

Trade Unions and Noncitizens in South Africa:
Towards an Organizational Norm of
Differentiated Universalism

by

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A thesis submitted to the Faculty of Graduate and Postdoctoral
Affairs in partial fulfillment of the requirements for the degree of

Master of Arts

in

Political Economy:
Specialization in African Studies

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Ottawa, Ontario

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Abstract

The apartheid era was characterized by a concerted program of denationalization that rendered the Black majority both ‘right-less’ and exploitable while simultaneously institutionalizing racial and ethnic differences. In casting all workers, irrespective of ethnicity or origin, as members of the Black working class, trade unions of the period transcended divisions and, eventually, claimed citizenship for Black South Africans. Today, a set of legitimized legal discriminations, embodied in the Western, statist institution of citizenship, similarly renders noncitizens vulnerable to xenophobia and exploitation, and contributes to the disunity of the southern African working class. Drawing on primary research conducted in Gauteng, South Africa in the southern spring of 2016 and with analytical inspiration from feminist citizenship theory, my thesis questions whether unions’ proudly held “organizational norm of universalism” is capable of mitigating the effects of these legal discriminations and of overcoming the divisions they incite.

Acknowledgments

This thesis would not have been possible with the support of a number of very good people. Utmost thanks to Dr. Blair Rutherford for agreeing to be my supervisor and for being so very available to answer questions and provide guidance, even when you were working out of the country or had other commitments. I hope I wasn't too much trouble. Thanks also to Dr. Daiva Stasiulis for introducing me to feminist citizenship theory and for your rich feedback as my 'second reader'.

I'm also very grateful to Comrade Janet Munakamwe for her unofficial mentorship leading up to and during my time in Johannesburg conducting this research. Thanks to Dr. Zaheera Jinnah for introducing me to Janet and for recommending a number of people to speak with. Thanks to Miriam Di Paola and Mondli Hlatshwayo for assuring me I was onto something. Thanks to Donna Coghill for making sure I was on track. And thank you to the external examiner; I look forward to your comments.

Of course, none of this would have been possible without the enthusiastic participation of all of my new comrades and friends in the South African labour movement. Thank you all for speaking with me and inspiring me to move forward with this work.

Finally, endless gratitude and love to my partner Teresa. Thank you for laughing with/at me when I needed it most. Thank you for pushing me when I needed to be pushed, for telling me to take a break when I needed to take a break, and for constantly reminding me that I could do this.

Oh and thanks to Comrades Waffles and Plaza too I guess.

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Chapter 1

Struggles for Citizenship in South Africa

“It is because of that fear, I mean, our background has told us that...if you start compartmentalizing people, you create an environment whereby you will look at each other as being of a lower class or differently and that is what we don’t want because I think our past has taught us that really that is something that is evil, that should not happen.”

– Setloke¹. Interview.
28 October 2016.

This introductory chapter is about the past and present struggles *for* citizenship and *against* legal discrimination in South Africa and aims to draw useful parallels between the anti-apartheid struggle led by South Africa’s majority Black trade unions and the challenges facing noncitizen² workers in South Africa today. It begins with an overview of the concerted program of denationalization that characterized the apartheid era wherein the White minority regime legislated Black ‘natives’ into ‘foreigners,’ at once ‘right-less’ and exploitable. It proceeds with a discussion of how the majority Black trade unions of the period rejected ethnic and national divisions in favour of a broad Black working class identity. Next, I discuss the unfulfilled promise of citizenship in South Africa and how the struggle for full and genuine citizenship for the poor Black majority continues to this day. Approaching the crux of this chapter, I then argue that the extension of citizenship to the Black majority, however incomplete, and the enthusiasm

¹ In the interests of anonymity, all interviewees have been given pseudonyms.

² Throughout this thesis, I will use the word ‘noncitizens’ rather than ‘migrants’ or ‘immigrants’. I find ‘migrant’ implies someone who is presently on the move. ‘Immigrants’ implies, to me, someone who is permanently and formally settled. ‘Noncitizens’ therefore is considered here to be a catch-all term for anyone who is not a citizen of South Africa, whatever their other identities or circumstances or legal statuses might be. It is meant to capture simply the fact that because these individuals are not citizens, they lack certain rights and are subject to certain constraints. If ‘migrant’ or ‘immigrant’ or ‘foreign nationals’ or ‘foreigners’ are used, it will usually be because I am quoting someone else who has used those terms.

with which it was claimed, serves to legitimize the state, its borders, and in the institution of citizenship itself, rendering today's noncitizens vulnerable to police-state brutality, xenophobic harassment, and exploitation at the hands of unscrupulous employers.

Denationalization: Pass Laws and Bantustans

With the election of the Afrikaner-dominated National Party in 1948, the White minority regime began its project of apartheid. Among the first initiatives in the early 1950s, was the enactment of a set of "Pass Laws" designed to control the movement of Black and other non-White people in South Africa. The Pass Law system, writes Conway, classed Black people as "permanent visitors in White South Africa, liable to be removed from urban areas should they not possess the right documentation," which, he argues, "corresponded with the labour force needs of the White-controlled state."³ At its peak in the 1970s, critical theoretical interventions began to interpret apartheid as no more a form of government than a structure calculated to control and produce cheap, exploitable labour for White settler capitalists. Recalling this work, Neocosmos writes: "The main component of this control mechanism was the 'migrant labour system' in which the gradual impoverishment of the rural hinterland provided the conditions for a compliant 'reserve army of labour'."⁴ Though their labour was essential to the perpetuation of the White settler economy and the Whites-only welfare state, Black people were not considered to be South African citizens.

³ Conway, Daniel. "Struggles for Citizenship in South Africa." In *Routledge Handbook of Global Citizenship Studies*, edited by Engin F. Isin and Peter Nyers. New York: Routledge (2014): 243.

⁴ Neocosmos, Michael. *From Foreign Natives to Native Foreigners. Explaining Xenophobia in Post-apartheid South Africa: Explaining Xenophobia in Post-apartheid South Africa: Citizenship and Nationalism, Identity and Politics*. Dakar: CODESRIA (2006): 46.

In the 1970s, under the guise of bequeathing ‘independence’ to the country’s varying African ethnicities, the apartheid regime instituted the system of ‘homelands’ or ‘Bantustans’. With the “Bantu Homelands Citizenship Act” of 1970, most Black South Africans became citizens of the homeland corresponding to their ethnic heritage, effectively terminating their claims to South African citizenship.⁵ Critical analyses have revealed this as an effort to absolve the White minority government of any obligation to provide the Black majority with even the most basic of services.⁶ Barchiesi similarly suggests that the settled urban Black population was never intended to be thought of as a constituent part of White metros; therefore, relatively prosperous White citizens were not expected to subsidize services for Black neighbourhoods and townships.⁷ Instead, these “black local authorities” were, like the homelands, mere labour reserves. And like their compatriots in the homelands, urban Blacks were required to carry passbooks in order to enter White areas for work. To be found without the necessary documentation meant certain detention, police-state brutality, violent removal and, in some cases, death. Though living adjacent to Whites and providing the labour required to maintain their privileged urban lifestyle, South Africa’s segregated urban Black population were not considered to be citizens of the cities in which they lived and worked.

Ultimately, according to Neocosmos, these three projects – pass laws, homelands, and urban segregation – effectively “de-nationalised” large segments of the Black population.⁸ Upon the ‘alienization’ of the Black majority, the apartheid state mobilized

⁵ Neocosmos, *From Foreign Natives to Native Foreigners*, 30.

⁶ Wolpe, Harold. “Capitalism and Cheap Labour-Power in South Africa.” *The Articulation of Modes of Production: Essays from Economy and Society*, edited by Harold Wolpe. London: Routledge (1980): 289.

⁷ Barchiesi, Franco. “Privatization and the Historical Trajectory of ‘Social Movement Unionism’: A Case Study of Municipal Workers in Johannesburg, South Africa.” *International Labor and Working-Class History* 71:1 (2007): 55.

⁸ Neocosmos, *From Foreign Natives to Native Foreigners*, 30.

“the idea of the alien to deny” ‘natives’ “both political rights and rights of residence.”⁹ Indeed, as Conway suggests, the unspoken intent was to remove any claim the Black population might have to the rights, entitlements, privileges, and opportunities of South African citizenship.¹⁰ Thus, with more or less the same legal status as their fellow Africans from the newly independent, internationally recognized states elsewhere on the continent, South Africa’s ‘natives’ had been made ‘foreigners’ in their own land.¹¹

Difference and Division in the Anti-Apartheid Struggle

In addition to denationalizing the Black majority, the apartheid regime also endeavoured to leverage ethnic, linguistic and cultural differences to serve their racist capitalistic ends. According to Von Holdt, although “apartheid policies sought to freeze, institutionalize, and deepen these differences”¹² throughout South Africa, nowhere was this ideology more fervently applied than in the workplace. In his case study of the National Union of Metalworkers of South Africa (NUMSA) at Highveld Steel, for instance, Von Holdt describes how the White bosses, deploying colonial and apartheid divide-and-rule tactics, awarded different opportunities to different groups and ensured that wages, conditions of work and residence, were stipulated along ethnic lines.¹³ Perhaps not surprisingly, this sometimes led to animosity between groups which, “in times of heightened political and social activism...frequently emerged (as) open

⁹ Misago, Jean Pierre, Iriann Freemantle, and L. B. Landau. “Protection from Xenophobia: An Evaluation of UNHCR’s Regional Office for Southern Africa’s Xenophobia Related Programmes.” *African Centre for Migration and Society, University of the Witwatersrand* (2015): 22.

¹⁰ Conway, “Struggles for Citizenship,” 241.

¹¹ Neocosmos, *From Foreign Natives to Native Foreigners*, 30.

¹² Von Holdt, Karl. “Social Movement Unionism: The Case of South Africa.” *Work, Employment & Society* 16:2 (2002): 289

¹³ Von Holdt, “Social Movement Unionism,” 287.

conflict.”¹⁴ Transcending differences was therefore elemental to the anti-apartheid struggle.

Given the all-consuming oppression of apartheid, South Africa’s majority Black trade unions could ill-afford to restrict themselves to merely workplace grievances. Established on universalist principles that later came to be described as ‘social movement unionism,’ South Africa’s liberation-oriented trade unions rightly saw township struggles against the apartheid police-state and workplace struggles against racial capitalism as inextricably interlinked.¹⁵ Von Holdt suggests that because the divide-and-rule tactics of White bosses were so blatant, Black trade unionists of the period were able to easily draw the link between the “apartheid workplace regime” and “broader apartheid structures.”¹⁶ Thus, in their ultimately successful endeavour to oppose the racist regime, South Africa’s majority Black trade unions were able to organize workers and communities alike, building a broad base of alliances with likeminded movements across sectors and locales.¹⁷

A crucial aspect of this strategy was to subordinate differences of ethnicity, language, culture, and origin to the imperative to mobilize as many workers as possible¹⁸ and to maintain unity.¹⁹ According to Seidman, “the militant labor movement...that

¹⁴ Von Holdt, “Social Movement Unionism,” 289.

¹⁵ Munck, Ronaldo. “Globalization, Trade Unions, and Labour Migration: A Transformationalist Approach.” In *Migrations, Precarity, and Global Governance: Challenges and Opportunities for Labour*, edited by Carl-Ulrik Schierup, Ronaldo Munck, Branka Likic-Brboric, and Andres Neergard (2015): 108.

¹⁶ Von Holdt, “Social Movement Unionism,” 287.

¹⁷ Barchiesi, “Privatization,” 52.

¹⁸ Hlatshwayo, Mondli. “Is There Room for International Solidarity within South African Borders? COSATU’s Responses to the Xenophobic Attacks of May 2008.” *Politikon* 38:1 (2011): 170.

¹⁹ Fine, Janice. “Migration and Migrant Workers in the Post-Apartheid Era.” *Global Labour Journal* 5:3 (2014): 337.

emerged...generally rejected racial identity as a basis for mobilization.”²⁰ Undue attention to difference was deemed divisive. ‘Tribalism’ was roundly denounced; and its perpetrators publicly disciplined. According to Hlatshwayo, “workers’ struggles and unionization in the 1980s, transcended xenophobia by creating and reinforcing working class identity both in the township and the workplace.”²¹ Indeed, according to Trimikliniotis, Gordon, and Zondo, “defiance of apartheid racial/ethnic divisive logic” was “an essential strategy for the achievement of unity of all workers against capitalism and apartheid.”²²

Since the White minority regime was judged illegitimate, the differences it sought to institutionalize and accentuate were considered inconsequential – even those pertaining to national origin. Whether a worker was from the part of the continent we know today as the Republic of South Africa or from beyond its borders was of little consequence as it was well recognized that the White minority government extended its oppressive, manipulative control over much of southern Africa.²³ Finally, since, as implied earlier, there was very little legal distinction between a worker from a newly independent, internationally recognized state like Lesotho or Malawi and one from a nominally ‘independent’ Bantustan like Transkei or Venda, there was at the time little reason to exclude those who would today be deemed ‘foreigners.’²⁴

²⁰ Seidman, Gay. "Is South Africa Different? Sociological Comparisons and Theoretical Contributions from the Land of Apartheid." *Annual Review of Sociology* 25:1 (1999): 428.

²¹ Hlatshwayo, “International Solidarity,” 177.

²² Trimikliniotis, Nicos, Steven Gordon & Brian Zondo. “Globalisation and Migrant Labour in a ‘Rainbow Nation’: a Fortress South Africa?” *Third World Quarterly* 29:7 (2008): 1336.

²³ Davies, Robert and Dan O'Meara. "Total Strategy in Southern Africa: an Analysis of South African Regional Policy since 1978." *Journal of Southern African Studies* 11:2 (1985): 191.

²⁴ Segatti, Aurelia, and Loren B. Landau. *Contemporary Migration to South Africa: A Regional Development Issue*. Washington: World Bank (2011): 34.

A Promise Unfulfilled: Post-Apartheid Citizenship and Inequality

Ultimately, the struggle *against* apartheid was, at its core, a struggle *for* citizenship. From the mid-1980s and into the transition period, the ANC (African National Congress) and its alliance partners COSATU (Congress of South African Trade Unions) and the SACP (South African Communist Party) effectively mobilized opposition to the White minority regime with promises of not only political freedom but economic emancipation as well.

Twenty-three years into the democratic era however, the promise of full and equal citizenship remains largely unfulfilled.²⁵ In dramatic contrast to the principally socialist Freedom Charter of 1955,²⁶ the ANC government recklessly embraced the tenets of the Washington Consensus,²⁷ the hegemonic political economic ideology of the period.²⁸ For instance, not only were the calls for public ownership of mines and banks dropped from speeches, the new “conservative macroeconomic paradigm” left the door open to *further* privatization.²⁹ According to Gumede, ANC leaders Nelson Mandela and Thabo Mbeki and former Reserve Bank governor Tito Mboweni, succumbing to the toxic notion that there was no alternative, “rebuffed popular expectations of radical redistributive policies.”³⁰

²⁵ Schierup, Carl-Ulrik. “Under the Rainbow: Migration, Precarity and People Power in Post-Apartheid South Africa.” *Critical Sociology* 42:7-8 (2016): 4.

²⁶ The Freedom Charter of 1955 was, according to Conway, “the most significant and comprehensive statement of citizenship demands made by the liberation movement.” It was a guiding and aspirational document that envisioned a non-racial ‘Rainbow Nation’ that stood in stark contrast to the racist, White supremacist, exclusionary regime of apartheid. (Conway, “Struggles for Citizenship,” 241.)

²⁷ Gumede, William Mervin. *Thabo Mbeki and the Battle for the Soul of the ANC*. London: Zed Books (2008): 109.

²⁸ Schierup, “Under the Rainbow,” 3.

²⁹ Gumede, *Thabo Mbeki*, 126.

³⁰ Barchiesi, “Privatization,” 55.

The consequences of this shift have been devastating for poor Black South Africans. As just one example, the Growth, Employment, and Redistribution Act (GEAR), the ANC's self-imposed structural adjustment program, adopted in 1996, failed to deliver growth, employment, or redistribution. In fact, in opening the market to cheap imports from China, nearly ruined the light manufacturing and textile industries, two key sources of steady employment for the majority Black working class. Though some well-connected individuals have managed to secure immense wealth and status for themselves,³¹ most Black South Africans today still survive on subsistence income acquired by any means necessary.

Compounding a stubbornly high unemployment rate – at least 27.7 percent in the first quarter of 2017³² – South Africa is now home to an ever-expanding domestic precariat. As elsewhere in the neoliberal capitalist world, retrenchment, casualization, and informalization – alongside privatization, subcontracting, outsourcing, and automation – have become sources of “constant anxiety” for South Africa's majority Black working class.³³ The global financial crisis of 2007-2008 further exacerbated this precariousness as more workers were retrenched and casualized to maintain profitability through the downturn.

White South Africans, legatees of the *puso ea khale*,³⁴ on the other hand, have managed to leverage their considerable economic, social, and cultural capital to ensure

³¹ For example, former trade unionist and current deputy president Cyril Ramaphosa is now one of the richest people in the country.

³² Staff Reporter. “Unemployment rate rises to 27.7%, highest for 14 years.” Mail & Guardian. Last modified 1 June 2017. <https://mg.co.za/article/2017-06-01-unemployment-rate-rises-to-277-highest-for-14-years>.

³³ Di Paola, Miriam. “A Labour Perspective on Xenophobia in South Africa: A Case Study of the Metals and Engineering Industry in Ekurhuleni.” Masters thesis, University of the Witwatersrand (2012): 94.

³⁴ As an Africanist, I am committed to decolonization. I consider it odd that we sometimes sprinkle in Latin or French or German phrases to make our writing sound more sophisticated even though we are writing

their reproduction as the dominant group in South African society.³⁵ Though the colour bar has technically been removed, Whites still predominate in, for instance, high-paying managerial professions.³⁶ Though the data is inconclusive, some estimates suggest that upwards of 67 percent of arable land in South Africa remains with White commercial farm-owners.³⁷ And, according to French economist Thomas Piketty, some 65 percent of South Africa's wealth is concentrated in the hands of a mere 10 percent of the population, of whom 80 percent are white.³⁸ Though a vocal minority of White racists insist they are facing a "White Genocide,"³⁹ South Africans of European descent, leveraging their unjustly accumulated, intergenerational wealth, are arguably better off today than they were under apartheid.⁴⁰

about Africa and Africans. While I must write my thesis in English, where appropriate I will use an African language more relevant to the people and places about which I am writing. '*Puso ea khale*' is Sesotho for '*ancien régime*'. I chose Sesotho because it is an official language in South Africa and in Lesotho, the home country of many of South Africa's migrants. There is something symbolic about a language being 'official' while many of its speakers are 'illegal'.

³⁵ Bauder, Harald. *Labor Movement: How Migration Regulates Labor Markets* (Oxford University Press, 2006): 36.

³⁶ Wilkinson, Kate, Gopolang Makou, Katleho Sekhoto, Vinayak Bhardwaj and Ziyanda Ngcobo. "Facts or alternative facts? Zuma's 10th State of the Nation Address checked." Africa Check. Last modified 10 February 2017. <https://africacheck.org/reports/facts-alternative-facts-zumas-10th-state-nation-address-checked/>.

³⁷ Van Wyk, Anim. "Do 40,000 whites own 80% of SA? The claim is incorrect." Africa Check. Last modified 14 September 2014. <https://africacheck.org/reports/do-40000-whites-own-80-of-sa-the-claim-is-incorrect/>.

³⁸ Allison, Simon. "'Black economic empowerment has failed': Piketty on South African inequality." The Guardian. Last modified 6 October 2015. <https://www.theguardian.com/world/2015/oct/06/piketty-south-africa-inequality-nelson-mandela-lecture>.

³⁹ York, Geoffrey. "Two decades after apartheid ended, racial tensions rattling South Africa." The Globe and Mail. Last modified 22 January 2015. <https://www.theglobeandmail.com/news/world/two-decades-after-apartheid-ended-racial-tensions-rattling-south-africa/article22571118/>.

⁴⁰ Southall, Roger. "The ANC state, more dysfunctional than developmental?" In *State of the Nation: South Africa 2007*, edited by Sakhela Buhlungu, John Daniel, Roger Southall, and Jessica Lutchman. Cape Town: HSRC Press (2007): 20.

In the end, contemporary South Africa is the most unequal society in the world, recording a GINI coefficient of 0.70.⁴¹ Despite having suffered under and triumphed over the uniquely oppressive regime of apartheid, poor Black South Africans, the supposed beneficiaries of the new democratic dispensation, have seen very little change in real terms. As Barchiesi argues, the citizenship they achieved “did not necessarily match workers’ views of rights as tools to remedy social injustice.”⁴² Their disappointment, frustration, and economic anxiety consistently manifests in the uniquely South African phenomenon of the ‘service delivery protest,’ conceptualized as the continuation of an unfinished struggle for full and equal citizenship.⁴³ Service delivery protests are, according to Von Holdt *le ba bang*,⁴⁴ driven by an “insurgent citizenship” that recognizes the ‘economic apartheid’ that continues to “distribute treatment, rights, privileges differentially among formally equal citizens according to differences of education, property, race, gender, and occupation.”⁴⁵ According to Loren Landau, the stark, racially correlated inequality of South African society represents the principal barrier preventing “the (Black) South African majority from claiming (its) place in the South African polity” as full and equal citizens of the ‘Rainbow Nation’.⁴⁶ Critically though, as Von Holdt *le ba bang* and Landau have discovered, service delivery protests often intersect

⁴¹ Schierup, “Under the Rainbow,” 4.

⁴² Barchiesi, Franco. *Precarious Liberation: Workers, the State, and Contested Social Citizenship in Postapartheid South Africa*. Albany: SUNY Press (2011): 5.

⁴³ Conway, “Struggles for Citizenship,” 243.

⁴⁴ ‘*Le ba bang*’ is Sesotho for ‘*et al*’.

⁴⁵ Von Holdt, Karl *le ba bang*. “The Smoke That Calls: Insurgent Citizenship, Collective Violence and the Struggle for a Place in the New South Africa.” Centre for the Study of Violence and Reconciliation and Society, Work and Development Institute, University of the Witwatersrand (2011): 6.

⁴⁶ Landau, Loren B. “Demons and Democracy: Positive Values and the Politics of Outsiderness. Accessed 27 March 2017. <http://www.migration.org.za/entry/303/demons-and-democracy-positive-values-and-the-politics-of-outside>.

with outbreaks of xenophobic violence as the struggle for inclusion coincides with an imperative of exclusion.

Borders of Exclusion: Legal Discrimination and Xenophobia

Ironically, the ground in which xenophobic sentiment takes root has been made fertile by the ANC government's own seemingly innocuous national-building exercises. Under the slogan 'South Africa belongs to all who live in it' – articulated in both the Freedom Charter and the preamble to the 1996 Constitution – the ANC has sought to manufacture the notion of a 'Rainbow Nation,' a single unified society growing miraculously out of deeply and deliberately divided one – an ideal for which, as we have just seen, the Black majority is fast losing patience.

While intended to inspire South African *citizens* toward social cohesion, Marais argues that such "banal nationalism"⁴⁷ has had the adverse consequence of stigmatizing those who are *not citizens*, catalyzing an 'us versus them' mentality among the South African citizenry and resonating in particular with the poor Black majority, who, believing themselves the rightful beneficiaries of the post-apartheid dispensation, feel especially betrayed by its false promise. Thus, with unseemly echoes⁴⁸ of apartheid-era othering and demarcation, South African exceptionalism establishes today's 'foreigners' as the "functional equivalent"⁴⁹ of Black South Africans during the apartheid era. Such is the essential paradox of citizenship: "defining the boundaries of membership in a nation-state also necessitates defining the borders of exclusion."⁵⁰

⁴⁷ Di Paola, "Ekurhuleni," 11.

