

Asylum as a Form of Life

The Politics and Experience of Indeterminacy in South Africa

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According to the United Nations, in 2003 South Africa had the highest number of asylum seekers worldwide. This situation resulted from the combination of two factors: considerable migration flows from neighboring African countries and ineffective assessment procedures by the South African administration. Based on interviews with applicants or former applicants to refugee status as well as officials, adjudicators, and activists, our research focuses on the experience of existential indeterminacy endured by claimants and the signification of the ambivalent policies implemented by the state. We propose to analyze asylum as a form of life, rather than as bare life, not disambiguating the two meanings in tension in Wittgenstein's reflections: a particular shared world and a universal human condition. We emphasize how this form of life is shaped by the law, according to Agamben's analysis, although in an equivocal way, as individuals alternatively adapt to it or resist it. Beyond the South African case, we argue that this form of life is a major feature of contemporary society.

What has to be accepted, the given, is—so one could say—forms of life. (Wittgenstein 2009 [1953])

A form-of-life, that is to say, a life that is linked so closely to its form that it proves to be inseparable from it. (Agamben 2013 [2011])

Of its glorious past, the huge six-story edifice of Diamond Exchange kept very little trace. Only the name still evoked the time, during the apartheid era, when it was still a hot spot of the gem trade on the Witwatersrand. Hanging from the first-floor balcony, a red banner advertising a “Diamond Supermarket” ironically referred to an informal dealer in an adjacent street. The massive and dilapidated building adjoined an abandoned cinema, on the walls of which an inscription indicated what had been the price of movie tickets. In the street, hawkers were selling cigarettes and candy. Chihera, an undocumented Zimbabwean woman, had led us there through a maze of street traders, informal taxi ranks, and tenements in various states of repair and dereliction. On our way, we

had passed by several other so-called “dark buildings”: unlawfully occupied apartment blocks or warehouses in which thousands of the city's poor, many of them from beyond the borders, live unlawfully in squalid conditions that are worse than the basic international standards for refugee camps, with little prospect of decent accommodation, under threat of eviction, and subject to frequent to police and immigration raids. Diamond Exchange (fig. 1), where one of us had been conducting research for a year (Wilhelm-Solomon 2015), was among the most infamous of these buildings.

Indeed, during the 1980s, as the apartheid regime was crumbling, the living conditions of the inner city had rapidly declined as its cosmopolitan white inhabitants were replaced by impoverished and aspirant black populations. As the political and demographic pressure from the townships and later from immigrants increased, affluent residents and businesses had fled toward the northern suburbs, where real estate speculators were building shopping malls, office blocks, and gated communities (Murray 2011). This radical urban inversion had been followed by a parallel transformation of the economic environment. What used to be the central business district became the site of criminal activities, drug trafficking, and various contraband as well as informal markets, small shops, street stalls, and petty traders. Although thousands of new “affordable” apartments have been built in the inner city in recent years, with biometric security and decent amenities, these are largely inaccessible to workers in the informal sector. Thus, the inner city has “a complex geography that residents must navigate according to a finely tuned series of movements and assumptions,” since “there are places where they know they must not go or be seen—but this knowledge often depends on highly variable notions

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Figure 1. Diamond Exchange, central business district of Johannesburg, South Africa, 2013. Photograph by Matthew Wilhelm-Solomon. A color version of this figure is available online.

about which places are safe and which are not” (Simone 2004:421).

Such subtleties of urban space were hardly secret to Chihera. Outside of Diamond Exchange, she summoned a young man, who immediately joined her and swiftly preceded us as we entered. In what had been the lobby, the tiles were cracked and the floor littered with trash. In the stairwells, which we ascended in complete darkness, the steps were sodden with dirty water. On the various floors, the balconies were blocked by decomposing waste, and the toilet bowls were clogged with soiled paper (fig. 2). We were told that, on the second story, *tsotsis*, or gangsters, hid their loot, mostly composed of cell-phones and laptop computers. Residents of the building, most of whom were working in the informal sector, while others survived through begging or sex work, were afraid to report crime for fear of retribution from the criminals but also, for the undocumented, for fear of being arrested themselves. Most were asylum seekers or undocumented migrants, although a minority of South African citizens lived among them,

A corridor gave access to the half-dozen rooms where Chihera lived with several of her friends. A little larger than the other ones, her room was partitioned by a sheet: the main

space was shared by herself and her two adolescent adopted daughters, while the small entrance was rented by a South African woman. Revealing a similar intention to get some extra income from her poor lodging, Felicity’s room had also been divided in two by a curtain that separated the private side, occupied by a bed, from the public part, which had been transformed into a shebeen—that is, an informal bar comprising four chairs where the tenant sold beer in the evenings, an activity made easier by the absence of her two children, left behind in Zimbabwe. The smallest and also the most unadorned was the room where Freedom lived with her two young children. In sharp contrast with the communal areas of the building, the lodgings were clean and orderly. The fetid odor of the stairs did not penetrate them. Albeit deprived of all conveniences, the rooms revealed the efforts of the women to keep them livable (fig. 3). They were spaces of intimacy and accumulation, where worldly goods, garnered from informal trade, were kept. Ironically, the darkness of the stairwell formed a protective veil isolating the domestic lives from the cityscape and repelling the police.

