymous, 02.11.09)

The following respondent agrees:

The foreigners must feel more safe here in a foreign country than in their home. We want South Africa to be such kind of a country which is, we accommodate the foreigners, feel safer than their country, as they flee their country to, expecting to get that one, indeed they must get the, they must upset them, we give them safety, they stay, they solve the differences in their country, then they go back safely, they thank the South Africa for what they have been done for them. (Interview, Anonymous, 02.11.09)

The point here is that South Africans are prescribing more morality for the future; migrants will be protected from xenophobic attacks once South Africans learn to love their neighbors.

A second part of the argument that South Africans are all moral is found in the discourse about what South Africans must do now. Most of the prescriptions from South Africans to South Africans are to “love your brother.” Many respondents drew on the idea of being part of an African family.

And about xenophobia, the only way [forward] is just, you have to love your – love your neighbor. Isn't it. Just love somebody and understand that he's a Zimbabwean. In Zimbabwe, there's – see this crisis, what-what, and we are all brothers, African brothers. From Europe, whatever, we are just the same – we have just to feel sensitive towards each other. That's the way we can do it. (Interview, Anonymous, 02.11.09)

Interestingly, this sentiment addresses migrants' arguments that South Africans cast them as "lazy" and "cowards" without trying to understand the history and implications of the crisis in Zimbabwe. As this South African says, "a human being is a human being and you can't just hate somebody because he's from a foreign land or what-what-what" (Interview, Anonymous, 01.11.09).

A NEW TYPE OF EXCLUSION

In interviews one year after the attacks, people who were asked to recount what happened were actually recreating their understanding of what happened. This recreation reflects the new shared values above; while respondents do not deny what happened, they seek to blame others in order to maintain their new image of themselves. Four themes emerge in the public, shared remembrance of the cause of the xenophobic attacks. It is notable that very few respondents identified resources as the cause. Instead, most of the blame fell on corrupt cabinet members or criminals. A constant refrain was that "someone must be benefiting" for the attacks to have been so violent, widespread and long. The benefit ranges from simple material gain by criminals to political gain by corrupt politicians. It is remarkable that despite the widespread anti-migrant rhetoric and the fact that attackers used language to single out victims, this discourse placed the lion's share of blame on outsiders such as criminals and tsotsis, who had something to gain from the attacks. This shows a marked change of how people understand the act of exclusion.

One of the groups that the political community actively excludes is that of community leaders who had personal reasons for condoning the attacks. The following respondents indicate that in certain areas of the country, chiefs and elders made the executive decision as

to whether or not the entire community would engage in the xenophobic attacks, based on deep-seated, historical hatred of foreigners, for example, or the promise of more political power as a supporter of the violence.

Sometimes it depends with the chiefs. They can give orders, here we're doing xenophobia or beating people here. So I think the go-ahead was all about the chiefs or the councilors. The councilor says no, he will address people and say ah, I don't want xenophobia in my place. *So I think where it happens, the bosses had to agree so that it happens.* Because they couldn't just told those people with immediate effect, you see. (Interview, Anonymous, 02.11.09, emphasis added)

And the other reason is that in certain areas, there are some, there are elders of that area. Some didn't like the xenophobic attacks, so they could just, it's just, you said, they could just address people, stop the attacks, and some could start even campaigning, anti-xenophobic campaigns, and people could understand. But there are some places, even the elders they didn't like the foreigners from long ago. So they could just take it as an advantage and let the people and *say go and beat the foreigners.* So places were different. It was only the difference of places. That's why it was. (Interview, Anonymous, 02.11.09)

It is notable that by blaming community leaders, the discourse manages to absolve the actual participants of guilt. As the first respondent says, the leaders “can give orders [such as] here we're doing xenophobia or beating people”. Likewise, the second respondent says that in places where the “elders...didn't like the foreigners from long ago”, the elders gave the order to their community to “go and beat the foreigners”. In this imagining, the power to decide whether to start the attacks was held entirely by community leaders.

Other respondents blame the government and state-level politicians for inciting the xenophobic attacks. According to the following interviewees, the government is to blame for spreading the anti-migrant rhetoric that fueled the attacks. According to the second interviewee, after setting the stage with this xenophobic discourse, politicians then profited from attending rallies of unsatisfied South Africans and telling them, “we're just going to off the foreigners and everybody will be employed”.