⁴⁸ Fine, "Migration and Migrant Workers," 330.

⁴⁹ Schierup, "Under the Rainbow," 9.

⁵⁰ Fine, "Migration and Migrant Workers," 334.

Nevertheless, as Steven Gordon contends, the most salient “divisions between citizens and foreigners”⁵¹ in South Africa today are primarily down to a regime of “legal discrimination,” embodied in the institution of citizenship.⁵² The extension of citizenship to South Africa’s Black majority arguably concretized the exemption of noncitizens from various “constitutional norms...designed to protect individual liberties”⁵³ thereby rendering them vulnerable to xenophobic violence and exploitation. While the Pass Laws and Bantustans may have been deemed illegitimate on the basis that they denied rights and citizenship from the majority, the enthusiasm with which the Black population claimed citizenship arguably legitimized the colonially imposed borders and the Western, statist institution of citizenship that now divides workers along cartographical and legal lines that are no less arbitrary. In very much the same way as the apartheid regime sought to denationalize the Black population and delegitimize their claims to citizenship and fair treatment by the authorities, an analogous ‘state of exception’⁵⁴ now applies to noncitizens.

By and large, Black South Africans today seem unmoved by the universalist appeals to Black working class identity that so effectively motivated them during the anti-apartheid struggle. Disregarding the common experience of racism, oppression, poverty, and labour exploitation they continue to share with ‘foreigners’, their own precarious circumstances have seemingly necessitated the exclusion of their erstwhile African comrades from the promise of the new South Africa thereby legitimating the

⁵¹ Gordon, Steven L. "Migrants in a State of Exception." *Transcience Journal* 1:1 (2010): 7.

⁵² Gordon cited in Schierup, “Under the Rainbow,” 10.

⁵³ Gordon, “State of Exception,” 15.

⁵⁴ Gordon, “State of Exception,” 15.

state, its borders, and, critically, the legal discriminations consigning noncitizens to a perpetual ‘state of exception.’

Misplaced Hope?: South Africa’s Embattled Trade Unions

Because of their status in the public consciousness as a leading force against White minority rule and their demonstrated ability to unite workers irrespective of difference against a common enemy, many, myself included, still look to South Africa’s trade unions to play a prominent role in any renewed struggle against the politico-economic forces impoverishing and dividing the southern African working class, including xenophobia, exploitation, precarization, inequality, and even neoliberal global apartheid capitalism itself.⁵⁵ However, today’s South African trade unions are not the formidable organizations they once were. Increasingly embattled and often ineffectual, the South African trade union movement is scrambling to remain relevant in the face of what Carl-Ulrik Schierup characterizes as a neoliberal assault on organized labour.⁵⁶ A considerable body of literature has developed to explain how these once mighty organizations have, since the 1990s, grown increasingly moribund.⁵⁷

One explanation suggests that the ‘corporatist compromise’⁵⁸ between labour, capital and the state – embodied in the form of bargaining councils – compels South Africa’s unions to operate largely within their specific sectors,⁵⁹ to focus primarily on

⁵⁵ Walia, Harsha. “Transient Servitude: Migrant Labour in Canada and the Apartheid of Citizenship.” *Race & Class* 52:1 (2010): 72.

⁵⁶ Schierup, “Under the Rainbow,” 7.

⁵⁷ Schierup, “Under the Rainbow,” 5.

⁵⁸ Fine, Janice. “Restriction and Solidarity in the New South Africa: COSATU’s Complex Response to Migration and Migrant Workers in the Post-Apartheid Era.” *Solidarity Center* (2014): 11.

⁵⁹ Hlatshwayo, “International Solidarity,” 174.

narrow economic grievances to the exclusion of wider societal issues,⁶⁰ and to utilize mainly legal means of achieving these ends. Until very recently, this has been compounded by COSATU's affiliation with the neoliberal ANC by way of the governing Tripartite Alliance (with the South African Communist Party). This association, argues Barchiesi,⁶¹ has compromised the former's ability to act on behalf of workers and members and to assert an independent pro-poor, pro-worker perspective, including, Fine argues,⁶² respect for the rights of noncitizen workers.⁶³

Another explanation suggests that South Africa's enfeebled trade unions,⁶⁴ as elsewhere in the neoliberal capitalist world, face falling rates of unionization – down from a peak of 45.2 percent in 1997 to just 25.4 percent in 2012, according to South Africa's Institute of Race Relations⁶⁵ – and, as a result of privatization, outsourcing, subcontracting, and casualization, are finding fewer full-time, permanent, and directly employed workers – who Mondli Hlatshwayo dismisses as “low hanging fruit”⁶⁶ – available to organize in the usual places with tried and true methods.⁶⁷ This deepening “crisis of representation,” in Ronaldo Munck's terms,⁶⁸ means South Africa's trade unions have fewer paid-up members and are therefore unable to marshal the financial and

⁶⁰ Mapira, Leo. “‘Trade Unions Are Their Own Obstacles’: Unions’ Responses to Undocumented Migrant Labour in Post-Apartheid South Africa.” Masters thesis, University of Cape Town (2013): 104.

⁶¹ Barchiesi, “Privatization,” 65.

⁶² Fine, “Migration and Migrant Workers,” 335.

⁶³ Though with the SACP proposing at its July 2017 congress to contest elections as a distinct political entity, the Tripartite Alliance may be waning.

⁶⁴ Fine, “Migration and Migrant Workers,” 335.

⁶⁵ Fine, “Migration and Migrant Workers,” 336.

⁶⁶ Hlatshwayo, “Resilience,” 28.

⁶⁷ Munck, “Transformationalist,” 110. Mapira, “Obstacles,” 117. Hlatshwayo, “Resilience,” 28.

⁶⁸ Ronaldo Munck, “Transformationalist,” 111.

human resources necessary to maintain, let alone expand the membership or to engage in any considered program of action against, for instance, xenophobia or privatization.⁶⁹

Finally, in contrast to the broad base of support unions received during the anti-apartheid struggle, today's unions are, according to Beresford and Hlatshwayo, increasingly fragmented, reflecting a growing skepticism with regard to the willingness and capacity of existing unions to effectively advocate for their rank and file members, both citizen and noncitizen.⁷⁰ As just one example, which I will discuss further in Chapter 3, the once impressive South African Municipal Workers Union (SAMWU) has in recent years suffered two high profile splits. The resultant breakaway unions – MATUSA (Municipal and Allied Trade Union of South Africa) and DEMAWUSA (Democratic Municipal and Allied Workers Union of South Africa) – are now, along with the more established, traditionally White union IMATU (Independent Municipal and Allied Trade Union), attracting scores of disaffected SAMWU members.⁷¹

Against this backdrop, it might seem optimistic to expect South Africa's beleaguered trade unions to convene a renewed struggle *for* equal citizenship and *against* legalized discrimination. Nevertheless, in contrast to the imposed legal discriminations of the apartheid era, states, borders, and citizenship are unlikely to be abolished any time soon⁷² while the Pan-Africanist "ideology of free movement and a 'borderless continent' remains wishful thinking."⁷³ It is therefore incumbent upon trade unions to work to mitigate the effects of these institutions and to endeavour to overcome the divisions they

⁶⁹ Di Paola, "Ekurhuleni," 96.

⁷⁰ Hlatshwayo, "International Solidarity," 175. Beresford, Alexander. *South Africa's Political Crisis: Unfinished Liberation and Fractured Class Struggles*, London: Palgrave Macmillan (2016): 63.

⁷¹ Beresford, *Fractured Class Struggles*, 63.

⁷² "Short of the establishment of interplanetary relations, a world government is unlikely to take form anytime soon." (Linda Bosniak, "Citizenship Denationalized," 447.)

⁷³ Trimikliniotis, Gordon, and Zondo, "Fortress," 1336.

incite. Additionally, as unions themselves appear to be impaired by the same forces depriving and dividing the southern African working class, there emerges a political, moral, and material incentive compelling unions to confront these interwoven issues. Revitalization is urgently required.

Thesis Outline

This thesis is comprised of seven chapters and a conclusion. Chapter 2 charts a course through the existing literature on trade unions and noncitizen workers in South Africa and the factors thought to prevent unions from organizing noncitizen workers and from effecting revitalization. I then zero in on one of these factors, what Janice Fine terms an “organizational norm of universalism” for further inquiry. After defining it, I then propose a theoretical framework, inspired by radical and feminist citizenship theory that I believe can help us to understand the potential implications of the organizational norm of universalism for noncitizen workers and members and for the prospect of trade union revitalization in South Africa.

Chapter 3 begins describes the initial research plan and how this constrained project came to be designed, outlining the factors believed to have prevented the research from being executed as planned. The chapter then discusses the revised research project, the limitations and opportunities it presented, and concludes with a few brief reflections regarding the conduct of research against the backdrop of South Africa’s fractured trade union movement. Drawing on my research and on the existing literature, Chapter 4 provides an overview of the general circumstances of noncitizen workers in South Africa, especially as they relate to the legal discriminations to which they, as noncitizens, are

subject and a pervasive xenophobic discourse constructing them as ‘foreigners’ and interlopers undeserving of protection.

Chapters 5, 6, and 7 expand on the theoretical framework introduced in Chapter 2 and with evidence, examples, and insight from my research, apply it to the question of trade unions and noncitizen workers and members in South Africa. For instance, Chapter 5 begins with an overview of the *false universalism* of citizenship as it pertains to women and state citizenship. It then demonstrates the utility of this analytical framework in the realm of trade union membership thus serving to illustrate how the (false) universalist orientation of the South African labour movement excludes noncitizen workers and members from full and equal membership and prevents unions from recruiting new noncitizen members. In turn, Chapter 6 describes the *principle of differentiated universalism* and then applies it to trade union membership and recruitment. Acknowledging that differentiation can be fraught, especially in a country like South Africa with high levels of precarity and xenophobic sentiment, Chapter 7 sketches out a *politics of solidarity in difference* which, it is argued here, has potential to unite citizens and noncitizens in a renewed labour-led struggle against the neoliberal political economy that is clearly impoverishing all workers irrespective of their differences. The final concluding chapter recaps the preceding discussion and recommends future research in this area.

Chapter 2

Ambivalent Advocates: Trade Unions and Noncitizen Workers

The present chapter provides a brief overview of the position of majority Black trade unions in South Africa today and evaluates the prospect that these once formidable organizations might convene a renewed struggle aimed at mitigating the effects of the legal discriminations informing the vulnerability of noncitizen workers and to overcome the divisions this legitimized discrimination incites. After a short review of factors thought to prevent unions from more actively taking up the cause of noncitizen workers, I settle on an “organizational norm of universalism”⁷⁴ as the factor I believe holds underappreciated explanatory value. Given the parallels between the struggles of the poor Black majority for full and genuine citizenship in the new South Africa, those of women and disabled citizens for the same in other states, and the exclusion of noncitizens from full and genuine trade union membership, I then outline a theoretical framework, inspired by radical and feminist citizenship theory, to help us understand the potential implications of the organizational norm of universalism for noncitizen workers and members and for the prospect of trade union revitalization in South Africa.

Literature Review

Given the present weakness of the South African labour movement, the persistent precarity and intensifying inequality impoverishing the Black citizenry as well as the legal discriminations and pervasive xenophobic sentiment dividing South Africans from

⁷⁴ Fine, “Restriction and Solidarity,” 43.

their erstwhile noncitizen comrades, scholars and activists increasingly caution that “business as usual is simply not an option.”⁷⁵ Leo Mapira, for instance, insists that a continued reliance on “industrial-style unionism...or...a narrow workplace focus” risks alienating noncitizen and casualized workers who, he argues, are presently beyond reach.⁷⁶ Thus, in the post-2008 context,⁷⁷ many have implored South African trade unions to step outside of their sectoral comfort zones and to see the recruitment of precarious workers, including noncitizens, as a “powerful way to combat changing forms of work and to strengthen union revitalization efforts.”⁷⁸

For instance, Trimikliniotis, Gordon, and Zondo stress that “migrant workers must be incorporated in the movement and their rights defended for the benefit of all workers.”⁷⁹ Hlatshwayo similarly emphasizes the “need to organize migrant workers as part of an important response to xenophobia”⁸⁰ and elsewhere, that organizing noncitizens and “integrating them into union structures” should be seen as a “powerful weapon in the struggle against xenophobia as it strengthens workers’ identity and solidarity.”⁸¹ Finally, Ronaldo Munck contends that “a dynamic labour movement should recognize that migrant workers are an integral part of the working class...that they have often played a pivotal role”⁸² and that “solidarity with migrant workers (can help) trade unions get back to the basic principles of the labour movement.”⁸³

⁷⁵ Munck, “Transformationalist,” 111.

⁷⁶ Mapira, “Obstacles,” 44.

⁷⁷ I refer here to both the global financial crisis and the xenophobic attacks of May 2008.

⁷⁸ Barchiesi, Franco. “Wage Labor, Precarious Employment, and Social Inclusion in the Making of South Africa's Postapartheid Transition.” *African Studies Review* 51:02 (2008): 122.

⁷⁹ Trimikliniotis, Gordon, and Zondo, “Fortress,” 1323.

⁸⁰ Hlatshwayo, “International Solidarity,” 182.

⁸¹ Hlatshwayo, “International Solidarity,” 182.

⁸² Munck, “Transformationalist,” 105.

⁸³ Munck, “Transformationalist,” 105.

Nevertheless, most scholars lament that unions have, by and large, failed to execute this critical “paradigm shift”.⁸⁴ In fact, a consensus seems to have formed suggesting that South African trade unions today remain, as Janice Fine contends, “extraordinarily ambivalent about migrant workers.”⁸⁵ “On the one hand,” she argues, “they believe they can maintain their privileged position by excluding them, on the other, they know migrant workers are already present in large numbers in their sectors and need to be organized.”⁸⁶ Sensitive to the awkward position South African trade unions occupy, Fine elsewhere refers to their ambivalence as “an attempt to stand in the breach,” a sentiment echoed by Trimikliniotis, Gordon, and Zondo who describe COSATU as “torn between...its...traditions of anti-racism⁸⁷ as an essential strategy for the achievement of unity of all workers against capitalism and apartheid, and...its sectional defence of a ‘national working class’ against (African) migrant labour.”⁸⁸ In response to the indolence of South African trade unions on the question of noncitizen workers, much of the literature aims to highlight the factors thought to prevent unions from organizing noncitizens and thus from effecting revitalization.

Among the more sympathetic readings are those suggesting that trade union officials’ hands are tied by a responsibility to their “traditional support base,” comprised as it is of mainly poor Black South African citizens.⁸⁹ Hlatshwayo, Di Paola and others have noted that, despite their unionized status and the political education typically

⁸⁴ Hlatshwayo, “International Solidarity, 182.”

⁸⁵ Fine, “Movements Wrestling,” 18.

⁸⁶ Fine, “Movements Wrestling,” 18.

⁸⁷ Given that these authors conceptualize xenophobia against African migrants as a kind of “re-racialisation,” their use of the phrase “anti-racism” here is taken to mean anti-xenophobia, anti-national chauvinism or anti-ethnic chauvinism.

⁸⁸ Trimikliniotis, Gordon, and Zondo, “Fortress,” 1336.

⁸⁹ Gordon, Steven, and Brij Maharaj. “Representing Foreign Workers in the Private Security Industry: a South African Perspective on Trade Union Engagement.” *The Journal of Modern African Studies* 52:1 (2014): 136.

accompanying this, citizen members, enduring persistent precarity, have been known to harbour xenophobic misgivings with respect to the noncitizens in their midst. As a result, they tend to resist talk of organizing noncitizen workers⁹⁰ and idealistic appeals to internationalist solidarity⁹¹ with those they are more likely to see as a threat.⁹² In their study of the National Security and Unqualified Workers Union (NASUWU), Steven Gordon and Brij Maharaj underscore that:

“It is not a simple task for union leaders to persuade existing members to shoulder the burden of even higher risks, while simultaneously attempting to build solidarity between native and foreign workers against a backdrop of uncertainty and extraneous factors such as cultural and language barriers.”⁹³

Decidedly less generous accounts accuse trade union officials themselves of succumbing to national chauvinism, despite a political education denouncing such divisive ideology.⁹⁴ Hlatshwayo, for example, notes that COSATU has “complained about immigrants taking over the jobs of South African workers” and undercutting them in terms of wages and conditions of work.⁹⁵ Others have drawn attention to COSATU’s “strikingly restrictionist”⁹⁶ opposition to proposals that would have created legal means for noncitizens to enter the South African labour market, reflecting a perception that the “large-scale entry of foreigners would disadvantage citizen workers,” as to opposed an interpretation positioning immigration as opportunity to expand the membership.⁹⁷ Finally, Di Paola describes a belief among union leaders, shaped ostensibly by both

⁹⁰ Hlatshwayo, “International Solidarity,” 183.

⁹¹ Di Paola, “Ekurhuleni,” 9.

⁹² Di Paola, “Ekurhuleni,” 95.

⁹³ Gordon and Maharaj, “Private Security,” 136.

⁹⁴ Mapira, “Obstacles,” 93.

⁹⁵ Hlatshwayo, “Resilience,” 28-29.

⁹⁶ Fine, “Migration and Migrant Workers,” 334.

⁹⁷ Trimikliniotis, Gordon, and Zondo, “Fortress, 1333.

realpolitik and a lack of human and financial resources,⁹⁸ that the interests of citizens ought to receive precedence over any initiative designed to help ‘foreigners.’⁹⁹

Notwithstanding these important interventions, it is another explanatory factor – what Janice Fine terms an “organizational norm of universalism”¹⁰⁰ – that my thesis aims to emphasize.

An ‘Organizational Norm of Universalism’

It was argued earlier that during the anti-apartheid struggle South African trade unions sought to transcend differences of ethnicity, culture, language, and origin by casting all workers as members of a single oppressed Black working class. South African trade unions today continue to adhere to this organizational norm of universalism. In its emphasis on homogeneity and unity,¹⁰¹ labour universalism “rejects particularist identities of ethnicity and migration status in favor of a broad worker identity”¹⁰² and thus presupposes that all workers face generally the same circumstances. Motivated by the internationalist clarion call, ‘workers of the world – unite!’, it asks members to “subordinate their distinctive personal struggles to the general causes and aspirations of the union,”¹⁰³ revealing what Alberti, Holgate, and Tapia deem a “false dichotomy between workplace and migration issues.” It posits that workers – and especially trade union members – identify primarily with an uncomplicated notion of The Proletariat or

⁹⁸ Di Paola, “Ekurhuleni,” 96.

⁹⁹ Hlatshwayo, “International Solidarity,” 175.

¹⁰⁰ Fine, “Migration and Migrant Workers,” 334.

¹⁰¹ Alberti, Gabriella, Jane Holgate, and Maite Tapia. “Organising Migrants as Workers or as Migrant Workers? Intersectionality, Trade Unions and Precarious Work.” *The International Journal of Human Resource Management* 24:22 (2013): 4139.

¹⁰² Fine, “Migration and Migrant Workers,” 336.

¹⁰³ Gordon and Maharaj, “Private Security,” 137.

The Working Class,¹⁰⁴ despite considerable evidence revealing this to be optimistic at best.¹⁰⁵

Fine attributes the continued salience of an organizational norm of universalism to a moralistic desire to “reject anything that smacks of ethnocentrism” as South Africa attempts to move beyond the rigid racial and ethnic classifications of the apartheid era.¹⁰⁶ As a result, she argues that South African trade unions have been opposed to nationality- or legal status-based differentiation and have been generally “skittish about explicitly focusing on migrants.”¹⁰⁷ In essence, unions have been reluctant to recognize the circumstances of noncitizen workers and members as fundamentally different from those of citizen workers and members. Where recognition has occurred, Fine contends, the tendency is to “subsume migrant workers under the rubric of ‘vulnerable workers,’” which she dismisses as “neither an identity nor a rallying cry” but merely another broad universalist category that ignores the particular circumstances of different groups of vulnerable workers.¹⁰⁸

Nevertheless, despite a contextually rational preference for “one collective identity, universally defined in terms of class,”¹⁰⁹ sameness is not a synonym for equality¹¹⁰ and rejecting ethnocentrism should not mean denying indications of its existence.¹¹¹ Further, Alberti, Holgate and Tapia argue that this sort of universalistic orientation inadvertently downplays national origin and legal status as factors relevant to

¹⁰⁴ Alberti, Holgate, and Tapia, “Intersectionality,” 4135.

¹⁰⁵ Di Paola, “Ekurhuleni,” 93.

¹⁰⁶ Fine, “Migration and Migrant Workers,” 336.

¹⁰⁷ Fine, “Migration and Migrant Workers,” 335.

¹⁰⁸ Fine, “Migration and Migrant Workers,” 337.

¹⁰⁹ Alberti, Holgate, and Tapia, “Intersectionality,” 4135

¹¹⁰ Lister, Ruth. “Dialectics of Citizenship.” *Hypatia* 12:4 (1997): 19.

¹¹¹ Di Paola, “Ekurhuleni,” 89.

a worker's material conditions,¹¹² including the ever-present threat of xenophobic harassment. It is also suggested that a narrow focus on only those concerns that affect *all* members inadvertently privileges the typical economic grievances of citizen members to the exclusion of the particular concerns of noncitizens. Thus, Marino, Penninx, and Roosblad question the extent to which a universalistic orientation is capable of effecting "equal material outcomes" for noncitizen members.¹¹³ Ultimately, Fine cautions that when unions "reject the idea of organizing (noncitizen workers) explicitly as (noncitizen) workers," they "neglect issues that may be as important as wages and working conditions"¹¹⁴ – in particular, those stemming from their legal status as noncitizens and the 'outsiderness' this has come to represent.¹¹⁵

According to Alberti, Holgate, and Tapia, a central question facing unions today is whether to continue to consider vulnerable noncitizen workers simply as workers (a universalist orientation), subordinating their particular struggles to the larger citizen-centric class struggle; or, whether it might be necessary to recognize them as not just workers but as *noncitizen* workers with specific needs and subject to different forms of oppression relative to their citizen comrades (a particularist orientation)¹¹⁶; or, indeed, as informed by my chosen theoretical framework, a synthesis of these that aims to "particularize the universal".¹¹⁷

Thus far we have described how the apartheid era was characterized by a concerted program of denationalization, in the form of Pass Laws and homelands, that

¹¹² Alberti, Holgate, and Tapia, "Intersectionality," 4143.

¹¹³ Marino, Stefania, Rinus Penninx, and Judith Roosblad. "Trade Unions, Immigration and Immigrants in Europe Revisited: Unions' Attitudes and Actions Under New Conditions." *Comparative Migration Studies* 3:1 (2015): 13.

¹¹⁴ Fine, "Migration and Migrant Workers," 337.

¹¹⁵ Landau, "Demons and Democracy," n.p.

¹¹⁶ Alberti, Holgate, and Tapia, "Intersectionality," 4143.