The room where we ended up talking with the three women was Phumzile’s. A large bed served as the main piece of furniture. The decoration was limited to a poster of Bob



Figure 2. Communal toilets in a so-called dark building, where many asylum seekers find refuge, Johannesburg, South Africa, 2013. Photograph by Matthew Wilhelm-Solomon. A color version of this figure is available online.



Figure 3. Private space in a lodging unlawfully occupied by an asylum seeker in Johannesburg, South Africa, 2013. Photograph by Matthew Wilhelm-Solomon. A color version of this figure is available online.

Marley, a necklace in Rasta style, and a German flag hanging side by side on a wall above a television screen surrounded by two speakers. Large suitcases and a small cupboard contained all the clothes and utensils the tenant possessed. Upside down plastic containers were used as seats. The outfits worn by our hosts were a study in contrasts. Chihera was elegantly dressed with an immaculate traditional boubou. Felicity sported dark leggings and a leopard-print bodysuit befitting her status of shebeen queen. Freedom had on a simple t-shirt with cheap jeans, and Phumzile wore a colored blouse over a shapeless skirt. As we shared the meal of chips and soda we had brought, we cheerfully began our conversation, our voices mixing with the hooting of the traffic outside, where an informal taxi rank was located. This conviviality, for a time, seemed to distance us from the piles of detritus which lay, in sight through the large window, on the balcony below us.

The four women were undocumented Zimbabwean immigrants. They had left their country five to ten years earlier as the political and economic situation rapidly deteriorated. In the late 1990s, a series of policy decisions by President Mugabe—payment of pensions to 50,000 war veterans, confiscation of 15,000 white-owned farms with limited compen-

sation, and involvement in the war in the Democratic Republic of Congo—had precipitated Zimbabwe's bankruptcy. Employment shrank by over 400,000 jobs between 1998 and 2004, and agricultural production went through a steep decline. The dramatic increase in food insecurity was aggravated by international sanctions in response to the anti-democratic turn of the regime. After the contested elections of 2005 and 2008, violence burst out between supporters of Zimbabwe African National Union Patriotic Front (ZANU-PF) and Morgan Tsvangirai's Movement for Democratic Change (MDC). The government harshly repressed demonstrations by the opposition. Activists were severely beaten and even killed by the police (Southall 2013). In this context of fear and famine, made worse by a cholera outbreak, hundreds of thousands of Zimbabweans left their country, crossing the Limpopo River, which separates Zimbabwe from South Africa. In the absence of other legal avenues for immigration, particularly for the "unskilled" workers, they claimed asylum.

At refugee reception offices, they received a provisional so-called Section 22 permit, which allowed them to stay regularly in the country until their case was adjudicated. But as our interviews with asylum seekers and appeal judges dem-

onstrated, and as others have established, because of the high number of applications, the poor functioning of the bureaucracy, and the multiple administrative and legal obstacles placed in the process, the assessment of claims often took several years. Meanwhile, the asylum seekers had to renew their permit every six months, an operation so costly in terms of both time, owing to the queues, and money, because of the need for bribes, that many were ultimately deterred—a situation worsened by the closure of refugee reception centers in Johannesburg in 2013. Those who persevered through this indefinite and trying ordeal mostly ended up being rejected. They could appeal the decision, however, which many of them actually did. This new phase generated an even longer waiting time due to the presence of only five judges on the Refugee Appeal Board, who adjudicated tens of thousands of cases, while a standing committee was supposed to review the manifestly unfounded cases. Again, the appellants had to renew their permit twice a year under the same circumstances of queuing and bribing, which resulted in additional withdrawals. Paradoxically, given that an asylum-seeking permit in South Africa gives the right to work, this indefinite deferral, along with the extremely low allocations of refugee permits, also provided a precarious protection from deportation and the possibility of legal employment.

The whole process of evaluation, with its delays and complications, led with time to a considerable accumulation of applications. In 2000, there were 15,000 asylum seekers and 15,000 refugees in South Africa. In 2005, these figures had increased to 140,000 and 29,000 respectively. By 2010, they had climbed to 172,000 and 58,000. When we conducted our research, in 2013, there were 232,000 asylum seekers and 66,000 refugees (UNHCR 2015). With regard to the latter, South Africa was far behind countries such as Pakistan or Iran, which each had more than one million persons under their protection, or even Kenya or Sudan, where several hundred thousand people resided in camps, but according to the United Nations High Commissioner for Refugees, it had become the country with the highest number of people claiming a refugee status: asylum seekers were three and four times as numerous in South Africa as in the United States and France, respectively. One out of four asylum seekers worldwide was living in South Africa. Zimbabweans represented the highest share of applicants, and those without documents, who had been rejected or had fallen out of the system, lived in continued conditions of what De Genova (2002) has characterized as “deportability.” They epitomized the condition of black migrant workers in Johannesburg, which Achille Mbembe and Sarah Nuttall (2008:23) describe as one of “uncertainty, unpredictability, and insecurity.” Yet they were only partially outside the city’s “order of visibility,” because their existence was characterized by constant engagement with the law, the police, and the bureaucracy according to indeterminate logics.

Such was the case for Chihera, Felicity, Freedom, and Phumzile. Their stories reflected the intricacies and ambi-

guities of the rationales of their seeking refuge in South Africa. Their narratives combined, in various degrees, political persecution, economic need, and other, more mundane reasons. They had sought asylum, had obtained a temporary permit, had failed to renew it at some point, had been unable to pay the corresponding fine, and eventually had become irregular after several years spent in their host country. From precarious legal status, they had fallen into the complete absence of a legal existence. This simple observation illustrates the tension between the realist and nominalist approaches to these issues (Hein 1993): according to the former, political and economic rationales can be distinguished, and refugees are therefore clearly separable from immigrants; according to the latter, these categories are constructions that reflect the work of institutions rather than an easily established empirical difference.