What I see is that the South African government is the – the other one which is causing the xenophobic. Because... [they] starts saying, you must – you must take your jobs from those foreigners because they take your jobs. So it makes – we must make something from them. So what I saw, instead of protecting us from violence, they are the one who is causing violence. (Interview, Anonymous, 29.09.09)

Because some politicians, they thought they could gain some power with the majority of the people. Because employment, we were told that employment, there's unemployment because there are more foreigners. So some politicians could come to at a rally and say, we're going to just off the foreigners and everybody will be employed. (Interview, Anonymous, 02.11.09)

You see, *if everything happens, country-wide, national-wise, it means there's somebody who is benefiting from it and there's a leader.* And some events like the xenophobia, they can't be led by someone just general – it's obvious, there's an obvious case that a government official or somebody, about the army, the people, what-what-what, who were involved and they, they can't just keep on with something – someone is not benefiting them. That is why it was, you know, happening on and on and on. They could benefit from it because they can't participate in something which have no benefit. But we couldn't specifically know what they benefited, or money or what. But they benefited. *(Interjection from P2)* Some of them, they even benefited political power. Because people would like them, saying chasing foreigners, there's a lot of jobs, what-what-what. So they benefited in a lot of ways. (Interview, Anonymous, 02.11.09, emphasis added)

Again, this discourse allows the political community member to be absolved of most of the guilt: while the participants admit that they believed the xenophobic rhetoric, the government is blamed for spreading and profiting from it.

The idea that those who incited the attacks had something to gain from them is widespread. The following respondents blame criminals, or tsotsis, for starting and continuing the attacks. Criminals were seen to benefit from the chaos, which provided a cover for them to continue stealing and looting property. As the first respondent argues, the attacks were not started because of competition over resources or employment; they were started by tsotsis taking advantage of the anti-foreigner sentiment.

You know, you check that xenophobia, it started because of – foreigners, they wanted to work for less money. The tsotsis, the tsotsis guys from South Africa, it's like we're taking advantage, some of us it's like we're taking advantage, as in we're going there and beating people and burning their houses. So at the end, you could check and *it's not about employment*. Some of the guys were busy searching and robbing, you get the sense. The tsotsis, you can find a tsotsi from the rank, from the taxi rank there, you can see that side they were beating up people, the Zimbabweans there. The tsotsis, we will run away, will run from the taxi rank and they will rob people instead of chasing those people [foreigners] away. [The tsotsis think,] "We will rob them, we will search them, we will burn them, we'll kill them". So *everywhere [that] there's war, I think there is someone who will be taking advantage*. (Interview, Anonymous, 02.11.09, emphasis added)

And the reason why people could keep on, some people they got rich with the xenophobic attacks. That's why they kept on attacking. [...] Some people, they benefited from the attacks. [...] Robbers, even some officials, high officials, they could benefit. But especially the robbers. Because even in the shops, Indian shops, they could get and attack and take everything. So that's the reason they kept on doing. (Interview, Anonymous, 02.11.09)

So I think it's, this town is tsotsis, you see. It's all about people who want to steal from others. You see. (Interview, Anonymous, 02.11.09)

You will come and attack me, but me I can go to police and say oh no, these people, *they were not doing anything about xenophobia but they were searching my pockets, they wanted to take things from me*. Then the government can easily realise that it's not about xenophobia, it's people taking advantage. You see. (Interview, Anonymous, 02.11.09, emphasis added)

Like those who blame the community leaders or politicians, those who blame criminals for the xenophobic attacks succeed in defining the political community's morality through excluding others. After all, if the countrywide violence was incited by criminals, then the political community member is defined as even more moral in comparison.

In addition to community leaders, state politicians and criminals, the re-imagined history of the xenophobic attacks blames the police. The following respondent suggests that the cops, criminals and community leaders are in cahoots with each other. The police officers have inside knowledge that helps criminals, such as when large sums are being transported

between banks. As the interviewee below notes, “they will be having all the chiefs” – meaning that the community leaders have also signed off on this conspiracy.