¹¹⁷ Lister, Ruth. *Citizenship: Feminist Perspectives, Second Edition*. New York: NYU Press (2003): 89.

ultimately rendered the Black majority at once ‘right-less’ and exploitable while simultaneously institutionalizing and accentuating racial and ethnic differences. In casting all workers, irrespective of ethnicity and origin, as members of an oppressed Black working class, trade unions of the period were able to sufficiently transcend these divisions and, ultimately, to dismantle apartheid and claim citizenship for Black South Africans. Today, a similarly salient set of legal discriminations renders noncitizens vulnerable to xenophobia and exploitation, and contributes to the paralyzing disunity of the southern African working class. Though circumstances have changed, South Africa’s embattled trade unions fundamentally have not. Thus, a critical question facing unions today is whether this “organizational norm of universalism” is, in an era of heightened cross-border migration and legitimized legal discrimination against noncitizens, still relevant, appropriate, or even justifiable. It is this question that my thesis aims to explore.

Theoretical Framework

Trade union membership, like state citizenship, is an “intrinsically universalist” concept.¹¹⁸ As such, it seems appropriate to consult the rich body of theoretical insight developed to critique the professed universality of state citizenship and to apply this analytical framework to evaluate the continued relevance of the organizational norm of universalism for South Africa’s beleaguered trade unions. In particular, I have found Ruth Lister’s principle of differentiated universalism to be of considerable theoretical value. Though a more in-depth discussion will frame Chapters 5, 6, and 7, it is necessary to introduce the theory here.

¹¹⁸ Lister, “Feminist Perspectives,” 89.

Briefly, Lister argues that despite the universalist claims of citizenship, the rights, entitlements, opportunities, and privileges it is said to offer are often not available to all citizens to the same extent. Though she is writing primarily about women in the United Kingdom and other Western states, as Von Holdt *le ba bang*, Landau, Conway, and Barchiesi have all argued, a similar case can be made regarding the precarious position of poor Black South Africans in the ‘Rainbow Nation’. Lister posits that rights and entitlements of citizenship are not equally available because citizenship as it is commonly understood is based on a template of an ideal citizen, one who is typically male, able-bodied, not-poor, and, in the case of South Africa, as Von Holdt *le ba bang* and Landau suggest, White. Individuals lucky enough to fit this template, Lister contends, are unlikely to experience any barriers to the full enjoyment of the rights, privileges, and protections of citizenship or to their full participation in the political community.¹¹⁹ All others – specifically women in Lister’s case but also disabled citizens and, in the South African context, poor Black citizens – must continually struggle to access full and equal citizenship or to dismantle the legal and structural constraints preventing them from enjoying that which the prototypical citizen takes for granted. Either that, or they assent to a model of citizenship that, while professed to be neutral and universal, is, in her view, a case of ‘false universalism’.¹²⁰

Analogously, as I will discuss in greater detail in Chapter 5, South African trade unions’ organizational norm of universalism maintains that all members are equal, that all members are free to participate in the union, and that all members enjoy the protections and entitlements of union membership to the same degree. In contrast to this ideal,

¹¹⁹ Lister, “Dialectics,” 9.

¹²⁰ Lister, “Dialectics,” 6.

however, Lister's analytical framework helps to reveal how these protections and entitlements are often not available to all members equally and that some members may not be able to participate as freely as others. This is because trade union membership, as we have seen, has ossified into a template of an ideal member, one who is directly and permanently employed with full-time status and, critically to this thesis, is also a South African citizen. Though increasingly rare in number, individuals matching this profile are unlikely to experience any limits to their enjoyment of membership. In contrast, the growing number of workers not fitting the template, including especially noncitizens, are faced with a debilitating dilemma: conform to an established membership model that, though professed to be neutral and universal, ignores their particular vulnerabilities or, to remain outside the organized labour movement, struggling individually against a perpetually exploitative system.

As I will discuss in Chapter 6, despite her important and involved critique of the false universalism of state citizenship, Lister does not advocate discarding the universal as an unattainable ideal. On the contrary, she maintains that:

“Without the promise of the universal, against which the denial of full and genuine citizenship...can be measured and claims for inclusion...directed, the concept of citizenship loses its political force. It is precisely because of its intrinsically universalist ‘emancipatory potential’ that it has a resonance for many people.”¹²¹

Similarly, South Africa's trade unions need not abandon the ideal of equal membership implied by their proudly held organizational norm of universalism. Instead, they could consider adopting Lister's *principle of differentiated universalism* as a new kind of ‘organizational norm’. In contrast to the present model which tends to deny

¹²¹ Lister, “Feminist Perspectives,” 89.

difference, under this new model the “universalist values of equality and justice (would be) pursued through attention to difference.”¹²² As a result, full and genuine trade union membership for all members is positioned as aspirational rather than a statement of the present situation, which, like South African citizenship, is easily revealed as a case of false universalism.

Conclusion

To conclude, though the organizational norm of universalism clearly frustrates the development of an “explicitly migrant worker strategy”¹²³ and thus impedes revitalization, only a very few South Africanist scholars have mentioned it.¹²⁴ Consequently, insufficient attention has been given the explanatory power of a continued adherence to this organizational norm of universalism. My thesis, drawing on research conducted in Gauteng, South Africa in the southern spring of 2016, aims to give due consideration to this critical factor and, with theoretical insight from feminist citizenship theory, highlights areas where a universalistic orientation might serve to exclude noncitizen workers and members and thus obstructs any necessary program of revitalization.

¹²² Lister, Ruth. “Citizenship and Difference Towards a Differentiated Universalism,” *European Journal of Social Theory* 1:1 (1998): 84.

¹²³ Fine, “Migration and Migrant Workers,” 336.

¹²⁴ Mapira, “Obstacles,” 118. Fine, “Migration and Migrant Workers,” 335.

Chapter 3

Methodology

In the previous chapter, it was argued that earlier scholars, in outlining the reasons why South African trade unions have been reluctant or unable to organize noncitizen workers, have glossed over the potential explanatory power of a continued adherence to an organizational norm of universalism which is by definition inattentive to the particular concerns of noncitizen workers and members and downplays legal status as a factor relevant to a worker's material conditions. The lack of attention given to this factor invites concerted scholarly inquiry into how it might contribute to unions' inability to recruit new noncitizen members and to effect equal material outcomes for current noncitizen members. To this end, my central research question is: What are the potential implications of an "organizational norm of universalism" for noncitizen workers and members and ultimately for the prospect of trade union revitalization in South Africa?

Research Questions

Though I was, for reasons outlined below, unable to execute my research plan as originally designed, the fundamental aim of my research project and my thesis in general remained intact. My research questions are inspired by a heuristic model originally developed by Dutch scholars Rinus Penninx and Judith Roosblad. In their seminal study of the evolving "attitudes and actions" of national trade unions in seven western European countries over three decades, Penninx and Roosblad identified three broad dilemmas facing trade unions in an era of increasing transnational labour migration: to resist employers' efforts to import noncitizen workers or to cooperate with such schemes;

to include noncitizens in the union or to exclude them; and, to treat them the same as citizen members or to develop special policies to address their particular circumstances.¹²⁵ This third dilemma, being central to my thesis in general and my research questions in particular, is quoted here in full:

“(S)hould trade unions exclusively represent the common interests of native and migrant workers, treating all workers the same? Or should they develop targeted policies and strategies that cater to the special interests and needs of migrant members? While generalized policies may implicate injustices, specialized policies risk alienating native members, who might resent such ‘preferential treatment’.”¹²⁶

First, I was interested in the arguments and language used by union leaders, officials, and shop stewards to justify a universalist position, evidence of which would be acquired by interviewing these individuals. A series of research questions, from which I adapted my interview questions, were developed to draw out these perspectives:

- (a) To what extent do South African trade unions engage with noncitizen workers?
- (b) If they do not permit noncitizen members, what arguments do they employ to justify such exclusion?
- (c) If they do permit noncitizen members, do they “exclusively represent the common interests of native and migrant workers, treating all workers the same?”
- (d) If they adopt this universalist perspective, what arguments do they employ to justify this position?
- (e) Or have they developed “targeted policies and strategies that cater to the special interests and needs of migrant members?”
- (f) If they adopt this particularist perspective, what arguments do they employ to justify this position?
- (g) If they adopt the particularist position, what “targeted policies and strategies” do they claim to have developed to address the “special interests and needs of migrant members?”

¹²⁵ Marino, Penninx, and Roosblad, “Attitudes and Actions,” 2.

¹²⁶ Marino, Penninx, and Roosblad, “Attitudes and Actions,” 2-3.

Second, an additional set of research questions were designed to capture at the perceptions of noncitizen members regarding their unique concerns and vulnerabilities as well as the extent to which they believe their unions are addressing these concerns. Unfortunately, for reasons I will describe below, I was unable to access this group directly. These questions, then, informed those developed for individuals affiliated with a selection of civil society groups active in the field of noncitizens' rights advocacy and support.

- (h) What do noncitizen members identify as being their “special interests and needs”?
- (i) To what extent do noncitizen members feel like their union is adequately addressing their “special interests and needs”?

Finally, the research originally sought to apprehend the perceptions of citizen members vis-à-vis the noncitizen workers and members in their midst as well as the extent to which the union is mitigating the potential for alienation and resentment among citizen members. Again, I was not permitted access to this constituency and since there is no additional organization, other than their trade unions, that is dedicated to the specific interests of citizen members, these perspectives were, regrettably, not attained. The questions, since discarded, were as follows:

- (j) To what extent do citizen members feel resentful of or alienated by the presence of noncitizen workers in South Africa, in the workplace, and in the union?
- (k) To what extent do citizen members feel resentful of or alienated by any “targeted policies and strategies” developed for their noncitizen comrades?
- (l) To what extent do citizen members feel like their union is addressing their reservations, if any, regarding the incorporation of noncitizen members into the union and the subsequent development of “targeted policies and strategies” for them?

Hypothesis

As implied, my working hypothesis was that South African trade unions would tend to adhere to an organizational norm of universalism, resulting in an inability to recognize the potential utility of differentiating recruitment and membership. The reluctance to develop specific policies and strategies to address the unique concerns, vulnerabilities, and grievances of noncitizen workers and members was hypothesized to be a result of unions' historically rational aversion to acknowledging differences. Their continued adherence to a universalistic notion of proletarian sameness and unity, deployed with such success in the anti-apartheid struggle, I suspected, would stem from a false dichotomy that considers difference and equality to be incompatible and therefore that differentiation will inevitably lead to division. In the end, the organizational norm of universalism, it was imagined, would inadvertently privilege the experiences and struggles of citizen workers and members, understood and upheld as the uncomplicated picture of the Black working class.

Research Project

I will now outline how the research project developed over time. I begin by describing the initial plan and how this rather constrained project came to be designed. I then enumerate the factors believed to have prevented the research from being executed as planned. I believe these to stem from two compounding challenges: my status as outsider and, potentially relatedly, the reluctance of union officials to grant me access to the membership in a context of labour movement fragmentation and contestation. I then discuss the revised research project and the limitations and opportunities it presented.

Finally, I will offer a few brief reflections regarding the conduct of research against the backdrop of South Africa's fractured trade union movement.

Coordinating the Research Project

Having established my research questions and working hypothesis as well as the evidence and methods required to explore these, I commenced the intricate process of coordinating my research project. From the earliest stages, I believed it would be appropriate to focus my study on one union only. Focusing on one union, I believed, would afford a more in-depth analysis, leading to particularly insightful conclusions about the union in question and its engagement with noncitizen workers and members. I also imagined that it would be easier to access members if I focused on developing a rapport with gatekeepers at one union. I was not however attached to any specific union or even to any specific sector. I opted to remain open for two main reasons: first, as an outsider with very few contacts in the South African labour movement, it was unlikely that I would be able to choose which union I wanted to work with; second, I believed that my hypothesis would be more or less relevant irrespective of the union under study. The only requirement, to my mind, was the presence of noncitizens in the union or, at the very least, in the sectors under its mandate. Nevertheless, because I had been framing my project around a profile of low-skilled noncitizen general labourers (as opposed to professionals) who tend to be the victims of exploitation and xenophobia, I was also hoping for a union with members (or a sector with workers) fitting this broad profile.

To find a union for my research, I contacted Dr. Zaheera Jinnah at the African Centre for Migration and Society (ACMS) at the University of the Witwatersrand whom I

had met on two previous occasions. Dr. Jinnah put me in touch with Janet Munakamwe, a doctoral candidate affiliated to ACMS who has conducted similar research on and for a variety of trade unions in South Africa.¹²⁷ Comrade Janet immediately offered to assist and has continued to serve as an unofficial mentor throughout my research endeavour. At the time (June 2016), she was part of a working group on noncitizen labour convened by Public Services International (PSI) and so, out of convenience, she asked them to recommend one of their affiliates.

The comrades at PSI initially suggested NEHAWU, the National Education Health and Allied Workers Union, a union known to have at least some noncitizen members, usually teachers and nurses. However, because these skilled professionals did not fit the profile, I respectfully requested another option. They then proposed SAMWU, the South African Municipal Workers Union. While the probability of low-skilled general workers who were not citizens of South Africa being directly employed by a South African local government seemed low, I was assured that they were there, among the membership and certainly within the sector. Though uncertain, as an outsider asking the assistance of people who were offering it in a selfless comradely manner, I did not feel as though I was in a position to be selective.

Admittedly, I knew very little about SAMWU at this point. Beyond their involvement in an especially dramatic strike, wherein employees of Pikitup, the City of Johannesburg-owned refuse removal corporation, declined to collect rubbish for five weeks in the southern summer/autumn of 2016,¹²⁸ I was mostly unaware of SAMWU's

¹²⁷ For example, see Janet Munakamwe, "Challenges in Organising Informal Workers: A Study of Gendered Home-based Care Work in Post-Apartheid South Africa." Masters thesis, (2009): 35.

¹²⁸ Goba, Neo. "Pikitup strike: We won, says SAMWU." Times Live. Last modified 15 April 2016. <https://www.timeslive.co.za/news/south-africa/2016-04-15-pikitup-strike-we-won-says-samwu/>

circumstances. However, since, as will be discussed in Chapter 5, the ability for noncitizen members to participate in job action is a remarkably relevant line of inquiry for my research, the opportunity to set my research against this backdrop was compelling. And so, despite my lack of knowledge of this union or the profile of its noncitizen members, I pitched my research project to SAMWU's International Officer via email. He responded with interest but did not immediately confirm SAMWU's willingness to cooperate.

The Initial Plan

Concurrently, I was compiling my Carleton University Research Ethics Board (CUREB) proposal. Thinking through the ethics of conducting my research was a frustrating but empowering process. It forced me to design what I considered to be a well thought out research plan. The essential requirement to mitigate risk to noncitizen participants necessitated a detailed strategy for the anonymous recruitment and participation of these vulnerable workers. What I proposed in my ethics documents was as follows:

- 1) A high-ranking union official would supply me with the contact details for all shop stewards in the Johannesburg region.
- 2) I would call these shop stewards and ask if they would be willing to be interviewed.
- 3) I would visit their workplace to interview them.
- 4) They would convene an impromptu meeting of all members present.
- 5) I would introduce myself and my research to the assembled members, informing them that I would be on-site for the rest of the day and the following day if they wished to participate.¹²⁹

¹²⁹ I was also intending to give all interviewees R50 (approx. \$4.84 CDN) to thank them for their participation. In hindsight, maybe this would not have been sufficient to incentivize participation anyway.

6) Noncitizen and citizen members would be interviewed individually but in the same private office at the workplace so that no one could be identified as a noncitizen simply because they were seen speaking with me.

Negotiating Access

Readers will observe that the project as proposed required partnership with and cooperation of the union under study. I was convinced that as an outsider – a White person, from another continent, speaking only English, with a foreign accent, not to mention my complete lack of union credentials – I would not have been able to access shop stewards or members without going through the union. Since acquiring these perspectives was essential to my argument, it seemed reasonable to loosen my grip on this aspect of the project to ensure access to the membership.¹³⁰ Janet confirmed that this was a sensible approach given my inexperience and my outsider status.

Though SAMWU's International Officer had initially expressed interest in my project, I did not hear from him again for several weeks. The results of local government elections in early August 2016 were, in some cases, including Johannesburg, not particularly favourable to SAMWU and so it was thought that perhaps the union was preoccupied with negotiations with new coalition governments.¹³¹ However, CUREB deadlines were fast approaching. I again asked Janet for advice. She recommended that I incentivize SAMWU's cooperation by replicating an arrangement that had previously proven effective for her.

¹³⁰ In retrospect, had I known that going through the union would also prove limiting, I might have tried harder to come up with another approach but to this day I can't think of an approach that I would have been able to execute the short amount of time I had in South Africa.

¹³¹ SAMWU is a COSATU affiliate and is therefore officially supportive of the ANC. For the first time since the end of apartheid, the ANC lost their majority in Johannesburg and the Democratic Alliance, with tacit support from the Economic Freedom Fighters, thus formed government.

In her research on organizing vulnerable women domestic workers, she compiled a report for the union (SADSAWU, the South African Domestic Service and Allied Workers Union) in exchange for their assistance in locating potential participants. I was immediately intrigued by this idea. From the very beginning I had hoped that my work might somehow inspire the union to reconsider how they think about noncitizen workers and members. Still, I had no illusions that anyone would ever actually read my thesis, even if they had explicitly granted approval to recruit participants from among the membership. But a relatively short report, promised and written deliberately for union consumption, seemed much more likely to receive consideration. Thus, following a model established by an experienced comrade-researcher, I offered to write a report for SAMWU based on my findings in exchange for access to shop stewards and members. Eventually, I received email confirmation from SAMWU's International Officer that he was happy to assist.

Attempting to Execute the Initial Plan

I arrived in Johannesburg at the end of September 2016 to carry out my research project. As I attempted to execute the CUREB-approved plan, a number of under-anticipated problems became evident, each ultimately stemming from my under-appreciation of the politicized climate in which South African trade unions operate.¹³² However, because I had expended so much time and effort developing the plan I was finally cleared to carry out, I felt shackled by it. There were very specific steps that needed to be followed in order to stay within the bounds of the project as approved. The first of these was to meet with and interview SAMWU's International Officer, something

¹³² Alexander Beresford, *Fractured Class Struggles*, 63.

that did not happen until I had been in South Africa for nearly two weeks. Upon meeting, I reminded him of the plan, stressing that *this* was the project I was approved to carry out and so it needed to happen in this very specific manner. He tasked another comrade with gathering the contact information for the shop stewards which I trusted I would receive in short order. This speaks to the first problem with the plan I proposed: it basically hinged on the cooperation of SAMWU's International Officer, who, though kind and generous with his time, may have been preoccupied with more pressing affairs.

Protocols of Trust

By the end of October, I still had not received the contact details for the shop stewards. As I had less than three months to carry out my research, I had to consider the possibility that I may not be able to execute the project as originally designed. While it seemed quite straightforward to me at the time, it becomes decidedly less so when refracted through the lens of labour movement fragmentation and contestation. What I, perhaps naïvely, thought would be a simple passing along of contacts was subject to a protocol possibly devised to establish whether or not I could be trusted and the extent to which my research might be detrimental to the union. This involved introducing myself and my research to, first, a meeting of the Johannesburg regional office bearers and, second, to an assembly of Johannesburg region shop stewards – both of which occurred well after I had met with SAMWU's International Officer who evidently did not have the authority to grant me the 'comrade' status that would have enabled me to conduct the research. While both meetings concluded with assurances that I could expect cooperation, this strategy for accessing shop stewards and members did not yield any contact details or

interviews. The very few shop stewards and members I did interview were acquired through other means, namely the snowball method.

Politicized Climate

As I continued to press for access, to little avail, I began to consider that perhaps I was being deliberately impeded or at least that promised cooperation was being quietly revoked. Fueling this speculation was the revelation that SAMWU may be suffering a potentially irreversible process of disintegration.¹³³ Not discounting the deleterious neoliberal policies affecting rates of unionization across South Africa and indeed globally, a significant scandal plaguing the leadership appears to be expediting SAMWU's decline.¹³⁴ Accusations of financial mismanagement, graft, and abuse of power have precipitated the formation of two breakaway unions, MATUSA (Municipal and Allied Trade Union of South Africa) and DEMAWUSA (Democratic Municipal and Allied Workers Union of South Africa), who have, along with IMATU (Independent Municipal and Allied Trade Union), attracted scores of disaffected SAMWU members.

Against this backdrop it is conceivable that the few SAMWU officials I interviewed in October, including the International Officer might have concluded that my research was likely to be critical. It is plausible that the questions I posed and the clarifications I sought may have given the impression that even if my research aimed to help the union engage its noncitizen members, there was too much potential for embarrassment in the interim to warrant free and open cooperation. If this speculation is

¹³³ It might have been a revelation to me but this controversy was highly publicized in the media before I started paying attention to SAMWU specifically.

¹³⁴ Alexander Beresford, *Fractured Class Struggles*, 63.

accurate, it suggests that these SAMWU officials would be disinclined to permit me to ask members questions relating to their satisfaction with the union.

Singled Out

This diminishing cooperation leads to the second major issue with the plan I had proposed. While I had initially thought that focusing on one union would yield an especially thoughtful analysis, I clearly failed to anticipate two problems with this strategy: first, my entire project would be at risk if the union under evaluation was not completely cooperative. Second, and more importantly, the focus on SAMWU alone could be perceived as unjustly singling out one union for criticism when, as per my hypothesis, many unions – not only in South Africa but across the globe – conceive of noncitizen workers and members in similarly problematic ways. I certainly did not want to find myself in the middle of an intra-labour battle for legitimacy between SAMWU and its rival unions (especially if it meant funneling members towards IMATU, the traditionally White union contesting the municipal sector). I would not want these rival unions to cite my findings as evidence of SAMWU's inability or unwillingness to service its members or its incapacity to organize vulnerable workers. Nor would I want SAMWU to cite my research endeavour as an example of subversion by other unions contesting the sector. The potential for my research to be weaponized in ways that could further fragment an already disunited labour movement is repugnant. It therefore became critical for me to broaden my research to include a variety of unions, not just one.

Suffice to say that I was not able to access the SAMWU membership in any meaningful way. Without the sincere and open cooperation of the union, the method of

recruitment upon which my research project hinged was altogether inadequate. Consequently, the perceptions of low skilled noncitizen members were simply unattainable. This remains the most serious shortcoming of my research. While I believe I can still identify false universalist rhetoric and policy, without the perspectives and experiences of noncitizen members, it is difficult to measure the extent to which they are being excluded from full and equal membership and thus how much ground needs to be made up. Similarly, without the perspectives of citizen members, it is virtually impossible to assert with any confidence whether they would feel alienated by or resentful of any policies or programs designed to alleviate the unique concerns of their noncitizen comrades. Union officials assured me that citizen members would never harbour such sentiment but I cannot know for sure without having spoken with them directly. In the end, the mistake of attempting to pursue this project through one union only necessitated the abandonment of nearly half of my research questions, rendering elements of my thesis more theoretical than originally envisioned.

The Revised Plan

Having reluctantly accepted that the access required to secure the evidence necessary to answer my research questions would not be forthcoming, I commenced reworking my research project. Rather than attempting to simply switch to another union, which would have meant discarding the few interviews I had already conducted – not to mention the risk of replicating the problems I had faced with SAMWU – I decided instead to broaden my scope. To this end, I began leveraging my contacts to acquire the phone numbers and email addresses of recommended trade unionists in the greater

Gauteng region. After interviewing someone, I would ask if they knew anyone else who might be well positioned to speak on this topic. It was, essentially, a combination of the snowball and convenience sampling methods.¹³⁵

There were advantages to this approach. First, unlike the initial plan, it was much less restrictive as there were no specific steps to follow. Second, as opposed to being limited to one union, which might have provided a more in-depth analysis, the revised approach was more open. Perspectives were gathered from trade unionists across a variety of sectors permitting the elaboration of more readily generalizable conclusions. Third, seeking perspectives from a cross-section of unions removes the possibility that any one union could be singled out when, as suspected, false universalist thinking is in fact quite common. And finally, it prevents the potential for my research to be used as evidence of any one union's shortcomings, fueling the further fragmentation of the South African labour movement.