Whatever it may be, the new situation in which the four women found themselves left them at the mercy of the police, who harassed them to extort the small amounts of money they earned, in exchange for which they spared them the distress of detention and the anguish of deportation. But the loss of their permits did not radically modify their living conditions, because their status as foreigner, their lack of resources, their absence of social rights, and ultimately the recurring waves of violent xenophobia in the country obliged them to occupy lower segments of the social space while being threatened by local gangs. Ironically highlighted by its glamorous name, the blatant indignity of Diamond Exchange epitomized the liminal situation in which they were relegated, at the margins of the wealthiest society on the African continent—and the most unequal as well.

Indeterminacy

This limbo epitomizes the profound ambivalence of the South African state, which acknowledges the right to protection but hinders access to it, which tolerates the presence of hundreds of thousands of people seeking refuge but submits them to continual police interrogation and harassment, which provides constitutional protections and socioeconomic rights to nonnationals but allocates these haphazardly and unevenly, which generates a bureaucracy to assess individual cases but gives it notoriously insufficient means, which mixes “corrupt circumvention and overzealous enforcement” (Vigneswaran et al. 2010). By keeping people for years in the ineffective process of evaluating their claim, by maintaining them in the permanent vulnerability of the renewal of their permit, by progressively excluding them from the system through administrative obstacles and discretionary decisions, and by alternatively ignoring the illegal situation in which they end up and the extreme exploitation which that situation allows and then suddenly enforcing the law in the most relentless way (Segatti, Hoag, and Vigneswaran 2012), the state produces what these undocumented migrants simply designate as *as'lem*. This term not only names asylum but also in-

corporates a set of images, values, emotions, and practices related to their existence, both private and public, intimate and exposed: it also qualifies a form of life. Conversely, however, asylum seekers also actively produce this form of life: given that the delaying of the asylum and appeal hearing allows them entitlements to residency and work and that there is little chance of a successful conclusion of their claim, attempting to remain within the system and trying to foster its seemingly endless deferral provides them a semblance of protection.

In that regard, South Africa can be viewed as both exemplary and exceptional. It is simultaneously representative of a broader phenomenon and unique in its scale. Indeed, the world of international protection schematically presents two configurations (Fassin 2013). The global South shelters the majority of refugees worldwide: more than 10 million in the Middle East, four million in Asia, and five million in Africa, out of the 21 million in total (UNHCR 2015). They are people fleeing their country due to conflict, violence, or persecution. Most of the time, they obtain refugee status in a neighboring country on the basis of their statements, which are generally accepted on a collective rather than individual basis. They are frequently settled in camps, where they have limited rights, but they sometimes get incorporated within the host society. By contrast, the global North receives a large share of the asylum seekers: Europe and North America count for almost half of the total number. Each case is assessed with circumspection and even suspicion by institutions that resort to more and more personnel for increasingly fastidious procedures. Narratives are checked, evidence is required, geopolitical expertise is mobilized, and as a result, admission rates have dramatically plummeted in recent years. Thus, in France, these rates have fallen from more than 90% to less than 20% in three decades.

With its scrutinizing, highly selective, and heavily bureaucratized process, South Africa thus belongs more to the global North than to the global South—although the assessment of cases is often arbitrary, with cut-and-paste justifications (Amit 2012). With almost one-fifth of the asylum seekers worldwide at the time of our research, South Africa can be seen as an extreme case of the equivocal and even contradictory logic developed in Western countries in the past decades (UNHCR 2013). On the one hand, the formal principles of the Geneva Convention appear to be respected. On the other, the whole system of protection is driven by a combination of mistrust, deterrence, and, in the end, administrative discretion. With its legal and procedural frameworks aligned to the highest international standards and its lack of bureaucratic competence and political leadership in this domain, South Africa may sometimes appear to mimic as well as caricature the logics of the global North. This tension leads to indeterminacy between the conditions of asylum seekers and undocumented migrants. Asylum seekers can easily lose their residence permits as claimants for the sole reason that they lack the means to pay a bribe or a fine or to pay transport costs to distant reception centers (Amit 2015). This

indeterminacy paradoxically characterizes the form of life that corresponds to asylum seeking. Today, almost three million people worldwide experience this limbo for years (UNHCR 2015). They constitute a liminal population produced by policies of which South Africa has become the paragon. In the past decade, Zimbabweans have made up the largest share of this precarious diaspora (MacGregor and Primorac 2010). In Diamond Exchange, subject to the continual threat of eviction or deportation, Chihera, Felicity, Freedom, and Phumzile embodied this condition.

