The Double Pariah: Xenophobia, Homophobia and the Queer Zimbabwean Immigrant.

by

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Introduction

The idea for this thesis began the summer of 2017. I was in South Africa following the trail end of a project I had been working on which was investigating the breakdown of the family unit in Zimbabwe due to immigration. Initially, I wanted to document how the families left behind were coping with the absence of their loved ones and how this absence gave rise to new forms of understanding family roles and responsibilities. I did field work in Mutare, the second largest city in Zimbabwe which borders with Mozambique and South Africa. I spoke to grandmothers who were looking after their children’s children, siblings who were now parents, and aunts and uncles who were now parents to their nephews and nieces. Many people spoke about the difficulty of not hearing from loved ones in Mozambique and South Africa, others lauded their loved ones for sending them money to buy food and go to school and some noted fears that their loved ones had died. Many of the families I spoke to spoke of South Africa as the place where their loved ones had gone to. So, at the end of my time in Mutare, I decided to go to South Africa.

I arrived in Cape Town and started to look for organizations that were assisting and supporting Zimbabwean immigrants living in Cape Town. One organization that I was drawn to because of their layered approach to supporting immigrants was People Against Suffering Oppression and Poverty (PASSOP). PASSOP assisted immigrants in finding housing, employment, seeking asylum and also referring immigrants to psychological counseling. When I started working with PASSOP my assumption, like many people, was that South Africa, particularly Cape Town was a haven for all queer Africans seeking refuge and escaping countries that
criminalize homosexuality. Just this month, the International Lesbian, Gay, Bisexual, Trans and Intersex Association (ILGA) named South Africa as one of the safest places for LGBTQIA people.¹ Such statements and sentiments are what made me believe that South Africa was truly a safe haven for all queer people. Many people and organizations, like ILGA name South Africa’s progressive Constitutional laws around same-sex marriage and adoption as one of the points that set South Africa ahead of many countries in the world when it comes to the protection of queer people.

Yet, during my time working with PASSOP and listening to the stories of queer immigrants who were often low-income and a part of the working class, I heard stories about extreme xenophobia and homophobia as well as about the active alienation that they were facing in Cape Town. I began to ask why these queer immigrants were facing this alienation and I wondered whether this was only happening in Cape Town. Even more, I was curious to explore why this violence and marginalization of queer immigrant bodies was not part of the public discourse.

These questions are what this thesis wrestles with and attempts to answer and further understand. The central claim of this thesis is that there is an incongruity between the progressive LGBTQIA laws in South Africa and the lived reality of the queer low-income Zimbabwean immigrant. Further, I claim that this in-between space is the place where the queer immigrant slowly dies in silence and usually unnoticed. To support my claim, I engaged with many sources that at first may seem like they constitute an odd archive. As I was unable to go back to Cape Town and conduct interviews solely focused on the lived experience of the queer immigrant I turned to

court cases, and newspaper articles as my primary sources. When thinking about primary sources I wanted materials that would closely capture the lived realities of the subjects I wanted to center my work around. Another key source that I used in thinking about lived reality is a realist novel called *Welcome to Our Hillbrow* by a brilliant South African author called Phaswane Mpe. In Chapter 2 I discuss why this novel is critical to the work I am doing but in general I believe that the realist novel in post-colonial Africa has played an immense role in portraying the lived realities of many different kinds of Africans through its intricate use of mimesis.

Another source of primary sources that I use are the interviews of some of the queer immigrants that PASSOP spoke to when they were drafting their own reports on this issue. My secondary sources are largely engaged with the theories of living in the nation state: I turn to various discourses such as Human Rights, necropolitics, chronopolitics as well as ideas of nationalism and territoriality in an attempt to better understand the complicated positionality of my subjects. I come with the full assertion that in order to really get to the root of the extreme inconsistences present in South Africa, that includes South Africa being labeled as the safest country for LGBTQIA people while also being a country rampant with homophobia and extreme xenophobia, we must closely pay attention to the queer immigrant.

Queer immigrant Zimbabweans living in South Africa today, reveal the most clandestine anxieties that South Africa carries as a nation. This thesis attempts to exhume these anxieties to show how they are killing Zimbabwean queer immigrants who escape to South Africa in search of a safer life where they can exist without fear or prejudice. On paper the constitutional law in South Africa stipulates that such a hope should be possible for any queer immigrant who comes to South Africa, but this is
often not what ends up happening. Instead the queer immigrant is met with violence for being queer and for being an immigrant and in many instances this violence is intertwined and cannot be easily parsed apart. I refer to such an individual as the double pariah because their experience lies at the intersection of homophobia and xenophobia in South Africa. This thesis asks two central questions: Why is there a fissure between what the law promises and what the double pariah experiences on the ground? And is there anything that can be done to repair this incongruity?

Upon arriving in South Africa today many immigrants are met with hostility largely because there is a high demand for jobs and unemployment is fairly high in South Africa. Shona, a Bantu language, spoken in much of Zimbabwe, has no “l, q” and “x” in it, while most South African languages have the letters that Shona does not have but they also do not have an “r” which Shona has. This difference in language is how South Africans came to identify the immigrants coming from neighboring countries such as Zimbabwe. In his novel, Welcome to Our Hillbrow, Phaswane Mpe, writes: Makwerekwere—a derogatory word used to describe immigrants in South Africa—is a word derived from kwere-kwere a sound that their unintelligible foreign languages were supposed to make, according to the locals.\(^2\) To date, Zimbabweans are the largest immigrant group living in South Africa with a documented 3 - 4 million.\(^3\) Most Zimbabweans arrive in Hillbrow, one of Johannesburg’s biggest low-income, high-density areas that includes a mixture of informal houses or shacks and some small houses. Hillbrow is the heart of Johannesburg located in the downtown Central


Business District area of the city, it is also home to Park Station the biggest, regional, bus and train station in Johannesburg. Thus, all roads, literally, lead to Hillbrow.

Hillbrow is not only home to immigrants but it is also home to many indigenous South Africans coming from the rural areas in search of employment and a better future. Because of its high density and busy nature, Hillbrow is known to be a high crime zone and an extremely dangerous place in the city. Robbery, rape and physical violence are all commonplace in Hillbrow. However, the local South Africans from the rural areas blame the immigrants for all that is bad in Hillbrow. The immigrants are seen to be the ones who bring in the terrible, toxic and dangerous behavior in Hillbrow. There is also commentary, in the novel, about how the external foreign influence is responsible for the moral degradation of the community. And this is a concern that speaks to how the immigrant laborer is viewed as being the one who is deviant and bringing in pervasive devious sexualities.

It becomes important then to ask how the individual who is both an immigrant and queer—the double pariah—engages with Hillbrow and what they can expect from the law which at first glance seems to be on their side? Further, how best can they leverage the law? Which framework makes their voice most accessible and visible, and what are the consequences of that? What does it mean to interact with government branches when you are an immigrant in South Africa and how does that change when you are the double pariah? These are all questions that shall be addressed in the following chapters as I investigate the role of the law in the life of the queer immigrant in South Africa.

The thesis consists of three chapters, with an organizational framework that traces the journey of the queer immigrant from their initial thoughts about leaving
Zimbabwe, to their voyage to and arrival in South Africa. Chapter 1 focuses on how people living in Zimbabwe imagine South Africa, specifically asking how the queer Zimbabwean imagines South Africa. Furthermore, the first chapter also engages in the long history of migration and movement in southern Africa and within South Africa. This history is intertwined with a history of queer practices and language in the region as well and Chapter 1 focuses on this as a way to set the stage for the contemporary moment in which some southern African countries like Zimbabwe and Namibia claim that queerness and homosexuality are unAfrican and a relic of the West. Chapter 1 ends positing that South Africa is the destination of death for the double pariah.

Moving ahead Chapter 2 begins by explaining who the double pariah is and why South Africa is the destination of death. As a way to understand the various forms of violence that the double pariah encounters Chapter 2 uses necropolitical thought as one way to frame this violence. I argue that the state is selectively giving and taking life from all non-white individuals living in South Africa and the individual who is most implicated in this process is the non-citizen, particularly the double pariah. I also extensively explicate the concept of the “Rainbow Nation” as an ideology and argue that such an ideology compounded with deep economic inequality contributes to xenophobic and homophobic violence. Lastly, the chapter ends with an assertion that various branches of civil society in South Africa are contributing to the slow death of the double pariah.

Chapter 3 picks up where Chapter 2 ended and begins to zoom into the various civil society branches with a particular focus on the Department of Home Affairs, the police, housing and employment, as well as on healthcare and the judicial process. The reoccurring theme in all of these cases is that in theory there are laws and policies that
are supposed to offer protection and support to the double pariah, but instead these laws are not enacted and often times the double pariah faces more violence and disenfranchisement from people working in these various parts of civil society. This violence is what I argue contributes to the slow, insidious death of the double pariah.

Chapter 3 ends with the assertion that for as long as South Africa continues to operate as it does, peddling the ideology of the Rainbow Nation, the double pariah will continue to die slowly. The question then becomes what are the alternatives? What can be done?

I do not end with a conclusion but raise closing thoughts at the end of this introduction. There is no conclusion because a conclusion often implies an ending which provides clear cut steps for how to move forward. But when it comes to the double pariah there seems to be no end in sight and definitely no solution. Nonetheless, an easy answer to some of the questions I raise toward the end of Chapter 3 which I began this thesis with is to enforce more effective policy to support the Constitutional law in place. But as I examined this case more I realized that the problem is not in the policy or the law, it lies in the people and in the fabric of the political landscape of South Africa. South Africa is headed for elections this May and all the parties in the race are running based on very different ideologies and hopes for South Africa. But as Sean Jacons, editor of “Africa is a Country,” a prominent and esteemed site for intellectual commentary and writing about Africa, writes, citing South African professor Salvo Heleta, “all political parties in South Africa try to mobilize voters based on their and voters’ xenophobia and they're outdoing each other during every election season.”

Thus, for the foreseeable future it seems likely that violence against the double pariah in South Africa will persist.

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Although, I should note that during my time at PASSOP I saw a possible alternative. One of the outreach programs PASSOP launched in the summer of 2017 was to host a storytelling town hall in one of the largest townships in Cape Town called Khayelitsha. This idea came about as a response to the immigrants who were saying that local business owners were not hiring them or giving them rooms to rent. The town hall was attended by local business owners, religious community leaders, school teachers and many immigrants living in Khayelitsha. The night began with some immigrants telling their stories of how they ended up in South Africa. Men, women, young boys and girls recounted their journeys and their hopes and dreams in South Africa. A couple weeks after the event some Zimbabwean men came to PASSOP and told us how they had received job offers through referrals from their Xhosa neighbors who had attended the town hall. I tell this story to say that perhaps the best chance of beating xenophobia and homophobia is to tell stories. In some ways it may seem like a simple offer, but as I mention later on immigrants have taken on a monolithic existence in South Africa as the enemy. But telling nuanced stories and sharing these stories can perhaps help to demystify the “Makwerekwere” and center them as people, with hopes and dreams, and not the enemy taking the jobs away. But so long as South Africa continues to deny the existence of xenophobia and the failings of the ANC such events that I attended will continue to be nothing more than superficial fixes.

For the immigrant who leaves their home, there is an immense sense of loss that cannot be reversed. NoViolet Bulawayo, in her debut novel *We Need New Names*, echoes this sense of loss and says:
When we die, our children will not know how to wail, how to mourn us the right way. We will leave for the land of the dead naked, without the things we need to enter the castle of our ancestors. Because we will not be proper, the spirits will not come running to meet us, and so we will wait and wait and wait—forever waiting in the air like flags of unsung countries.\(^5\)

Bulawayo envisages this sense of loss as one that follows the immigrant even in death. Death is not an escape, even in death the immigrant is lost and living in the margins forever in search of home. So, what if the double pariah did not have to leave Zimbabwe?

As already discussed many Zimbabweans are leaving for South Africa to seek economic independence. These economic immigrants face a great deal of challenges in South Africa as well as violence but unlike the double pariah they do not face the double bind of xenophobic and homophobic violence. This slow death that the double pariah faces in South Africa is in many ways inescapable. It is not only the South African state that must shoulder the responsibility of this death but also the Zimbabwean government. To this day, the Zimbabwean government refuses to decriminalize homosexuality and claims that the public discourse is in favor of this and so it is simply honoring the wishes of its people. The only problem is that this is not true. As evidenced by this thesis queer Zimbabweans exist and must be protected too. Organizations such as the Gay and Lesbians of Zimbabwe (GALZ) have been in existence for a very long time and continue to provide support for all queer Zimbabweans. But these organizations suffer from a lack of support and the threat of being killed and arrested continues to exist. Thus maybe, a turn to decriminalize homosexuality in Zimbabwe may help to encourage the double pariah to stay. The other glaring problem that also precipitates the leaving of the double pariah is the dire

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economic situation in Zimbabwe and this is something to consider when thinking about ways to prevent the double pariah from leaving.

Activists who push for economic reform in Zimbabwe must take an intersectional approach to their mission. Zimbabweans living inside and outside of Zimbabwe are dying and often struggling. Of course, there are Zimbabweans living in the diaspora who succeed economically and successfully gain legal status in new countries but these are the exception to the rule. If Zimbabwe is to succeed and truly become a land where all are free then we must not focus on one issue but realize that if we pay attention to the intersections we can be able to formulate more encompassing demands that will save more from death. This work is not easy and will not happen overnight, but it has begun. With the overthrow of Robert Mugabe in 2017 and the continued protests against the new president Emmerson Mnangagwa I am confident that if we continue to listen to those who are least heard a promising future awaits.
CHAPTER 1

Imagining South Africa Through an Exploration of the History of Queerness in Southern Africa.
The main focus of this chapter is to understand how, young, queer, black Zimbabweans imagine and conceptualize South Africa. South African media is widely consumed in Zimbabwe and so many young people are in touch with the music, art and current news happening across the Limpopo river. Additionally, the Zimbabweans living in South Africa also relay back stories of success, fun and wonder in South Africa. They send pictures, and come back wearing new clothes and new electronic gadgets to show off to those left behind. For many people in Zimbabwe, South Africa is the land of promise where dreams can come true for all particularly the queer Zimbabwean. Today, South Africa stands alone in southern Africa as the only country to Constitutionally recognize the rights of queer people and protect all gay, lesbian, bisexual and trans people. Recognizing that this is the moment we find ourselves in southern Africa necessitates an understanding of how we arrived to this moment. What did sexuality look like in southern Africa before and during colonization, and how does that history affect where we are now?