Most of the time when you hear, when you see, or when you read newspapers or see or watch on the TVs, of this thing of being robbed in the bank, you will see that there are also cops who are involved in this criminal thing of being robbed the bank. You see them saying Sergeant whatever, Sergeant who, was also involved in this thing. So they will be keeping tips, saying no, during this time they will be closing the bank, or during this time the money of the Standard Bank will be going or the, what you call it, that car, the van which carries money, will be coming to fetch money at this time. Sergeant, or something like that. And they will be having all the chiefs. So it’s easy for them to just come and rob, you know, because most cops will be around there and when these activities are happening, they won’t do anything. (Interview, Anonymous, 02.11.09)

While this three-tiered conspiracy may seem far-fetched, its dubious reliability adds to the rest of the exclusionary discourse, which altogether reveals just how much the political community values morals – or, at least, appears to value morals. The community is so concerned with morality that it has willingly cast not only criminals as immoral, but the country’s leaders and police force as well, and excluded them from membership in the political community.

A CHANGE IN THE POLITICAL COMMUNITY: THE MIGRANT PERSPECTIVE

Even migrants, who were violently excluded in 2008, have noticed this change in political community. This is interesting because it demonstrates that the effects of the changed political community have expanded beyond the collective memory of the South African community. Consider the following quotes, which all emphasise a change between “before” and “nowadays”.

Nowadays, the employers they are very afraid – they realise that they – if they don’t pay, really they are taken to the laws. (Interview, Anonymous, 29.09.09, emphasis added)

I don't see any problem about their policies because they are making us flexible right now. *Previously* we are afraid that if the police catch you they are going to deport you and we also didn't have money to put visas so that we can come here. *But right now everything is flexible.* If the police catch you they just let you have an asylum so that you can stay and we are no longer putting visas. So I think it's excellent on our side. (Interview, Anonymous, 01.10.09, emphasis added)

The policies they've put in place at the moment, I can say that it is positive because people are coming in and flocking the country day by day. And you see they [...] [are] giving people asylum for identification purposes. So that one means that they're encouraging foreigners and they're ready to help them. Because the people come from different countries with different reasons, basing on their country – how the condition and the political stability of the country is. So there are people who are – I can say *South Africans, they've changed their attitude from the previous year.* Yeah. (Interview, Anonymous, 30.09.09, emphasis added)

They [police] will arrest him [criminal] – they will arrest him and maybe after two to three hours or one day, you will see that person back but people rise to – some points, and as for this past six months you see there is a change, because now there are some – they are – the police they are working with some other people in this community. They are training some – some people to – to solve crimes in this place. *So it have changed.* (Interview, Anonymous, 29.09.09, emphasis added)

Nowadays there are changes there, the police and the – this community have – come together so they can work towards one goal. Because a crime at this church is a crime to the country, so they – *they have seen that what they were doing before is not right.* (Interview, Anonymous, 29.09.09, emphasis added)

The purpose of this series of quotes is to capture the change that Zimbabwean migrants have experienced, from before the xenophobic attacks to after the attacks. The changes have affected various areas of everyday life, from getting paid regularly to experiencing a more rapid police response to crime, to more lenient immigration policies. The fact that migrants, who were targeted during the attacks, have felt the change described by the emerging discourse around the attacks, reveals that the discourse has had real-world implications.

CONCLUSION

There are several key findings to take away from this chapter's discussion. First, the South African political community that supported and engaged in the 2008 xenophobic attacks used language ability as a test to identify non-members. This suggests that the community understood itself primarily through sharing a common language. It also understood membership as entitlement to a finite amount of resources, which were being usurped by outsiders who have access to their own resources. Second, the political community's shared values and understanding of membership changed between the months after the xenophobic attacks, when much of the existing qualitative and quantitative research that I relied on was collected, and one and a half years after the attacks, which is when I did my own research. The emerging discourse about the xenophobic attacks and the political community imagines members to be moral and mature, assuming collective guilt for the attacks but fundamentally changed. Because members accepted a collective responsibility for the attacks, it appears that the makeup of the political community still includes the 2008 supporters of xenophobic discourse and perpetrators of xenophobic violence, but it does not rule out the membership of people who did not support xenophobic sentiments. Finally, the new discourse about the political community exercises its right to self-determination by aggressively engaging in an exclusionary discourse against criminals, police, politicians and community leaders who are actively blamed for starting the xenophobic rhetoric and violence.