In the following pages, we will consider asylum as a form of life characteristic of contemporary society, taking South Africa as a case in point. Our analysis is based on research conducted in 2013, which was itself grounded in long-term research in the country. The study comprises 41 interviews of present or former asylum seekers conducted in two unlawfully occupied buildings of central Johannesburg, one illegal settlement of gold diggers in the Rand, and various public places of the province of Gauteng. The sample presents a diversity of socioeconomic conditions, including 14 interviewees involved in informal trade and begging activities, 15 nurses, and 12 physicians. We also met with five high officials in charge of immigration and asylum at the Department of Home Affairs, two adjudicators at the Refugee Appeal Board, four members of the Refugee Nurses Association and the Zimbabwe Nurses Association, three officials of the national and provincial Departments of Health, the deans of the Faculty of Medicine of two major universities, an activist from Lawyers for Human Rights, and another from Peace Action. We will first discuss the idea of form of life to show how the politics of the state shapes the experience of the claimants. We will then analyze how the ambivalent mode of government of asylum came into being and developed into its current form. We will finally turn to the way people go through the ordeals of asylum seeking, adapt to policies, accommodate to violence, and recreate spaces of autonomy to render life possible.

Forms and Life

What is a form of life, and what can we learn from it? How does it correspond to the phenomenon we are studying, and how could it enrich our understanding of that phenomenon? These are the questions we will address and attempt to exemplify. We will do so on the principle that translation from philosophy to anthropology must never be a mere transplantation of concepts but “a form of respectful and loyal treason” that is justified when “it produces something interestingly new in the process” (Fassin 2014:52). The discussion of various traditions and interpretations of forms of life should thus be viewed not as a philosophical commentary but as an anthropological heuristic to better comprehend the condition of asylum.

The original idea—rather than the concept—of form of life is attributed to Ludwig Wittgenstein. Although the expres-

sion appears only five times in the *Philosophical Investigations* (Wittgenstein 2009 [1953]:§19, §23, §241, PPF 1, 345), it occupies a major place in the exegesis of the philosopher's work and has a significant legacy in the social sciences (Kishik 2008). But because these five occurrences are far from self-explanatory, commentators have proposed numerous different and often contradictory interpretations. In an early review of the literature, J. F. M. Hunter (1968) identified four broad meanings that are revealing of this variety and even incompatibility. The most literal reading refers to form of life as an equivalent of language-game, implying that it is something both standardized and shared within a given social world. A second option considers that it is a set of behavioral forms of social language adapted to certain situations in relation to which one is expected to express feelings, display gestures, or perform actions. A third line of thought assimilates it to a way of life that characterizes the common cultural language of groups of people according to their class, religion, or profession. The last perspective encompasses the human activity of language viewed as biological, in the sense that what one says is, most of the time, produced in the same natural way as walking or digesting, without conscious application of syntax rules. So, are forms of life related to grammar, behavior, culture, or biology? It is certainly typical of Wittgenstein's thought that it would thus be subject to multiple interpretations, not so much due to the hermetic style he adopts to express his ideas, but more deeply, as Lynne Rudder Baker (1984) argues, because of his refusal to erase the asperities or simplify the complexities of the world.

The most interesting tension in the various interpretations of the idea of form of life offered by his exegetes, or at least the most relevant for the social sciences, is that between universalism and differentialism, between forms of life as human invariants and forms of life as culturally bound (Emmett 1990). According to the first approach, forms of life are transcendental and therefore beyond any empirical exploration: "Since the fact that our language is such and such, and thus that the world we live in is as it is, are, as presently construed, transcendental facts," writes Bernard Williams (1973), "they have no empirical explanation." This radical view dismisses the social sciences: only philosophy may have something to say about forms of life. According to the second perspective, conversely, there are neither universals nor rules from which to deduce what we say and how we act but simply a set of elements that are collectively taken for granted. The fact that the words we learn and teach in one context can be used in another and that this projection can be understood, notes Stanley Cavell (1962:74), "is a matter of our sharing routes of interest and feeling, modes of response, senses of humor and of significance and of fulfillment, of what is outrageous, of what is similar to what else, what a rebuke, what forgiveness, of when an utterance is an assertion, when an appeal, when an explanation." This empirically embedded analysis is, of course, more friendly to

social science: it opens the way to history and anthropology, in particular, since forms of life vary in time and across societies.

At first sight, the two interpretations are definitely irreconcilable. Yet, recent discussions on the idea of forms of life strive to go beyond the alternative between universalism and differentialism. This is how one can regard Cavell's new reading of Wittgenstein's forms of life (2013:40–42) through what he names a "spiritual struggle" to recover ethics "beyond the reach of what we think as moral judgment." Returning to the fundamental idea that human agreement about what is true and what is false "is not agreement in opinions but in form of life" (Wittgenstein 2009 [1953]:§241), Cavell suggests that too much emphasis has been put on the "social" dimension of the form of life, that is, the conventions on which society relies, at the expense of the "natural" aspect of it, that is, the common behavior that defines humankind: "Call the former the ethnological sense, or horizontal sense. Contesting that there is the biological or vertical sense." In the first sense, horizontal, one would differentiate, for instance, cultural practices such as "coronation" and "inauguration" or "barter" and "credit." In the second sense, what would be at stake are differences between human and "lower" or "higher" forms, such as "poking with a fork" as opposed to the "pawing" and "pecking" of animals. According to Cavell (2013:42), "this mutual absorption of the natural and the social is a consequence of Wittgenstein's envisioning of what we may well call a form of human life." The combination of the two dimensions thus reconciles the differentialist and universalist interpretations.