Many southern African countries during independence were tasked with the challenge of how they wanted to define themselves and situate themselves on the continent and in the world. Matters of religion, sexuality and language were among the fundamental topics that arose and were used to define what the new states would be and what they would revere, resuscitate and repeal. Sexuality was a central concept that many leaders engaged with in southern Africa and used to fashion a national identity around. Zimbabwe for example, renounced homosexuality and claimed that it was un-African and foreign to Zimbabwe. Homosexuality the state argued was a western concept that was being used by naysayers to infiltrate and tarnish traditional Zimbabwean values.
Before colonization southern Africa was a porous region characterized by a lot of movement and cultural exchange. Contemporarily, evidence of this movement is present in the languages spoken in the region today which share similar words and etymologies. As with any culture, words often speak to and give meaning to practices present among a group of people. The vocabulary of sexuality became central to the new countries in southern Africa’s reimagining of themselves, and as such I will trace the etymology of the words that describe sexuality and homosexuality in southern Africa. There is a long history of sexual diversity on the African continent and my evidence shows that queerness was something preexisting in the region, manifesting differently among different people.

Movement and sexuality as shall be shown in this chapter, are inextricably linked in southern African and they continue to be even today. When closely examined, movement and sexuality can offer a nuanced understanding of people and how they want to live and aspire to live. How people receive others, especially strangers, and how they feel about those who do not adhere to the norms of beliefs reveals the most deeply held anxieties present in communities. This chapter will primarily engage with a historical understanding of the movement of people in southern Africa, the motivations for their movement and how their movement is and was intertwined with their sexualities. In many ways, movement offered people new ways of exploring their sexuality as will be evinced by the example of men working in the mines in South Africa during Apartheid. Movement offered a nuanced understanding of queerness that transcended binary identities, but this movement became less fluid and more rigid as many of the southern African countries gained independence, consequently introducing more rigid and less fluid understandings of sexuality.
Zimbabwe and South Africa are geographic neighbors, separated by the Limpopo river that runs in the southern part of Zimbabwe and flows through South Africa into Mozambique to the Indian Ocean. For years, there has been a lot of movement between the two countries and there are even tribes that are in both countries and even though separated by the river still share similar languages and practices. Both countries were colonized by the British and thus in some ways the history of their liberations is one that is also closely connected yet at the same time very different. Two key features that even today connect these countries is movement of people for labor and language. Zimbabweans have been going to South Africa since the early 1920’s and there has been a lot of language overlap an example of this is the word “murungu” in Shona which means a white person and the word “mulungu” in Zulu which means the same thing.

The next section will trace this shared history of movement between Zimbabwe and South Africa and how it has changed with time. It will particularly explore the etymology of words that describe queerness in Zimbabwe, South Africa and other neighboring countries in the region. This exploration will serve as evidence of the intricate relationship between queerness and movement in southern Africa and how this movement has influenced how Zimbabweans over many generations imagine and understand South Africa. A big motivation for movement was mining and when investigating the life of miners what is revealed is that miners understood queerness to be part and parcel of the mining environment. Moreover, the miners already carried an inherent understanding of queer practices that they brought from their different communities and incorporated into their lives in the mines. This blending of queer practices trickled back to the communities these miners came from and the miners gave
their communities new language of understanding queerness which have remained in present day language but the meaning has changed with time and the reason for this will also be explored.

History of Movement and Queerness in southern Africa

The name Wenera is a Shona word originating in the labor migration history of the Southern African region. WENERA was the Shona version of the acronym, WNLA which stands for the Witwatersrand Native Labor Association, an association that was formed by the South African mines in the 1940s during the Gold rush in South Africa. In Shona, one of the national languages in Zimbabwe, there is no “L” hence the WNLA which was popularly called Wenela became “Wenera” for Zimbabwean migrant laborers who were being recruited by the WNLA labor union to come and work in South Africa and leave their homes in Southern Rhodesia. As employers in Southern Rhodesia began to recover from the Great Depression and increased their demand for labor in the mid-1930s, they found themselves locked in intense rivalry with other white employers over access to labor reserves in the southern African region. Labor reserves are the result of a long history in southern Africa that sought to displace black Africans from their farms and render them unable to provide for themselves, thus requiring them to seek employment in the mines or on white owned farms.

In South Africa this process began with the passing of the Glen Grey Act of 1894 in the Cape Colony. This Act was passed by Cecil John Rhodes, the then Prime Minister of the Cape, who wanted to satisfy white landowners who were complaining of a lack of labor supply from the black Africans. This act stated that Africans who had
been displaced into reserves across southern Africa could provide “migrant” labor provided that they would register with their local district councils. And wherever the migrants would find employment they would assimilate into the new reserves for as long as they were required to work. Migrant workers during this were treated poorly. The chairman of a committee that investigated the effects of migrant labor, in 1935, on the village communities of Nyasaland wrote:

We must confess that, six months ago, there was not one of us who realized the seriousness of the situation: as our investigations proceeded we became more and more aware that this uncontrolled and growing emigration brought misery and poverty to hundreds and thousands of families and that the waste of life, happiness, health and wealth was colossal.... Something must be done at once to remedy a state of affairs which, viewed from any standpoint, constitutes a fragrant breach of that ideal of trusteeship of native races. 

Migrant reserves brought a lot of despair, disruption and dislocation to the families and communities of the workers who were leaving them. The migrant workers were not being paid much and were living in terrible working conditions while also being very far from their loved ones. In order to regulate the flow of migrant labor, Northern Rhodesia, Nyasaland and Southern Rhodesia signed a tripartite agreement in 1936. This agreement was known as the Salisbury Agreement and stipulated that:

Any quotas for the gold mines in South Africa were to be subjected to three “cardinal principles”: (1) that the preservation of the social structure of native life must be the first requirement; (2) thereafter the reasonable needs of the three Territories should have prior claim on any available surplus'; and (3) “the Rand mines should only be entitled to draw upon any further surplus remaining over after the first two requirements had been met”.

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7 Ibid.
8 Ibid.
9 Ibid.
However, this agreement did not hold long and in order to meet the resulting new labor demands of the Rand (the gold bearing reef around Johannesburg), the Witwatersrand Native Labor Association (WNLA), the recruiting organization of the South African Chamber of Mines, began to scour the entire sub-region in search of recruits. The Rhodesian government was upset by this because WNLA was offering better wages and better contracts to the black Africans in Rhodesia than they were being offered by their own employers; hence many black African workers began to leave Rhodesia and go to work in South Africa as migrant miner laborers. It is during this moment that many Shona speakers began to refer to South Africa as “Wenera,” and South Africa for many Zimbabweans began to be wholly synonymous with the mining union. Given the time, “Wenera” was not a good place, or a place of escape, it was a dark, dangerous place that was taking many black African men from their families and sometimes they would not come back at all or they would come back terribly sick from working in the mines.

There is another word in Shona that is still used today that was also born out of the same historical time period: “Ngochani.” The word today is used to refer to a homosexual man and has become a derogatory word used to insult gay and lesbian people in Zimbabwe. The word “Ngochani” derives from the Tsonga word “bankontshana” that when loosely translated means “Wives of the Mines” in South Africa. “Wives of the Mines” were young boys who would go to the mines and serve as “wives” to the older more established men in the mines. In his book Going for Gold, T. Dunbar Moodie documents interviews with miners in South Africa, conducted by Vivienne Ndathse, who describes their relationships with other boys in the mines and what this meant to them and those around them. One such man is Philemon, an old-
Tsonga-speaking Shangaan man who had worked on the mines from the late 1940s to the early 1960s. He described this relationship with boy wives to be part of a longer existing Xhosa traditional practice, called *ukumetsha* in which young adolescent boys penetrate each other’s thighs as preparation of becoming grown married men who would then have sex with their wives.\(^\text{10}\)

Philemon says,

> As part of their normal duties, boy wives would wash and iron their husbands’ clothes and pack everything neatly. They did not wait to be told because it was their job. In the evening the boy would have to go and join the *xibanda* “his husband” on his bed. The *xibanda* would buy a bicycle for his boy and buy him many pairs of trousers and many blankets.\(^\text{11}\)

*Ukumetsha* indicates that queer practices were already present among different indigenous groups in southern Africa. These queer cultural practices, carried in the indigenous languages were present long before colonization happened and continued to exist even during colonization. The mine offered these men a place to modify the place and meaning of activities such as *ukumetsha*. As the environment of these men and their families was changing so did their queer rituals. *Ukumetsha* often happened before marriage as a way to prepare for what was to come but now a new practice of the “bankontshana” was birthed as a response to the new familial landscape that was unfolding largely due to the colonial disruption. Same-sex relations among peers and among men of different ages were common in many southern African societies.\(^\text{12}\) In 1883, for example, the Basotho chief Moshoeshoe testified that there were no punishments under customary law for “unnatural crimes” (which he also claimed were

\(11\) Ibid.  
While the European colonialists ostensibly sought to repress and criminalize such relations, some of the conditions they introduced actually fostered them. This occurred among migratory workers in South Africa, especially miners. By the beginning of the twentieth century, the English had become aware of widespread homosexuality in gender-segregated work settings. According to the 1907 Taberer Report:

> It appears to have become a well-recognized custom among the mine natives recruited from the East Coast to select from the youths and younger men what are termed *amankotshane* or *izinkotshane*. An *inkotsahne* may be described as a fag and is utilized for satisfying the passions. Any objections on the part of the youth to becoming an *inkotshane* are apparently without very much difficulty overcome by lavishing money and presents upon him...An *inkotshane’s* duty appears to be to fetch water, cook food and do any odd work or run messages for his master and at night to be available as bedfellow. In return for these services *inkotshane* is well fed and paid; presents and luxuries are lavished upon him.\(^\text{14}\)

The report exemplifies the reductive way that the colonial government viewed these queer relationships as they were being framed largely as transactional relationships of convenience. From the interviews gathered by Ndathse this was not the case. These queer relationships were complicated and often times spanned a wide spectrum of meaning ranging from deeply romantic to extremely casual. According to Philemon and other miners documented in the interviews sometimes the boys would even go through a marriage ceremony and officially become wives. These queer relationships on the mines seem to have taken place exclusively between senior men (men with power in the mine structure) and young boys.\(^\text{15}\) In fact an entire set of rules governed these relationships, whose parameters were well known and enforced by black compound

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\(^\text{13}\) Ibid.


\(^\text{15}\) Ibid.
authorities.\textsuperscript{16} In the mine, compound marriages were an elevation above boys having discreet relationships with older boss boys or men in the compound. Mine marriage implied more than casual sex. These relationships were exclusive and respectable among the men and once a boy became a wife he could no longer talk to other men who were not his husband. In 1976, certain rooms specialized in mine marriages where all the men there would sleep in pairs with their wives.\textsuperscript{17} Inside the room, the men would not make love, although when drunk would openly kiss their wives, until everyone went to “sleep.”\textsuperscript{18} According to Philemon, among Shangaans (an ethnic tribe present in Zimbabwe today) “mine marriages” were taken for granted by women (including wives) and elders at home, and relationships might extend beyond a single contract (when the time to go back arrived, one partner would inform the other through a letter so that they could meet at a stipulated place).\textsuperscript{19}

Yet, in Xhosa culture, according to another interviewee people did not openly admit to it and expected it to be done discreetly even though they were all aware of the occurrences. \textit{Ukumetsha} or any form of queerness was condemned outright by Christian missionaries, as it did not align with their interpretations of Christianity. To them queerness was abominable and a part of the many “dark” cultural practices that indigenous people were engaged in. As part of the larger colonial project many of these missionaries also had schools where they encouraged young Africans to go to “seek knowledge” and also indoctrinate them at a young malleable age to turn away from the ways of their forefathers. These young Africans would grow up to form the urban post-colonial African elite, who because of their missionary education internalized the belief

\textsuperscript{16} Ibid.
\textsuperscript{17} Ibid.
\textsuperscript{18} Ibid.
\textsuperscript{19} Ibid., 175.
that queerness was repugnant. It is these African urban elites who would go on to become the new rulers of the coming Independent states and proceed to term homosexuality as “un-African.”

Further examination of southern Africa reveals a very rich and extensive existence of queer traditional practices that cut across ethnicities, borders, gender and language. As early as 1719, Peter Kolb mentions, Khoi-Khoi males, called koetsire were sexually intimate with other men. Among the Herero--matrilineal Bantu agriculturalists and pastoralists (presently found in Namibia) special friendships (oupanga) included anal sex (okutunduka vanena), as well as masturbation. Some years earlier; the missionary Johaan Irle, in denouncing Herero morality, cited Romans 1:18-31 (about men forsaking the natural use of women and burning with desire for each other) to indicate their sexual transgressions. When he challenged their sexual practices, the Herero nonchalantly replied that they had grown from childhood in their natural way. In Monica Wilson’s 1951 book based on her fieldwork in the 1930s among the Bantu speaking Nyakyusa, agriculturalists northwest of Lake Nyasa (in present-day Tanzania), includes a fascinating description of a society in which age-grading is the central organizing principle. The inhabitants of each village contained only one generation of males, spanning five to eight years. Wilson observes that,

The peculiarity of the Nyakyusa consists in the fact that contemporaries live together permanently through life, not merely as bachelors... The Nyakyusa themselves associate living in age-villages with decency in sex life--the separation of the sex activities of successive generations, and the avoidance of.

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21 Ibid., 173.
22 Ibid., 174.
24 Ibid., 175.
incest...The emphasis on the separation of parents and children is matched by the value laid on good fellowship (ukwanga) between contemporaries.\textsuperscript{25} Despite the exceptional gender segregation, an “exceptionally reliable informant” told Wilson that a man “never dreams of making love to another man” and that “not many cases of grown men having intercourse together come to light, but only of boys together or of a man and a boy.”\textsuperscript{26} The informant goes on to say:

When a boy sleeps with his friend they sleep together, it is not forbidden. Everyone thinks it is all right. Sometimes when boys sleep together each may have an emission on the other (bitundanila). If they are great friends there is no wrong done... Boys sometimes agree to dance together (ukukina) and work their evil together and there is no wrong... Boys do this when they are out herding; then they begin to dance together and to have intercourse together. To force a fellow to do this is witchcraft (bo bulosi); he is not a woman. But when they have agreed and dance together, then even if people find them, they say it is adolescence (lukulilo), all children are like that. And they say that sleeping together and dancing is also adolescence.\textsuperscript{27}

Analysis of this account brings many things to the fore surrounding sexual practices in the region at the time. Firstly, it is evident how queerness is present but operates differently with different rules and ways of understanding depending on the indigenous people and their own cultural principles. Secondly, the presence of complicated homoerotic relationships between men and women was something that was not shunned or denounced, instead it was largely accepted and respected across the region.