While these findings have given us a surprising insight into the values that the political community in question share, as well as how they understand their community, the drastic change in shared values begs the question: what caused this change, and is it sustainable? The final chapter will consider this question, looking at the political gain that comes with re-

imagining history and, in particular, the outside influence of the 2010 FIFA World Cup and the authority of the international community.

CONCLUSION

Political Community and the 2010 FIFA World Cup



INTRODUCTION

It would be easy to attribute South Africa's collective assumption of guilt and expression of morality and repentance as a natural reaction to a horrific moment in the country's history. However, the causes of the 2008 xenophobic violence remain. Unemployment stands at 24% (see www.statssa.gov.za), guaranteed rights are no closer to becoming experienced rights for the underprivileged and isolated incidents of violence against migrants continue. In the conclusion to this dissertation, I will examine the change in the political community's shared values and new acts of exclusion in light of the upcoming 2010 FIFA World Cup.

CONSTRUCTING THE FUTURE THROUGH RE-IMAGINING THE PAST

Re-imagining the past, as South Africans have done, often has calculated implications for both the present and the future. Harootunian (2000) argues that the interpretation of the past has become a point of contention, since it has serious implications for the value of the present. He posits that, "History, if this term has any sense, is the history of the present and is thus necessarily politicized" (734). For example, McCormack (2001) argues that historical revisionists in Japan are reconstructing their past, which is clouded by war crimes against China and Korea, in order to influence the future trajectory of the nation. This finding resonates with Appadurai (1996), who suggests that re-imagining the past is a compelling, collective activity that also mobilises for the future: "historical narratives of a people's past

are retrospective only in form but are future-directed in all their meaningful implications” (224).

It is not only group members who benefit from re-imagining history, but outside actors as well. Malkki (1996) and Turner (2005) both observe that international humanitarian organisations “universalize” refugees and strip them of their particular histories, in an effort to silence them and maintain the organisations’ neutral positions. In describing the outcome of “dehistoricizing” refugees, Malkki (1996) highlights the power and political nature of history:

This dehistoricizing universalism creates a context in which it is difficult for people in the refugee category to be approached as historical actors rather than simply as mute victims. It can strip from them the authority to give credible narrative evidence or testimony about their own condition in politically and institutionally consequential forums.” (378)

In the case of Burundian refugees in a UNHCR camp in Tanzania, stripping refugees of their historical identities leaves them “mute victims” with neither “authority” nor “consequence”. In Arendtian terms, “dehistoricizing” refugees is akin to depriving them of their rights, as both processes leave them with meaningless actions and opinions. These examples demonstrate that there is frequently a direct relationship between historical revisions and future politics, and that both internal and external groups can be beneficiaries of either re-imagining or silencing history. The question for us, then, is what would motivate the South African political community to reconstruct their shared memory of the 2008 xenophobic violence.

For anyone who has lived in South Africa in the past year or so, the first thought that comes to mind is the 2010 World Cup. Since FIFA announced that South Africa would be playing

host to the internationally prominent sporting event, the country has been struggling to prove that it is a “world class” destination. South Africa has pledged an infrastructure makeover: new bus systems, new train lines, new stadiums. However, protests by construction workers, a countrywide recession and resistance to the changes by all sectors of society have interrupted these goals. When the new Rea Vaya bus made its maiden voyage from Soweto into downtown Johannesburg five months ago, minibus taxi drivers fired at passengers and shot dead one of the officials who represented the minibus taxi sector in deals with the city. Likewise, wealthy residents in Saxonwold have protested the proposed bus route that would run through the suburb and decrease property values. Faced by extreme views that represent the extremes of inequality in South Africa, the Transportation Department has announced that the Soweto-Sandton bus route, which was supposed to be ready for the 11 June kickoff, will not be complete until next year. (Dugger 2010a) With the international community questioning whether it was an appropriate choice for host of the World Cup, it is inevitable that South Africa feels pressure to prove its worth.