Predictably, however, this new research design necessitated something of a trade-off. Where the embeddedness and focus of the initial plan might have eventually facilitated acceptance and thus access to the membership, the new plan was decidedly more fleeting and abrupt. It did not permit the time-intensive act of relationship-building that I had come to recognize was non-negotiable to union gatekeepers in a neoliberal era of fragmentation and contestation. As a result, while I was able to speak with officials at a variety of unions, I was only about to speak with two actual noncitizens, one current SAMWU member and one former SAMWU member, both of whom were high skilled professional office workers. Given the fragmentation of the South African labour

¹³⁵ Griffin, Laura. "Borderwork: 'Illegality', Un-bounded Labour and the Lives of Basotho Migrant Domestic Workers." PhD diss., University of Melbourne (2010): 63.

movement and the competition for member subscriptions, the same protocols of trust were likely to be in place.

As mentioned previously, it would be difficult to assess the extent to which noncitizen workers are being excluded from full membership without their unique perspectives. However, because I was only able to interview two noncitizen members, neither of whom fit the profile of an exploitable survival migrant, I instead turned to some relevant nongovernmental organizations in the effort to acquire these essential viewpoints. In addition, I attempted to glean the experiences and concerns of noncitizen workers and members from the scholarly work already published in this area. The perspectives of citizen members, however, are generally not addressed in the literature.¹³⁶ As a result, the only sense I have of these important perspectives comes from union officials who would have little interest in portraying their members as xenophobic as that would reflect poorly on the union itself, exposing insufficient political education. While I was unable to acquire the perspectives of members directly, I believe these strategies yield sufficient insight for me to contribute a considered analysis.

Profile of Interviewees

Despite the setbacks belaboured above, I still managed to acquire over forty (40) hours of interviews with thirty-four (34) individuals. Twenty-five (25) of these interviewees were officials either currently or formerly affiliated with one of four (4) trade unions: SAMWU (South African Municipal Workers Union), SACCAWU (South African Cleaning Catering and Allied Workers Union), NUM (National Union of Mineworkers), and SATAWU (South African Transport and Allied Workers Union). Five

¹³⁶ Di Paola (2012) would be an important exception to this.

(5) other interviewees were currently or formerly affiliated with two trade union confederations: COSATU (Congress of South African Trade Unions) and PSI (Public Services International). The remaining four (4) interviewees were individuals from relevant nongovernmental organizations including MWASA (Migrant Workers Association of South Africa), MiWUSA (Migrant Workers Union of South Africa), and CWAO (Casual Workers Advice Office). Only three (3) interviewees were women.¹³⁷

Table 1: Union-affiliated interviewees

	SAMWU	SACCAWU	NUM	SATAWU	COSATU	PSI	Totals
Officials	5	4	3	1	3	2	18
Stewards	7	0	3	0	-	-	10
Members	2	0	0	0	-	-	2
Totals	14	4	6	1	3	2	30

Table 2: Nongovernmental organization interviewees

	MWASA	MiWUSA	CWAO	Total
Officials	1	2	1	4

Sampling

As is common with qualitative research, the sample was non-representative. The combination of snowball and convenience sampling methods eventually adopted precluded any sort of random selection of interviewees. While it would have been ideal to have an equal number of participants from each of the unions consulted, the limited timeframe prevented the level of planning that would have been required to secure parity. In fact, readers will note that despite the challenges of accessing the membership,

¹³⁷ I did not specifically attempt to achieve parity in this regard. I merely note the small number of women interviewees for the readers' interest.

SAMWU comrades still comprise almost fifty-percent of union-affiliated interviewees. This is believed to be a result of having had more time to build the relationship with SAMWU, beginning with the first email to the International Officer in late June 2016 and including the meetings at SAMWU House with the regional office bearers and the shop stewards. As I remained singularly focused on SAMWU until the end of October 2016, there was insufficient time to build a rapport with gatekeepers at these other unions, with whom I only began engaging in November. Even if they had granted me immediate access to shop stewards and members, I only had a few more weeks left to complete the project.

Conduct of Interviews

Despite the challenges of access, the fundamentally qualitative nature of the research did not change. It consisted of semi-structured interviews of varying durations but usually no longer than sixty (60) minutes. Since I am not very good at taking notes, audio recording was essential to ensure a smooth conversational style of interview. All interviewees provided consent to being recorded and the recorder sat between us throughout the interview as a reminder that the session was being recorded. The recordings remain secure in my exclusive possession.

While I had developed a set of questions for union officials, shop stewards, citizen members, and noncitizen members, the questions for members were effectively discarded, although the questions developed for the nongovernmental organizations were adapted from those designed for noncitizen union members. These included questions designed to uncover the unique experiences and vulnerabilities of noncitizen workers as

well as the interviewee's views on trade unions' willingness to take up the cause of noncitizen workers and members. Nevertheless, the project remained fundamentally the same and the interview questions generally reflected the research questions outlined above.¹³⁸

Reflections

Admittedly, there were times when I did feel like I was 'going undercover' – not for a rival union but simply to excavate evidence to confirm a hypothesis likely to be critical. While not specifically designed to elicit false universalist responses, the questions I had developed for union officials and shop stewards were always likely to do just that. For example, I asked all officials to speak to the union's position on noncitizen members. Overwhelmingly, these comrade-interviewees responded with textbook false universalism: 'we recruit everybody', 'we treat all members equally', 'workers of the world – unite', 'an injury to one is an injury to all' and so on. What makes this awkward is that they thought they were saying the right thing or at least what they assumed I wanted to hear. Indeed, what other scholars might commend as examples of an inclusive, unifying rhetoric, my chosen theoretical framework reveals as evidence of a failure of imagination that privileges certain concerns over others and certain members over others. How could these comrades have known that positions that appear enlightened would actually be considered inadequate? Thus, it would seem the only way to avoid accusations of leading questions would have required me to inform all comrade-interviewees of my hypothesis and the kinds of responses I was looking for which would have rendered my thesis ineffectual.

¹³⁸ See appendix A and B for a sample of the general interview questions I used to guide discussion.

Despite efforts to conceal the critical intent of my research, on more than a few occasions perceptive interviewees would become noticeably suspicious of me, the questions I was asking, and the clarifications I sought. In the post-interview debrief, particularly apprehensive comrades would ask what precisely my research was trying to uncover. I would respond that I was trying to determine what it is about their trade union or trade unions more generally that seems to make them immune to the xenophobic sentiment pervading the wider society. Admittedly, this was not truthful but because I – I think rightly – presumed these individuals would not appreciate me problematizing their worldview, it seemed prudent to avoid revealing the critical nature of my research, especially since they could then tell others to not speak with me. On the other hand, if a good rapport had developed – which was usually the case – the post-interview debrief was typically more cordial. Still, these keen comrades wondered what I was trying to learn. With these, I was more honest. I would talk about differentiating recruitment and membership as strategies to alleviate the concerns of noncitizen members and to strengthen and revitalize the union. However, in the effort to demonstrate how I believed my research could be useful, I sometimes worried that I was coming across as didactic or even patronizing.

Conclusion

One Monday afternoon in November, I took the train up to Tshwane to interview several shop stewards at the SAMWU offices downtown. As is the custom, the regional secretary took a moment to introduce me to the 30 or 40 shop stewards who had descended on the union offices for an unrelated training: “This is Comrade Tyler from

Canada.” With a smile, he turned to me and asked, “*Are* you a comrade?” Flatfooted, I replied, “I think so. I hope so. I mean, yes!”

His clarification, lighthearted though it was, seemed designed to inform the assembled shop stewards that they could trust me and that I wasn’t there to somehow subvert the union. More than that, it resonated with a central concern underlying my entire research endeavour: while I believe that my work can potentially assist these South African trade unions with their essential revitalization initiatives, it was always going to involve a critical evaluation of their shortcomings with respect to noncitizens which, I contend, are rooted in a proudly held organizational norm of universalism. Though my research is intended to analyze and understand this perspective, I am ultimately critiquing it. While I believe unions can receive criticism with sincerity and humility,¹³⁹ I may have underestimated the extent to which a highly politicized labour landscape could lead unions to interpret my work as somewhat treacherous and that this perception could inhibit my ability to undertake the research as planned.

¹³⁹ For examples, see Di Paola (2012) and Munakamwe (2009).

Chapter 4

Noncitizenship in South Africa

While popular discourse and much scholarly inquiry currently fixates on people leaving Africa and the challenges facing receiving states, societies, and trade unions, usually in Europe, the reality is that some 87 percent of African migrants remain in Africa.¹⁴⁰ Faced with the impoverishing forces of neoliberal capitalist globalization as well as enduring uneven development, episodic political discord, macroeconomic mismanagement, deindustrialization, and declining climate contingent livelihoods, many Africans, both men and increasingly women, have chosen to leave their home countries in search of work.¹⁴¹ Following long-established migration routes and networks, the bulk of these migrants are destined for South Africa, a country portrayed as and perceived to be the regional powerhouse economy and thus where opportunities are presumed to be prevalent.¹⁴² Official estimates suggest that, of a total population of approximately 55 million, at least 2.2 million people living in South Africa were born elsewhere, though the real figure is potentially much higher, with some fear-mongering pundits putting the number as high as eight or even eleven million.¹⁴³ Irrespective of the numbers, it is

¹⁴⁰ Population Division. "244 million international migrants living abroad worldwide, new UN statistics reveal." United Nations. Last modified 12 January 2016. <http://www.un.org/sustainabledevelopment/blog/2016/01/244-million-international-migrants-living-abroad-worldwide-new-un-statistics-reveal/>.

¹⁴¹ Hlatshwayo, "International Solidarity," 172.

¹⁴² Trimikliniotis, Gordon, and Zondo, "Fortress," 1336. Fine, "Migration and Migrant Workers," 331.

¹⁴³ Wilkinson, Kate. "New York Times & others STILL wrong on number of immigrants in S. Africa." Africa Check. Last modified 15 July 2014. <https://africacheck.org/reports/new-york-times-use-plagiarised-article-to-back-up-sa-immigrant-number/>.

evident that migration to South Africa, now mostly informal, has picked up pace since the formal end of apartheid in 1994.¹⁴⁴

Upon arrival in South Africa, African migrants, not unlike their Black South African counterparts, find its promise to be largely false. Rather than partaking of “a land of milk and honey”,¹⁴⁵ they invariably find themselves in highly exploitative, highly precarious circumstances. As suggested in Chapter 1, this is a result of a regime of “legal discrimination,” analogous to the apartheid regime’s denationalization of South Africa’s Black majority which sought to delegitimize their claims to citizenship and fair treatment. With reference to the existing literature as well as my own research, I have identified four relevant areas where these legal discriminations manifest in the noncitizen experience. First, noncitizens in South Africa are disproportionately subject to police brutality; second, they are exploited by employers and labour brokers; third, they must contend with pervasive xenophobia, and finally, there can often be material, practical considerations restricting their access to social services.

Legislated Difference

An array of legislation governs the circumstances of noncitizens in South Africa today. As Alice Bloch explains:

“Under the stratified system of rights, naturalized citizens and refugees have extensive rights and are at one end of the continuum. At the other end of the continuum, are undocumented migrants and rejected asylum seekers who exist on the margins of society with few or no rights, often

¹⁴⁴ Fine, “Migration and Migrant Workers,” 326.

¹⁴⁵ Peberdy, Sally. “Imagining Immigration: Inclusive Identities and Exclusive Policies in Post-1994 South Africa.” *Africa Today* 48:3 (2001): 25.

exploited economically and unable to gain protection from the police or courts in the country where they live.”¹⁴⁶

While it is admittedly beyond my capacity to engage in a thoroughgoing review of this legislation, it is also not essential to do so. It is sufficient to contend that irrespective of a noncitizen’s specific legal status, if they are not citizens of South Africa they are vulnerable. Additionally, it is not always important what the legislation says – the Labour Relations Act, for instance, makes no mention of legal status – rather, it is the perceptions of citizens, including the police, service providers, and union officials, with regard to whether or not an individual belongs in South Africa that are of importance here.¹⁴⁷ As one comrade from the Migrant Workers Union of South Africa (MiWUSA) put it: “*If a law is not applied, it’s as good as useless.*” (Samuel. Interview. 14 November 2016.)

Documentation

Before proceeding with a discussion of the experiences of noncitizens with legitimized legal discrimination, it is important to highlight the centrality of documentation to both the legal status and the ‘outsiderness’ of noncitizens in the post-apartheid period. In very much the same way as the apartheid regime required ‘natives’ to carry passes authorizing their presence in White areas, the requirement to demonstrate legal status at a moment’s notice remains a reality for noncitizens today. Noncitizens require paperwork for virtually every interaction with the state, the police, and

¹⁴⁶ Bloch, Alice. “The Right to Rights? Undocumented Migrants from Zimbabwe Living in South Africa.” *Sociology* 44:2 (2010): 234.

¹⁴⁷ Neocosmos, *From Foreign Natives to Native Foreigners*, 113.

employers. Documents are typically required to access social services like medical care or legal services while formal employment requires a work permit and identity document.

However, opportunities to attain a proper work permit are very limited. As a result, some have been known to carry “fraudulent visas, permits, travel or identity documents” which, if discovered, immediately renders the holder a ‘prohibited person’.¹⁴⁸ How these documents are typically attained is unclear but one method could be by purchasing them from unscrupulous Home Affairs employees. According to research by Corruption Watch, a South African passport can be acquired for as little as R1000 while asylum documents have been produced for just R3000.¹⁴⁹

Alternatively, argue Landau and Segatti, some noncitizens have taken to applying for asylum in South Africa, even when they come from countries such as Tanzania or Malawi that are unlikely to be persecuting them.¹⁵⁰ A lack of legal channels to employment in South Africa often means that the only way to avoid being relegated to the most precarious and exploitative sectors of the informal economy is to “use the asylum system as a ‘back door’ to the right to work” and work while awaiting a decision, which can be a very long time given the considerable backlog at Home Affairs.¹⁵¹

While formal legal documentation is ideal, even pseudo-official documentation is sometimes sufficient to avoid harassment and deportation. For instance, the white farm-owners of the Limpopo border region have been able to print and issue work permits that

¹⁴⁸ Dodson, Belinda and Jonathan Crush. “Migration Governance and Migrant Rights in the Southern African Development Community (SADC): Attempts at Harmonization in a Disharmonious Region.” United Nations Research Institute for Social Development (2015): 12.

¹⁴⁹ Rehbock, Nicky and Tanya Pampalone. “Asylum at a Price: How Corruption Impacts Those Seeking Legal Protection in South Africa.” Project Lokisa, Corruption Watch (2015): 12.

¹⁵⁰ Loren Landau, Tara Polzer, and Aurelia Wa Kabwe-Segatti, “The Mobile Nation: How Migration Continues to Shape South Africa,” *New South African Review* 1 (2010): 223.

¹⁵¹ Landau, Polzer, Wa Kabwe-Segatti, “The Mobile Nation,” 223.

receive pseudo-official status by virtue of tacit or even explicit acceptance by state officials.¹⁵²

Nevertheless, noncitizens do aim for some sort of legal status as this greatly reduces, though it does not eliminate, their exposure to xenophobia and labour exploitation. Argued a comrade from the Migrant Workers Association of South Africa (MWASA): “*We try by all means to make sure that people are legal in South Africa, (that) they carry legal documents because once a person is legal we feel that their vulnerability is better than someone who is not documented or is illegal. So we encourage people to be legal.*” (Tendai. Interview. 9 November 2016.)

Xenophobia

In Chapter 1, it was argued that the unfulfilled promise of the new South Africa, combined with the increasing precariousness of formal livelihood options, have contributed to the prevalence of xenophobic sentiment among South African citizens and workers. It was also suggested that the enthusiasm with which the Black majority claimed their hard-won citizenship essentially legitimized the state, its borders, and the institution of citizenship itself thereby casting their fellow Africans, their erstwhile comrades, off into a perpetual ‘state of exception’. Of course, “citizenship is not a natural category.”¹⁵³ Rather, it is a socially and politically constructed “mechanism of differentiation” wielded by people with “concrete political and social motivations.”¹⁵⁴ However, since Black South Africans feel powerless in the face of a social order that continues to “distribute

¹⁵² Rutherford, Blair. "An Unsettled Belonging: Zimbabwean Farm Workers in Limpopo Province, South Africa." *Journal of Contemporary African Studies* 26:4 (2008): 410.

¹⁵³ Bauder, *Labor Movement*, 50.

¹⁵⁴ Bauder, *Labor Movement*, 36.

treatment, rights, privileges differentially among formally equal citizens according to differences of education, property, race, gender, and occupation,”¹⁵⁵ they instead work to ensure noncitizens cannot access the entitlements of a citizenship they did not earn. Tragically, this frustration manifests itself in regular outbreaks of anti-migrant violence, including the attacks of May 2008 which left some 62 people dead and many thousands more displaced.

The prevalence of xenophobic sentiment in South Africa cannot be overstated. According to one 2010 survey, conducted by the Southern African Migration Programme (SAMP):

“Ninety per cent of respondents felt that there were too many foreigners living in South Africa, and 36 per cent believed that immigration should be entirely prohibited. Almost two-thirds (62 per cent) supported a policy of deportation for anyone not contributing economically to South Africa. As many as 27 per cent felt that all migrants should be deported, even if they were in the country legally, and 11 per cent said they would be prepared to use violence themselves to prevent a foreigner from moving into their neighbourhood. Twenty per cent of respondents believed that the majority of foreign nationals were in the country illegally. Sixty per cent believed that migrants were taking jobs from citizens. Only 38 per cent believed that refugees warranted protection, and more than half thought that irregular migrants did not deserve even basic legal rights and police protection.”¹⁵⁶

Despite a perception among union leaders that workers and members are less likely to be xenophobic, considerable evidence exists to suggest this is wishful thinking. In Di Paola’s research on workplace xenophobia in the manufacturing sector for example, she discovered that all interviewees had been victims, witnesses, or perpetrators of

¹⁵⁵ Von Holdt *le ba bang*. “Insurgent Citizenship,” 6.

¹⁵⁶ Dodson and Crush, “Harmonization,” 5.

xenophobic violence in the workplace.¹⁵⁷ She argues that workers, like all South Africans, are continually exposed to xenophobic ideology that they then carry with them to their places of work. Moreover, the workplace can be seen as “the prime locus of daily competition” for continued employment, benefits, promotions, and bonuses.¹⁵⁸ Given the perceived precariousness of formal employment in neoliberal South Africa, the workplace would seem a likely location for xenophobia to flourish.

In addition to a perception that noncitizens are undercutting South Africans in terms of wages and conditions of work, they are also blamed for the spread of HIV/AIDS¹⁵⁹ as well as for rising rates of violent crime, despite being disproportionately subjected to it.¹⁶⁰ On the whole, there is a widespread view that “migration is tied to the expansion of drug syndicates, prostitution, and human trafficking, unemployment, crime and a range of other social and economic ills.”¹⁶¹

As the literature demonstrates, noncitizens are typically perceived as interlopers unjustly occupying what few livelihood options remain and not as comrades deserving of protection, despite their often desperate circumstances.¹⁶² Explained the comrade from MWASA, “*A lot of South Africans are complaining that people who are coming from outside, they are providing cheap labour and they are actually are coming in and suffocating their efforts to demand certain conditions from employers.*” (Tendai. Interview. 9 November 2016.) What this comrade is describing is a kind of ‘split labour

¹⁵⁷ Di Paola, “Ekurhuleni,” 73.

¹⁵⁸ Di Paola, “Ekurhuleni,” 41.

¹⁵⁹ Moseki, Malepile Felicity. “Migrating to South Africa: Experiences of ‘Skilled’ and ‘Unskilled’ Lesotho Workers.” PhD diss. University of Pretoria (2011): 22.

¹⁶⁰ Adepoju, Aderanti. “Continuity and Changing Configurations of Migration to and from the Republic of South Africa.” *International Migration* 41:1 (2003): 15.

¹⁶¹ Landau, Loren, Tara Polzer, and Aurelia Wa Kabwe-Segatti. “The Mobile Nation: How Migration Continues to Shape South Africa.” *New South African Review* 1 (2010): 229.

¹⁶² Everatt, David. “Xenophobia, State and Society in South Africa, 2008–2010.” *Politikon* 38:1 (2011): 19.

market'¹⁶³ wherein xenophobic sentiment is catalyzed by a dramatic “differential in the price of labor of the same occupation” or kinds of occupations. In this instance, employers essentially pit workers against each other by giving preference to whichever group sells their labour for less. Of course, in South Africa, this antagonism is stipulated less along ethnic lines – though these remain as signifiers of noncitizen status – but rather along lines of legitimized legal discrimination.

Exploitation

Despite the fact that various pieces of labour legislation technically apply to noncitizen workers,¹⁶⁴ their precarious legal status combined with a discourse constructing them as interlopers unworthy of protection relegates them to the darkest corners of the South African economy where they face high levels of labour exploitation. Labour exploitation in South Africa, as elsewhere, takes many forms but commonly consists of low pay – often below the legislated minimum wage established through tripartite “sectoral determinations”¹⁶⁵ – and poor working conditions. Of the latter, long working hours, arbitrary dismissal, insufficient safety training and equipment, and exposure to chemicals, such as herbicides, pesticides, and harsh cleaning solutions, are typical.¹⁶⁶

Of the former, employers sometimes wield legislation to dismiss workers unfairly or to avoid paying their noncitizen workers altogether. For example, they will threaten a

¹⁶³ Bonacich, Edna. "A Theory of Ethnic Antagonism: The Split Labor Market." *American Sociological Review* (1972): 547.

¹⁶⁴ Though, as mentioned, migrants are rarely specifically mentioned.

¹⁶⁵ Griffin, “Borderwork,” 137-138.

¹⁶⁶ Crush, Jonathan *le ba bang*. “Harnessing Migration for Inclusive Growth and Development in Southern Africa.” Southern African Migration Programme (2017): 22

police raid, and the increased potential for detention and deportation these raids bring, to scare away irregular workers as pay day approaches, forcing them to leave their wages behind.¹⁶⁷ One of the comrades at MiWUSA described it as follows: *“They make you work and then they connive with Home Affairs officials and the police; when it’s time for the employer to pay, they will call the police. That is slavery.”* (Samuel. Interview. 14 November 2016.)

Employers, it is argued, often prefer to hire noncitizens who, owing to the ever-present threat of deportation, are considered to be less militant in their demands for wage increases or improved conditions of work and are unlikely to unionize.¹⁶⁸ Their noncitizen status, argues Hlatshwayo, makes them extremely vulnerable: *“As soon they start demanding their rights...they are faced with deportation.”*¹⁶⁹ Explained the comrade from MWASA:

“In most cases you’ll find a situation whereby the employers employ undocumented or illegal people and whenever they complain about working conditions they threaten to call immigration officers or cops to pick them up. Sometimes they don’t pay them and they fire them before they pay them and when people complain about the monies that are owed to them, they don’t pay them. So we encourage people to be legal.” (Tendai. Interview. 9 November 2016.)

If they do unionize – or are even seen to be considering the idea – they risk dismissal, though the employer may not be this explicit. A comrade at MiWUSA described it thus: *“The employer will not come and say ‘I have dismissed you because you have joined a union.’ He will say, ‘I dismiss you because I suspect you have got fraudulent papers.’* (Matthew. Interview. 14 November 2016.) Similarly, one of the very

¹⁶⁷ Crush *le ba bang*, “Remittances,” 34.