A fundamental difference between then and now was that same sex relations operated outside the heteronormative norm that we are accustomed to today that seems to suggest that one of the two people engaged in a queer sexual encounter must subordinate themselves and take on the role of the submissive, an expectation derived from patriarchal norms of understanding sexuality and sexual acts. And in the mines

\textsuperscript{25} Ibid., 175.
\textsuperscript{26} Ibid., 175.
\textsuperscript{27} Ibid., 175.
this patriarchal understanding of queerness is very much present and is present in the name “boy-wives” where the young boys are taking on the role of a wife. Even though these roles carried a heteronormative understanding of homosexuality they were still making room for queerness without denouncing it as abominable.

In the mines, the roles of who was a wife and who was a husband were dependent on the age of the male miners. Young men in their twenties, recently new to the mines, were almost always the boy-wives and spent many of their years as such until they rose up the ranks.\textsuperscript{28} It is important to restate that these varying forms of queerness, whether in the mines or the rural areas, were fluid and complicated. Recognizing their complexity enables us to fully understand how deeply engrained queer practices were in the social texture of people at this time. Importantly, the migrant laborers of the time moved across borders that held a shared fluidity and nuance when it came to the understanding of sexuality even if this fluidity was one receiving immense resistance from the colonial powers of the time in southern Africa.

Zimbabwean common law was created in 1891 by the British South Africa Company (BSAC) settlers arriving from Cape Town.\textsuperscript{29} The Cape had previously been governed by the Dutch and so the common law of the Cape (subsequently of Zimbabwe) was Roman-Dutch law. The BSAC settled in Rhodesia under a charter granted by Queen Victoria which held that in cases concerning “natives,” customary law would apply so long as the particular custom was not deemed to be “repugnant to natural justice or morality.”\textsuperscript{30} It is immediately apparent not only that a whole discourse of morality and law is being introduced, but that the morality of the late Victorian

\textsuperscript{29} Ibid., 19.
\textsuperscript{30} Ibid.
period was equated with notions of “natural justice.” Unsurprisingly, therefore, sexual relations tended to fall under common law rather than customary law, and various customary practices deemed to be immoral or unnatural were gradually eased into marginality by the settler administration. In effect, these colonial laws marked anyone who engaged in any form of queerness a moral fugitive.

These ideals of order and discipline were not only reflective of metropolitan concerns, but became imprinted more definitively on the lives of the colonized as the colonial state relied on an internalized understanding of this new cultural fugitive. The cultural sexual fugitive as defined by the colonial powers was any individual engaged in forms of queerness. The cultural sexual fugitive was an extremely threatening presence because she undermined the heteronormative patriarchal foundation on which the colonial states were built. When independence came to Zimbabwe the reimagining of what a nation is and how it functions maintained this colonial heteronormative patriarchal structure. Thus, all queer forms of sexuality were outlawed and remain on the margins of society in Zimbabwe.

The 1990s were a time where some southern African countries were coming out of a colonial moment and entering a post-colonial moment, which meant creating and building post-colonial states with a particular historical narrative that would shape the present consciousness of individuals living in that moment. It became of paramount importance to define the independent state as an anti-colonial state with anti-colonial laws. In doing so, the post-colonial imperative turned to locate and resuscitate some pre-colonial traditions while also renouncing others, especially and specifically the politics of sexuality in southern Africa.31 In 1995, the then president of Zimbabwe

banned The Gays and Lesbians of Zimbabwe (GALZ) from the Zimbabwe International Book fair stating that homosexuality is an anathema to African culture. Namibia’s President Nujoma, joined Mugabe and stated that homosexuality was borrowed from the West during the colonial era.\textsuperscript{32} This rhetoric stems from the popular discourse formed during this moment that marked homosexuality historically, geographically and racially as colonial and un-African.\textsuperscript{33} As already established it is folly to declare that homosexuality is a colonial relic when the colonial state itself went to great lengths to outlaw homosexuality. Thus this historical revisionism erased the queer indigenous culture that was a very much part of precolonial southern African life. The formation of the body politic and the nation was thus built upon the formation of heterosexual identity as a necessity for defining the new anti-colonial nation, with homosexuality being viewed as a threat to the formation of this nation.

Nationalism is thus produced through a gendered and familial narrative, wherein males are positioned as the owners of the nation and women are centered as the most prized objects of the nation. In other words, when the new nation was being formed it was framed from a male perspective wherein the liberation heroes were men and not women. Robert Mugabe was dubbed the “father of the nation” and this ideological understanding of the president was reflective of how men were seen in Zimbabwe, as the head of the houses and thus as the protectors of the house and by extension the nation. Women in this framework are the helpers, the ones who sang chants and cooked food for the soldiers. In this heteronormative binary structure, the queer individual is an anomaly that must be squelched otherwise she threatens the validity of this structure.

\textsuperscript{32} Ibid.
\textsuperscript{33} Ibid.
Subsequently, in the 1980-90s, the sexual activities of people living throughout the southern African region were alternately assumed and allocated increasing significance as social markers. Botswana, Namibia, Swaziland, South Africa, Zambia and Zimbabwe all witnessed unprecedented public discussion of the proclaimed rights or declaimed immorality of sexual activities between people of the same sex. Movements calling explicitly for “lesbian and gay rights” mushroomed in each of these states, both as a result of governmental derogations of such rights, and as a result of individual affirmations of social identities which deliver these rights. Accounts of the establishment of these organizations suggest a global process of transformation whereby a variety of non-procreative same-sex behaviors become homogenized under the rubric “gay” or “lesbian.” These identities are not simply imposed through an imperialistic cultural discourse or dominance, but they are actively assumed and proclaimed from below, by those marginalized in these hegemonic formations.

In the 1990s, Zimbabwe took a very sharp turn against homosexuality. In 2000, Zimbabwe’s first President Canaan Banana appeared before the Supreme Court being charged with sodomy, defined in the Zimbabwean Constitution as “unlawful and intentional sexual relations per anum between two human males,” and sexual assault. Banana’s aides claimed that he had forced to perform sexual acts they were uncomfortable with. The case was heard before the Supreme Court and Banana was found guilty of 2 counts of sodomy, 7 counts of indecent assault, 1 count of common

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34 Ibid., 17.
35 Ibid.
38 Ibid.
assault, and 1 count of committing an unnatural offence. Interestingly, the laws used to trial and sentence Banana were laws inherited from the British and had not been changed at independence. Soon after the case in 2004, the Parliament promulgated the Criminal Law (Codification and Reform) Act which states that same-sex relationships and acts are criminal. This case symbolically marks the moment in Zimbabwean public discourse where homosexuality was shunned and shamed as an “unnatural” Western phenomenon. Efforts to decolonize African nations thus involved a sanitizing of precolonial African sexual practices so that queerness became likened to Europeaness. As mentioned, many of the Africans in southern Africa who were coming to power were part of the African Christian elite, who harbored a strong desire to leave homosexuality in the precolonial past. This anti-homosexual law passed in Zimbabwe is what marks Zimbabwe and South Africa as inextricably different in their legal approaches to regulating sexuality even though they shared a similar interconnected, fluid, queer past. This is something that determines how queer immigrants conceptualize going to South Africa in the contemporary moment. Before turning to how the Zimbabwean queer immigrant envisions South Africa it is important to first examine how homosexual identity operates in South Africa after 1994 and how the law seeks to protect the queer individual in South Africa.

Homosexual Identity in South Africa.

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40 Ibid.  
In 1994 South Africa became the first country in the world to include an explicit ban on discrimination based on sexual orientation in the judicially enforceable Bill of Rights of its Commission. Following this, the new South African Constitution, drafted in 1996, had a similar clause, in article 9 (3), which states:

The state may not unfairly discriminate directly or indirectly against anyone on one or more grounds, including race, gender, sex, pregnancy, marital status, ethnic or social origin, color, sexual orientation, age, disability, religion, conscience, belief, culture, language and birth.

This clause was a hallmark clause in South Africa, southern Africa and the world because at the time it was written most countries across the world were still maintaining that an individual could be legally punished by the state because of their sexual orientation. Even for South Africa, during Apartheid many men and women were taken to jail under the previous sodomy laws established during the time of colonization. So this clause marked a time in history when the state, through the law, was protecting individuals and affording them the legal right to fully express their sexuality without fear of punishment. South African author and academic, Pierre De Vos, puts it in another way and offers this moment as an example of the law as an important site of struggle. Specifically, the site of struggle here is pro LGBTQ rights activists using the law as a weapon to help fight against anti-LGBTQ sentiments. In saying this De Vos raises an important point about how the law, particularly the discourse of constitutional rights, can be a weapon, or even an instrument of effecting power in favor of and also against subjugated or oppressed groups. In another way, De

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Vos alerts us to how the Constitution can be used as a weapon to fight for or against human rights as it were.

However, in looking at the clause as an example of the law using its power to protect and elevate queer individuals in South Africa, it becomes critical to understand all the assumptions made in the clause and to address some of the questions raised by these assumptions such as: Who is “anyone”? What is the state?, and how does having a clause protecting people of all sexual orientations shape public discourse and action? How is the law enforced?

Defining and Investigating the Citizen

The South African Constitution in Section 3, article (2) states that:

All Citizens are--

(a) equally entitled to the rights, privileges and benefits of citizenship; and

(b) equally subject to the duties and responsibilities of citizenship.

However, unlike some Constitutions it does not specifically state who is or how one may become a citizen of South Africa, it simply continues to state that:

(3) National legislation must provide for the acquisition, loss and restoration of citizenship.

In this way even though all citizens are entitled to certain rights and liberties, the defining of who is out and who is in, is left to the Legislature. And the South African Citizenship Act of 1995 clearly delineates who the citizen is: a person born in South Africa, a descendent of a South African, an individual who marries a South African

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(heterosexual or homosexual relationship), and an individual who after living legally in South Africa as “an alien” can then naturalize into South Africa.\(^45\) Therefore, according to this Act the people who the Constitution can protect are those who are South African. But the Constitution also begins with a preamble that states that South Africa belongs to all those who live in it.\(^46\) Living in South Africa does not mean that one has to be a citizen of South Africa. With this in mind then a queer individual living in South Africa can thus make a claim to the Constitutional protection that is in Article 9 (3).

This glaring contradiction in the premise of the Constitution is an example of a tension between Constitutional rights (which are national and meant for citizens) and Human Rights (which are global and are supposed to transcend citizenry). The South African Constitution was drafted by people who had a Human Rights framework and used this Human Rights framework to envisage South Africa’s Constitutional laws for its citizenry. In their essay, “Treading on Dicey Ground: Citizenship and the Politics of the Rule of Law,” Johnson and Kuttner make a distinction between Constitutional Rights and Human Rights by arguing that Constitutional Rights rely on an impress of common nationality and national character.\(^47\) This then begs the question of what Human Rights rely on and where they find their own fundamental meaning?

Human Rights are founded upon a recognition of all people’s humanity. Soon after the second world war all the nations gathered and declared that the protection of human life against tyranny and terror was of paramount importance and transcended


nationality. Yet, often people’s access to Human Rights is dependent on their citizenship and nationality. Hannah Arendt traces back the origins of human rights to the framework of the state.\(^{48}\) In *The Origins of Totalitarianism* Arendt argues that, because of the secularization of the state, human rights were no longer predicated upon an inalienable source such as God but upon the state. This implication meant that human rights therefore were inextricably blended with the question of national emancipation. Arendt goes on further to say that because of the connection between human rights and citizenship those individuals who found themselves stripped of their citizenship or statehood and found themselves simply relying on just their humanity were not guaranteed human rights as stated in the Declaration of Human Rights. Human Rights were birthed from a non-secular Liberal thought that assumed the divine and miraculous nature of human beings and fought to protect all people simply on the basis of their humanity. Yet, once the Church was removed, there was still a need to hang onto Human Rights, but without the divine to rest upon, the value of being human then became dependent on territory. Arendt posits this notion in a different way when she says that the Rights of Man, supposedly inalienable, proved to be unenforceable, even in countries whose constitutions were based upon them—whenever people appeared who were no longer citizens of any sovereign state. Thus, when looking at South Africa’s Constitutional phrasing, “all those who live in it” even though it may harken to a Human Rights framework, this framework also relies on a national citizenship and not really on a transcendental humanity. Now, we understand who the “anyone” in the Constitution really refers to, so we know that the queer individual being


protected by the state is a South African citizen. The next question then becomes how does the South African queer individual live in South Africa? What does a modern state structured to protect queer individuals look like?

**Defining the Modern (Queer?) State**

The formation of a modern state necessitates the formation of a citizenship, and simultaneously, the formation of the non-citizen which can be understood as the immigrant or the refugee. The South African state is a fairly new state that came into conception, as we know it today, in 1994 when it broke free from the Apartheid regime that began in 1948. Arguably, South Africa is built on the ideology of a modern state, which can be defined as a sovereign nation free to rule and govern with its own sets of rules, listed in the Constitution. Understanding the formation of the modern state is important as it helps to parse out specifically who in the South African Constitution is protected and the consequences of such a definition. Many authors have offered their understandings of what the sovereign modern state looks like and explained the assumptions underlying its formation. Galina Cornelisse, a distinguished voice in Human Rights and Immigration discourse, argues that the modern state is built upon the idea of *territoriality*, which she defines as the founding of political authority on demarcated territory.⁴⁹ Demarcated territories are marked by geographic borders that in one sense indicate the end of a sovereign state, but also in another way create an “in”

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and an “out”; and South Africa is one such country. Thus, demarcating where the “in” and the “out” begin creates “the insider” and “the outsider”. This then puts into focus the “anyone” referenced in the South African Constitution because this individual must be a South African to be afforded the protection against prejudice and discrimination for their sexual orientation. If this is the case what does this mean for individuals who finds themselves in South Africa as “aliens”?

