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Exploring conceptions of legality and the meaning of asylum law in Johannesburg.

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ABSTRACT

This study examines Malawian asylum-seekers' conceptions of legality and examines their decisions to lodge an application for asylum in South Africa. Framing the research question, data collected by the Forced Migration Studies Program at the University of Witwatersrand suggest that although the Refugees Act of 1998 and the Regulations of 2000 are designed to protect all asylum-seekers, there are limitations to the tangible gains of asylum-seeker status. With significant opportunity-cost barriers associated with accessing the Refugee Reception Offices and limited return on the investment of time and resources, this research project explores migrants' explanations of their motivation to engage with the state's asylum apparatus.

Fifteen semi-structured, in-depth interviews with individuals and two group interviews were conducted at the Crown Mines Refugee Reception Office in Johannesburg. Throughout the interviews, respondents were asked questions regarding their upbringing, experiences in Malawi, motivations for relocating to South Africa and understanding of law, specifically as it relates to asylum.

While respondents indicated that instrumental gains factored into their decisions to apply for asylum, findings present a spectrum of legality that incorporates several layers of legal motivation. Further, while this report reveals that individuals' conceptions of legality may exhibit a degree of flexibility due to current situations, it also entails an analysis of key factors influencing the development of one's legal consciousness. Additionally, this study suggests that many asylum-seekers believe they are applying for a status for which they are qualified for and entitled to in accordance with their own understandings of immigration law.