¹⁶⁸ Adepoju, “Continuity,” 12. Trimikliniotis, Gordon, and Zondo “Fortress,” 1331.

¹⁶⁹ Hlatshwayo, *Just Work?*, 24.

few noncitizen workers I spoke with, a former SAMWU member, described his dismissal from the City of Johannesburg.¹⁷⁰ In this case, even though he had applied for a work permit renewal, a paperwork mix-up resulted in it expiring while he was still employed. His employer used it as an excuse to dismiss him, arguing that he was no longer legally permitted to work in the country. The union was helpless to intervene on his behalf.

Irrespective of the fact that they are technically supposed to receive fair treatment, a decent wages, safe working conditions and so on, it very difficult for noncitizens to access rights and recourse to the same extent as their citizen comrades.¹⁷¹ As one of the comrades at MiWUSA emphasized:

“Most employers are fully aware that if you are not documented, you have got a fear. There is a fear that – let’s say, maybe somebody is not doing right to you, is underpaying you – if you want to go to the institution that might assist you, then you’re thinking, ‘maybe I might expose myself then I end up being deported’.” (Matthew. Interview. 14 November 2016.)

Police-State Harassment

Believing themselves to be upholding the law, police regularly carry out xenophobic harassment of noncitizens. Police harassment of noncitizens in South Africa today can be described as a sort of ‘racial’ profiling akin to the harassment of Black people by the White authorities under apartheid.¹⁷² Today, however, distinction is not so black and white. Police today suspect certain individuals as being ‘foreigners’ based on physical traits or language abilities, including the relative darkness of their skin,¹⁷³ the

¹⁷⁰ Tapiwa. Interview. 23 November 2016.

¹⁷¹ Fenwick, Colin, Evance Kalula, and Ingrid Landau. “Labour Law: A Southern African Perspective.” International Institute for Labour Studies (2007): 14.

¹⁷² Trimikliniotis, Gordon, and Zondo, “Fortress,” 1331.

¹⁷³ Trimikliniotis, Gordon, and Zondo, “Fortress,” 1331.

location of their childhood vaccination scars,¹⁷⁴ and their ability to speak one of South Africa's dominant African languages.¹⁷⁵ Police use these identifiers to single out individuals they suspect to be 'foreigners', targeting them for elevated levels of harassment and excessive scrutiny of their legal documents.

The literature notes the phenomenon of police raids on the homes and workplaces of suspected noncitizens.¹⁷⁶ According to Crush and Dodson, the "heavy-handed, militaristic Operation Fiela (or 'sweep clean')...rounded up undocumented migrants as if they were equivalent to drug dealers and criminals."¹⁷⁷ The February 2017 adventures of Johannesburg mayor Herman Mashaba similarly targeted noncitizens who, he argued, were by virtue of their irregular status inherently criminal.¹⁷⁸ Invariably these raids include unwarranted and aggressive checking of passports and other legal documents,¹⁷⁹ often leading to unscrupulous behaviour like the demanding of bribes under threat of detention or deportation, especially if the noncitizen's documents are not perfectly in order or immediately forthcoming.¹⁸⁰ Recalling the story of a friend who, though in possession of refugee status, was detained for three days while officers checked his papers with Home Affairs, a comrade with MiWUSA summed it up: "*If you are a migrant, you are guilty until proven innocent.*" (Matthew. Interview. 14 November 2016.)

¹⁷⁴ Everatt, "Xenophobia," 13.

¹⁷⁵ Everatt, "Xenophobia," 8.

¹⁷⁶ Crush, Jonathan, Sujata Ramachandran, and Wade Pendleton. "Soft Targets: Xenophobia, Public Violence and Changing Attitudes to Migrants in South Africa after May 2008." Southern African Migration Programme (2013): 57.

¹⁷⁷ Dodson and Crush, "Harmonization," 12.

¹⁷⁸ There were even photos on Twitter of Mashaba checking documents himself.

¹⁷⁹ Di Paola, "Ekurhuleni," 86.

¹⁸⁰ Di Paola, "Ekurhuleni," 86.

Police harassment can take subtler forms as well, including a refusal to protect noncitizens from xenophobic attacks and other criminal acts.¹⁸¹ Despite legislation compelling law enforcement officials to protect all people from violence, not just citizens, in practice noncitizens are often excluded from this. Since noncitizens do not feel like they can count on the police for protection,¹⁸² they are unlikely to report crimes committed against them, as a result they are prime targets for criminality, xenophobic or otherwise.¹⁸³

Living with the threat of police harassment and with little hope of protection, noncitizens employ a variety of strategies to avoid being singled out for harassment. The most obvious of these would be to generally avoid the police.¹⁸⁴ Avoidance often takes the form of ‘hiding’, a strategy where the noncitizen goes to great lengths to have people believe he or she is a local by adopting the local customs and language.¹⁸⁵ It is also crucial to the noncitizen that police officers not know exactly where he or she stays thereby decreasing the possibility of a home raid and the inevitable payment of bribes.¹⁸⁶

Social and Other Services

Should they fall victim to police brutality, exploitation, or xenophobic attack, they are often unable to access legal representation or other social services, including medical care, that may be required in these trying circumstances. Often, however, they simply unaware of the recourse and services that are technically available to them including

¹⁸¹ Crush, Ramachandran, and Pendleton, “Soft Targets,” 54.

¹⁸² Mutopo, Patience. “Women Trading in Food Across the Zimbabwe–South Africa Border: Experiences and Strategies.” *Gender & Development* 18:3 (2010): 474.

¹⁸³ Patrick A. Taran, “Human Rights of Migrants: Challenges of the New Decade,” *International Migration* 38:6 (2000): 24; Moseki, “Lesotho Workers,” 23.

¹⁸⁴ Marcos, “Professionals,” 105.

¹⁸⁵ Di Paola, “Ekurhuleni,” 85.

¹⁸⁶ Di Paola, “Ekurhuleni,” 85.

access to the Commission for Conciliation, Mediation and Arbitration (CCMA) in cases of unfair dismissal.¹⁸⁷ Griffin cites one undocumented noncitizen domestic worker who, when told she could approach CCMA, contended: “No, I do not know (that I can do that), and I never even think that I may go there. ...how will it work? ...what if they want an ID? Won’t they tell me to go back to Lesotho?”¹⁸⁸

As mentioned above, noncitizens face a considerable risk of both xenophobic attack and job-related illness or injury. Yet, they are often unable to access medical services. For example, Human Rights Watch has highlighted the structural barriers facing noncitizen workers attempting to access healthcare in South Africa despite legislation indicating there should be no discrimination in this regard.¹⁸⁹ Though legally permitted to seek medical care in the country, noncitizens face discrimination from South African healthcare providers who believe these individuals to be inadmissible.

Finally, there are certain practicalities associated with migrancy and the crossing of borders that make being a noncitizen challenging. For instance, the literature points to difficulties with remittances as a key concern. While South African citizen workers may have similar concerns regarding the remittance of their pay to their families in other parts of the country but the sending of money across borders comes with additional challenges and costs. For example, it can cost R150 per transaction to send money within South Africa and shockingly more than that to send money across borders. A transfer to Maseru, Lesotho can cost as much as 700 times more than the cost of sending money to Ladybrand, Free State. Even though these two cities are only 20 minutes apart, the fact

¹⁸⁷ Griffin, “Borderwork,” 86.

¹⁸⁸ Griffin, “Borderwork,” 86.

¹⁸⁹ Odhiambo, Agnes. “A sick system abuses its refugees.” Human Rights Watch. Last modified 12 March 2012. <https://www.hrw.org/news/2012/03/18/sick-system-abuses-its-refugees>.

that Maseru is across the border makes the cost much higher. Further, it costs more to send a small amount of money than it does to send larger amounts. For example, the Western Union rate on a transfer of \$500USD is 4%. On \$100USD, the rate is 15%. This disproportionately penalizes the poor.

To avoid these high costs, many noncitizens opt for informal channels including such practices as sending money with a trusted friend or coworker, sending money or goods with long distance minibus taxi drivers for a fee, and carrying money home by hand.¹⁹⁰ These options all tend to increase the risk of theft or loss. Indeed the fact that noncitizen workers find it difficult and even impossible to open bank accounts¹⁹¹ can mean that they will often have to carry large sums of money on their person, including when travelling home to hand-deliver remittances.¹⁹² This puts them at great risk of violent robbery as nefarious individuals know that noncitizens returning home from South Africa are likely to have significant amounts of cash on them. And finally, there is also the additional cost of the transportation itself if the noncitizen worker, being unable to access formal channels, must make a special trip home to hand deliver his or her remittances.¹⁹³ For countries like Lesotho and Swaziland, who have the benefit of geographical proximity, hand-to-hand remittance is an option as a trip home on a long weekend is not too inconvenient. However, for noncitizens from further afield, say in Malawi or Zambia, the personal delivery of remittances is much more difficult. This means that those of distant countries are more likely to either use formal channels and

¹⁹⁰ Crush, Jonathan *le ba bang. Migration, Remittances and 'Development' in Lesotho*. Cape Town: Southern African Migration Programme (2010): 43.

¹⁹¹ Griffin, "Borderwork," 247.

¹⁹² Crush *le ba bang*, "Remittances," 45.

¹⁹³ Crush *le ba bang*, "Remittances," 44.

suffer the high costs or carry especially large sums of cash on their person on their rare trips home.¹⁹⁴

Conclusion

What this chapter describes is a situation where a person's legal status restricts their ability to access the protections afforded to them under various pieces of legislation. Irrespective of the fact that they are technically supposed to receive fair treatment, a decent wages, safe working conditions and so on, their desperate circumstances combined with their precarious legal status, and their production as outsiders, makes it nearly impossible for them to enjoy the same rights and recourse as their citizen comrades. In contrast to the imposed distinctions of the previous era, states, borders, and the institution of citizenship itself remain prominent. It is, therefore, incumbent upon South Africa's internationalist trade unions to tackle these legal discriminations thereby removing barriers to the formation of solidarity between workers irrespective of origin. In the next chapter, we will discuss how an organization norm of universalism can impede such efforts.

¹⁹⁴ Crush *le ba bang*, "Remittances," 44.

Chapter 5

An Organizational Norm of False Universalism

“In South Africa there is a motto, a slogan which says ‘a worker is a worker is a worker’ but in reality...there is a migrant worker, there is a local worker. These people have got different needs altogether. So if you treat equally all of them, one will always be disadvantaged.”

– Matthew. Interview.
14 November 2016.

If South African trade unions are to evaluate the continued relevance of their proudly held organizational norm of universalism in effecting equal material outcomes for noncitizen members faced with a regime of legal discrimination, some of the effects of which were outlined in the previous chapter, and endeavour to overcome the divisions these incite, they might find feminist citizenship theory to be of considerable utility. Though designed to critique the professed universality of state citizenship,¹⁹⁵ Ruth Lister’s principle of *differentiated universalism* and the subsequent conceptual model of a *politics of solidarity in difference* hold considerable potential as we seek to evaluate the continued relevance of the organizational norm of universalism. This analytical framework enables unions to consider not just to accommodate different types of workers with different circumstances or legal statuses but to leverage difference as function of a wider revitalization strategy – essentially, to shift migration from a challenge to an opportunity for South Africa’s trade union movement.¹⁹⁶

¹⁹⁵ Lister, "Citizenship and Difference," 84.

¹⁹⁶ Munck, "Transformationalist," 104.

To this end, the next three chapters correspond to what I have identified as the three broad stages in the development of a more inclusive, radically pluralist trade union. Drawing on evidence, examples, and insight from my research as well as from the literature, the present chapter begins by drawing useful parallels between what Lister terms the *bogus* or *false universalism* of citizenship and that of trade union membership and recruitment. Chapter 6 outlines the principle of *differentiated universalism* as it pertains to women and citizenship and, with comment from several comrade-interviewees, describes how unions might similarly differentiate recruitment and membership in the effort to be more attentive to the unique circumstances of noncitizen workers and members. Finally, recognizing that this sort of differentiation can often be politically charged, Chapter 7 imagines a *politics of solidarity in difference* wherein the pursuit of rights and protections for noncitizen workers and members is considered to be in the collective interest of all workers and members irrespective of citizenship status or national origin.

False Universalism of Citizenship

As noted briefly in Chapter 2, Lister emphasizes that despite the universalist claims of citizenship, the rights, protections, and opportunities it is said to offer are not accessible to all citizens to the same degree. Nor is the freedom to participate in the political community available for all to enjoy, despite lofty pronouncements to this effect. Feminist citizenship theory posits that this is because citizenship as it is normally conceived was established around and remains based on a template of an ideal citizen, one who is typically male, able-bodied, and White. Indeed, there are considerable

parallels between this argument and, as underscored in Chapter 1, the many critical takes on the rhetoric of the ‘Rainbow Nation’ and the slogan ‘South Africa belongs to all who live in it’ – ostensibly universalist nation-building projects that have in reality done little to extend substantive citizenship to the country’s previously disadvantaged communities.¹⁹⁷ Individuals lucky enough to fit the template of the ideal citizen are unlikely to experience any barriers to their full participation in the political community or to the full enjoyment of the rights, privileges, and protections of citizenship.¹⁹⁸ All others – specifically women in Lister’s case but also disabled citizens and citizens of colour – must continually struggle for that which the prototypical citizen takes for granted. Either that, or they assent to a model of citizenship that, while professed to be *gender-neutral*, is in reality predicated on their very exclusion.¹⁹⁹

False Universalism of Trade Union Membership

Analogous are trade union assertions that all members are equal and have the same general concerns, despite indications²⁰⁰ that union membership in South Africa (as elsewhere) has ossified around a template of the ideal union member, one who is directly and permanently employed, full-time, and, critically to this thesis, is a South African citizen. Explained one SACCAWU organizer: “*Our approach as a trade union involved in changing the conditions...we view workers within in our sector as equal, having the same challenges.*” (Ayabonga. Interview. 2 December 2016.) Nevertheless, the decreasing number of members matching the citizen-centric profile are less likely to

¹⁹⁷ For examples, see Neocosmos (2006), Trimikliniotis, Gordon, and Zondo (2008), Conway (2014), and Munck (2015).

¹⁹⁸ Lister, “Dialectics,” 9.

¹⁹⁹ Lister, “Dialectics,” 6.

²⁰⁰ See Schierup (2016) and Munck (2015).

experience any barriers to their full participation in the union – as office bearers or shop stewards or in meetings, congresses, and strikes – or to the full enjoyment of the protections and entitlements of membership – gains achieved, aid schemes offered, and representation expected. Those deviating from the template must continually struggle for that which the ideal member takes for granted, though often they do not. The growing number of workers not fitting the template are faced with a dilemma: conform to an established membership model that is professed to be *'legal status-neutral'* but in fact ignores their particular vulnerabilities or remain outside the organized labour movement, struggling individually against a perpetually exploitative system.

Union Membership as a Status

The claim that all members are treated equally is a proudly held sentiment, repeated by nearly all comrade-interviewees but captured succinctly by one SAMWU official who, when asked about the position of noncitizens in the union, claimed: *"We do not treat them differently from our members who are the citizens of South Africa;"* and later, *"Within the union fold, they are treated the same as any other member."* (Setloke. Interview. 28 October 2016.) Despite these assertions, suggesting that all members are the same or are treated the same when, as illustrated in Chapter 4, noncitizen members are have a series of additional concerns and vulnerabilities that this perspective ignores, reveals this as an example of false universalism. However unintentionally, such rhetoric tends to downplay national origin or citizenship status as factors relevant to a worker's material conditions.

By and large, there seemed to be very little consideration given to the potential for there to be certain structural or legal constraints that might restrict noncitizen members' status as full and equal trade union members. The officials and shop stewards I spoke with seemed almost uniformly unable to conceive of any constraints that might limit noncitizen members' ability to be considered full paid-up members and thus limiting their capacity to enjoy fully any gains achieved through collective bargaining or to partake fully of the entitlements of membership such as medical aid schemes, pension funds, cooperative savings programs, and coverage for funeral expenses or repatriation of remains. For example, Mapira notes that three of the trade unions in his study had "no alternative mechanism for membership procedures and payment of subscription fees other than through the employer's electronic payroll system," a process very likely to exclude undocumented noncitizen workers who are typically employed and paid informally.²⁰¹

One explanation given for why unions might not be able to comprehend the unique circumstances of noncitizen members, which is also noted in the literature,²⁰² is that these members might not be living and working openly as noncitizens. Rather, as one SAMWU shopsteward described, they conceal their origins and legal status, posing as South Africans to avoid undue scrutiny and workplace xenophobia:

"Remember, some of the people who are in this country, legally or illegally...they hide their identity, for one reason or the other. Sometimes you only know that a person is from Mozambique or Zimbabwe when he's dead. And he was your member! Immigration of Black Africans is still a

²⁰¹ Mapira, "Obstacles," 86.

²⁰² Di Paola, "Ekurhuleni," 85.

taboo. People don't feel safe. We had some violence. People don't trust to divulge their identity."²⁰³ (Shawn. Interview. 28 November 2016.)

Similarly, there seemed to be no consideration given to the possibility that the citizen-centric playbook might be insufficient to deal with the particular circumstances of noncitizens facing disciplinary action or wrongful dismissal, even though the stakes for these workers would clearly be much higher. Returning to Lister, we come to understand that without specific attention to the particular disadvantages or vulnerable circumstances that “may undermine specific groups position as citizens,” or in our case, trade union members, their agency and thus their position in the union and in the struggle is compromised.²⁰⁴

Union Membership as a Practice

The trade union officials I spoke with maintained that all members irrespective of citizenship status have an equal opportunity to participate in the democratic workings of the union. They are, it was argued, free to become shop stewards and office bearers, to participate in meetings, and to participate in strike action. Asked, for instance, if noncitizens could become shop stewards, one official replied, “*Yes. Our policy is that as long as you are a member you are eligible to participate in any activity of the union.*” (Setloke. Interview. 28 October 2016.) Again, however, there was very little consideration given to any legal, structural or other constraints, including their construction as outsiders, that might dissuade noncitizen workers from participating in these important democratic activities to the same extent as their citizen comrades. Given

²⁰³ This could explain why the two noncitizens made available to me – one current SAMWU member and one former SAMWU member – were both highly skilled office workers and not the vulnerable survival migrants I had prepared for.

²⁰⁴ Lister, “Citizenship and Difference,” 81.

that unions believe all members irrespective of origin or status are free to participate in the union, it unsurprising that there would be no consideration given to any potential “participatory gap.”²⁰⁵

Holding an Elected Position

Again, a common refrain was that noncitizens are welcome to hold any elected position at all levels of the union. However, just because they are permitted to do so does not necessarily mean that they will be comfortable pursuing these positions. While there may not be any specifically legal reasons or union policies prohibiting them from participating in this way, my research suggests that noncitizen members might be concerned that becoming a shop steward or official could expose them to workplace xenophobia. For example, I spoke with one SAMWU shop steward who, despite having moved to Gauteng from Mozambique 30 years ago, and having acquired South African citizenship in the 1990s, and having been a shop steward for years, still finds himself subject to xenophobic bullying:

“Yeah, it happens a lot. A lot. A lot. Even for the fact that I happen to be a shop steward. You will find the guys, the others tell you jokingly, ‘This is not Mozambique. You go back to Mozambique.’ Just this month it happened, I don’t know how many times, five, six times. They do so. They do it a lot. It happens but you become accustomed to it. You just let it go. Try and avoid that kind of a provocation.” (David. Interview. 29 November 2016.)

The comrade’s comments suggest a tendency to ‘keep your head down’, ‘stay under the radar’ and avoid ‘causing trouble’, recalling the phenomenon of ‘hiding’ noted in Chapter 4.

²⁰⁵ Mapira, “Obstacles,” 89.

Participation in Meetings

Noncitizen members are technically permitted to participate in the deliberative democratic processes of the union such as union meetings and congresses. However, again, my research reveals that there is some uncertainty as to whether they would feel comfortable expressing their particular perspectives in these forums. One SAMWU official noted that when noncitizens attend meetings, *“They will not necessarily raise a lot of things in a meeting.”* (Peete. Interview. 28 November 2016.) Another speculated that *“They will not want to raise (their concerns) publicly in front of everyone; they will want to raise it with you separately...because they would not want a situation where (citizens say) ‘here’s a noncitizen’...the stigma and all of that comes into play.”* (Teboho. Interview. 21 October 2016.) This disinclination to speak freely suggests a perception among noncitizen members that the union is unlikely to take their perspectives seriously, preferring instead to favour of the standard workerist concerns, or that their citizen comrades are unlikely to express due solidarity, dismissing their particular concerns as partial.

The first official attempted to explain this, suggesting that *“It might be because once you are in a group of people who are of the same origin, and you are not from that particular group, you may feel that if you raise these things people will not necessarily listen to you or they might interpret it somehow. So, they were a little bit reserved.”* (Peete. Interview. 28 November 2016.) Another probably facetious take on this came from the other SAMWU official who posited, *“My sense is that someone who’s a noncitizen...I don’t think that person would enjoy being reminded that he’s a noncitizen.”*

(Teboho. Interview. 12 October 2016.) Besides the fact that this comment suggests there is something wrong with being a noncitizen, it again underscores a perception that noncitizen workers are better off keeping their particular concerns to themselves because if they raise them in an open forum, they risk being singled out for workplace harassment or xenophobic bullying. Whatever the reasons, the implication is that noncitizen members are not actually able to participate as fully in the union as the rhetoric or the policy might claim or with the same enthusiasm as citizens. Whether this amounts to ‘keeping your head down’ or a deliberate effort to prevent the expression of divergent perspectives, the fact remains that noncitizens cannot be considered full members if they cannot speak freely about the issues that affect them.

Participation in Strikes

Lister takes aim at one of the more problematic aspects of the classic civic republican notion of citizenship, the conceptualization of citizenship as a not merely a status but rather a duty or obligation. She argues that the demanding nature of citizenship is impractical for women who have many other responsibilities that prevent them from being as free to participate as men. Lister demonstrates how men’s freedom to meet the demands of a participatory citizenship has actually been enabled by women (and, in the past, slaves) who freed men of the necessity of labour and care.²⁰⁶

One of the more demanding aspects of trade union membership, in terms of participation, is the expectation that all members irrespective of individual circumstances must partake in ‘protected’ strike action. Members are compelled – if not by constitutional mandate then certainly by fear of being seen as not supporting the strike or

²⁰⁶ Lister, “Dialectics,” 8.

the union – to down tools as required.²⁰⁷ None of the comrades I spoke seemed to have given any consideration to the particular circumstances of noncitizen members who, by virtue of their precarious legal status in the country, may be disinclined to participate in job action.

Though the Labour Relations Act permits all union members to participate in ‘protected’ strikes, there is some risk that noncitizen members could face additional barriers to their free and open involvement in this activity. For example, the Farm and Agricultural Workers Union (FAWU) released a statement in 2013 decrying attempts to break a strike that targeted the noncitizens on the picket line for heightened scrutiny.²⁰⁸ Similarly, should the strike turn violent or destructive, noncitizen members, even if they have not committed such acts themselves, face disproportionate risk of detention or even deportation should police descend on the striking workers. This would of course be more likely if the strike was of the ‘illegal’ or ‘wildcat’ variety.