In “Queering International Human Rights Law,” Wayne Morgan posits that, in its modern bureaucratic form, the nation state has a will to define and control any assertion of identity, especially those it perceives as deviant and threatening. The maintenance and reproduction of the “nation state” depends upon such control and is surely the ultimate example of identity construction writ large. The ideas which control our conception of any given country, South Africa for example, are produced in a variety of ways, but the one thing these constitutive ideas have in common is that they all involve an assertion of borders, of “us” and “them”, of ‘inside’ and “out”. The narrative of nation regarded in this light, functions according to the same binary logic which produces the homo/hetero opposition. There is then another tension that arises here: using the human rights framework appears to be problematic because the individual who is seen as the outsider by the state cannot be protected by human rights law. Morgan speaks to this and says that human rights law normalizes, it takes the abuses suffered by those who assert difference, and manipulates their experiences to make them compatible with the structures and imperatives of the mythological nation

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51 Ibid., 223.
52 Ibid., 223.
53 Ibid., 223.
state.\textsuperscript{54} An example of such manipulation will be discussed further in the next chapters when examining how queer South Africans can employ homophobia towards queer immigrants simply because the state has constructed their queer identity around their citizenship. The next section circles back to an earlier raised question that asked how Zimbabweans including the queer Zimbabwean conceptualizes South Africa, taking into account that news of South Africa’s seemingly progressive Constitution has for years permeated Zimbabwe via media, word of mouth and movement.

**Imagining South Africa**

In 2011, Nox, a popular Zimbabwean artist released a song called “Wenera.” In this song, he talks about going to Wenera--the indigenous Shona name for South Africa--and having such a great time that he may not come back. The opening verse goes:

\begin{itemize}
  \item \textit{Tiri kuspakwa} (We are having fun)
  \item \textit{Tiri paWenera} (While we are in South Africa)
  \item \textit{Tiri kusparkwa} (We are having fun)
  \item \textit{Tichi ita misikanzwa…} (We are being naughty)
  \item \textit{Ndichauya paNext Year} (I will come Next Year)
  \item \textit{Tichachange tiri paNew Year} (We will be there at the New Year).\textsuperscript{55}
\end{itemize}

When Nox sang this song, “Wenera” was not a word that many young Zimbabweans were familiar with. He was resuscitating this word that comes from a different generational period before Zimbabwe’s independence. However, the depiction of South Africa he creates is one that is familiar to many young, urban and rural Zimbabweans who see South Africa as a place to escape to, a place where one can be naughty, live luxuriously, have fun and above all be free. 2011 is an important year because it is two

\textsuperscript{54} Ibid., 212.
years after Zimbabwe experienced a mass economic downturn that saw the country go through one of the worst hyperinflation cycles to be recorded on the African continent.

Zimbabwe’s economy after independence, 1980, was extremely strong and growing rapidly. It was an economy dependent on agriculture, mining and the exportation of raw materials. However, since 2000 Zimbabwe’s economy began to fail largely due to political instability. The ruling party ZANU-PF at the time was headed for elections and wanted to ward off inroads that were being made by the opposition party MDC, which was led by the late Morgan Tsvangirai. In an attempt to do this, the government under the direction of Robert Mugabe, the then president and head of ZANU-PF, led a land redistribution campaign which included a mass violent land seizure program. This land seizure program had enormous economic consequences: tax revenues declined precipitously and the authorities appeared to turn to the central bank in order to make up for collapsing tax revenues, by recourse to monetary financing. The large increase in the money supply was accompanied by very high levels of inflation. Zimbabwe’s official inflation rate was the highest in the world by the mid 2000s. Average African inflation stood at 6.1 per cent in 2007 and averaged 7.5 per cent for the 10 years prior to this. Average global inflation stood at 3.8 per cent in 2007 and averaged 4.1 per cent in the 10 years prior to 2007. Zimbabwe’s inflation rate was 66,200 per cent in 2007 and averaged 6,900 per cent for the previous 10 years, a clear outlier. In April 2009, almost 10 years of very high inflation came to an

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57 Ibid.
58 Ibid.
59 Ibid.
60 Ibid.
61 Ibid.
end in Zimbabwe and the Zimbabwe dollar was suspended. In place of the Zimbabwean dollar, Zimbabwe began using the South African Rand, the American US dollar and the Pula from Botswana. However, the national official currency became the US dollar. While the inflation rate rose, the rate of unemployment also rose and many people found themselves without jobs or means to support themselves and their families. This macro instability that began in the early 2000s is really what motivated many Zimbabweans to leave Zimbabwe in search of employment somewhere else. Many people sought economic refuge in South Africa, a country that, from the outside, seemed to be doing much better and to be full of many opportunities for the mass number of job seeking Zimbabwean immigrants. And so many Zimbabweans began to work in South Africa and send back money which would be received and converted from Rands to US dollars so that people could buy food and survive.

So “Wenera” comes at a historical moment in which South Africa is viewed by many Zimbabweans as a place of refuge, escape and freedom largely due to the many Zimbabwean immigrants who found a new home in South Africa and relayed only news of success and happiness back to their relatives. This song was released during the Christmas holiday and instantly became a hit because it encapsulates how many “jon jons”—the name given to Zimbabweans living and or working in South Africa—portrayed their lives in South Africa to loved ones back in Zimbabwe. The Christmas holiday is also the time when “jon jons” come back with a lot of groceries and clothes and an excess of materials, such as radio sets, cell phones and television sets, all indicating wealth. Hence, for many young Zimbabweans South Africa presents itself as a place where the grass is greener. In Zimbabwe today, South Africa is seen as a

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62 Ibid.
progressive country where “anything can happen” and people can let go of strict conservative morals held in Zimbabwe and be “naughty” as Nox sings.

Nevertheless, is the grass truly greener in South Africa? Is this depiction of South Africa that Nox, and the returning “jon jon’s” espouse accurate? The next chapter will aim to answer these questions and particularly ask how the queer Zimbabwean who travels to South Africa encounters South Africa, its people and its laws. The next chapter will argue that South Africa is the destination of death for the queer immigrant and not the land of milk and honey portrayed in the media and in public and private discourse.

Chapter 2

Arriving in South Africa: Destination of Death.
Someone has to tell these stories. These people deserve to be given a name, their stories deserve a certain visibility. Writing these words is the only way to rescue our collective selves from erasure, which, I think is the principal goal of homophobia.

Nigerian Poet, Chibuihe Achimba

“We, the people of South Africa...Believe that South Africa belongs to all who live in it, united in our diversity” –Preamble to the South African Constitution
Definition of Terms:

**Queer:** i) An umbrella term to refer to all LGBTIQ (Lesbian, Gay, Bisexual, Transgender, Intersex and Questioning) people; ii) A political statement, as well as a sexual orientation, which advocates breaking binary thinking and seeing both sexual orientation and gender identity as potentially fluid; iii) A simple label to explain a complex set of sexual behaviors and desires. For example, a person who is attracted to multiple genders may identify as queer; iv) A word that may also be used to describe a positionality of being an other and a threatening presence that goes against the set standard norm.

**Immigrant:** An individual who comes to live and work permanently in another country, from another country. They can either have legal paperwork or sometimes not have the legal paperwork.

**Migrant:** An individual who temporarily visits the city to work contractually then returns back to the rural area or areas away from the city.

**Pariah:** An individual or individuals viewed as outcasts in the community who are dehumanized and othered by the society they find themselves in.

**Double Pariah:** An LGBT immigrant who finds themselves in a queer position because of their immigrant status and is also visibly sexually queer.
The Double Pariahs

This chapter argues that the queer immigrant finds themselves to be in a position where they become what I call a double pariah arriving and trying to live in a state that is causing their slow death. The first chapter focused primarily on how the Zimbabwean queer immigrant imagines South Africa in their consciousness and how this imaginary is created through music, television as well as the history of movement and queerness that has existed in Southern Africa. This perception of South Africa as the escape and site of freedom economically, socially and sexually is perpetuated by the South African Constitution which stands as an example of what a progressive, Constitution can look like. A Constitution that declares protection for all who live in South Africa, proclaims to protect the human rights of all including women, queer folk, and the economically disadvantaged. When on the outside looking in, this is the perception one has of South Africa as a nation, “the Rainbow Nation,” a haven for all and when one is living in Zimbabwe, a country that is aggressively homophobic and in an economic crisis, South Africa quickly becomes inviting.

However, this chapter will extensively interrogate what arriving in South Africa actually looks like and engage with theories of the violence that immigrants face when they arrive in South Africa such as homophobia and xenophobia. Specifically, engaging with these sites I argue that the immigrant position itself is a queer position and then go on to look at the history of immigration, xenophobia and homophobia in South Africa, particularly focusing on Johannesburg. The positionality of the immigrant varies depending on the immigrant’s gendered position, male, female, gender non-binary, on their socio-economic class, race and most importantly on their documentation status a
student, a refugee or an asylum seeker. The focus of this thesis and chapter is the black, working class refugee and or asylum-seeking queer Zimbabwean immigrant. It is important for this work and argument, when engaging with the discourse on immigration and the position of immigrants in South Africa, to center the black, low-income refugee/asylum seeker immigrant identity because it is this identity that clearly exposes the systems that end up placing the immigrant in a position of otherness, marking them as the outsider, the fugitive, the queer figure within the nation-state.

So, the African immigrant is a queer position because it is an alienated position, the immigrant lives in society but is not of the society. This positionality is queer but not sexually, it is a queer position because the immigrant poses a threat and is treated as a contagion that must be exorcised out of the society and out of the state in which the immigrant seeks welcome. The queer immigrant that I focus on and write about is queer in two ways, in the way they interact with the state as the outsider and fugitive, and also in the way they sexually identify—hence they adopt a double queerness. This double queerness is a dangerous position that marks the immigrant as a hostile subject existing in a destabilizing environment, as the double pariah.

Understanding such an existence is difficult and capturing such nuance is even harder especially when engaging theory which tends to abstract and generalize individual experiences. Yet it is not impossible, especially if we seek different source materials that center the human story and lived experience and use such materials as the foundation of the arguments and theories we use to understand complex topics such as migration and immigration in the world today. One such source material that will feature in this chapter and has already appeared in the previous chapter is the novel Welcome to Our Hillbrow by Phaswane Mpe. The novel is a realist post-colonial text
that engages with many themes mostly centered around the densely-populated township in Johannesburg, Hillbrow. At the time this text was written, 2001, Hillbrow was one of the most culturally diverse areas in Johannesburg. It was also one of the world’s most dangerous places to live in and geographically it was and still is the center of Johannesburg and the first place of arrival for all who are coming to Johannesburg and South Africa, because the biggest African bus and train station, Park Station, is located in Hillbrow. Post-colonial realism is an important and critical literary genre because it is one of the key ways that Africans conceptualize who they are, who they want to be, and who they have been. The realist novel especially in the 70’s and 80’s often raised questions of nationhood, collective and individual identity and rewrote histories that had either been erased or reduced to serve the mission of empire.

Consequently, when South Africa dismantled the Apartheid state in 1994 many authors were writing, thinking and contributing to the discourse about what the new South Africa and its people were. Among such texts is Mpe’s novel and it really stands out because of its critical eye which questions the concept of the nation, particularly the “Rainbow Nation” which was purported to be a welcoming, progressive, united nation. Mpe uses realism to engage with lived experiences of individuals who are on the margins of this new South Africa: immigrants, queer people, queer immigrants, working class South Africans, women and urban dwellers. These individuals are being broadly swept under the rug because they do not fit in the image of the “Rainbow Nation,” in fact, they expose the failings in the professed inclusivity of the “Rainbow Nation” discourse. Welcome to Our Hillbrow then becomes a fundamental text to critically engage with when thinking about xenophobia, homophobia and the
intersection of these two forms of violence especially for the double pariah, who features in Mpe’s text as the contagion and fugitive the nation refuses to welcome.

When Mpe writes about Hillbrow, he constantly repeats the title’s refrain: “welcome to our Hillbrow.” This sets up the book’s concern with a guest/host dynamic and it is never clear who the guest and the host are. These two positions are not static. In French, the word for host and guest is the same – hôte — and this is interesting to note when thinking about black South Africans as hosts and guests, simultaneously, in South Africa. Before 1994, non-white South Africans, especially black South Africans, were often not considered to be citizens of South Africa. Under Apartheid rule, which lasted for more than three decades, black South Africans were aliens in the land they called home. They were “guests” in their own home. And then when 1994 came and a new South Africa was born many South Africans found themselves in a situation where they were told to wipe away, forget and shelve the trauma of all the years they were aliens’ when South Africa was not free and all were not equal. The focus, post-Apartheid, was to establish a united nation that cut across race, class and ethnic lines. Doing this had the consequence of a nation that now carried a collective unaddressed trauma, which went unrecognized in the new Rainbow Nation.

Within surveyed understandings of what it means to be South African, most South African citizens believe that, immigrants can never be fully accepted. On a social level, David Everatt, author of *Xenophobia: State and Society*, emphasizes that there has been a failure to address the ways in which conquest and oppression may

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63 Non-white South Africans were put in what the Apartheid Government called Bantustans, which were regions of land around South Africa where black South Africans were placed depending on their ethnicity. Most of them were often in inarable land and densely populated.

have injected a poison into the body politic.\textsuperscript{65} This poison Everatt mentions is one way of understanding the violence that erupts and targets queer immigrants, and the double pariah.

Something else that had to happen for the Rainbow Nation to thrive, economically, was to sacrifice the economic liberation of black South Africans and do very little to redress the economic generational inequality Apartheid had created. Today, South Africa’s income inequality ranks high in the world, with an unemployment rate of 26.6\% (as of 2016) where according to the National Data Agency, 55\% of the population live on less than $75 per person per month.\textsuperscript{66} The majority of the people who are unemployed and or living in dire economic circumstances are black people who twenty years later have still not managed to bridge the economic gap that the Apartheid government set up. Yet, South Africa is also the second largest, and strongest economy on the African continent after Nigeria.\textsuperscript{67} The Rainbow Nation as an ideology served to offer solace to black South Africans who encountered difficulties in the new South Africa or were disillusioned by the continued mass economic disparity. What mattered now was that all in South Africa were South Africans and this identity was integral and ought to be protected with everything the nation had—rich or poor, black or white—all are South African citizens part of the Rainbow Nation.