It is in this way that Veena Das (2007:88–89) engaged her work on violence in India, explicating and illustrating Cavell: "There are two ways in which the notion of agreement can be read: the first is the agreement in the forms that life may take, and the second is in the idea of what distinguishes life itself as human." In terms of the forms that life might take, there are "differences, for instance, in the institution of marriage and property," which are cultural. With respect to the question of life as human, these distinctions are "between a human being, a bird, or an animal"—in other words, between species. Recounting the story of a woman who, having been abducted during the Partition and later rescued by the Indian army, had to endure the jealousy and brutality of an older man to whom she was married by her uncle, Das distinguishes the violence that can be represented through words—that within the couple and its continuation in the mistreatment of their son and daughter-in-law—and the violence that cannot be verbalized—that related to the abuse of women, who were raped, mutilated, and publicly stripped naked during the Partition: "This production of bodies through a violence that was seen to tear apart the very fabric of life was such that claims over culture through disputation became impossible." Somewhat distancing herself from Cavell's interpretation, Das regards the body not as what epitomizes the natural but as what makes the human. The way in which it is treated

therefore calls for an anthropological interpretation. In other words, the inquiry into forms of life shifts from the horizontal to the vertical sense: it was no longer about forms but about life as human.

At this point, we want to rephrase somewhat Cavell's formulation and incorporate Das's discussion. The resolution of the tension between universalism and differentialism or, better yet, the heuristic value of this tension for anthropology is not between the social and the natural or between the ethnological and the biological. It is between the social and the ontological and between the ethnological and the ethnographical. The victimization of the woman by her husband can be analyzed as social and interpreted through ethnological lenses, whereas the extreme violence collectively endured by women cannot be merely viewed as proceeding from the natural or the biological: it engages human life as opposed, not to animal life, but to inhuman life. It involves not only the natural dimension of life but its ontological meaning. It proceeds not only from an impulse that biology would account for but from images, values, affects, and practices that require an ethnographic comprehension. In other words, ethnology as the study of cultural differences explores the horizontal sense, whereas ethnography as the understanding of a given social world mobilizes the vertical sense.

In our case, the ethnological approach may tell us about forms—for instance, the differences between South African and North American ways of dealing with the issues of immigration and asylum, or between the regular leasing of offices to companies in the heyday of the Diamond Exchange building and the informal occupations of the postapartheid era. But the ethnographic reading delves into the life of Chihera, Felicity, Freedom, Phumzile, and others not only from the viewpoint of their individual biographies, which are nevertheless obviously important to consider, but more profoundly from the perspective of the humanity that this life uncovers: indeed, it reveals the ways in which the state protects and exposes their lives, the invisibility and vulnerability of their existence in the margins of the city and the law, and the ignominy of their living conditions, which questions the principle of human dignity. Yet it also underscores the efforts of these women to adapt to these circumstances, enliven their survival and rehumanize, so to speak, their life. In other words, ethnology is about differences between forms, whereas ethnography is about inquiry into life—the way it is treated by the state and recreated by the subjects—and the two approaches interact.

Remarkably, the most recent endeavor to conceive of the relationship between form and life hardly refers to the long tradition inspired by Wittgenstein's pioneering reflection, although it mentions in passing his approach of norms. In *The Highest Poverty* (2013 [2011]:xi–xii), Giorgio Agamben proposes an analysis of monastic practices, in particular among medieval Franciscans, from the perspective of the rules both imposed on and accepted by the monks in order “to construct their life as a total and unceasing liturgy.” But

what interests him is not so much the “mass of punctilious precepts and ascetic principles, of cloisters and horologia, of solitary temptations and choral liturgies, of fraternal exhortations and ferocious punishments” that characterize the cenoby as it is “the dialectic that thus comes to be established between the two terms rule and life.” This dialectic produces a “third thing,” which is neither the association of the two nor the exclusion of one by the other, but rather “something new and unheard of, that is, a form-of-life.” It is noteworthy that Agamben, who has been a follower of Michel Foucault, thus recaptures the theme of monasticism that is omnipresent in the French philosopher's late work, albeit with a distinctive inflexion. While Foucault (1988) focused on specific technologies of the self, such as the confession of one's sins and the obedience to one's master, Agamben encompasses the entirety of the monk's existence, which becomes indistinct from the rule to the point that it is impossible to establish which one determines the other. Actually, he had engaged this reflection in his previous work on the figure of “homo sacer” (1998 [1995]:52–53), in which he asked: “What is the *form of life* that corresponds to the *form of law*?” At this point, it is in the totalitarian regimes that he was interested: “Life under a law that is in force without signifying resembles life in the state of exception, in which the most innocent gesture or the smallest forgetfulness can have the most extreme consequences.” For him, the trial recounted by Franz Kafka epitomizes this situation, characterized by “the impossibility of distinguishing law from life.” Significantly, in their analysis of the South African deportation system, Rebecca Sutton and Darshan Vigneswaran (2011) use the same literary reference.

Indeed, Chihera, Felicity, Freedom, and Phumzile definitely bear witness to the fact that life can be intertwined with law so closely as to become inseparable from it. Just as the condition of the French *sans-papiers* is inextricably related to the vagaries of legislation that generally excludes but can also occasionally include them (Fassin 2001), the precarious existence of asylum seekers and undocumented migrants in South Africa is intimately linked to the variations in the law and its enforcement by bureaucrats as well as the police (Klaaren and Ramji 2001). Certainly, the four women and the hundreds of thousands of those who share similar situations, whether they claim or have claimed refugee status, do not live under a law that would regulate their life as in a totalitarian regime or a monastic environment. Quite the contrary: their existence is conditioned by the prevailing legal, political, and bureaucratic indeterminacy. Their life is not regular but irregular. They are outside the law. Yet, they are defined by it through their permit or lack thereof. Their life is shaped by the law and its enforcement, made of expectation and hope when they still have the precious document, anxiety and fear when they do not have it any more. But the way it is shaped does not follow precise rules, because policies hesitate between protection and coercion, welfare and exclusion, invocation of formal principles and violation of human rights

(Landau 2006). This exteriority from, as well as dependence on, the legal system and its implementation as well as the indeterminacy coming from both the irresolution of the state and the precarity of their situation characterize asylum—*as'lem*—as a form of life.