Secondarily, though noncitizen members may have a legitimate fear of detention or deportation if they strike, their citizen comrades might not comprehend their reasons for preferring to abstain, especially if the noncitizen member is not living and working openly as a noncitizen. Noncitizen members might prefer not to march but if they refrain, they risk being chastised or singled out for workplace harassment (if the noncitizen member has kept their legal status concealed) or workplace xenophobia (if their citizen comrades discover their origins as a result). For example, Crispin Chinguno, in his

²⁰⁷ Clause 16.1.10 in SAMWU’s constitution, for example, reads: “No member may be disciplined or expelled from the union on grounds that they failed to participate in the strike unless such strike was preceded by a ballot in which a majority of members who voted supported strike action.”

²⁰⁸ Masemola, Katishi. “FAWU Calls on Home Affairs Officials and SAPS Officers to Immediately Stop Xenophobic Arrests and Deportation of Farm Workers.” PASSOP. Last modified 30 April 2013. <http://www.passop.co.za/news/fawu-calls-of-home-affairs-officials-and-saps-officers-to-immediately-stop-xenophobic-arrests-and-deportation-of-farm-workers>.

research on the strikes at Marikana, discovered that some noncitizens had been coerced into showing their support for the strike, citing one individual who explained, “It was either you are on their side or they would see you as the enemy.”²⁰⁹ Taking these limitations into consideration, it becomes evident that the expectation that all members participate in strike action is an obligation that is too demanding to be universalized to the entire membership.

Like state citizenship, trade union membership is an “intrinsically universalist concept.”²¹⁰ Trade union leaders hold fast to this orientation, maintaining that all members are equal and therefore receive the same treatment. However, with the extension of state citizenship to the Black majority in 1994, considerable legal discriminations and structural barriers were erected leaving noncitizen members with a series of particular concerns and vulnerabilities.²¹¹ These constraints limit the ability of noncitizens to act as full and equal members or to enjoy the gains, entitlements, and protections of membership to the same extent as their citizen comrades. Unions adhering to an organizational norm of (false) universalism are likely to be inattentive to the particular circumstances of noncitizen members who will struggle to retain these members even while they aim to attract new ones.²¹²

False Universalism of Recruitment

While there is no immediate parallel in Lister’s feminist critique of citizenship, we can still deploy her framework of analysis to reveal the false universalism of trade

²⁰⁹ Chinguno, Crispin. “Marikana and the post-apartheid workplace order.” *Sociology, Work and Development Institute, University of the Witwatersrand* (2013): 27.

²¹⁰ Lister, “Citizenship and Difference,” 71.

²¹¹ Fine, “Migration and Migrant Workers,” 330. Gordon cited in Schierup, “Under the Rainbow,” 10.

²¹² Mapira, “Obstacles,” 89.

union recruitment, something especially relevant to beleaguered South African trade unions seeking to attract new members. Just as trade unions claim to represent all members equally, they also claim to organize²¹³ all workers irrespective of anything. Declared one SAMWU shop steward: *“We are recruiting everybody as a trade union. Black, White, foreigner, casual, permanent, everybody. As long as you are doing services for the municipality, we’re recruiting, across the board.”* (Shawn. Interview. 28 November 2016.) A SACCAWU comrade echoed this sentiment: *“SACCAWU organizes every worker irrespective of their status. That’s what we do.”* (Lawrence. Interview. 22 November 2016.) However, where membership tends to centre the experiences and thus the grievances of citizen members to the exclusion of marginalized members, recruitment strategies tend to hinge on the known circumstances of citizen workers. As a result, organizers are arguably ill-equipped to recruit workers with circumstances not covered in their citizen-centric playbook.

Readers are right to wonder just how much success a union organizer would have trying to recruit a worker whose primary concerns are, for example, xenophobia and police harassment when the recruitment pitch consists only of the typical economic grievances such as wages and working conditions. As one comrade-interviewee, formerly of COSATU relayed, the organizers she worked with *“all reported that it’s their policy to recruit and so on...that they will recruit everybody. But, in reality, they haven’t been very successful.”* (Susan. Interview. 24 November 2016.) She was not surprised by their general inability to recruit new noncitizen members. Recalling Fine’s advice, highlighted in Chapter 2, “when unions do not acknowledge the ‘migrant’ within the vulnerable

²¹³ I am employing a working assumption here that ‘organize’ refers to the recruitment of new members however this may occur.

worker, they neglect issues that may be as important as wages and working conditions.”²¹⁴

Armed with a recruitment strategy that speaks only to the concerns of citizen workers, organizers face an uphill battle as they try to appeal to noncitizen workers who, owing to the additional risk of deportation, are often reluctant to speak to union representatives.²¹⁵ Asked about the challenges of organizing noncitizen workers, one SAMWU organizer underscored this point:

“They won’t come...because there are different rules for different workers in those companies. (The employer will say.) ‘You foreigners, you don’t do anything without telling us; we have employed you as a favour; you are from another country; should we find out that you associate with 1, 2, 3, we deport you.’ So for me to organize those people, it will be difficult if not impossible. I don’t think they will even be prepared to listen to me...because what they will be seeing in me is a risk.” (Shawn. Interview. 28 November 2016.)

Instead of seeing the organizer as an ally and the union as a refuge, noncitizen workers see the organizer as a potential ‘enemy informant’ and the union as a ‘fortress’ – in Mapira’s terms, “a preserve for native workers.”²¹⁶ For example, Hlatshwayo documents the case of one South African official who believed it prudent to restrict union membership to citizens and ‘legal’ noncitizens only.²¹⁷ The claim was that since the Immigration Act stipulates that only those with the appropriate documentation are legally permitted to work in the country,²¹⁸ unions have no choice but to limit membership in accordance with the law. Granting membership to ‘illegals’ would be a circumvention of

²¹⁴ Fine, “Migration and Migrant Workers,” 337.

²¹⁵ Adepoju, “Configurations of Migration,” 16.

²¹⁶ Mapira, “Obstacles,” 89.

²¹⁷ Hlatshwayo, “International Solidarity,” 184.

²¹⁸ It actually states the inverse: that it is illegal to employ an undocumented person, not that it is illegal for an undocumented person to work.

the law. Of course, it is ironic that the official would employ a legalistic argument against extending membership to people with irregular status in a society where the law once barred Black workers from full citizenship and restricted the formation of Black trade unions.

Nevertheless, owing to their organizational norm of universalism, South Africa's majority Black trade unions have never officially excluded noncitizens from membership. Organizers must have had some success recruiting these workers. Usually this is because the noncitizen worker is not individually recruited but rather that the entire workplace has been organized at once with a majority of workers voting to unionize. As an example, one comrade-interviewee explained:

“As SACCUWU, as an approach...we don't differentiate workers by saying these are a certain subcomponent of the working class. We see workers as being potential trade union members and we don't approach them by necessarily wanting to identify 'Are you from Malawi? Are you from Mozambique?' We just say, 'this is a workplace, it has a potential of so many members.'” (Lawrence. Interview. 22 November 2016.)

The problem with this approach is that if the majority of the workers in a specific workplace are citizens, they will, by virtue of their legal status and their constitutional and labour rights, feel relatively free to unionize.²¹⁹ They will essentially drag the entire workplace into unionization without due consideration of the risks to their noncitizen comrades who might be hesitant to join them (if they are even aware of their presence).

The SACCAWU comrade continued:

²¹⁹ Unfortunately, for all the fear that noncitizens might have of unionizing, the presence of noncitizens can also deter citizens from unionizing. A SAMWU organizer relayed, “Currently, I'm organizing workers in a private refuse removal company. One of their concerns is that when they complain about salaries, they are dismissed, and they get foreigners to do the work. So these ones when they raised issues, they are told to get out, and they will get foreigners to work there. They are replaced with foreigners.” (Shawn. Interview. 28 November 2016.)

“By and large, we normally identify that these are migrant workers when they resist to be enlisted as trade union members...because in most cases they fear to be seen to be belonging to a trade union, even after having made a presentation to them that ‘you are covered and protected; for that matter, it is in fact your right to belong to a trade union as per various pieces of legislation in this country.’ But they would normally be seen to be fearful of reprisals from management as a result of having joined a trade union.” (Lawrence. Interview. 22 November 2016.)

The mere fact that these workers would be initially reluctant to join the union has come to imply to organizers that they are dealing with noncitizens.

Nevertheless, noncitizen workers do join South African trade unions even if they are organized under a false universalist citizen-centric recruitment strategy. But as Fine ponders, “does it matter whether migrant workers are organized as, say, farm workers first and only secondarily as migrants or is there something about their identities as migrants and the specific issues they face that is important to the organizing process?”²²⁰ Put another way, we might wonder whether South African trade unions might have more success if they were to develop specific targeted, *differentiated* recruitment strategies that speak to noncitizen workers’ particular circumstances.

False Universalist Membership Application Forms

Interviewees sometimes emphasized their willingness to recruit any and all workers by noting how their unions’ membership application forms do not ask the potential member about their origins or legal status. For example, one SAMWU official insisted: “*We don’t look at members with regards to where they come from, no. We don’t even ask people to tell us whether they are citizens or not. When you fill in the forms of*

²²⁰ Fine, “Migration and Migrant Workers,” 336.

membership, there is nowhere where you are going to say 'I come from this country.' No, we are not interested in that." (Setloke. Interview. 28 October 2016.) A cursory survey of the membership application forms for the unions consulted indeed reveals a norm of not requesting the applicant's legal status or nationality. Unions' reluctance to record such information reflects their desire to avoid dividing workers along citizenship or ethnic lines. For example, when asked if there might be any utility in knowing where a member is from or what a member's legal status might be, the comrade-interviewee responded, *"I'm not sure but we don't like it. We don't want to know that because that is the start of the creation of a division amongst workers. Immediately you start saying 'This is a Lesotho citizen,' you are already entrenching the division. In fact, it is something that we abhor."* (Setloke. Interview. 28 October 2016.)

It is worth considering that while unions claim that they deliberately do not record the applicant's nationality or citizenship status, employers most certainly do record this information of formal employees. This was verified by a comrade-interviewee at SACCAWU who explained, *"The employer would know because when you apply for a job you have to give your personal information and you have to show your ID and so on."* (Lawrence. Interview. 22 November 2016.) This disparity in the information pertaining to the character and composition of the membership or employees in the sector more broadly is arguably a potential source of power that employers would have over unions. Ironically, it could be argued that the reluctance of South African trade unions to differentiate workers and members in order to address their particular concerns to ensure all members and workers are struggling together on an equal footing actually allows

employers to differentiate workers in ways likely to exacerbate division and exploitation as was characteristic of the ‘apartheid workplace regime’ Von Holdt has written about.²²¹

The ‘Common’ Interest

Motivated by the work of Iris Marion Young, Anne Phillips, and Chantal Mouffe, Lister takes aim at one of the hallmarks of the civic republican conception of citizenship: the notion of the common good, common interest, or general will.²²² To republican political theorists, individuals engage with the political community on equal terms; every citizen, it is claimed, has an equal opportunity to participate in the deliberative, democratic workings of the polity. Notwithstanding, it was recognized previously that some citizens, namely those who fit the template, are more able to participate than others. Those socially, economically, and physically unable to commit the same amount of time and energy as members of majority²²³ or those viewed as deviating too far from the template find themselves excluded from such deliberations. As a result, the viewpoints and desires of this privileged subset of the citizenry, those able to participate freely, are invariably considered to be ‘*the* common good’ or in ‘the *common* interest’ precisely because other, marginalized voices were not able or permitted to express their divergent perspectives. Because these marginalized voices are unlikely to see their experiences reflected in the ‘common’ interest, they often remain outside the political community altogether. Consequently, argues Mouffe, “a modern democratic political community cannot be organized around a single substantive idea of the common good.”²²⁴

²²¹ Von Holdt, “Social Movement Unionism,” 287.

²²² Ruth Lister, *Citizenship: Feminist Perspectives*, NYU Press (2003): 30.

²²³ Lister, “Citizenship and Difference,” 72.

²²⁴ Mouffe, Chantal. *The Return of the Political*. London: Verso (1993): 62.

Recalling the first part of Penninx and Roosblad's third dilemma regarding "the common interests of native and migrant workers," feminism's critique of the common interest or the common good invites consideration of a parallel falsehood in the realm of trade unionism. The interests held as common to all workers regardless of citizenship status are likely to reflect primarily if not exclusively the will of the majority citizen membership especially those who are directly and permanently employed. Since, as we saw earlier, citizen members do not have to worry that their participation in, for instance, internal policy development, let alone job action (especially of the wildcat variety), will expose them to workplace xenophobia or worse deportation, they are certain to be better able and more willing to participate. Thus, despite a commitment to deliberative democratic processes, the viewpoints of *citizen* members come to be considered the 'general point of view' of *all* members. The primary concerns and typically economic grievances of this constituency are held as indicative of the general will. An example of this conviction is highlighted by Gordon and Maharaj who noted the insistence of the NASUWU leadership that all workers must "subordinate their distinctive personal struggles to the general causes and aspirations of the union".²²⁵

In response, Iris Marion Young reminds us to reject any conception of universality that portrays it as involving impartiality when it merely demands individuals adopt some "abstract, disembodied 'general point of view,' leaving behind any particular affiliations, feelings, commitments and desires."²²⁶ Any intersectional concerns advanced by noncitizen or other marginalized members are, in this conception, dismissed as

²²⁵ Gordon and Maharaj, "Private Security," 137.

²²⁶ Young in Lister, "Dialectics," 13.

partial.²²⁷ This is evidenced in a remark from a SAMWU official who, though born in South Africa and holding South African citizenship, was jokingly accused of advocating the narrow interests of members from Lesotho, the country where he spent much of his youth: “(They said), ‘You come from Lesotho and now you start talking on your behalf, you are no longer talking on behalf of the workers. You are talking for yourself!’” (Setloke. Interview. 28 October 2016.)

Conclusion

By and large, South African trade unions today still proudly profess to represent all members equally and to organize all workers irrespective of legal status or national origin. However, this false universalist orientation is, I argue, generally inattentive to the particular concerns and vulnerabilities of noncitizen workers and members. As a result, noncitizens may not be able to enjoy full and equal membership or participate as full and equal members.²²⁸ Given the relative inability of noncitizen members to participate in union democratic processes, union policies and strategies tend to focus primarily on the economic concerns of citizen members. Unions struggle to recruit new noncitizen members when they appeal only to economic grievances; for noncitizens, other concerns might be more important. Ultimately, unions adhering to a false universalist notion of proletarian homogeneity inadvertently privilege the typical concerns of only one subset of the working class in the shortsighted belief that doing so will inevitably lead to the emancipation of all workers, irrespective of origin, identity, or legal status.

²²⁷ Lister, “Citizenship and Difference,” 76.

²²⁸ Lister, “Citizenship and Difference,” 81.

However, following Lister, I argue that the organizational norm of (false) universalism, underpinned by a vestigial notion of proletarian sameness and unity that clearly served the South African trade union movement well in the anti-apartheid struggle, is in an era of cross-border capitalism and migration, no longer sufficient. Owing to this orientation, trade unions have shown themselves to be largely reluctant, even skeptical of differentiation. Following Lister, we can attribute this to a false dichotomy that arranges equality and difference in opposition when quite evidently “the opposite of equality is inequality.” She continues, “To posit it as difference disguises the relations of subordination, hierarchy, and consequent disadvantage that underlie the dichotomy, and serves to distort the political choices.”²²⁹ In essence, this false dichotomy positions difference, not inequality as an abomination. If difference is disparaged, uniformity and assimilation are emphasized. Whereas if inequality is condemned, the structural and legal distinctions between noncitizen members and citizen members, between workers and employers, and between the poor and the rich come into focus. As Lister contends, “equality and difference are not incompatible; they only become so if equality is understood to mean sameness.”²³⁰

While we must remain sympathetic to unions’ desire to “move beyond the rigid racial and ethnic classifications of the apartheid era,”²³¹ Lister reminds us that “the very notion of equality implies differences to be discounted or taken into account so that despite them, people are treated as equals for specific purposes.”²³² To this end, this thesis challenges the equality-difference (false) dichotomy as a “logical, conceptual, and

²²⁹ Lister, “Dialectics,” 19.

²³⁰ Lister, “Dialectics,” 19.

²³¹ Janice Fine, “Restriction and Solidarity in the New South Africa: COSATU’s Complex Response to Migration and Migrant Workers in the Post-Apartheid Era.” (2013): 43.

²³² Lister, “Dialectics,” 19.

political misconception” that underpins the organizational norm of (false) universalism and obstructs any contemporary politics of solidarity in difference. If South African trade unions are committed to revitalization, they will need to consider a model that positions the grievances of citizens and noncitizens as equivalent rather than inadvertently privileging some members over others. The next chapter aims to conceptualize this new organizational norm of *differentiated* universalism.

Chapter 6

An Organizational Norm of Differentiated Universalism

Despite her involved critique of the false universalism of citizenship, Lister does not advocate the abandonment of the universal as some unattainable ideal. On the contrary, she maintains that:

“Without the promise of the universal, against which the denial of full and genuine citizenship...can be measured and claims for inclusion...directed, the concept of citizenship loses its political force. It is precisely because of its intrinsically universalist ‘emancipatory potential’ that it has a resonance for many people”.²³³

In terms of citizenship, the rights able-bodied White male citizens enjoy as well as their relative freedom to participate in the political community stand as benchmarks against which the denial of rights to women and other marginalized citizens and their relative inability to participate can be measured.

To this end, Lister advocates a *principle of differentiated universalism* in which “the achievement of the universal is contingent upon attention to difference.”²³⁴ Or, more simply, we are asked to be mindful of the myriad ways in which some individuals or groups are denied full and equal rights or are prevented from participating as full and equal citizens. Often this is not a deliberate refusal to extend rights or permit participation on the part of dominant citizens or decision-makers, though occasionally it has been. Usually it is a simple oversight as decision-makers, blinded by the rhetoric of universalism and the adhering to the aforementioned equality-difference dichotomy are

²³³ Lister, “Citizenship and Difference,” 83.

²³⁴ Lister, “Citizenship and Difference,” 84.

unable to see where full and genuine citizenship is being unintentionally or intentionally withheld. The principle of differentiated universalism thus asks that we take note of these shortcomings and work to address them. The call, effectively, is to ‘particularize the universal’²³⁵ thereby bringing all individuals and groups up to the standard established by and for the ideal citizen. Again, Lister does not endorse forsaking the universal, for to do so would mean accepting inequality as unavoidable thereby undermining the legitimate claims of oppressed groups and nullifying their activism. Rather, we are instructed that “any justifiable universalism or egalitarianism must take particularity and difference into account (and) any legitimate particularism or politics of difference must employ some universal or egalitarian standard”.²³⁶

Lister advises that differentiation can be effected in both the reactive-corrective “sense of counteracting past and present disadvantages that may undermine specific groups position as citizens” and in the proactive-protective “sense of affirming diversity, particularly with regard to cultural and linguistic rights”²³⁷ thereby overturning a model that has hitherto expected the other to conform or assimilate. It can also be done by anchoring “citizenship rights in a notion of need, in that need can be seen as dynamic and differentiated, as against the universal and abstract basis of rights.”²³⁸ This, she suggests, involves a kind of “politics of needs interpretation” where groups deliberate to “translate needs into rights” and rights into a list of demands. Lister cautions however that this must not be simplistically “rooted in a universalistic understanding of basic human needs” which, because they are derived from the core essential vulnerabilities affecting all

²³⁵ Lister, “Citizenship and Difference,” 83.

²³⁶ Thompson and Hogget in Lister, “Citizenship and Difference,” 83

²³⁷ Lister, “Citizenship and Difference,” 81.

²³⁸ Lister, “Citizenship: Feminist Perspectives,” 88.

humans, might also be inattentive to the additional vulnerabilities of minority groups, in particular those stemming from structural inequalities and legal discriminations. Rather the intention is to focus on the needs and then the rights that would facilitate the achievement of the standard established for the dominant group, not the bare minimum necessary for survival.

Differentiated Membership

Analogously, South African trade unions need not dispense with the universalist ideal of equal membership – of treating all members equally, of equal representation for all members, of equal ability to participate in union activity – or of worker solidarity and African unity; ideals for which there is still considerable enthusiasm among trade unionists.²³⁹ Rather, in response to the legal discriminations dividing workers, unions might seek to embrace a sort of *differentiated membership* with, recalling Penninx and Roosblad's third dilemma, "targeted policies and strategies" catering to the "special interests and needs of migrant members."²⁴⁰ In so doing, they might, Fine suggests, deepen their relationships with noncitizen members, strengthen these workers' commitments to the union, and mitigate against ethnic and especially xenophobic violence.²⁴¹ And, importantly, they might reduce the exploitable divisions between workers along lines once again exposed as arbitrary and illegitimate thereby opening the doors to a contemporary politics of solidarity in difference.

There is a precedent for this. For instance, many unions in South Africa and elsewhere have over time recognized the "special interests and needs" of women workers

²³⁹ Trimikliniotis, Gordon, and Zondo, "Fortress," 1336.

²⁴⁰ Marino, Penninx, and Roosblad, "Attitudes and Actions," 3.

²⁴¹ Fine, "Restriction and Solidarity," 43.

and members and have taken strides to address these as well as to make women feel more welcome and empowered in unions developed for and dominated by men.²⁴² Many unions have appointed dedicated gender officers who are tasked with ensuring that the union is attentive to the particular concerns of women members. They have also instituted gender mainstreaming initiatives to ensure women's issues are included in collective bargaining agendas and internal union policy. But, as Munck reminds us, as "much as workers are divided by gender, age, and ethnicity, they are also divided according to national origin and citizenship status."²⁴³ And so if unions have rightly come to the realization that women workers deserve specific attention, might they also extend similar recognition to the increasing numbers of noncitizens present in their sectors and ranks?²⁴⁴

The chapter will now proceed to discuss the prospect of a new, more inclusive organizational norm of differentiated universalism as it pertains to trade union membership as a status. Following from Lister, trade union membership as a practice requires an additional level of consideration – in particular, the misgivings of citizen members – and so will be revisited in Chapter 7 as we sketch out a politics of solidarity in difference.

Differentiating Union Membership as a Status

As noted in Chapter 5, South African trade unions have given scant consideration to the particular circumstances of existing noncitizen trade union members or to the structural and legal constraints – such as their ability to access CCMA or medical services when necessary – limiting their ability to enjoy fully the gains of collective

²⁴² Marino, "Trade Unions and Special Structures," 827.

²⁴³ Munck, "Transformationalist," 104.

²⁴⁴ Munck, "Transformationalist," 113.

bargaining – such as equal ‘send-home’ pay – or the entitlements of membership – such as full and informed representation in cases of discipline or dismissal – to the same extent as their citizen comrades. Not surprisingly then, considerably less attention has been given to the notion of differentiating membership for existing or potential noncitizen members. Nevertheless, in Chapter 5 it was suggested that this lack of attention undermines the position of noncitizens within the union and their ability to act as full and equal members.²⁴⁵ Therefore, it is essential to consider the ‘emancipatory potential’ of instituting a new organizational norm of differentiated universalism.

Unions committed to revitalization might deploy the principle of differentiated universalism to address the precarious circumstances of noncitizen workers. For example, Alberti, Holgate, and Tapia propose that unions could offer language classes or education regarding the legislation protecting noncitizens so that these come to better understand their rights in the country.²⁴⁶ Marino, Penninx, and Roosblad note how unions in Spain and Italy have established specific structures to “provide direct support” for noncitizen workers in terms of legal advice or assistance with paperwork.²⁴⁷

Unions might also take strides to ensure that ‘take-home pay’ – or rather ‘send-home pay’ – is the same for all members, and that noncitizen members wishing to send money across borders would pay no more than would citizen members with similar familial obligations within the state. Whether this would necessitate establishing a union-owned low or no-cost remittance service or challenging the legality of high remittance fees throughout the SADC region is something that unions could discuss. To this point,

²⁴⁵ Lister, “Citizenship and Difference,” 81.