As with many identities, this new South African identity was built on the bedrock of rejecting all who were not South African; it was built on a strong sense of


exceptionalism. South Africans expressing the view that the country is a paradise to the rest of Africa points to a pervasive attitude of elitism and exceptionalism which has developed into a continental stereotype.\textsuperscript{68} The transition to democracy has been spun into a matter of pride—but with the fused view that the rest of Africa is a strange backward continent characterized by primitivism, corruption, authoritarianism, and poverty.\textsuperscript{69} The socio-economically disenfranchised South Africans become comforted by knowing that at least they are part of this prosperous exceptional state. Their sense of reprieve and validation lies in their relationship to the exceptional state as its citizens and this sense of ownership is what becomes important to protect because without it, they are still second-class individuals living in an unequal country. This framework and way of thinking has produced a homogenizing view of all non-citizens in the country. The scramble to create unity hinges, in part, on what Matthew Beetar calls, a politics of selectively granting life: a process where the state constructs an environment where some people’s lives are more likely to thrive and succeed than others.\textsuperscript{70}

One demographic that struggles to achieve economic emancipation is the middle class, which largely consists of black people. However, the black middle-class has a notion that economic emancipation is much more possible for them than the working-class South Africans even though both groups have slim chances of gaining economic emancipation. The state provides education to all and education is supposed to lead to one having a comfortable life, but in South Africa only 5\% of black students are likely to graduate and of those who do they will enter a saturated market that has no

\begin{footnotes}
\item[68] Ibid.
\item[69] Ibid.
\item[70] Ibid.
\end{footnotes}
jobs for them.\textsuperscript{71} So, this selective granting of life engenders division among different demographics internally but, more importantly, it also allows the state to point a finger at the immigrant and paint her as the reason why people are unable to find jobs or achieve economic emancipation. And this outcast also provides an easy way for the state to build internal unity using the already existing problems that if not for the immigrant the state would have to answer to completely. This is not to say these internal cleavages do not lead to moments of protest or resistance by South Africans against the state because they do. For example, the #FeesMustFall movement which was a movement organized by mostly working-class and middle-class students who were struggling to pay school fees, and dropping out, or taking many years to graduate. These systems of selectively granting life, also allow for a deep resentment and anger to build toward the immigrant.

In 1998 the ANC Constitutional Guidelines read that it shall be state policy to promote the growth of a single national identity and loyalty binding all South Africans. The ideological emphasis of the ANC on an overarching non-ethnic understanding of nationality and belonging translated, on paper, into a post-1994 project of nation building which simultaneously tried to foster a state-wide sense of inclusivity and manage historical divisions and entrenched inequality. The considerable challenge faced by the ANC government was to harmonize what in effect were parallel national identities into a cohesive whole. The open-endedness of this ideal of belonging is captured in the metaphor the rainbow nation.\textsuperscript{72}

This cohesive whole is one that is built by fortifying the exclusion of the non-citizen, black, queer immigrant, whose presence in post 1994 South Africa provides the perfect body to be excluded. The immigrant becomes the landfill site for discarding all that is wrong with South Africa. The citizens in an attempt to hold the Rainbow Nation

together, do not blame the new government for the economic downturn or unmet dreams. Instead all of these problems become a consequence of having the immigrant live among them. And the government, in an attempt to shirk its own responsibility negligently protects the non-citizen immigrant, a stance that goes directly against what its Constitution calls for.

The queer immigrant becomes a double pariah, as they are already excluded from the state by virtue of being an immigrant (a queer positionality) and their queer sexuality also places them on the fringes even among their fellow Pariahs as they also face violence in the form of homophobia from fellow immigrants as well. Thus, the double pariahs are those who are not only in a queer position because of being immigrants but also because of their sexuality. These individuals are the ones whose condition of living exposes the fissure that exists between the South African promise to protect all human rights and the lived reality of death among those living on the fringes, particularly, as non-citizens. To further expose and critically see this fissure, we must closely examine on a granular level what the process of “arriving” looks like for the queer immigrant and the double pariah who live in this space between the promised haven and the reality of the treacherous South Africa. Arrival is a process that historically and contemporarily happens to many people, those from the rural areas, those from different countries, and to understand the moments of violence that have occurred be it homophobic or xenophobic, it is important to trace how all these different people collide with each other in the city, creating frictions that often lead to violent eruptions.

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Arriving in South Africa.

In queer mythologies, the city represents a space where all forms of being and expression can exist loudly and freely. They are attracted to the promise of a more tolerant society and Johannesburg offers this promise and presents itself as the safe haven for the queer individual. Ever since the passing of the new Constitution in 1994, South Africa, and more specifically Johannesburg, has become the mythical queer safe haven for one and all. This is what many queer Zimbabweans who make the trip to South Africa are thinking about and searching for, a place where they will finally feel accepted, and public spaces that will enable them to live freely.

Yet when they arrive in Johannesburg they are frequently met with extreme violence and trauma. In *Performing the Crossing from Zimbabwe to South Africa*, Miki Flockemann reflects on Derrida and says:

> The foreigner is a destabilizing presence in our midst. By [her] mere presence amongst us [she] is posing questions—questions not only of who [she] is and what [her] presence signifies, but ultimately of who ‘we’ are and what we signify in relation to [her].

This reflection by Flockemann is an important one as it speaks to the point that the presence of the immigrant in many ways forces people to fortify their belief in the

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74 Ibid.

75 Miki Flockemann, “*Performing the Crossing from Zimbabwe to South Africa,*” South-North Media Studies, 2010, 245.
nation, the “we” that binds them together. And even in doing so, the immigrant destabilizes this national identity as she makes the “we” question their own presence and position, something that they may otherwise not have done were it not for her. Thus, in many ways, the immigrant awakens the citizen and this may sometimes not be a good thing, as the citizen may now gain consciousness of all the nation’s shortcomings and instead of attacking the nation, attacks the foreigner. This is arguably the case with the xenophobic violence in South Africa.

The arrival of immigrants in Johannesburg has a long and a complicated history. But as we trace this history alongside the contemporary arrival of queer Zimbabweans into Johannesburg, it again becomes clear that the position of the immigrant is itself a queer position. It is a queer position because the immigrant is in a state where she is forced to leave her home and is in a place where she is vulnerable as a fugitive who is living on the outside looking in. In many ways, the immigrant, because of her destabilizing position is treated as the enemy, under threat from all those who consider themselves insiders.

Many of the migrants who arrived in Johannesburg in the 1980s were seeking work as laborers.\(^{76}\) Most of those that arrived worked in the factories or in the mines, and the then Apartheid government built hostels for the people, mostly men, who were working in the city. In *Citizen and Subject: Contemporary Africa and the Legacy of Late Colonialism*, Mahmood Mamdani argues that the migrant worker created tension between the urban and the rural populations as a result of the government’s system of decentralized despotism. Decentralized despotism is the term Mamdani uses to describe the form of indirect-rule that happened in South Africa. Mamdani’s book is

\(^{76}\) And were internal migrants, despite the state’s attempt to strip black South Africans of their nationality.
concerned with the institution of the colonial state and how each colonial state sought to
govern the indigenous (often black Africans) while also governing individuals who
represented the empire (British and Dutch South Africans). Mamdani was one of the
first academics to introduce the concept of the bifurcated state and in a colonial context,
the bifurcated state used two forms of rule: direct and indirect rule. Direct rule
primarily focused on the segregation of the indigenous people and barring them from
civil freedoms such as voting or home ownership in the urban setting. Indirect rule
occurred in the rural areas and was a system which incorporated the indigenous people
into a highly-structured hierarchy that was ultimately supervised by the colonial power.
Mamdani’s work locates the earlier moments when migrants began to pose a threat to
the state as they moved in-between the two forms of rule. This form of indirect rule is
what Mamdani termed decentralized despotism where the oppression is executed by
some of the oppressed onto their own. According to Mamdani, decentralized despotism
was the form of indirect rule implemented by the Apartheid government, and its main
ideological goal was to protect the African from modernity. Decentralized despotism
also aimed to widen the crack or the divide between urban resident and migrant laborer.
The key social link between the two spheres, Native Authority and civil society, is
migrant labor.\textsuperscript{77} Jan Smuts, in 1929, and the Broederbond came with an agenda that
was aware of this link and tried to implement it in the late 1940s but it eventually took
root in the 70s.\textsuperscript{78} The Broederbond, the Afrikaner Brotherhood, was a group of
conservative, nationalist thinking white men who eventually came to enforce Apartheid
as the ruling political system in South Africa. Mamdani argues that because the migrant
worker had a home in the reserves in parts of rural South Africa and in hostels in the

\textsuperscript{77} Mamdani, Mahmood. \textit{The Making of Citizen and Subject in Contemporary Africa}. Princeton
University Press, 1996.
cities, this population straddled the line between both regimes of urban and rural governance.\textsuperscript{79}

Mamdani paints a picture in which the migrants are also divided strategically from the urban dwellers through trade unions and representations. There was an increasing fear from the Apartheid government that migrants were beginning to cross ethnic lines and galvanize urban workers to strike and demand better working rights because migrants were seeing the activist work being done in the reserves.\textsuperscript{80} In response to this growing threat, which resulted in the 1973 Durban Strikes, the Apartheid government changed urban employment policies. In 1977, two government commissions were created: Weihahn –to focus on labor laws, and Riekert— to focus on manpower use.\textsuperscript{81} When the commissions reported back two years later, their recommendation was that:

If African unions remained unregistered, that is to say operating underground and outside the reach of state control, they would in effect function as power groups that would force employers to negotiate outside the statutory system. This would no doubt constitute a rallying point for underground activity: an industrial relations problem would become a security problem.\textsuperscript{82}

The case for a reform of native labor policy having been made, the government moved to devise a new system based on a threshold scheme. Following Riekert, this was an “insider-outsider” strategy that would further entrench the division between urban and migrant labor.\textsuperscript{83} Second, this would introduce a process of registration accompanied by controls that would effectively depoliticize the registered unions and contain their

\textsuperscript{78} Ibid.
\textsuperscript{79} Ibid., 219.
\textsuperscript{80} In the reserves workers were actively forming social groups (unions) and demanding better wages for the work they were doing on the farms.
\textsuperscript{81} Mamdani, Mahmood. \textit{The Making of Citizen and Subject in Contemporary Africa}. Princeton University Press, 1996.
\textsuperscript{82} Ibid.
\textsuperscript{83} Ibid.
activity within the field of industrial relations; and third, a system of plant- and industry level bargaining that would fragment union centers and neutralize their newfound strength on the shop floor. The point was to identify the main fissure in the mass of African laborers being organized by the new unions and to deepen it through a set of reforms the effect of which would be to contain one side by isolating the other.

The distinction between resident and migrant labor already had a legal basis in section 10 of the Black (Urban Areas) Act, which laid down qualifications to be met by Africans who wanted to reside legally in any town for more than seventy-two hours. The Rickert Report identified the holders of section 10 exemptions as the insiders, as distinct from the outsider migrant laborers. At the insiders, it aimed a package of reforms: for the resident urban worker, greater freedom to move between jobs and towns and a preferential access to semiskilled industrial and commercial work. For the small proprietors, an end to restrictions on the development of African trade; and for all, the legal status of permanent urban resident and the right to live with their families. Simultaneously, the government called for a tightening of the regime of influx control at both ends of the cycle of migrant labor: in rural areas, through tightening measures to validate migrant contracts by rural labor bureaus; and at the urban end, by introducing a preferential policy for the hiring of insiders and by imposing heavy fines for employers who did not observe the policy. After all of these policies were introduced migrants found themselves to be outsiders in the city that once welcomed them, erstwhile insiders who were no longer welcome.

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84 Ibid., 244.
85 Ibid.
86 Ibid.
87 Ibid.
88 Ibid.
89 Ibid.
90 Ibid.
Even under Apartheid black migrant workers exposed a strong contradiction in the anti-apartheid movement, because as the anti-apartheid leaders claimed that all black and marginalized people must stand together, there was still a fissure between the urban black and the migrant black, and although this fissure was purposefully created by the Apartheid system many black Africans internalized it. On this Mamdani comments that the migrant worker needs to be seen as the locus of all major social contradictions in South Africa.\textsuperscript{91} I contend that, today, in South Africa, the queer immigrant worker is indeed the new locus of all social and legal contradictions that exist, and must be paid attention to, in order to fully understand these contradictions and challenges. The queer immigrant worker is not the only site of contradiction in South Africa, of course, but is exemplary of this phenomenon. Mamdani writes:

Besides articulating the tensions generated by a market economy—those of class, gender, [race, sexual orientation] and age—migrant labor also came to be the focus of differences reinforced by the mode of rule that was decentralized despotism: the interethnic and the urban rural. As such, it came to be the key link in a complex chain of social relationships. Moving like a conveyor belt between the rural and the urban, it was, ... a class in civil society but not of civil society.\textsuperscript{92}

Similarly, queer immigrant workers today, find themselves in this double bind, where they are a class in civil society but not of it for both being immigrants and also for being LGBTQ—both positionalities placing them in the realm of the queer. But if South Africa in 1994 overturned the Apartheid government how is it that these same “insider-outsider” positionalities still exist today and how have they remained?

These “insider-outsider” positionalities often elicit violent reactions that result in a physical death, but they can also result in a kind of slow death that can be described...
as a living death. Earlier, I discussed how the state selectively grants life, a process that can be understood as the state selectively taking away life from those who are on the periphery, those who are in the state but not of the state. This concept of the state taking away life and engendering slow death is also referred to as necropolitics and is useful in trying to better understand the lived realities of the queer immigrant and the double pariah.

The Necropolitical State

Matthew Beetar engages the question of the death of the queer immigrant through a necropolitical lens and argues that South Africa’s mission to nation build across race and class lines in 1994 inadvertently led to the systemic, continued, exclusion of immigrants. Achille Mbembe’s necropolitical thesis frames a broader project of national self-determination as fundamentally about the power and the capacity of the state to dictate who may live and who must die.93 If we extend

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necropolitical thoughts and reflections on the symbolic co-presence of life and death in a nation, we see how it manifests in the cleavages between citizens and non-citizens.\textsuperscript{94}

Concerned with the social and cultural production of human disposability in the service of sovereignty, necropolitical thought offers a specific engagement with the ways in which some bodies are marked as deserving of life and others disregarded, the deaths of which consolidate sovereign power.\textsuperscript{95} Death can also be figurative as when certain bodies are intentionally excluded from projects of belonging, denied both the social and material conditions required to live independently and securely.\textsuperscript{96} Thus we can say, the process of enforcing South African sovereignty is dependent on terrorizing and fostering fear amongst those who threaten the national project.\textsuperscript{97}

Beetar shows how a nation operating within the binary framework of the citizen and the non-citizen sets up a situation where the non-citizen inhabits the queer position of the outsider. His meditations on necropolitics are rooted in Foucault’s formulation of racism as endemic to the production of populations rather than as an ideological project driven by notions of difference or contempt between races, a displacement of hostility, or the production of the Other in order to consolidate the Self.\textsuperscript{98} The dynamics relating to nation enable a distinctive manifestation of necropower that to a degree operate outside of race.\textsuperscript{99} Necropower in this context is of course aware of race and its implications but also recognizes that the dominant dynamic at play is that of the citizen and the non-citizen. Beetar locates formative social discourses as positioning the figure

\textsuperscript{96} Ibid.
\textsuperscript{97} Ibid.
\textsuperscript{98} Ibid.
\textsuperscript{99} Ibid., 124.
of the African immigrant as a threat to the exceptionalism of South African nationalism—a threat which functions as a tool of unification. In this way, Beetar is echoing the argument raised earlier that the state uses the present economic cleavages as a site of unification against the outsider. When thinking about the mode of power the state uses to will South Africans into unity, to believe in the Rainbow Nation necropolitics becomes critical. The language of “hoards”, “intruders” and “vermin” as seen in South African media, comes to define the fear manifested as aggression and intolerance—of this particular form of stranger. This fear is central to a reading of the South African context—that “foreigners” are a threat to South Africanness and national sovereignty. This fear and threat is what we then term xenophobia, a hostility toward the stranger perceived as threat. Beetar argues that Rainbow Nationalism is what began this systemic death and exclusion of the queer immigrant in the state:

The rainbow nation came to symbolize a key part of the discourse of widespread national euphoria which denoted equality embracing racial and ethnic diversity in the body politic. The project of building a “rainbow nation” was placed “high on the agenda” of the post 1994 government. The Truth and Reconciliation Commission (TRC), chaired by Desmond Tutu, was established—in part—to play a role in this. Its genesis in 1995 as the “archetypal” transitional statutory body to promote a culture of human rights in South Africa emphasizes a central ruling concern that not only a “state of right” should be established, but that human rights should be used to construct a new regional identity. The TRC functioned to extend the rainbow metaphor to one of “rainbow jurisprudence,” explicitly rejecting retribution in favor of a constitutionally driven veneration of human rights. Embedded in such a notion is the idea that all competing values can, mysteriously, be accommodated within the embrace of a warm fuzzy consensus.