By this expression, we thus mean the manner in which the juridical and bureaucratic assemblage of the asylum system becomes enmeshed in the life, survival strategies, and existential conditions of asylum seekers, which in turn shapes the politics of asylum. By considering asylum as a form of life, we link the specific modalities of living as asylum seekers in a given country, in the horizontal or ethnological sense, and the ethical breaches to which those living in contexts of asylum are exposed, in the vertical or ethnographical sense. The concept therefore offers the possibility to consider together the singular and the general.

Contradiction in Policies

The indeterminacy characterizing the lives of asylum seekers in contemporary South Africa needs to be understood as the result of several decades of contradictory policy tensions manufacturing the current asylum regime. Because of the repression against opponents and, more generally, the gross violation of human rights under the apartheid regime, South Africa has long been regarded as a country issuing rather than receiving refugees. Furthermore, as civil conflicts multiplied in the region in the aftermath of decolonization, South Africa developed a border-monitoring capacity that allowed for a relative control of mass inflows of refugees at the same time that it instigated or fuelled the destabilization of its neighbors (Handmaker 2001). Such was the case with Angola and Mozambique after they became independent in 1975. In the latter country, military groups who were opposed to the Socialist government and supported by Rhodesia and South Africa prompted a civil war that lasted from 1977 to 1992. Hundreds of thousands of Mozambicans sought refuge in homelands where the South African government would tolerate their presence, whereas it rejected them from urban areas. In sum, the apartheid regime, which had no asylum system, was itself conversely an important producer of victims of persecution both within its territory and beyond its borders.

In fact, until the 1990s, the country granted asylum to a vast array of populations. Different waves of European immigrants aspiring to refugee status were thus welcomed: Lithuanian Jews running away from the multiplication of pogroms, Italian prisoners captured during the Second World War, Greeks persecuted under the dictatorship of the Colonels, and Belgians and Portuguese fleeing in the context of the Congolese, then Angolan and Mozambican, independences. For these various waves of immigrants, and sometimes despite religious and anti-Semitic reservations within the white community, assimilation did not require that a specific sta-

tus be created or that their motivations for coming to South Africa be formalized (Peberdy and Crush 1998). However, Pretoria's position rapidly evolved in the early 1990s. The Mozambican conflict created the first large inflow of refugees into South Africa from 1984 onward. The Mozambican inflow had major repercussions on the asylum and immigration policies developed during the 1990s by the new post-apartheid government. Agreements signed between the High Commissioner for Refugees and the South African government in 1993 made it possible, after a laborious process, to afford Mozambican refugees a status. However, outside of a legally scrutinized national legislative framework, recognition of the Mozambican refugee status came about much later (Wa Kabwe-Segatti 2002), leading either to the criminalization of several thousands of these refugees, to voluntary repatriation as part of an inefficient program, or to the regularization of a very small number (Johnston 2001).

With the advent of democracy in 1994, things changed radically, at least from a formal point of view (Wa Kabwe-Segatti 2008). The country rejoined the international community and ratified international treaties, including the 1969 Convention Governing the Specific Aspects of Refugee Problems in Africa of the Organization of African Unity and, two years later, the 1951 Geneva Convention relating to the Status of Refugees as well as its extension through the 1967 New York Protocol Relating to the Status of Refugees. This alignment on international human rights was part of a broader move toward a form of unreservedly open universalism inscribed in the 1996 Constitution (Republic of South Africa 1996), the preamble of which declares that "South Africa belongs to all who live in it, united in our diversity." More specifically, Section 10 states that "everyone has inherent dignity and the right to have their dignity respected and protected," and Section 11 asserts that "everyone has the right to life," whereas Sections 26 and 27 state that "everyone" (and hence not just citizens) has the right to housing and health-care (fig. 4). The distinction opened up between "citizen" and "everyone" has been the source of continuing legal contestation and indeterminacy. Hence, the South African state thus recognized as constitutional principles both the right to a biological existence and the right to a morally qualified life, implying the respect and protection of human dignity, a language that could easily be translated into rights for all non-South Africans living in the country.