²⁴⁶ Alberti, Holgate, and Tapia, “Intersectionality,” 4138.

²⁴⁷ Marino, Penninx, and Roosblad, “Attitudes and Actions,” 9.

however, South African trade unions have not been seen to engage with this discrepancy in any tangible way.

Similarly, adopting a principle of differentiated universalism would compel unions to ensure that there are no limitations preventing the full and equal extension of the entitlements of membership such as access to medical aid schemes, pension funds, cooperative savings programs, and coverage for funeral expenses or repatriation of remains. For instance, where noncitizen workers face discrimination from South African healthcare providers, South African trade unions might consider appending medical aid scheme cards or documentation with information regarding the illegality of refusing treatment based on national origin or citizenship status to ensure that all members are able to access medical care to the same extent. Where necessary, unions may wish to follow the example of Canada's United Food and Commercial Workers (UFCW), who have challenged in court a variety of legislative restrictions governing the vulnerability of noncitizen workers.²⁴⁸ Alternatively, they could engage in strike action to advance the interests of noncitizen members, as unions in France have.²⁴⁹

To conclude, the essence of the false universalism inherent in trade union membership is captured in the well-worn slogan "An injury to one is an injury to all." On its face, this slogan sounds like proper solidarity promising, for example, equal and informed representation in cases of dismissal or equal protection against exploitation or maltreatment. However, as unions are often unaware of or inattentive to the particular circumstances, grievances, concerns, and vulnerabilities of noncitizen members and that, if they are aware of these, they are often not considered to be relevant union issues, the

²⁴⁸ Tanya Basok and Ana Lopez-Sala. "Rights and Restrictions: Temporary Agricultural Migrants and Trade Unions' Activism in Canada and Spain." In *27th Annual Meeting*. Sase (2015): 9.

²⁴⁹ Marino, Penninx, and Roosblad, "Attitudes and Actions," 9.

slogan falls flat under scrutiny. It becomes “an injury to one is an injury to all” so long as one falls within the narrow conception of the ideal trade union member discussed previously. On the other hand, if we employ the principle of differentiated universalism, we can reinterpret the slogan as *aspirational statement* rather than the false explication it is presently.

Benefits of Differentiating Membership

To this point, the proposition to differentiate membership or even just becoming attuned to the concerns of noncitizen workers and members has centred around addressing their unique vulnerabilities. However, following from Hlatshwayo and others who have criticized unions’ tendency to see noncitizens only as passive victims of exploitation and xenophobia (without necessarily doing anything to address this vulnerability),²⁵⁰ it is also worth considering the potential benefit to unions who, in removing the barriers to full and equal membership for noncitizen members, permit them to fulfil their potential as active social and political agents. There are three ways doing so that could prove useful to both unions and noncitizens. First, as one SAMWU official suggested, noncitizens could assist South African unions with their international solidarity efforts, providing key insights into the political situation in their home countries.²⁵¹ Second, it is entirely plausible that some noncitizen workers in South Africa, especially those who have fled their countries for fear of persecution, have unique and profound experience as political activists. These political skills could be put to good use in a union’s own efforts to bring about better circumstances for members.

²⁵⁰ Hlatshwayo, “International Solidarity,” 184.

²⁵¹ Teboho. Interview. 12 October 2016.

Third, and especially relevant to this thesis, is that noncitizen members can help to enlighten their unions to the particular circumstances of other noncitizens that have yet to be recruited into the union. Knowing the issues that might be of importance to potential noncitizen members could help the union to tailor their recruitment strategy to better attract these workers. For example, one SAMWU comrade-interviewee spoke of his union's development of a 'Migrant Toolkit', in partnership with Public Services International. In this case, the union spoke with returnee nurses (South African nurses who had lived and worked abroad but had since returned to South Africa) to inquire about their specific concerns, issues, grievances and so on. The insight gleaned from this research was intended to better position the union to be able to assist other returnee nurses by, effectively, differentiating their recruitment to the union. This is a good model for unions aiming to differentiate recruitment for other lower skilled noncitizen workers. It simply requires asking existing noncitizen members about their circumstances and then using that new information to target potential noncitizen members or to develop programs for other noncitizen members who might be 'hiding' among the rank and file.

Ultimately, the application of a principle of differentiated universalism enables the realization of a differentiated trade union membership designed to be appropriately attentive to the particular needs and concerns of noncitizen members. It enables unions committed to revitalization to bring noncitizen members up to the standard set for citizen members thereby mitigating the contrived cleavages dividing members and ensuring that they stand shoulder to shoulder in a renewed struggle against neoliberal capitalism. In this way, Lister argues, "the universalist values of equality and justice are promoted

through attention to difference,” not by ignoring or downplaying it.²⁵² Moreover, it is argued that unions will not only be able retain and incorporate existing noncitizen members but they will be better able to appeal to yet-to-be-organized noncitizen workers as well.

Differentiating Recruitment

In addition to differentiating membership proper, unions could also opt for a kind of *differentiated recruitment* comprising a set of strategies and methods that speak to noncitizen workers’ particular concerns. Rather than assuming the typical economic concerns of the majority citizen membership are sufficient or even relevant, organizers could speak to the varying ways the union protects the particular rights and interests of noncitizen workers as well thereby increasing the likelihood of these workers joining the union.

The organizer would draw on differentiated recruitment strategies developed as a result of having differentiated membership for noncitizens already in the union. For example, SATAWU (South African Transport and Allied Workers Union) has specifically deployed a noncitizen member to serve as an organizer tasked specifically with recruiting other noncitizen truck drivers.²⁵³ Hlatshwayo highlights a similar strategy in use by a union in Switzerland who specifically employed Polish organizers and produced materials in Polish to help with the recruitment of Polish construction workers.²⁵⁴ Citing efforts by unions in the United States, Fine suggests involving noncitizen *members* in wider campaigns directed at drawing attention to and addressing

²⁵² Lister, “Citizenship and Difference,” 81.

²⁵³ Tendai. Interview. 9 November 2016.

²⁵⁴ Hlatshwayo, “International Solidarity,” 182.

the vulnerabilities of noncitizen *workers* can help foster a sense of trust and belonging in both groups.²⁵⁵ Whatever the approach, the organizer would be better attuned to the issues facing potential noncitizen members than they are at present.

Recalling that noncitizens are sometimes recruited into the union despite their hesitation, special attention would be paid to address the concerns of these apprehensive comrades. This could involve taking extra care to explain and demonstrate the progressive policies and strategies as they pertain to noncitizen workers. For instance, one suggestion advanced was that *“amongst the tools of organizing that unions needed to develop was an understanding of immigration law and an ability, if not to know what to do, at least to know who to refer people to.”* (Susan. Interview. 24 November 2016.) Critically, a union might wish to reassure noncitizens that they have a zero-tolerance policy for xenophobia among the membership or that they will never sacrifice noncitizens to save the jobs of citizens, as the comrade from MiWUSA argued can occur.

This strategy avoids a tension arising from the remarks of one organizer who, in recounting his attempts to engage a worker he suspected was a noncitizen, implored the worker, *“If you don’t tell me where you come from, I won’t be able to assist you.”* (Shawn. Interview. 28 November 2016.) Clearly, this is problematic. As mentioned, trust is a crucial factor. The worker cannot know whether the organizer is going to support him or report him. And the organizer needs to know the worker’s situation is if he is going to be in a position to assist. If the union had differentiated membership as outlined in the previous section or employed noncitizen organizers, they would have a better understanding of the worker’s likely circumstances and would therefore be better able to tailor the recruitment strategy. However, by and large, unions do not at present employ

²⁵⁵ Fine, “Migration and Migrant Workers,” 336.

differentiated recruitment strategies despite, in some instances, recognizing that it might be prudent to do so. The SACCAWU comrade quoted above put it thus: *“That is what I am saying. We don’t have any special approach or special treatment, we just treat workers as potential trade union members and we approach a workplace with that mindset.”* (Lawrence. Interview. 22 November 2016.)

Differentiated Membership Application Forms?

It was highlighted previously that unions tend to avoid asking for citizenship status or national origins on membership application forms. As a result, unions do not presently have a sufficient profile of the rank and file membership, making it difficult for them to recognize the necessity of differentiation. While it is important that unions know who their members are and what their particular concerns might be, this thesis does not argue that unions should record the nationality or citizenship status of new members, or worse, that unions should maintain a database of noncitizen members, as one SAMWU official suggested. (George. Interview. 2 November 2016.) This might seem counter-intuitive given the above argument regarding the importance of understanding the make-up of the membership and the disparity in record-keeping between employers and unions but it is, politically, the most just and equitable approach. Instead of compelling new members to expose themselves as noncitizens at the time of recruitment into the union, unions might, at that stage, simply inform all new members that if they as individuals and as workers identify as noncitizens that the union has developed programs and strategies to address the unique concerns of differentiated groups and has perhaps developed voluntary caucuses for workers who might wish to meet with other workers who identify

similarly. If they so choose, applicants could then contact the ‘Migrant Officer’ for more information. Of course, members would be exposed at this time but it would be voluntary and would take place in a ‘safe space’ as the officer and members of these groups would understand, through training, the importance of discretion.

Challenges Associated with Differentiating Membership

Among the comrades I spoke with there was some debate over whether the particular concerns of noncitizen members should even be considered ‘union issues’. This is reflected in the rise, in South Africa as elsewhere, of non-governmental organizations established to highlight and address the circumvention of noncitizens’ rights.²⁵⁶ In some cases, the sentiment seemed to suggest that unions are better off outsourcing the work of attending to noncitizen workers’ particular concerns to specialist organizations such as the Migrant Workers Association of South Africa or the Africa Diaspora Forum.

However, this view suggests that noncitizen concerns are always external to the union and that they will never have any issues *within* the union itself. For example, despite documented evidence of xenophobic sentiment permeating formal workplaces²⁵⁷ and concessions that union members can succumb to such sentiment, one comrade-interviewee implied that xenophobia was not considered to be union issue:

“If it happens in the community, it affects you one way or another, directly, indirectly. And our position is ‘no to xenophobia’. And therefore we will, through the civic movements, not as SAMWU directly championing the cause of anti-xenophobia. We will do it through the movements that have been established specifically for such civic issues. If they are going to march, we will march with them. But they will be in the front of the whole thing. It will not be SAMWU. It will be that movement

²⁵⁶ Munck, “Transformationalist,” 107.

²⁵⁷ Di Paola, “Ekurhuleni,” 2.

but supported by SAMWU. We don't deal with societal issues directly. We support movements that have been established to deal with such issues." (Setloke. Interview. 28 October 2016.)

Another view is that noncitizen workers should not bother with national unions and should instead form their own union as in the Migrant Workers Union of South Africa (MiWUSA). I met with comrades there who stated quite plainly their disappointment with South African trade unions:

"I tell you, if you ask a union to go and represent a migrant on immigration issues, the (migrant) will be good as gone! ...Unions, considering they have been there for years and years and it hasn't been improving... They are serving the constituents permanent workers but in terms of casuals, migrants, yes, they are trying but to no avail. So, as a result, I believe the solution lies with the migrant workers themselves. ...That's why we had to come up with an organization which can understand their culture, which can understand their language, which can also be in their shoes." (Matthew. Interview. 14 November 2016.)

Another comrade-interviewee, formerly of COSATU, recalled representatives of a similar organization arguing:

"We believe that our members should also be members of national trade unions but they do have special interests and traditional trade unions are not attending to those interests and therefore we need to have an organization that can help them with, you know, documentation, with advice that is very specific to their migrancy status'." (Susan. Interview. 24 November 2016.)

Nevertheless, while there is something to be said for the focus and space provided by such specialist organizations, if migrant workers break off into their own unions there is some risk of group closure and the blocking of wider solidarities such as those with citizen comrades.

A third view is asks that we, following Munck, Alberti, Holgate, and Tapia, blur the lines between labour and migration,²⁵⁸ recognizing noncitizens as a permanent feature of the South African labour market and not just as temporary interlopers that will someday go home.²⁵⁹ This view, echoing Schierup, suggests a return to the social movement unionism of the apartheid era:

“Remember, the character of this union is not a workerist trade union – I mean a union that deals with workplace issues only. No, we don’t do that. We must also, in our organizing, deal with other issues other than workplace issues. They might come to us feeling discriminated by our own members...the most unfair labour practice that I can imagine...segregated by members or management...or management oppresses them, not for any other reason but that they are foreigners. We must take that up.” (Shawn. Interview. 28 November 2016.)

It should be noted that the comrade who said this is from the same union as the comrade who suggested xenophobia is not a union issue, reflecting the lack of a coherent consistent position or politics with regard to noncitizen workers and members and their particular concerns. Nevertheless, this perspective points to the incorporation of noncitizen issues into the union’s constitution and collective bargaining agendas in much the same way that women’s and gender issues have been mainstreamed, however incompletely and contentiously.

The National Union of Mineworkers (NUM), a union with a long history of recruiting and retaining noncitizen workers from across southern Africa, stands as a model. I spoke with a comrade-researcher at the Sam Tambani Research Institute, NUM’s research wing, who suggested that the reason NUM appears to have given more consideration to the particular concerns and vulnerabilities of noncitizen workers is that

²⁵⁸ Munck, “Transformationalist,” 102.

²⁵⁹ Hlatshwayo, “International Solidarity,” 174.

“the majority of people who were in leadership were migrant workers.” Another comrade, formerly of COSATU, underscored the outlier status of NUM:

“You know, (NUM’s) experience is very different from unions organizing migrant workers more recently because NUM’s historical experience has been organizing workers who have come to South Africa as part of a bigger labour recruitment scheme. So, those workers have never faced that same challenges of legal status and so on; a very different kind of consciousness.” (Susan. Interview. 24 November 2016.)

Hlatshwayo also considers NUM to be an outlier and similarly attributes its uncommon attention to the concerns of noncitizens to the large proportion of its membership who are noncitizens.²⁶⁰ Future researchers are encouraged to compare NUM with unions in other sectors less familiar with migrancy.

Alienation and Resentment

The greatest challenge with regard to differentiating membership however is that, perhaps unsurprisingly, differentiation can often be “politically charged.” While the task, Lister suggests, “is to promote the voice and citizenship claims of marginalized groups,” the challenge is to do so “without provoking and exclusionary backlash from dominant groups who currently hold the citadels of citizenship.”²⁶¹ Lister notes pushback against ‘affirmative action’ programs for women and people of colour in the United States as a prime example but there are surely many others.²⁶² Nevertheless, just as there is a false dichotomy between equality and difference, my research reveals a similar misconception that equates differentiation and division when in fact differentiation is necessary to avoid division.

²⁶⁰ Hlatshwayo, “International Solidarity,” 184.

²⁶¹ Lister, “Feminist Perspectives,” 91.

²⁶² Lister, “Citizenship and Difference,” 82.

Recalling the final part of the Penninx and Roosblad's third dilemma which cautions that "specialized policies risk alienating native members, who might resent what could be misconstrued as 'preferential treatment'," many of the trade unionists I spoke with worried that efforts to differentiate membership could risk dividing the rank and file or somehow reversing the gains admirably achieved for citizens.²⁶³ One comrade-interviewee recalled a COSATU official articulating this view quite strongly:

"He was quite resistant to the idea of any sort of special treatment of migrant workers. What he was articulating was the argument that 'we're opposed to any form of ethnic division and if we treat migrant workers, cross-border migrants differently... we're introducing ethnic division or national division'." (Susan. Interview. 24 November 2016.)

Echoing this sentiment, a SAMWU official argued quite plainly that they must *"never ever create a policy that will compartmentalize people because that is the start of the division and violence."* (Setloke. Interview. 28 October 2016.) By and large, fear of backlash is one of the main reasons given for why South African trade unions are, in Fine's words, generally "skittish about explicitly focusing on migrants"²⁶⁴ and thus hesitant to differentiate membership in this way.

Similarly, Hlatshwayo cites a SATAWU official who remarked that even specifically targeting noncitizens for recruitment can be a sensitive issue: "It was not easy because our members who are South Africans did not like the idea. We did it because we had to organize workers regardless of their country of origin."²⁶⁵ Generally, these citizen workers "felt that jobs must be reserved for South African workers" and so they resisted

²⁶³ Marino, Penninx, and Roosblad, "Attitudes and Actions," 3.

²⁶⁴ Fine, "Migration and Migrant Workers," 335.

²⁶⁵ Hlatshwayo, "International Solidarity," 183.

the notion of the union protecting noncitizens.²⁶⁶ This resonates with Di Paola's findings that there is "a gap between the leadership's understanding of xenophobia, which, she argues, is grounded in class analysis and based on principles of solidarity and worker unity, and the perceptions of workers on the ground...(who) tend to see foreign nationals as a threat."²⁶⁷ One official suspected that differentiation would likely be received negatively by citizen members:

"It might be as if you are giving them (noncitizen members) special treatment. For them (citizen members), it might be 'No no no, all of us as members are the same; there can't be a particular...' They (citizen members) might even say it's a form of discrimination! (Laughs)." (Peete. Interview. 28 November 2016.)

Nevertheless, I argue that this 'gap' will not be addressed through class analysis alone as this approach addresses neither the particular concerns of noncitizens or the legitimate anxieties of precarious citizens.

Given the parallels, already noted, between the idea of differentiating membership for noncitizens and earlier and ongoing efforts towards mainstreaming gender issues into the union and to address the particular concerns of women workers, it is perhaps unsurprising that the most insightful interventions with regard to the potential for resentment and pushback came from the three women trade unionists I spoke with. The comrade-researcher from SATRI suggested:

"A lot of guys resented the treatment that women were getting. 'We have all these women in mining programs, (you say) women are special but they can't even work!' So, when somebody gets that kind of attention, it's like, 'but we're all workers here. Where you come from is not relevant.'" (Palesa. Interview. 18 November 2016.)

²⁶⁶ Hlatshwayo, "International Solidarity," 183.

²⁶⁷ Di Paola, "Ekurhuleni," 95.

On the other hand, a few comrades, potentially downplaying workplace xenophobia or the pervasiveness of such sentiment among trade unionists and workers²⁶⁸ who, they claim, know better, suggested citizen members would tolerate differentiation. For example, one SAMWU official imagined: *“From where I’m sitting, they would, in their mind, say we are proactive as a union. We do care about members irrespective of whether they are from which country or whatsoever. They would say, ‘At least everyone is covered’.”* (Teboho. Interview. 21 October 2016.) Other comrades also seemed open to the idea of differentiation; they merely argued that it would be sensitive:

“It depends on how the program is tailor-made. If it is tailor-made to respond to a number of challenges...then I’ll be able to assist. (I would say), ‘We have recognized these particular challenges with regards to this particular class and this is how we intervene’.” (Peete. Interview. 28 November 2016.)

The encouraging takeaway here is that despite often contextually rational fears that differentiation could risk alienating citizen members, adopting an organizational norm of differentiated universalism seems possible.

Conclusion

While some comrades may balk at the idea of differentiation, believing it to be the source of division, I argue that this is a misunderstanding of what differentiation entails. Differentiation simply involves recognizing the contrived cleavages that capital and the state have erected to divide workers and committing to mitigate these. This will not eliminate ethnic differences; it is not meant to. It is simply intended to mitigate the effects of legal discriminations and xenophobic sentiment these can produce. Again, the

²⁶⁸ Di Paola, “Ekurhuleni,” 12.

universalist values of equality and justice are achieved only through attention to difference, not by suppressing or ignoring it. This is not to downplay the legitimate concerns of citizen members. Rather the challenge for unions committed to revitalization is to build solidarity between citizen and noncitizen members in order to be better positioned to tackle the particular concerns of the latter. This is the subject of the next chapter.

Chapter 7

Towards a Politics of Solidarity in Difference

“Our line is...that the most precarious workers today are the permanents... Because they’ve got higher wages, medical aid, provident fund, allowances... They’re just being slaughtered. So for us, politically, these other workers will be the key to any sort of new labour movement.”

– Isaac. Interview.
17 November 2016.

In the previous chapter, it was acknowledged that differentiation or particularization can be ‘politically charged.’ On the one hand, unions arguably have a moral and political obligation to take up the mantle for noncitizen workers and members. On the other hand, such ‘special attention’ risks alienating citizen members.²⁶⁹ This tension demands the development of a new kind of political community, a new model of trade unionism that can avoid and overcome contextually rational anxieties while at the same time welcoming difference, as opposed to denying or suppressing it. Drawing on the critical contributions of Anna Yeatman, Iris Marion Young, and especially Chantal Mouffe, Lister sketches a conceptual model of a *politics of solidarity in difference* where women from across the spectrum of diversity work together despite their differences to address the particular circumstances of marginalized women and, in so doing, strengthen the position of women in general. Taking inspiration from this work, in this chapter I sketch out a politics of solidarity in difference where trade union members and workers struggle together irrespective of origin or legal status to strengthen the position of workers in general, positioning the organized labour movement to tackle inequality for all

²⁶⁹ Marino, Penninx and Roosblad, “Attitudes and Actions,” 3.

workers. According to Lister, the key elements of a politics of solidarity in difference include: first, and underpinning the others, a ‘framework agreement’ providing the “foundations for citizen engagement” as opposed to affixing membership to a notion of ‘the common good.’²⁷⁰ Second, a “commitment to valuing difference” in contrast to the present model which emphasizes homogeneity. And third, a “commitment to dialogue,” that gives previously marginalized voices – such as those of noncitizen members – an equal right and opportunity to be heard. The chapter will now unpack these essential elements, critiquing and expanding on them where necessary.

Framework Agreement

In Chapter 5, I discussed how political communities such as trade unions tend to organize themselves around a notion of a ‘common good’ or in pursuit of some ‘common interest’. I argued that the common good or common interest is often not as common as it is professed to be but is rather reflective primarily of the viewpoint of the majority. While all members are likely to agree that the typical economic grievances of the working class are held in common and that addressing these might improve the lot of all members with respect to their work-related material conditions, it does not specifically address the additional concerns of noncitizen workers and members whose perspectives are typically dismissed as partial.

In contrast, Mouffe emphasizes the

“need to conceive of a mode of political association which, although it does not postulate the existence of a substantive common good, nevertheless implies the idea of commonality, of an ethico-political bond that creates a linkage among the participants in the association, allowing

²⁷⁰ Lister, “Feminist Perspectives,” 82.

us to speak of a political ‘community’ even if it is not in the strong sense.”²⁷¹

To bring this about, she proposes that a new radically pluralist political community ought to be oriented around a certain framework agreement comprising a common set of values, principles, and conditions governing individuals’ interactions with one another within the political community. Key among these principles would be a commitment to and recognition of the equality and liberty of all members of the political community, something South Africa’s trade unionists can surely support. More challenging for unions adhering to an organizational norm of universalism though is that Mouffe calls for a political community that casts light on “the numerous social relations of domination” that “must be challenged if the principles of liberty and equality are to apply.”²⁷² Nevertheless, members become bound together by loyalty to one another and their “common recognition of a set of ethico-political values”, as opposed to being forced into a contrived unity by virtue of shared membership in a political community that inadvertently privileges some members over others.

Still, Mouffe suggests this is not yet sufficient. In addition, she argues that any radically democratic political community must also have a “constitutive outside.”²⁷³ If the aim is the “construction of a ‘we’ in a context of diversity and conflict,” Mouffe argues, “it must be distinguished from the ‘them’, and that means establishing a frontier, defining an ‘enemy’.”²⁷⁴ This might sound dangerous, especially as we discuss things like borders and states, citizenship and nationalism, legal discrimination and xenophobia, but in its

²⁷¹ Mouffe, *Return*, 66.