Most striking is the contradiction that lies at the heart of the creation of the new South Africa and its Constitution. Human rights at their core are global and universal and are not beholden to region or country. South Africa, intentionally choosing to use a human

100 Ibid.
101 Ibid., 123.
rights framework when constructing its Constitution, was making a decision to protect all who were within it not only all who were South African. But this contradiction would not have been exposed if not for the presence of the queer immigrant who cannot claim the Rainbow Nation but is present in this new South Africa and can claim human rights.

In a partial effort to bring about South African race-based unity, non-nationals have become disposable bodies, excommunicated from the sphere of human concern. Politics, in this regulation of subgroups, functions as the work of death and serves to create spaces of control in which different people are given different rights. The move towards a politics which stresses indigeneity as key to belonging is the result of a complete failure by the post-apartheid government to develop a transnational imagining of what South Africaness can look like. The consequences of this failure have led to the death of many individuals due to xenophobia and homophobia. Two important sites of homophobic violence help us examine cases of what this “outsider-insider” positionality can do but they do not capture the insidious slow death that is more pervasive especially among the double pariah. Nonetheless, when attempting to paint a full picture of what violence to the queer immigrant body can look like all violence must be noted and weighed.
Xenophobia 2008 & 2015

To recap: xenophobia and homophobia are the result of what happens when non-white, economically disenfranchised South Africans have to carry the traumas of Apartheid and unmet dreams after 1994, while being unable to challenge the ANC government, because it represents the symbol of their emancipation. Among non-white South Africans, the ANC, for the most part is the liberation party, the party of Nelson Mandela and freedom. Non-white South Africans still grappling with a continued lack of access in their country find themselves being asked to be hosts to foreigners whom they know little about and can only see as the enemy because the only thing the South African, especially the disenfranchised black South African has, is citizenship. And undoubtedly this state of fear, frustration and anger resulted in the first violent xenophobic attacks in 2008 and the subsequent attacks of 2015.
Between January and April 2008, several incidents of xenophobic-related violence were reported. In January, the bodies of two Somalis were found burnt to death in their shops, and additional Somali shops were attacked.\textsuperscript{106} Spurred by community meetings calling for foreigners to be removed from local areas, attacks continued through the end of the month and into February.\textsuperscript{107} The official claim is that 62 people died, and 100,000 were displaced during these attacks.\textsuperscript{108} One very important case that occurred was that of Ernesto Nhamuave who was necklaced by a mob and burnt to death. Necklacing is a practice in which a person who is seen as a bad omen in the community is burnt by putting tyres around their neck and lighting them on fire. In the novel, \textit{Welcome to Our Hillbrow}, Mpe describes this ritual and its practice:

Tiragolong’s story was constructed when your mother slipped and fell into your grave on that hot Saturday morning of your burial. As Tiragalong believed, only witches could fall into a corpse’s grave on burial. Medicine men had confirmed that, in the good old days, such things only happened to witches after they had bewitched the deceased; either because their medicines were too strong for their victims to die alone, or because the gods became angry and vented their wrath on the witches. So, the comrades of Tiragalong, in order to cleanse the village, had necklaced your mother to death. They put large tyres round her neck and poured generous quantities of petrol onto them and onto her whole body. Then someone gingerly lit a cigarette before throwing the match into her hut, in which she awaited the Second Coming of our Lord.\textsuperscript{109}

Here Mpe reveals key historical beliefs about this ritual and the origins of its practice. We see how this specific form of death is reserved for those deemed to be a plague to society, the evil bearers. We also see how this practice which was once practiced in rural spaces, has been transferred to city spaces, and the new urban “witch” is the immigrant. The ritual also carries a dark connotation of collective cleansing which

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\textsuperscript{106} Ibid.
\textsuperscript{107} Ibid.
\end{flushright}
suggests that the necklaced immigrant is seen as something dirty that the society must cleanse itself of. In a sense, the city (and the indigenous black South Africans) are collectively punishing the fugitive (queer immigrant) and not waiting for the state to intervene.

Nhamuave’s death became a horrific, yet symbolic image of the ferocity of the violence against non-citizens. Nhamuave’s image reverberated throughout South Africa’s consciousness and marked and proved that the violence was specifically targeted at black nationals from other African countries, although it claimed both South African and non-South African lives. The mobs that gathered attacked anyone who vaguely resembled a foreigner, employing “tests” of indigeneity. President Mbeki ultimately issued an order for the South African National Defense Force to assist the police on 21 May, but the overall slow response of the government and the complex factors surrounding the events of the month failed to completely quell further violence. In the decade since 2008, waves of xenophobic violence have repeatedly swept over the country. A report by the Southern African Migration Program (SAMP) documented 500 incidents in 2011 with 100 foreign immigrants killed, and 300 foreign immigrants killed between late 2011 and late 2012. This is a clear example of the state’s negligence that creates an unstable environment of possible death for the queer immigrant and the double pariah.

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President Mbeki’s eventual response to the attacks was that the attacks were the work of criminal and antisocial elements and not a result of xenophobic attitudes. In reference to media responses, Mbeki criticized the cloaking of naked criminal activity in the garb of xenophobia. Of course, the activities were criminal, however Mbeki insisted that the South African people were not diseased by the terrible affliction of xenophobia. This pathologizing of xenophobia, dissolves blame and links it back to the ANC’s ideological attempts to create a cohesive national identity. Recognizing xenophobia as an attitude that South Africans carry would beckon an examination of South Africa’s collective identity and lead to the exposure of the deep trauma and wounds many South Africans still carry. Such a post-mortem analysis necessitates a honesty by the state to admit that it still has not fulfilled many promises and has in many ways failed non-white South Africans. Such an admission and reckoning would be fatal to the Rainbow Nation as it would require an acknowledgment of the cleavages that continue to exist in South Africa, an admittance of a heterogeneous South Africa still riddled with economic, class, ethnic, gender and sexuality schisms. Events such as those of February 2013, where Emidio Macia was handcuffed by the police to a van and dragged down the street, are often met with harsh words about the failure of government to deal with police brutality, but not with discussions about the existence of xenophobia and the implications of its denial—including within the police force. Thus, the state and all its civil society branches are absolved of all responsibility and the queer immigrant is offered at the altar for all South Africans as sacrifice.

In a 2014 report conducted by Jonathan Crush et al, they cite a survey that says 90% of the South African population feels that there are too many immigrants in the
A dominant view that South Africans, across race and economic groups, continue to hold is that they are under siege from the outside, continuing to endorse the views of the government. According to a World Values Survey, South Africans are more hostile to immigrants than citizens of any other country in the world. A discourse of the enemy within continues to permeate legislation and the social psyche. And when the 2015 xenophobic violence erupted, the government condemned the attacks as shameful but still denied xenophobia to be part of the social fabric. Echoing Mbeki in 2008, President Zuma emphatically insisted that xenophobia does not exist and that South Africans are definitely not xenophobic. The persistent active denial of xenophobia by the state is reflective of the state’s reluctance to acknowledge the hereditary trauma present in South Africa. One way of understanding xenophobic violence is as the result of a long-standing simmering collective national trauma that goes unaddressed by the state and manifests as violence against the immigrant (the sacrificial lamb) as it were.

Another way of understanding xenophobia is that it is a necessary component of the necropolitical state. Aligned with this framework Beetar engages with xenophobia from a necropolitical standpoint and sees xenophobia as one way the state takes away life. When the Rainbow is expediently revealed as illusion, the social enablers of necropower—Home Affairs, the police force, a legal system that privileges conditional life, and the widespread disunity and disillusionment that may accompany these—act as catalysts for xenophobic violence. Beetar argues that it is important to recognize xenophobia as a manifestation of necropolitics, as it can offer some ways to understand

how best to solve the problem of xenophobia. Necropolitics is a framework where national identity exists in a binary that commands the death and exclusion of other individuals. But to move to a solution we must suspend our normative understanding of national identity and take on a different kind of thinking and imagining. This sort of thinking is one that must be queer in nature and go against all that is hegemonic, it is a thinking that will require us to start by examining the queer body and understanding it to be at the center of collective identity not the periphery.

The preamble to the Constitution notes that, “We, the people of South Africa...Believe that South Africa belongs to all who live in it, united in our diversity.”113 The roots of this lie in the 1995 Freedom Charter, widely regarded as the manifesto of the liberation struggle, which states that, South Africa belongs to all who live in it and that all national groups shall have equal rights. But as already briefly discussed the problem with this claim made in South Africa’s Constitution is that South Africa does not actually belong to all who live in it, it only belongs to the citizens of South Africa. Among the citizens themselves the level of ownership is different and ridden by socio-economic inequalities that are transferred to the queer immigrant who may live in South Africa but is not South African. This glaring contradiction translates to how policy regarding immigrants was and is written often in support of the nation state by removing the queer immigrant—the threat to exposing this incongruity.

Jonathan Crush argues that since 1994 the government has been avowedly anti-immigration.114 Although official distinctions are made between immigrant workers,

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refugees and undocumented immigrants, the political discourse on the whole has become one of fear based on the belief that immigrants will swamp and overwhelm the country in such a way as to make the hard-won gains of the 1990s liberation irrelevant. Official regulation has become based on attitudes of control, coupled with an aggressive uptick in deportations. A nationwide emphasis on deportation with minimal due process has been policy and—although largely ineffective—has enjoyed wide support from the country. The nation has thus become comfortable using violence to protect the nation. “The nation” that

The Rainbow Nation ideology is in many ways a masculine nationalism, one which reveres and remembers only the male leaders and activists of ANC. This identity holds Nelson Mandela in high regard and marks him and only him as the father of the nation. This perception of the nation may embolden some black male South Africans to respond with violence when they feel that their nation or even manhood is under attack by queer immigrants who express themselves in a way that undermines the black South African male’s masculinity.

Yet, as previously posited there is a disconnection between this perceived united Rainbow Nation and what the people experience. Even though all South Africans are now citizens and members of the nation, many are still as socioeconomically disenfranchised as they were before and as their ancestors were during Apartheid. Investigating this frustration may mean accepting that the nation is failing its people, but admitting that the nation is failing would be admitting that man is failing which would grossly undermine the masculine figure. Hence all men and people who reinforce the patriarchal nation deny or become recalcitrant in admitting the failure of the nation. Because the nation is framed through a masculine lens, protecting the

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115 Ibid.
nation and supporting the nation is now a patriarchal project as well in many ways, and thus there is a pressure to make sure that the nation is perceived as successful at all times. Nevertheless, this denialism does not lessen the frustration, in fact it leads to a growing anxiety and fear of anything that may pull away at the veneer of the prosperous, dominant, successful nation. Therefore, queer bodies in the public space become a threatening presence to individuals whose identity is so inextricably linked to the perceived virility of the nation. And since the nations’ vitality depends on this perceived virility, homophobia becomes a part of the systematized violence carried out in the nation, as part of the many ways to keep the nation going. Homophobia is the other site of violence to examine as part of the manifestations of the friction of people in the city and the consequences of the “insider-outsider” positionalities.

As mentioned earlier, there was a dramatic turnaround in 1996 when South Africa adopted a constitution that outlawed discrimination on the basis of sexual orientation. The promise of political transformation was accompanied by an unpresented growth of gay and lesbian political activism and social organization. Never before had gay people been so visible in South Africa. In 1990, a few months after the release of Nelson Mandela, the first Gay and Lesbian Pride March took place through the streets of Johannesburg accompanied by extensive media coverage. By 1995 the national umbrella body formed to lobby for the retention of sexual orientation in the final draft of the Constitution. The National Coalition for Gay and Lesbian Equality (NCGLE), boasted some 78 affiliated organizations, many of these based in Johannesburg and its surrounds. In the 1990s there was a proliferation of diverse community groups such as gay netball clubs, lesbian soccer teams, gay church communities, catering groups and lesbian social clubs. Print media ran stories in
magazines and newspapers on a regular basis. Books on gay and lesbian issues in South Africa started to be published, and for a few years there were three main gay publications produced in Johannesburg and distributed country-wide. Increased visibility, the political climate of the time and the promise of equality enshrined in the constitution, created an environment conducive to coming out, and many more people did so.

Yet it appears that this increased visibility may have had another consequence, in the form of growing levels of homophobic violence. It is difficult to gauge the exact extent of this violence as, despite fundamental changes in the law, underreporting of homophobia continues. But it is estimated, according to Hassett Bonham, that in 1996, 91 percent of lesbians and gays did not report homophobic violence to the police. Re却, Graeme, and Teresa Dirsuweit. “Understanding Systemic Violence: Homophobic Attacks in Johannesburg and Its Surrounds.” SpringerLink, Springer Netherlands, 2002, link.springer.com/article/10.1007/s12132-002-0010-5.

Reasons for underreporting were given as being in the closet, police indifference and hostility, and fear of sensational public disclosure. In 1994, a memorandum signed by twenty organizations was presented to the regional minister of safety and security, Sydney Mufamadi. The memorandum included the recommendation to institute an “anti-hate crimes” Act that included homophobia and to establish a formal police liaison to the gay community. In 2000, the “Promotion of Equality and Prevention of Unfair Discrimination Act” was declared.