The idea that a local community would appeal to the larger international community for acceptance or recognition is not uncommon. Among marginalised South Africans, Cape Town has long been considered an effective site for international lobbying, since it is an international tourist destination. Amisi & Ballard (2005) interviewed a Congolese network elder who explained that even if demonstrations in Cape Town had no immediate impact, they were important because they bring international attention to the situation. Other interviewees noted the power of tourist sites and the leverage that a problem in a tourist area can impose on a host country. Likewise, Turner (2004) demonstrates that Burundian refugees in Tanzania, who fear that the rest of the world has forgotten them, seek

recognition from the international community rather than the Tanzanian state, due to a belief in the omnipotence and unquestioned power of the “big nations”.

It is not only local communities who stand to benefit by appealing to the international community. Jacobsen (2002) argues that host states always benefit from the political leverage, media coverage, international aid packages and other resources that accompany refugees. Similarly, Turner (2005) shows that the Tanzanian government has created a discourse whereby refugees and international aid – rather than the government’s failed policies – are to blame for its weak economy. Bennett (2002), on the other hand, argues that the international community has no power over states in terms of refugees and migrants. While this argument makes the belief in the power of the international community seem naïve, it supports the notion that states benefit – either materially or psychologically – from appealing to the international community. Even if the international has no real power over states, it has access to material resources that states do not. In other words, all levels of South African society have something to gain by re-imagining the xenophobic attacks and constructing themselves as moral, mature, world-class citizens.

Interviews with South African citizens invariably touched on the importance of the World Cup and its effect on the country’s reaction to the 2008 xenophobic attacks. South Africans interviewed unanimously believed that the international community provides some sort of protection to migrants – whether direct or peripheral – since South Africa is in the international spotlight until July 2010. As the following respondents explain, the fact that the country had been picked to host the World Cup indicated that its “status” in the international community was finally on the rise. But the xenophobic attacks threatened to

derail this rising international status, as international travelers and tourists might be “afraid of [for] his life” and cancel their trips to South Africa for the World Cup.

...now, we are seeing 2-10 World Cup coming to South Africa, which is good, the nation’s status is going up, but the issue of xenophobia, they almost embarrassed the country. I think they have to look at it so that, we must forget about that one. (Interview, Anonymous, 02.11.09)

Yeah, and about the world, it’s obvious that the world could hate [to] even come here for the World Cup or even for business because xenophobia, it’s something which is very dangerous. So somebody who wanted to come for the 2010, something like America, England, Russia, he could just cancel the journey because he’s afraid of his life. So *the world, it didn’t like it*. Yeah. (Interview, Anonymous, 02.11.09)

As the first respondent states, “we must forget about that one”. This vagueness is intriguing; it indicates that either South Africans must forget about what happened and re-imagine the past, or they must forget about their xenophobic sentiment to avoid another outbreak in the future. Either way, the reason this respondent says xenophobic attacks must be stopped is not because of morals or shared humanity, but because South Africans have to consider what the violence is doing to the country’s reputation in the international community.

Other respondents suggest that if South Africa had not been in the international spotlight, the attacks would have lasted longer than they did. The following interviewee believes that the reason the attacks stopped is because FIFA and the international community had threatened to revoke South Africa’s hosting privileges and instate Egypt or Russia as the host, or to simply “cancel” the World Cup altogether.

And also the thing of World Cup, since we are hosting 2010. So they [the attackers and their supporters] saw that no, if it’s going to continue, this thing of xenophobia, the World Cup, there was already talk, they had already been talking of saying they have to host, they have to, I mean, to cancel the World Cup, it was supposed to be hosting in something like in Egypt or Russia, I don’t remember. But *it was supposed to be canceled so they stopped it immediately*, immediately effect. So what I can say is, the government people, they were

also inside, I mean they were also being jealous of foreigners. (Interview, Anonymous, 02.11.09)

By linking threats from the international community with the “immediate” end of the xenophobic attacks, this respondent suggests that the government had a direct role in orchestrating the attacks. As he says, the “government people...they were also being jealous of foreigners” – in other words, the government had just as much xenophobic sentiment as the perpetrators of the attacks.

Several respondents stated that xenophobic attacks would start again once the World Cup had been successfully hosted and the international tourists had gone home. The following quote is quite long, but it describes how people in minibus taxis and on the streets are “whispering” to each other to contain their xenophobic anger until after the World Cup.