²⁷² Mouffe, *Return*, 70.

²⁷³ Mouffe, *Return*, 69.

²⁷⁴ Mouffe, *Return*, 69.

emphasis on relations of power and domination, it positions oppressed individuals and groups against their common oppressor, not against other oppressed groups. In fact, Yeatman contends that it requires “a readiness on the part of any one emancipatory movement (poor Black citizen members) to show how its particular interest in contesting oppression (racially correlated inequality) links into and supports the interests of other movements (noncitizen workers and members) in contesting different kinds of oppression (legal discriminations and xenophobia).” (Parenthetical descriptions mine.)²⁷⁵

Valuing Difference

Chapter 5 concluded with a discussion of the false dichotomy of equality and difference that underpins the organizational norm of (false) universalism typical of South African trade unions. I argued that unions tend to position equality and difference in opposition to one another, when clearly the opposite of equality is inequality. In their respectable effort to “move beyond the rigid racial and ethnic classifications of the apartheid era,” South Africa’s trade unions have been reluctant to acknowledge difference, in the belief that doing so opens the doors to division. However, as bell hooks reminds us, “We do not need to eradicate difference to feel solidarity.”²⁷⁶

On the contrary, Lister suggests that political communities, such as trade unions, are asked to embrace “a nonessentialist conceptualization of the political subject as made up of manifold, fluid identities which mirror the multiple differentiation of groups.”²⁷⁷ Unions are asked to commit to recognizing that members are not only members; nor are

²⁷⁵ Yeatman, Anna. “Voice and Representation in the Politics of Difference.” In *Feminism and the Politics of Difference*, edited by Sneja Gunew and Anna Yeatman. Halifax: Fernwood (1993): 231.

²⁷⁶ hooks, bell. “Sisterhood: Political Solidarity Between Women.” *Feminist Review* 23 (1986): 138.

²⁷⁷ Lister, *Feminist Perspectives*, 82.

workers only workers. These can have any number of different ‘identities’, stemming from their status as, for example, women workers, precarious workers, noncitizen workers as well as Zimbabwean workers, Basotho workers and so on. When unions ask “the individual to identify with just one element of her identity,”²⁷⁸ as the NASUWU leadership did in the example from Gordon and Maharaj, they run the risk of fragmentation as members seek out other organizations to meet their different needs or that workers will cease to identify with the union at all, precisely because it is diminishing their other identities and the legitimate concerns that stem from these.

In Chapter 5, we refigured the equality-difference dichotomy to more accurately place equality and *inequality* in opposition. This discussion however left difference aside. But the implications of a commitment to valuing difference – as opposed to downplaying it or ignoring it altogether – are considerable. It was argued that when difference is *disparaged*, uniformity and assimilation are emphasized. On the other hand, when difference is *valued*, unions would begin to see strength in diversity – as much as that has become a cliché. They would begin to permit and even encourage those who do not immediately fit the template to articulate their concerns, grievances, vulnerabilities more freely because these comrades no longer fear retribution simply for being different or having concerns deviating from the typical economic concerns of the majority. Rejecting tokenism or diversity for diversity’s sake, a politics of solidarity in difference constructs instead a union that no longer diminishes difference but finds in it essential strength and legitimacy.²⁷⁹

²⁷⁸ Lister, “Dialectics,” 13.

²⁷⁹ Mouffe in Lister, “Citizenship and Difference,” 75.

Dialogue and Process

In Chapter 5, it was emphasized that noncitizen members might not have the same freedom to participate in the democratic deliberations of the union as do citizen members. This was attributed in part to the reluctance of noncitizen members to speak openly about their particular concerns for fear of being singled out for xenophobic bullying. This inability to speak freely impedes the development of solidarity between citizen and noncitizen members. The comrade-interviewee from the MWASA explained: “*You see, issues of people not understanding each other, in most cases emanate from situations where there is no communication between migrants and locals.*” (Tendai. Interview. 9 November 2016.)

In contrast, a politics of solidarity in difference demands a commitment to free and open dialogue, communication and deliberation. It specifically endeavours to provide a space for marginalized groups, especially those not normally heard, to express their particular perspectives without fear of reprisal. The aim is not necessarily to arrive at a consensus but rather to promote differing viewpoints as the basis for the exercise of judgement.²⁸⁰ It also encourages a kind of ‘reflective solidarity,’ a willingness on the part of all involved to shift views instead of holding fast to their own narrow interests.²⁸¹ It is within this radically pluralistic space that oppressed groups – citizens and noncitizens together – can identify their commonalities and common enemies. The comrade from MWASA continued: “*Go, for instance, to the mines where people spend a lot of time together. People begin to build friendships. They begin to realize that ‘this is a person*

²⁸⁰ Benhabib in Lister, “Citizenship and Difference,” 78.

²⁸¹ Jodie Dean in Lister, “Feminist Perspectives,” 83.

like me, this is a person who is suffering like me.” (Tendai. Interview. 9 November 2016.)

While I remain sympathetic to the attention Lister gives to deliberation and process, I might caution that when people’s lives and livelihoods are at stake, including their ability to remain in the country or their fundamental human and labour rights, dialogue must be propelled by a strong sense of urgency. The fact remains that middle class and wealthy White women, in Lister’s case, and citizen members here, whose lot is never as precarious as that of poor women of colour or noncitizen members respectively, are more likely to emphasize process and may attempt to persuade marginalized women and noncitizen activists to be more patient. In response to the lack of urgency implicit in a process-driven politics, I argue that the interests and concerns of noncitizens and other marginalized workers must be given primacy in any radically pluralist dialogue among members. It is only when the concerns of these constituencies have been addressed that unions can profess to represent all members equally or that organized labour can claim to be voice of the working class more generally. Doing so requires more than just a *willingness* to shift views, it necessitates the suspension of one’s own narrow interests until the needs of marginalized comrades are met.

In this way, a politics of solidarity in difference would see citizen members actively advancing the concerns of their noncitizen comrades, safe in the knowledge that the achievement of a truly universalist union, where all barriers to the enjoyment of membership have been removed, placing all workers regardless of legal status on an equal footing, is actually in their interest. Others have proposed similar models: for instance, Trimikliniotis, Gordon, and Zondo cite Kim Moody who advocates an

“orientation that uses the strongest of society’s oppressed and exploited” – in our case, citizen union members – “to mobilize those who are less able to sustain self-mobilization: the poor; the unemployed, the casualized workers, the neighbourhood organizations,” and, presumably, noncitizens as well.²⁸² Ultimately, the more unions can achieve for noncitizen workers, the more they are reducing exploitable divisions between workers along lines exposed as arbitrary and false. Moreover, any rights and protections achieved for noncitizen workers do not come at the expense of citizen workers but rather are taken from employers, providing a material as well as moral incentive for citizen members to demand rights and protections for their noncitizen comrades. Essential though is that unions provide the mechanisms and space for this kind of radically democratic activity to occur.

Encouragingly, there are anecdotal indications that this kind of inclusive dialogue is possible. Chinguno highlights the use of Fanakalu –a kind of pidgin developed to allow mineworkers to communicate across linguistic divides – by AMCU organizers to build unity and solidarity among workers irrespective of origin or language.²⁸³ Hlatshwayo writes of a Migrant Workers Committee that took shape in the Western Cape which was seen as a “space for dialogue and solidarity between South African and immigrant workers.” This initiative had both practical and political implications: first, people advised one another on issues of individual concern, and second, participants discussed the necessity of seeing themselves “not just as South African workers, but as pan-African workers or workers belonging to the African continent.”²⁸⁴

²⁸² Moody cited in Trimiklinitios, Gordon, and Zondo, “Fortress,” 1335.

²⁸³ Chinguno cited in Munck, “Transformationalist,” 110.

²⁸⁴ Hlatshwayo, “Resilience,” 30.

Even a few of my comrade-interviewees noted that citizen members themselves have been known to help noncitizen members feel comfortable and to take strides to ensure diverse voices are heard. Recalled one SAMWU official:

“We had one member who was from Zimbabwe or Maputo. In every meeting, general meeting, he would want to talk in his own mother tongue. And we had to get someone who should help us to get exactly what he is saying. In that way, he felt part of us – that he doesn’t feel obliged to speak in a different form. And ordinarily, those who would help you to understand what he’s saying, it’s those who work with him or her in the particular space. Because every day, interacting, they understand how he speaks...they are able to even follow what he’s saying.” (Teboho. Interview. 12 October 2016.)

While there was no indication here that this comrade was speaking about his particular concerns as a worker from outside South Africa, it is encouraging that the citizen members would want to ensure that he was able to speak. It would seem there is already a sound basis for the kind of radically pluralist dialogue at the heart of the politics of solidarity in difference; it may only be a matter of institutionalizing it as a new model of trade unionism.

Having sketched out the essential elements of the politics of solidarity in difference, I will now revisit trade union membership as a practice to properly envision a new radically pluralist trade union – one that embraces difference as part of a revitalization strategy and even leverages it as part of a renewed struggle against global apartheid capitalism.

Revisiting Union Membership as a Practice

In Chapter 5, it was argued that while noncitizen members are constitutionally permitted to seek and hold any elected position at all levels of the union they may not

necessarily feel free to do so. Recall the Mozambican SAMWU shop steward I spoke with who was himself subject to lighthearted xenophobic bullying, even though he had long since acquired South African citizenship. However innocent, this example suggests that noncitizens might rather avoid exposing themselves by seeking an elected position within the union. In contrast, if SAMWU, in this case, was to adopt a politics of solidarity in difference, with its emphasis on democratic dialogue, on the inherent value of difference, and on the “ethico-political principles” of justice and equality, a different picture emerges. As union leaders and the rank and file membership commit to valuing difference and to ensuring that marginalized voices are heard, noncitizen shop stewards might become more common. Instead of making fun of noncitizens for being ‘foreigners’, citizen members might come to see that these comrades have a unique and important understanding of the issues facing workers. They may even have considerable experience as political activists that could be put to good use agitating on behalf of all members.

It was previously argued that noncitizen members are less likely to be able to feel comfortable expressing their particular perspectives in union forums such as membership meetings and congresses. This was attributed to a perception among noncitizen members that their citizen comrades are unlikely to take their particular concerns seriously, that they may not consider these to be relevant union issues, or that they are could be perceived to be introducing division by speaking of issues that concern only a minority of members. In contrast, a radically pluralist trade union, emphasizing a commitment to valuing difference and to democratic dialogue, would provide mechanisms to ensure that the perspectives of noncitizen members – again, their grievances, needs, and demands –

are amplified and propelled. Citizen members, demonstrating their willingness to shift views in consideration of new perspectives, would come to recognize how their struggles with inequality and precarity link into the struggles of their noncitizen comrades with exploitation and xenophobia.

Finally, consideration was given to the demanding nature of trade union membership as it is presently conceived especially with respect to the expectation that all members participate in industrial action if and when circumstances require. It was argued that noncitizen members are put at undue risk if an otherwise ‘peaceful’ march turns ‘destructive’ or if acquisitive politicians beholden to neoliberalism deploy the tools of the state to subdue striking workers. Where citizens risk police brutality and detention, noncitizens risk brutalization, detention, *and* deportation. While citizens have recourse, noncitizens often do not, or are unable or afraid to seek it. If noncitizens opt to avoid these risks, their citizen comrades might accuse them of not supporting the strike. All told, it was determined that the obligation to participate in strike action cannot be universalized to the entire membership. In response, a union adopting a politics of solidarity in difference might permit noncitizen members to stay away from the picket line, informing citizen members that not all members are able to participate equally, and would instead have noncitizen members sign up for banner-making or other strike-related activity that does not necessarily require them to be on the front lines.

Conclusion

Lister’s politics of solidarity in difference aims to address the exclusionary nature of the conventional political community by calling for an alternative, pluralist conception

that places difference “centre stage,”²⁸⁵ providing mechanisms to allow for the development of a “heterogeneous public that acknowledges and affirms group difference”.²⁸⁶ This radically pluralist political community would, by way of a dialogue-driven “politics of needs interpretation,” provide time, space, and resources to allow marginalized groups to transmute their particular vulnerabilities into a coherent series of needs and these needs into a list of demands.²⁸⁷

Within the realm of organized labour, a union adopting a politics of solidarity in difference, and therefore a commitment to dialogue, would endeavour to amplify the needs and concerns of noncitizen members, situating these at least on par with the typical economic grievances of the majority citizen membership. Rather than subsuming the concerns of noncitizens within the larger class struggle or setting them aside altogether – a kind of two-stage revolution where citizens advance their own interests first and only much later turn to the differentiated needs of noncitizens – a radically pluralist union embracing the politics of solidarity in difference, provides equal opportunity for all members irrespective of status to express their concerns through an open and deliberative dialogue.²⁸⁸

²⁸⁵ Lister, “Citizenship and Difference,” 80.

²⁸⁶ Lister, “Citizenship and Difference,” 76.

²⁸⁷ Lister, “Citizenship and Difference,” 80.

²⁸⁸ Mondli Hlatshwayo, “COSATU’s Attitudes and Policies Towards External Migrants.” In *COSATU’s Contested Legacy: South African Trade Unions in the Second Decade of Democracy*, edited by Sakhela Buhlungu and Malehoko Tshoaedi, Cape Town: HSRC Press (2012): 235.

Chapter 8

Conclusion

Reiterating the Arguments

This thesis has aimed to comprehend the potential implications of South African trade unions' proudly held organizational norm of universalism. The language and justifications used to uphold this sentiment were evaluated with theoretical inspiration from feminist citizenship theory, especially Ruth Lister's principle of differentiated universalism. Chapter 1 provided an overview of the past and present struggles *for* citizenship and *against* legal discrimination in South Africa. I drew parallels between the anti-apartheid struggle led by South Africa's once mighty majority Black trade unions, the contemporary struggle of poor Black South Africans for full and equal citizenship with their wealthy White compatriots, and the struggle of noncitizen workers in South Africa today with a regime of legitimized legal discrimination, embodied in the institution of citizenship. The chapter concluded with a discussion of the position of South Africa's majority Black trade unions today and evaluated the prospect that these once formidable organizations might convene renewed struggle against the politico-economic forces impoverishing and dividing the southern African working class, including xenophobia, exploitation, precarization, inequality, and neoliberal global apartheid capitalism.

Chapter 2 charted a course through the existing literature on trade unions and noncitizen workers in South Africa and the factors thought to prevent unions from organizing noncitizen workers and from effecting revitalization, from which I selected

Janice Fine's "organizational norm of universalism" for further inquiry as I consider it to have underappreciated explanatory value. Defined in terms of South African trade unions' reluctance to move beyond the universalist notion of a united, homogenous Black working class that served them very well during the anti-apartheid struggle, I questioned the continued utility of this orientation in effecting equal material outcomes for noncitizen workers and members in an era increasing cross-border migration and legitimized legal discrimination and for building solidarity between workers irrespective of legal status. I later introduced my analytical framework, inspired by radical and feminist citizenship theory, which I then employed to explore the potential implications of the organizational norm of universalism for noncitizen workers and members and for the prospect of trade union revitalization in South Africa.

Chapter 3 described my initial research plan and outlined the factors thought to have prevented the research from being executed as planned, namely my underappreciation of the highly politicized climate in which South African trade unions operate. The chapter then discussed the revised project and the limitations and opportunities it presented: on the one hand, its insufficiency in terms of accessing union members and on the other, its capacity to acquire a range of perspectives from a variety of trade unions as opposed to singling out just one union for critique.

With reference to my research and the existing literature, Chapter 4 described the circumstances and concerns of noncitizen workers in South Africa. It began by reemphasizing how the particular vulnerabilities of noncitizens stem from a legitimized regime of legal discrimination and highlighting the importance of documentation to noncitizens and the regime dictating their vulnerabilities. It then described how these

legal discriminations manifest in the lives of noncitizen workers, including especially the risk of exploitation, police brutality, and xenophobic violence.

The next three chapters engaged with what I identified as the three broad stages in the development of a more inclusive, radically pluralist trade union. Chapter 5 drew on evidence, examples, and insight from my research as well as from the literature to draw useful parallels between what Lister terms the false universalism of state citizenship as it pertains to the circumstances and vulnerabilities of women and other marginalized groups and the organizational norm of false universalism typical of trade union membership and recruitment in South Africa. It was argued that South African trade unions' proudly held organizational norm of universalism, though it served them well during the anti-apartheid struggle, today serves to exclude noncitizen workers and members from full and equal trade union membership and prevents unions from recruiting new noncitizen members. It was also argued that this false universalist orientation inadvertently privileges the traditional economic concerns of permanent and directly employed citizen members who still comprise the majority of union members in South Africa. The particular concerns of noncitizen members, it was argued, tend to be ignored or diminished. Unions' continued adherence to the organizational norm of universalism was described as stemming from their reluctance to acknowledge difference, which they contend is at the root of division. The chapter attempted to critique this position as a logical misconception that considers equality and difference to be incompatible.

In response, Chapter 6 endeavored, with comment from a number of comrade-interviewees, to illustrate how shifting from an organizational norm of false universalism to an organizational norm of differentiated universalism can help unions become more

attentive to the particular concerns of noncitizen and other marginalized workers and members and positions them to better address the concerns of these growing constituencies. In addition, it was argued that unions would be better able to appeal to noncitizen workers and to ease their recruitment into unions that have heretofore excluded them or expected them to conform to a ‘general will’ which, it was argued, are merely reflective of the will of the majority citizenship membership.

Acknowledging that particularization or differentiation can be politically charged, especially in a country like South Africa with high levels of precarity and xenophobic sentiment, Chapter 7 sketched out a *politics of solidarity in difference* which, I argued, has the potential to unite citizens and noncitizens in a renewed labour-led struggle against the neoliberal political economy that is clearly impoverishing all workers irrespective of their differences, although to varying degrees. Drawing on the critical work of Chantal Mouffe in particular, the chapter imagined a new kind of trade union oriented not towards a common good – which we dismissed as reflective of the will of the majority – but around a framework agreement of ethico-political values embodied in the notion of solidarity. It also imagined the identification of a common enemy, someone or something that oppresses both Black South African citizens and their Black African noncitizen comrades. Having sketched out the politics of solidarity in difference, the chapter revisited the practice of trade union membership and imagined how a new radically pluralist trade union might approach things like the participation of noncitizens in meetings, strikes, or in the leadership of the union.

Implications and Contributions

While earlier scholars have mentioned it in passing, I believe my thesis is the first to attempt a full account of the potential implications of a continued adherence to an arguably outmoded organizational norm of universalism for noncitizen workers, noncitizen members, and for the prospect of trade union revitalization in South Africa. I believe the application of Lister's analytical framework is a unique and creative contribution that can help trade unionists, activists, and scholars better understand how unions are grappling with the phenomenon of noncitizen labour in South Africa today. Ultimately, I hope my work can assist unions to see the emancipatory potential of differentiating trade union membership and recruitment in the effort to address the concerns of noncitizen workers as part of a larger revitalization program.

Suggestions for Future Research

Though there were limitations to my research project, I believe the findings to be significant. Future researchers might have more success if they can spend the necessary time to demonstrate solidarity with the union(s) under study and to develop a rapport with union gatekeepers. Readers will recall that I initially attempted to carry out this research by conducting in-depth research with one union. Future research in this area should instead consider a comparative analysis of two or more unions in an effort to uncover why some unions might be more open to differentiation than others. Similarly, I might recommend an analysis comparing unions in, say, Canada or the United States and their counterparts in South Africa to determine if there really is something unique about the South African context.

Whatever the approach this research should involve a rich ethnographic study of noncitizen workers, including an intersectional discussion of the concerns of women noncitizens, disabled noncitizens, and LGBT noncitizens, and so on as well as noncitizens from different countries to determine if these groups have different experiences with legal discrimination. Similarly, it would be advisable to explore the experiences of groups with different legal statuses comparing for instance the concerns of those who have been granted asylum with those who are undocumented and any other legal statuses in between. Finally, it would be useful to compare, for instance, the experiences of highly skilled professionals and low skilled survival migrants.

Future scholars are also encouraged to explore in greater detail, with first-hand accounts, the position of noncitizens within South African trade unions and the limitations they face. Recalling that differentiation is often politically charged, future research must provide a considered analysis of the concerns of citizen trade union members with regard to the noncitizens in their midst and any initiatives designed to mitigate the effects of legal discrimination. Finally, I believe the theoretical framework deployed in my thesis allows for an expanded analysis including not just noncitizens but informal, indirectly employed, and casual workers as well; even if these individuals are citizens, they still face considerable disadvantages in the South African labour market and within South African trade unions. It is presumed that such research would corroborate my findings and thus place further pressure on South Africa's embattled trade unions to move beyond the rhetoric and to take meaningful practical steps towards addressing the concerns of these growing segments of the southern African working

class, as another front in the ongoing struggle to mitigate the divisive and impoverishing effects of neoliberal global apartheid capitalism.

Appendix A

Sample interview questions/interview guide – **shop stewards and officials**

- 1) What do you understand to be the position (policy or statement) of (NAME OF UNION) regarding noncitizen members?
 - a. Why do you think (NAME OF UNION) holds that position?
 - b. What does (NAME OF UNION) say to justify that position?
 - c. Can you point me to any specific policy or statement that says this?
- 2) What do you understand to be the circumstances or grievances of those (NAME OF UNION) members who are not citizens of South Africa?
- 3) Please describe your experiences working with noncitizen (NAME OF UNION) members in your capacity as a shop steward.
 - a. To what extent is your experience indicative of (NAME OF UNION)'s position/directives? Or are you doing these things on your own?
- 4) To what extent do you believe (NAME OF UNION) is interested in helping to address the concerns of its noncitizen members?
- 5) Why do you think (NAME OF UNION) is not interested in addressing the particular concerns of noncitizen members?
- 6) Why do you think (NAME OF UNION) decided to start addressing the concerns of noncitizen members?
- 7) What initiatives, if any, has (NAME OF UNION) undertaken to address the concerns of noncitizen members?
 - a. Have you participated in any (NAME OF UNION) initiatives pertaining to the experience and concerns of noncitizen workers in your capacity as a (NAME OF UNION) shop steward? Please describe these initiatives and your participation in them.
 - b. Have these initiatives been successful, in your view? If so, in what ways? If not, what do you think prevented these initiatives from being successful?
- 8) What (further) initiatives would you like to see (NAME OF UNION) undertake to help address the concerns of noncitizen members?

Appendix B

Sample interview questions/interview guide – **noncitizen members**

- 1) Please describe any concerns you have that stem specifically from your status as noncitizen.
- 2) Please describe your experience as a noncitizen (NAME OF UNION) member.
 - a. Do you feel welcome in the workplace? In the union?
- 3) To what extent do you believe (NAME OF UNION) is interested in helping to address these concerns?
- 4) If (NAME OF UNION) seems uninterested in addressing your concerns, what arguments do they employ to justify their disinterest?
- 5) If (NAME OF UNION) seems interested in addressing your concerns, what arguments do they employ to justify their interest?
- 6) What initiatives, if any, has (NAME OF UNION) undertaken to address these concerns?
 - a. Have you participated in any (NAME OF UNION) initiatives pertaining to the experience and concerns of noncitizen workers like yourself? Please describe these initiatives and your participation in them.
 - b. Have these initiatives been successful in alleviating your concerns? If so, it what ways? If not, what do you think prevented these initiatives from being successful?
- 7) What (further) initiatives would you like to see (NAME OF UNION) undertake to help address the concerns of noncitizen members like yourself?

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