What this Act did, or reinforced rather, was a sense of belonging and protection for the South African gay, lesbian and queer individual. A sense of protection that was and still is not afforded to the double pariah in South Africa today. However, even with

117 Ibid.
118 Ibid.
119 Ibid.
these new Acts South African queer individuals still faced and face homophobia. Moreover, today, the double pariah encounters homophobia from members they live with in their communities. The queer immigrant faces xenophobia, but the double pariah faces xenophobia from South Africans, homophobia from South Africans, also faces homophobia from fellow queer immigrants. The double pariah is therefore not safe or at ease in any sphere and is constantly under threat. A non-profit organization called People Against Suffering Oppression and Poverty (PASSOP), which is based in Cape Town South Africa and geared toward working with LGBTQ immigrants published a report which stated that when it came to homophobic attacks the majority of those interviewed reported that colored and black South African citizens were most often the perpetrators of such attacks. Additionally, among other groups of foreigners and refugees, those interviewed noted the prevalence of homophobia among the Zimbabwean and Congolese immigrant communities in verbal and physical attacks.  

Thus, the double pariah is not safe even in the periphery among fellow immigrants. For the double pariah South Africa essentially becomes a destination of physical and figurative death. The double pariah goes to South Africa to seek refuge but is only met with an environment that engenders a slow death, aided by a negligent state with a civil society that moves so slowly that it, as a system and the members within it, all assist in the slow death of the double pariah. The next chapter will zero in on the various branches of civil society and explicate how they work and assist in the slow death of the double pariah. Moreover, the following chapter will employ another theory that frames the slow death of the double pariah in a global context.

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120 Ibid.
Chapter 3

How Civil Society Fails the Double Pariah: The Slow Death.
Chapter 3 ended with my assertion that civil society in South Africa assists in producing the slow death of the double pariah. I also used a necropolitical framework to establish an understanding of how the state selectively takes and gives life. When thinking about how the double pariah is failed by the state, the Constitution and civil society, necropolitics offers a strong framework, allowing for a thorough examination of the state apparatus and how the state wields its power to disenfranchise those that it supposedly should be protecting.

However, necropolitics is inward facing and firmly relies on an understanding of power that is limited to the state and grounded in a geographic space. Queer immigrants existing in a death zone is not only limited to how the South African state apparatus functions. The slow death of the double pariah is a global phenomenon that when understood as such beckons for an extensive interrogation of the systems that are killing the double pariah. This chapter will examine the various branches of the South African civilian society that assist in the death of the double pariah using a chronopolitical lens.

Chronopolitics is generally understood as a way of understanding and tracing the politics of a time and place and how it relates to decision making. Sima Shakhsari, an esteemed voice in queer immigration discourse, uses Chronopolitics to argue that we currently inhabit a time in which queer immigrants live in what she calls the death zone, a liminal space between rightlessness and rightfulness. Shakhsari posits that the

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fissure that exists between the South African Constitution promising rightfulness to queer immigrants and the lived reality of rightlessness that queer immigrants experience, is not a unique phenomenon particular to South Africa. Rather it is a symptom of the political epoch we are living in. It is important to acknowledge that the death of queer immigrants is a global phenomenon that transcends the geographic locality of South Africa because it gives us all more reason to take pause and engage with the reasons why we are living in a time where the political systems and civil societies are slowly killing the double pariah.

In “The Queer Time of Death: Temporality, Geopolitics, and Refugee Rights,” Shakhsari outlines the inconsistencies in the presumed universalism of human rights and argues that while the designation of an act as a “violation of human rights” committed by states or citizens, is arbitrary and contingent on the place and time of the act, the recognition of the refugee in the human rights regime relies on essentialist and timeless notions of identity that change over time. Shakhsari uses Turkey as her site of study where many queer Iranian refugees go before they leave for their assigned third country. What Shakhsari delineates in Turkey is a reality that many Zimbabwean queer refugees face in South Africa. The main distinction though, is that for the Zimbabwean queer individuals, South Africa is not temporary, nor is it an in-between zone, it is—for the most part—the destination. And so it is even worse: the destination zone becomes the in-between zone that Shakhsari references, the place of the slow-death. Shakhsari had the opportunity to interview some of the refugees living in Turkey, and reading their stories is important as it helps establish that what is happening in Cape Town is not a singular, incomparable case, it is indeed part of a

123 Ibid.
124 Ibid.
global pattern in which many double pariah’s find themselves in more precarious positions that, when examined, point to the dangers of the framework of Human Rights within the context of modern sovereignty today.\textsuperscript{125}

Shakhsari posits that in Turkey, the “protection” of trans and queer refugees, under the rhetoric of rights, is tied to the management of the life and death of populations through the politics of rightful killing.\textsuperscript{126} Here Shakhsari echoes and expands upon the argument raised previously in Chapter 2 that the state has the power to selectively take and give life. Shakhsari identifies that this slow death happens to the queer immigrant in a systematic way that is dependent upon the civil societies present in Turkey. For example, she interviews trans men and women who mention that they have been denied access to medical treatment and have also been fired from their jobs because of their sexual orientation and gender identity. The insidious ambivalence that is entrenched in the systems that are supposed to assist the trans and queer Iranian immigrants in Turkey is essentially what ends up killing them. Shakhsari gives an example of a trans Iranian woman who was finally granted Asylum to Canada after living in Turkey for three years, yet upon arrival in Canada she committed suicide.\textsuperscript{127} The grueling experience she faced while in Turkey left her empty and in a severe state of depression—a state of slow death—that led to her eventual death.

What happens in Turkey to queer immigrants for a temporary period of time which varies in length, is happening to the double pariah in South Africa, but for the entire period with no escape. To closely interrogate the particular institutional systems in South Africa that assist in the death of the double pariah upon arrival, this chapter will track and examine the process of assimilation that the double pariah experiences,

\textsuperscript{125} Ibid.
\textsuperscript{126} Ibid.
specifically through processes of seeking asylum, accessing housing, gaining employment and seeking healthcare. Finally, the chapter will end by considering how the judicial process is failing the double pariah when it should, by mandate of the Constitution, be assisting them.

The Process of Seeking Asylum in South Africa

After arriving in South Africa, the first step for most queer immigrants and double pariahs is to seek asylum or refugee status. South Africa receives more asylum seekers than any other country in the world with people mainly coming from Zimbabwe, the D.R.C., Burundi, Ethiopia, Rwanda, Somalia, as well as from countries further afield to escape poverty, insecurity and political turmoil. According to the Solidarity Peace Trust report published in 2012, up to 1.4 million of South Africa’s refugees and asylum seekers are Zimbabwean, representing almost 15% of Zimbabwe’s population.

In addition to the Constitutional protection claim, South Africa’s asylum laws explicitly anticipate the arrival of the double pariah seeking the nation’s protection. Specifically, the Refugees Act of 1998 grants asylum to persons who qualify as “refugees,” and under the Refugees Act, a “refugee” is an individual who, by reason of his or her race, tribe, religion, nationality, political opinion or membership of a

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127 Ibid.
particular social group…is outside the country of his or her nationality and is unable or unwilling to avail himself or herself of the protection of that country. According to the report released by the Leitner Center for International Law and Justice, a “social group” includes gender and sexual orientation, thus the double pariah should be protected and safe in South Africa. Additional legislature also supports the double pariah. The Refugees Act provides that, no person may be refused entry… expelled, extradited or returned to any other country if the individual might face persecution based on gender and sexual orientation. Zimbabwe is an extremely homophobic country where homosexuality is illegal. In September of 2018 a gay deputy head male teacher of a prestigious private school came out to his students and it caused a national uproar. Parents of the students immediately filed a criminal law case against the school and the teacher, claiming that homosexuality has no place whatsoever in a school environment where minors look up to staff as their role models. For the criminal charges the parents cites Section 78 of the Zimbabwean Constitution which criminalizes homosexuality. Thus, for the double pariah going back home poses a real danger as Zimbabwe is legally and socially hostile to the lives of the double pariah and it makes deporting them a violation of South African legislature even though it still happens.

South Africa’s Refugees Act is perhaps one of the most progressive pieces of immigration law in the world. The Refugees Act further establishes that refugees have a legal right to secure legal residency in South Africa, full protection under the State’s

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131 Ibid.
132 Ibid.
133 Ibid.
laws, as well as the right to employment, healthcare, and education.\textsuperscript{136} The policy explicitly outlines the four-step process that is legally expected of refugees who seek asylum and refugee status. Firstly, registration must be done in person at a Refugee Reception Office (RRO); secondly, the seeker must submit the application within fourteen days of arrival; then obtain a formal hearing for status determination by a Department Home Affairs (DHA) official; and finally they can receive documentation indicating their legal right to be in South Africa.\textsuperscript{137} In the meantime as applicants wait to receive formal documentation after submitting their application the state is required to provide applicants with temporary permits, also known as Section 22 permits, allowing applicants to legally work and live in South Africa.\textsuperscript{138} This temporary permit usually is valid for one to three months at a time so asylum seekers must continuously renew their permits until their application is approved which in theory should not take that long.\textsuperscript{139} But in actuality this process can take years for some and so applicants are assigned a single day on which to renew their permits and those who fail to comply with renewing their permit on the specified date are subject to fines, imprisonment, or both which is usually the case, especially for visibly queer and trans individuals.\textsuperscript{140} Investigating this process more closely offers many moments of the jarring gap between the legislature in place and how it is executed. There are even stipulations in the act that clearly mandate that refugee and asylum status be determined and granted within 180 days of a claim being submitted.\textsuperscript{141} Nonetheless, these stipulations are not effective in


\textsuperscript{137} Ibid.

\textsuperscript{138} Ibid.

\textsuperscript{139} Ibid.

\textsuperscript{140} Ibid.

\textsuperscript{141} Ibid.
preserving the protection and support of the queer immigrant. Interviews with immigrants and double pariahs, examined further on in the chapter, reveal that especially for the double pariah it is often the case that many die or become fugitives in South Africa because of a slow system that bars them legal status. In many ways, the Department of Home Affairs becomes the first point of contact that disenfranchises the double pariah and exiles them to a space of illegality which contributes to the process of slow death which characterizes their lived existence.

In nearly every case, documentation is paramount to assuring many functions of daily life—from opening a bank account, to being remunerated for work—that establish an individual to be part of the society and not a fugitive figure living in a society. In 2012, an organization called People Against Suffering Oppression and Poverty (PASSOP) interviewed 25 individuals who self-identified as LGBTQ about their lived experience of registering and navigating the process of seeking asylum. Most shockingly only 2 of the 25 interviewed had received a Section 24 permit, which formally recognizes their refugee status based explicitly on their sexuality. The reason for this is because, while persecution on the grounds of sexual orientation or gender identity is a recognized basis for seeking asylum, many double pariahs are not aware of this law and many are not informed of it by the Department of Home Affairs Officers. The DHA officers are often homophobic and xenophobic causing them to be hostile toward the double pariah who visibly appears to be queer. Many of the

144 Ibid.
people interviewed echoed this sentiment and told of immensely terrible and traumatic experiences they went through at the DHA. One asylum seeker said:

Before I finally got served, I went to the DHA four times. I was assaulted by a security guard who hit me the first time I went there. The security guards were encouraged to use violence and beat us up.

From this account it is evident that the police are not invested in protecting the double pariah; if anything they contribute to the violence enacted upon the double pariah. Compounding this, almost half of those interviewed (11 of 25) did not state sexual orientation or gender identity in their claims as a reason for applying for refugee status or asylum-seeking because they were not aware that sexual orientation was a valid reason for seeking refugee status, or they were afraid of being beaten up even more if they stated their sexuality. This lack of awareness and hesitancy about exercising the law speaks directly to the heart of the argument being raised.

There is a failure of the law being used to protect the double pariah. Even if it may exist on paper it falls short in actuality. This gap between what is written in the law and what happens on the ground is where the slow death of the double pariah begins. Sometimes that slow death is catalyzed by moments of extreme homophobic and xenophobic violence and sometimes this death is prolonged and facilitated slowly by the apathy and often active hostility exhibited by South African officers. This hostility as discussed previously is a symptom of the collective trauma that goes unaddressed in South Africa especially in the face of the gross economic inequality. These officers are the first point of contact with South African citizens who are mandated by law to welcome the double pariah and extend hospitality to people who they simultaneously perceive as an immediate threat to their socio-economic standing and to the one thing

\[145\] Ibid.
\[146\] Ibid.
they feel they own—their citizenship. The next point in the process of arriving for the double pariah is often the search for housing, and this too comes with its own set of challenges that are inextricably linked to the concept of hospitality and fugitivity that the double pariah evokes and embodies.

**Housing for LGBTQ Immigrants.**

In most countries asylum seekers and refugees are sometimes assigned to camps or zones or regions where they are to live until they are granted asylum. Such is the case with refugees in Kenya and Turkey. However, in South Africa refugees and asylum seekers do not have access to free accommodation or refugee camps meaning that from the beginning the double pariah is inserted into the South African community.148 Among the 25 interviewees whom PASSOP spoke to, the majority of refugees and asylum seekers reported facing discrimination in the process of seeking housing as well as violence in the communities they were living in.149 Most of the double pariahs stated that they experienced difficulties with their landlord and sometimes with their neighbors due to their sexual orientation or gender identity.150 A gay asylum seeker from Zimbabwe said:

> I used to move sometimes by my own will from one place to another when a place became unsafe, however it happens more often that the landlord evicts me without even a short notice when he finds out that I am gay.151

The Rental Housing Act of 1999 (RHA) states that while advertising or negotiating for a lease agreement, or after one has been entered into, a landlord may not unfairly

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147 Ibid.
148 Ibid.
149 Ibid.
150 Ibid.
discriminate against such prospective tenant or tenants, or the members of such tenant’s household or the bona fide visitors of such tenant on the basis of race, gender, marital status, sexual orientation, ethnic or social origin, or language.\textsuperscript{152} It grants all residents the right to privacy, to not have their homes or possessions searched or seized, and to not have their leases terminated based on discriminatory grounds something that is being grossly violated by the South African landlords.\textsuperscript{153} The Rental Housing Act of 1999 (RHA) came into force on August 1\textsuperscript{st} 2000. This Act regulates the relationship between landlords and tenants and it provides for dispute resolution by the Rental Housing Tribunal.\textsuperscript{154} Few of the double pariahs reported their grievances to the housing tribunal when they faced instances of discrimination in renting and the majority of those interviewed feared reporting to the police station because of an awareness of the hostility of police officers.\textsuperscript{155} Even those who did report these discriminatory experiences to the police station felt disappointed by the lack of responsiveness.\textsuperscript{156} Often, the police never followed up on their case or it remained unsolved for years.\textsuperscript{157} The police repeatedly enact violence on the double pariah or are extremely reluctant to stop it. The stories recounted by the double pariahs are evidence of that and further substantiate that this group has no protection from anyone in South Africa, especially the state and civic branches. The double pariah is indeed an individual whose life is being taken away by the very state that purports to make room for all those who live in

\textsuperscript{151} Ibid.
\textsuperscript{153} Ibid.
\textsuperscript{156} Ibid.
it. This slow death is further enabled by the employment process that many double pariahs go through.