One more thing which I can add is that, what I can say or what I just think of, what I just said, when some other people were talking, I heard people chatting, saying, “let’s just wait for 2010. *When this 2010 gets finished, we are going to attack also foreigners as well.* They must go back to their home countries.” So it’s like they are just waiting for 2010 to get finished. They are afraid of attacking foreigners right now. Because *they know that if they attack foreigners, the people who will attack foreigners, they are going to be behind bars and 2010 is going to be canceled totally.* So they are afraid of committing this crime of xenophobia thing again, you see. I think it’s going to happen again after 2010, that’s what I think. [...] What I think, it’s going to happen again after 2010. So what I can say is, they have to be strict here. When 2010 just gets finished, they have to have, I mean, they have to do something about this thing. Because I know that, I think it’s going to happen. Because most people, in the taxis or even just walking on the street, you just hear them chatting, whispering, saying, when just 2010 passes, *even when you hear a foreigner speaking their home languages, you become angry,* you become, you feel like, I don’t know. So they just say, these people they are, you know, they are humiliating us, it’s like they say disgusting things, you know, in our streets, these people, they are making us lose our jobs. So when just 2010 just gets finished, we are going to attack them. That’s what I heard. (Interview, Anonymous, 02.11.09)

As the respondent says, attackers know that as long as South Africa is in the international spotlight, anyone who commits a violent xenophobic act will “be behind bars” and the

country will be punished because “2010 is going to be canceled totally”. The idea that people are whispering on the streets and in the back of taxis evokes the image of a larger conspiracy at work, and undercuts the sincerity of the remorse voiced by South Africans. The respondent points out that, “even when you hear a foreigner speaking their home languages, you become angry” – which is the sentiment that sparked the 2008 attacks. In other words, it is quite possible that the political community’s shared values and policies of admission have not changed, but have simply been masked for a short period.

The same South African respondents who had described their collective guilt, remorse and newfound morality about the 2008 xenophobic violence explained that xenophobic attacks would return once the 2010 FIFA World Cup was over and the country was out of the international spotlight. These two sentiments are clearly at odds with each other. However, they are not at odds with the idea of a political community. While I have been most interested in and influenced by Hannah Arendt’s conception of a political community throughout this research process, it appears that Michael Walzer’s concept – that political communities and membership in them are affected by “the actual contacts, connections, alliances we have established [with outsiders] and the effects we have had beyond our borders” (1983: 32) – might be the most relevant in today’s context. That is, the most significant aspect of a political community today is not so much the protection of shared values that elicit exclusionary action, but the practice of universally accepted values that offer the opportunity for inclusion.

We can take away two main points from this conclusion. First, a political community’s shared values will change, based on its changing relationship with outside actors and events.

This chapter's discussion has highlighted the way that the political community that contributed to the xenophobic attacks has dramatically altered its position on violence and migrants in light of the 2010 World Cup. Second, members of a political community will change as its shared values change. This means that such communities can change, overlap and even disappear. As established in the first chapter, the political community that supported and engaged in the 2008 xenophobic attacks is but one political community in South Africa. Not all South Africans belonged, and it was by no means the only political community that existed in South Africa at the time.

In light of the above, this Masters dissertation has made three main contributions to the literature surrounding Arendt's "right to have rights" and the current approaches to studying the 2008 xenophobic attacks in South Africa. First, it demonstrates that the shared values that determine the "right to have rights" change, and it specifically uses the context of the 2008 xenophobic violence to do so. Second, it implicitly – though unintentionally – strengthens the argument that legal status may be the best indicator of the "right to have rights", as it is a more easily measured and less easily contested symbol of membership. Finally, this Masters dissertation has contributed a snapshot of the opinions and actions of vulnerable South Africans and Zimbabwean migrants at a very sensitive and nascent period of transition – following the country's most public outburst of violence since apartheid, and preceding the country's most public display of national pride and international accomplishment since the dismantling of apartheid. At the time of this writing, the World Cup is fast approaching and South Africa is determined to have more of a national presence at the FIFA-organized competition, which is increasingly dominated by Shakira, who wrote the official anthem, and McDonalds, which is the official restaurant (Dugger 2010b). As the

country wraps up a campaign to impress the international community, which ranges from inserting more South African talent into the World Cup entertainment lineup to completely redefining the national discourse that surrounds the 2008 xenophobic attacks, a snapshot of the transformation from May 2008 to June 2010 is even more valuable.

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