However, at the same time that these general and generous principles were affirmed, an opposite move was perceptible. Instead of being radically reformed, the politics of immigration, which had been consolidated by the previous regime in the 1991 Aliens Control Act, was merely amended in 1995 and 1996 (Handmaker 1999). These amendments were not intended to give more rights to migrants or to render their lives easier but to add higher hurdles to their legal entry or presence in the country in a time when it was becoming a privileged destination for Africans fleeing war or poverty. While official discourses and governmental practices were



Figure 4. Poster of the International Organization for Migration at the border with Zimbabwe, 2009. Photograph by Salym Fayad. A color version of this figure is available online.

about nation building and national sovereignty, the imagined community of suffering embodied in the hearings of the Truth and Reconciliation Commission celebrated South Africans who had been victims of the apartheid regime (Krog 1998). In this celebration, foreigners had no place. Conversely, in government officials' public speeches and in the media, immigration was represented in negative terms of peril and otherness. This perception translated into the generalization of the term "alien," the criminalization of "illegals," the stricter policing of borders, the harsher enforcement of the law within the country, and the multiplication of abuses against undocumented migrants and asylum seekers (Human Rights Watch 1998). Using and shaping the trivialization of xenophobia within society, the Department of Home Affairs gradually imposed its restrictive and repressive vision of immigration across governmental activity and society at large. This meant limiting access to a legal status and documentation, including through asylum, and organizing waves of arrests, followed by mass deportations of undesirable foreigners.

Considering such a climate of suspicion, it is therefore noteworthy that an open debate on asylum could have taken place in the early years of the postapartheid period. As the preparation of the law that would eventually be published as

the Refugee Act of 1998 proceeded, the differences of conception on asylum were entrenched. On the one hand, the Department of Home Affairs increasingly weighed in with its own memorandum, which emphasized the dangers of various security issues and the necessity to make objectives of immigration control prevail. On the other hand, human rights organizations and refugee forums as well as research groups argued against the collectivization of protection to entire national categories and for the individualized treatment of the cases, expressed concerns about the possible introduction of refugee camps or even reception centers, and finally insisted on the independence of the Refugee Appeal Board from the Department of Home Affairs. In the end, the legislation that was passed respected the international principles of asylum, notably in terms of the procedures of assessment and appeal, and included substantial improvements in social rights, as asylum seekers were considered "entitled to seek employment and entitled to the same basic health services and basic primary education as the inhabitants of the Republic" (Republic of South Africa 1998). But the passage of a law does not guarantee the conditions of its implementation.

The postapartheid period is therefore characterized by this combination of "inclusive identities" toward citizens and "ex-

clusive policies” toward migrants and by this imagination of the sovereign nation and the threatening alien (Peberdy 2001). Remarkably, in a country where racial divisions remain profoundly entrenched, xenophobia seemed largely shared across the color line, although hostility against immigrants and demands for coercion were more common among whites than among blacks (Crush 2000), while conversely, anti-immigrant violence was primarily targeted against black Africans or ethnic minorities rather than against white migrants (Nyamnjoh 2007). Such a convergence is often interpreted as the legacy of the previous regime, in particular among whites, and as the consequence of the unfulfilled expectations generated by the advent of democracy, notably for blacks: in these conditions, immigrants served as obvious scapegoats, being accused of worsening unemployment and burdening the welfare state (Adepoju 2003). Xenophobia thus finds its source in both the ideology of the apartheid era and the unmet aspirations for social justice in the postapartheid era.

But the policies resulting from this nationalist retrenchment and xenophobic sentiment have been far from unequivocal. While the 1998 Refugee Act was more consensual than the Immigration Act of 2002, the policy framework in which it came to be implemented was characterized by hybrid and at times antagonistic dynamics. Slowly but surely, tenants of the sovereignist approach tried to regain the territory lost in the euphoria of the post-1994 decade, while defendants of human rights, not particularly united or powerful, resisted these attempts by making use of all the judicial checks and balances they had prudently woven into the 1998 Act (Segatti 2011). The system slowly started to develop organically, both within and outside the law. On constitutional grounds, asylum seekers were thus granted access to the labour market, the right to study, and the right to receive state healthcare in emergency situations. The Department of Social Development even amended its Social Development Act in 2008, thus providing refugees, but not asylum seekers, access to social grants on an equal basis with citizens. At the same time, the South African government tried to circumvent its international obligations, concealing its refoulement practices through systematic deportation policies, deterritorializing the initial screening stage, and allowing police abuses and administrative mismanagement (Klaaren, Handmaker, and de la Hunt 2008). The congestion of the system was addressed at various intervals through large-scale regularization schemes in 1996, 2001, and finally 2010 with the Zimbabwean Documentation Project. Within the latter, the Department of Home Affairs accepted over 275,762 applications, a small fraction of the total number of Zimbabweans illegally present in South Africa, although no reliable figure is available (fig. 5). Indeed, under this scheme, a proof of employment is needed, which excludes those working in the informal sector. Rather than resolving the indeterminacy of the system, the regularization has reinforced it. As documentation was, in fact, implemented through the issuance of mostly short-term permits (with a maximum duration of three years), many Zimba-

bweans find themselves today in situations very similar to what they had experienced before 2010.

The importance of seizing the state through its everyday practice has been acknowledged since the pioneering study of “street-level bureaucracy” by Michael Lipsky (2010 [1980]), who emphasized the discretionary power of public services employees and their relative autonomy from organizational activity. Both traits are particularly evident when, as is the case for immigration and asylum services, the agents have the impression that they do the “dirty work” of society and must decide on “contradictory demands” from the state (Spire 2008). An ethnographic account of the Immigration Services Branch of the Department of Home Affairs shows how officers reckon that they have to navigate between the cunning and trickery of migrants, the pressures of human rights organizations, and the orders of their superiors; how they alternatively display indifference and sympathy toward their public; how they invent deterring rules and improvise rational justifications; and how they are more concerned with the promotion of their career than with the protection of the refugees (Hoag 2010). Officers are definitely sensitive to both the general ideological climate of xenophobia, fuelled by discourses on the threats and abuses related to immigration, and the specific policies of influx control, as they feel entitled to enact their restrictive orientations.