**Employment for LGBTQ people in Cape Town**

Similarly, as in the case of housing, South Africa has enacted progressive laws that are supposed to protect the double pariah. The Employment Equity Act of 1998 prohibits all persons from harassing or discriminating, directly or indirectly, against an employee, in any employment policy or practice based on race, gender, sex, marital status, ethnic or social origin, sexual orientation, or language. The 1995 Labor Relations Act (LRA) regulates employer-employee labor dispute procedures, through the Labor Court and the Commission for Conciliation, Mediation, and Arbitration (CCMA), an independent governing body that resolves workplace conflicts through alternative dispute resolution methods. Additionally, section 187 of the LRA also presumes that employee terminations are automatically unfair if the individual was discharged on the basis of race, gender, sex, ethnic or social origin, sexual orientation, language, or marital status. Moreover, the 1997 Basic Conditions Employment Act (BCEA) promulgates the minimum level of workplace protections owed to all employees by employers, such as the right to refuse to accept certain provisions in their employment contract, obtain fair notice of termination, and receive severance pay.

157 Ibid.
159 Ibid.
following termination of employment under specified circumstances. All these laws assume that the employer and the employee are equals in the eyes of the state but this is not always the case. When discussing the double pariah and how they engage with employers they are often doing so as the outsider engaging with the insider.

Therefore, all of the engagement that occurs between an employer and the double pariah is on unequal ground. Thus, the double pariah is often willing to do any kind of job, for as much as the employer says they will give her with no fuss. Similarly, in her essay, Shakhsari explains that most available jobs for refugee men in Turkey involve operating heavy machinery or construction work. Sahand and Shayan, two transgender men in Denizili, the place where Shakhsari conducted her ethnographic research, have to pass as cisgender men in order to find work. In the PASSOP report, according to the interviews, issues surrounding employment were regarded nearly unanimously as the most pressing concern. On the one hand, many stated that they struggled gaining employment and on the other hand, many of those who were employed encountered some form of abuse and harassment due to both xenophobia and homophobia.

More interestingly the double pariah also faces homophobia from the queer immigrant and this especially arises in the workplace. One refugee from the D.R.C., who identified as a gay said:

I faced difficulties in keeping my last job although I was called a hard worker by my boss. Some of my colleagues were gossiping about me and some customers

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161 Ibid.
163 Ibid., 1006.
165 Ibid.
refused to be served by me. I was fired, but I cannot report to CCMA or to the labor court because they will side with my boss.\textsuperscript{166}

This account bears witness to the double bind I argued exists for the double pariah. Both the double pariah and the immigrant are in a precarious position and struggle to find employment, but it is the immigrant who pushes the double pariah further to the periphery and closer to death. Another important point raised by the interviewee is the role of the CCMA which like the police department must in earnest seek to resolve disputes, but instead, because of xenophobia and homophobia, dismisses the double pariah based on her identity. Sometimes it may not be that the officer directly dismisses the double pariah but instead the double pariah is asked to waddle through so much bureaucratic red tape that ends up amounting to no resolution and justice. A trans refugee from Burundi reported:

I was a victim of unfair dismissal. I reported the case to CCMA first and then to the Labor Office. People from my community and other refugees from my country told my boss to fire me because I would bring misfortune to his business. My boss fired me but the CCMA required him to pay me. He refused. Then I reported this to the CCMA and my problem has remained unsolved for over than a year.\textsuperscript{167}

Again, this account is a testament to the role that the immigrant plays in further alienating the double pariah in the local communities. It is important to understand the immigrant and the double pariah as different because it is by dissecting these two positions that we can see the difference between a body that only experiences xenophobia and a body that lives at the intersection of xenophobia and homophobia. In the account above this double pariah is not only unemployed but has also been ostracized by his fellow immigrants. This double pariah has no support system and is still expected to manage to pay for his rent and utilities like everyone else. One

\textsuperscript{166} Ibid.

\textsuperscript{167} Ibid.
alternative is to turn to the informal sector for employment and that for many double pariahs means sex work.

In South Africa sex work is illegal and any person found to be engaging in sex work will be arrested. Yet when the double pariah is left with no other choice and is already living in a perilous situation sex work is a viable option. Another transgender asylum seeker revealed the following:

I am unemployed. Sometimes I don`t have money to pay my rent or even to buy my food. What can I do if someone wants to have sex with me and he will give me money in exchange? Not every day, but sometimes if you are lucky, you can find a sugar daddy who will give you enough money.168

What is most striking about this account is to note how the presence of xenophobia and homophobia not only leave the double pariah without a job but also engender her to engage with sex work—an illegal form of work that could very easily give the state a legitimate cause to either kill her or deport her. Furthermore, the double pariah participating in sex work aligns well with the homophobic and xenophobic discourse that frames the double pariah as the sexually deviant, queer, contagion. In many ways, there is no way the double pariah can fully exist in South Africa without operating in a state of lawlessness or anarchy. The structures around arrival in South Africa relegate the double pariah to the realm of the deviant, subaltern, fugitive who in the eyes of the state is undeserving of rights and protection. This individual, like the lepers in the Bible, is also the contagion of the society and must be kept out for the safety of those who are in—the citizens—and this is revealed again in the way that access to healthcare is barred for the double pariah.

167 Ibid.
168 Ibid.
Healthcare for the Double Pariah

The South African Constitution guarantees the right to health services to everyone residing on South African territory, regardless of his or her legal status.\(^\text{169}\) Moreover, it is the State’s responsibility to enable residents to access these rights, although these may depend on the individual’s financial situation based upon a standard Means Test which determines the cost of treatment relative to income.\(^\text{170}\) This means that hospitals are not allowed to restrict all immigrants’ access to primary healthcare. The South African Constitution and policies from the Department of Health, mandate that all immigrants must receive access to healthcare. The Department of Health rolled out a policy that explicitly stated that all immigrants were to have free access to antiretroviral drugs and access to free STI testing even if these immigrants were in detention.\(^\text{171}\) Yet what happened during the HIV/AIDS pandemic in South Africa, in the early 2000s, was that immigrants were seen as the contagions bringing the deadly virus into South Africa and thus were not granted access to healthcare. Phaswane Mpe explores the alienation of individuals who were HIV positive in Welcome to Our Hillbrow. Mpe engages with the issue of the HIV/AIDS pandemic vis-à-vis the immigrant in a way that allows us to clearly see that the immigrant that is specifically targeted and blamed for the arrival of HIV/AIDS is the double pariah. In the book, one character states that many newspaper articles were attributing the spread of AIDS in Hillbrow to foreign men with bizarre sexual behaviors.\(^\text{172}\) The character then goes on to


\(^{170}\) Ibid.


ask: “How could any man have sex with another man?”173 This question becomes a crucial question to examine because it reveals that xenophobia is indissolubly linked to homophobia, and that the double pariah is held to be the deviant outsider responsible for all that is perceived rotten and evil. The double pariah is the individual seen to be bringing in all that threatens the state of the nation, poisoning its citizens.

Another case we can turn to as a site to interrogate how the immigrant is treated in terms of healthcare is the case of detained immigrants. The South African Constitution explicitly states that all detained individuals, including those held in administrative detention, are entitled to conditions of detention consistent with human dignity, including the provision of adequate accommodation, nutrition, reading material and medical treatment.174 But as can be anticipated most detainees have recounted stories of abuse and restriction to medical care. In 2012, a Zimbabwean queer immigrant called Danai contracted meningitis at Lindela Repatriation Center. Lindela Repatriation Center is the biggest detention center in South Africa and is located in Pretoria, the capital of South Africa and thirty minutes away from Johannesburg. Danai was a refugee who was arrested for assault after getting involved in a public brawl with another man. After serving his time in a Cape Town prison, he was transported to Lindela. Upon his arrival, his family were not informed of his whereabouts and they were also not informed about his illness for at least three months. When a reporter from GroundUp, an investigative independent newspaper, asked Danai’s family about the case, Fred, Danai’s brother, said that they called Lindela every week for several months

173 Ibid.
in an attempt to contact him but were put on hold until their airtime ran out. Fred said their family’s contact details were easily accessible amongst Danai’s belongings when he was detained at the center but they were not informed of anything for months. Danai eventually passed away and even the process of accessing his body and transporting it across the border was an expensive ordeal for his family. The officers at Lindela claimed that Danai did not have any information that would have helped them contact his family and they also claimed that their constitutional obligation was to provide Danai with access to medical treatment, which they did. Yet, in the end it was Danai’s family that footed the medical bill. The report written up about Lindela detention center paints it as an unsanitary environment, littered with abuse, neglect and failure to respect the rule of law. Detainees held in Lindela, reported not going through any medical screening before detention which means that detainees were and still are being left to die slowly when they are supposed to be treated as and when they need. The detainee offers us an example of just how badly immigrants are treated in South Africa and the case can be even worse for the double pariah. In all the cases, the double pariah is treated as the subaltern and the civic branches along with the State assist in her death.

The Judicial Process

For my last example of civil society’s role in the annihilation of the double pariah, I turn to the courts. These are theoretically supposed to be the place where the


Ibid.
double pariah can expect the most objectivity and protection, since they symbolize the physical manifestation of all the laws written in the Constitution and other legislature. However, even the courts fall short when it comes to preserving the life of the double pariah.

In the previous chapter I discussed the case of Ernesto Nhamuave who was horribly killed in a xenophobic attack in June 2008. After Ernesto died, and was later identified, his family tried to seek justice and filed a case with the local police in Johannesburg. What is immensely telling is how his case was handled by the police and later on by the court. The case was eventually thrown out because the police claimed that there was not sufficient evidence and no eye witnesses, even though there are multiple images and videos of Ernesto burning with a tyre around his neck and many people watching. Writing for *The Economist* one journalist notes that, “no one was charged in Mr Nhamuave’s death: the case was closed after a cursory police investigation apparently turned up no witnesses”—even though journalists covering this story from *The Economist* went on to find the so called missing witnesses.178 This was early on in 2010; later that year two other journalists from the *Mail &Guardian* followed up with this story and found that the family of Mr. Nhamuave had tried to take the case to court but were unsuccessful. The reporters revealed that:

An informal inquest quietly held at the Boksburg Magistrate’s Court disclosed that police made no arrests in connection with the brutal murder of Ernesto Alfabeto Nhamuave, a 35-year-old Mozambican who was burned alive during the xenophobic violence in South Africa in May 2008.179

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For two years members of his family in the rural village of Vuca in southern Mozambique waited to see justice done, but justice never came. Advocate Pieter du Rand, chief director of the court services branch of the Department of Justice, told the *Mail & Guardian* he had been informed that no one could be identified as being accountable for Nhamuave’s death.\textsuperscript{180}

This nonchalant juridical approach is dangerous and reflects that the court begins any case involving the immigrant by engaging with the police as if they are also the protectors of immigrants when they are not. Offering a similar perspective, the Human Rights Council in South Africa (HRC) believes judicial outcomes for the xenophobic attacks attained limited justice for victims and allowed significant levels of impunity for perpetrators.\textsuperscript{181} Of the 597 cases filed, only 159 had been finalized with a verdict—98 guilty and 61 not guilty—while 218 had been withdrawn.\textsuperscript{182} The commission’s report revealed that from May to August 2008 there were delays in the finalization of cases for trial due to a shortage of police detectives, police forensic laboratories, insufficient court capacity to deal with the incoming cases and limited availability of legal representation.\textsuperscript{183} Evidently, there is reluctance and negligence involved when it comes to investigating and seeking justice through the law for immigrants and the double pariah even though the law allows for it.

The double pariah lives essentially outside of the law and as such cannot be protected by the law. In this way, the double pariah is a fugitive and because of this it becomes impossible to expect the double pariah to be protected by the law. These laws are not meant for the double pariah. The double pariah is expected to slowly die living

\textsuperscript{180} Ibid.


\textsuperscript{182} Ibid.
outside of the law and outside of the state as a non-citizen. This may seem like a bleak analysis and perhaps a more optimist would be that the laws are effective when the right individuals carry them out.

An example of this is Justice Albie Sachs, a retired lawyer who was a staunch anti-Apartheid activist during Apartheid. Justice Sachs was one of the lawyers who helped draft the Bill of Rights and also the new South African Constitution and he believed that all must be welcomed and protected in South Africa regardless of nationality, sexuality, race, gender, class and tribe. In 2002 Justice Sachs ruled in a Constitutional court that the government must supply preventative mother-to-child medication for women who were HIV positive, including to immigrant women. Case law in South Africa is what led to the mass access of ARVs to all people in need and saw a drastic turn around in the number of people who dying because of the HIV/AIDS disease. Justice Sachs’ ruling exemplifies what it means to think of all individuals living in South Africa and not just citizens.

Nevertheless, after all the cases discussed so far, the question remains: Is simply naming and remembering the queer immigrant and the double pariah enough? Admittedly it is not, if anything it is the start of a process that quickly breaks down and all that is left are progressive laws filled with good intentions but without any impact.

Hence, in so many ways South Africa is the place of death for the double pariah. Because of the way the South African state is structured there is no room for the double pariah within; the only space the double pariah can take up in South Africa is one of disenfranchised marginality. This will be the case as long as South Africa continues to ignore the consequences of its original sin—Apartheid. And since reckoning with Apartheid would result in a complete socio-economic destabilization the

183 Ibid.
double pariah will continue to be used as the sacrificial lamb and will never be seen as human and whole and deserving of protection. This fissure between the written law and the lived reality of the double pariah is one that cannot be amended and so we must turn to other avenues that may result in the double pariah accessing life fully and not being stuck in a state of slow death. The chronopolitical time we find ourselves in is marked by the slow death of the double pariah. As with any epoch it is difficult to confidently say how this epoch will end but as we live through it we must recognize it and reckon with what can be done if anything to stop this slow death or at the very least include it in the public discourse and consciousness of our time.

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