Three bureaucracies are specifically involved in the evaluation process of the asylum applications and therefore possibly make use of their prerogatives to hinder claims (Polzer Ngwato 2013). Initially, at the “ports of entry,” border officers are supposed to provide self-declared applicants for refugee status a “Section 23 permit” with a limited validity of 14 days, allowing for the submission of their file to a Refugee Reception Office. They may choose, on this occasion, not to give the document on the basis of the a priori exclusion of citizens who have entered a “first safe country” before arriving at the South African border, as is the case for Somalis or Ethiopians, or simply of the assessment of the claim as “unfounded,” which became systematic practice for Zimbabweans after 2011. In such cases, they merely execute the “refoulement” of the person. Then, in the Refugee Reception Offices, claimants who possess the document provided at the border submit their file as asylum seekers and obtain in exchange a “Section 22 permit” with a validity of six months, at the end of which period they have to return for its renewal. In the past decade, the increase in the number of claims and the delay in their processing have led to considerable crowds of applicants flocking to these offices, a situation made worse by the recent closing of three of the most important of them, including the one in Johannesburg. In this context, queues of hundreds of people form each day, some of them spending the night to get in, others paying bribes to circumvent the line. Actually, in the overwhelmed offices, at each step of the procedure, the commodification of services develops, from taking pictures, photocopying documents, or providing receipts to facilitating access to permits. These rent-generating activities



Figure 5. Waiting line for food distribution near the border with Zimbabwe, 2009. Photograph by Salym Fayad. A color version of this figure is available online.

produce a parallel economy of asylum involving immigration officers, security guards, and interpreters as well as smugglers and other refugees or foreigners organized along ethnic or national lines. Finally, the Refugee Appeal Board represents the last stage for those who have been rejected. One of the five adjudicators who reviewed the cases of the entire country told us that, at Pretoria's Refugee Reception Office, 6,000 applicants were rejected each month, most of whom appealed. Two adjudicators reviewed an average of 20 cases per week each. They had a backlog of 88,000 files. He mentioned that about 5% of the appellants were granted asylum. As we departed, he had this involuntarily ironic comment: "South Africa is quite generous if you think that we have the highest number of asylum seekers in the world." He did not seem to realize that this was largely the result of the very process of which he was part.

In sum, the ambivalence of the state toward refugees results from at least four different logics: ideological, historical, sociological, and political. First, the aspiration for universal principles of human rights is thwarted by the recurrent invocation of identity and sovereignty. Second, the commitment to international obligations regarding asylum is contradicted by the persistence and even exacerbation of deeply entrenched xenophobia and racism, which are inherited from centuries of

discrimination and segregation. Third, contradictory forces are at work both within the state, between the hard line of the asylum directorate and the more sensitive line of social development, and outside the state, with the confrontation between the government and civil society. Fourth, pragmatism, which tends to find practical solutions to difficult problems, meets with populism, which translates into demagogic operations during preelectoral periods, as exemplified once more in the recent reaction of South African authorities to the April 2015 wave of xenophobic violence. Consequently, as Michel Foucault (2008 [2004]) suggested in his course on the birth of biopolitics, more than an exclusive *raison d'État* determining an unequivocal and coherent policy, one should think in terms of the multiple rationalities of the state competing with and combatting each other. These multiple rationalities in turn shape the experiences of asylum seekers—their forms of life. The stories of the three women in *Diamond Exchange*, on which we will focus, are illustrative of the diversity of forms of life that we encountered in our research.

Experiences of Contingency

Chihera came to South Africa in 2005 to join her husband, who was working there as a driver under a false South Af-

rican identity. Upon her arrival, she claimed asylum in one of the reception offices near Johannesburg. To the officer, she recounted that, because her brother was a local politician of the MDC, her family had been harassed by ZANU-PF members, who had threatened to burn their home; that she had crossed the border over the Limpopo River with the help of armed gangs; and that she was raising her daughter alone. All was invented on the basis of the stories she had heard from Zimbabwean asylum seekers. She was granted a permit, which provided her a precarious legal status and which she regularly renewed. After four years, she had a hearing with a refugee reception officer who rejected her application. She appealed the decision. In her letter, written by a scribe who had set up business outside the asylum center, she stated that she had two children from a South African man, asserted that she had stable employment, and explained that she could not return to Zimbabwe for fear of the retaliation from her brother's enemies. This revised version was no more accurate than the previous one. Chihera had two more hearings in the following two years and was notified of her definitive rejection in 2012. She was given 30 days to leave the country. By then, as she amusedly remarked in one of our conversations, she had reached the limit of the number of stamps that could find a place on her permit, having renewed it a total of 14 times. On one occasion, she had passed the deadline and had been fined.

During the seven years of this process of assessment and review of her case, Chihera had gone through trying ordeals: her husband had died in a car accident and, some time later, her two-year-old daughter also passed away. Conflicts with her greedy in-laws had left her without economic resources. She had since begun begging and selling in the street. She occasionally went to an informal settlement of gold miners near Johannesburg, where she cooked for the workers to increase her earnings. She had lived for some time in a building illegally occupied by migrants but had been evicted with the other tenants during a police raid. After the final rejection of her asylum claim, she decided to go back to Zimbabwe. There, she solicited a passport and received a tourist visa, now freely available for 90 days for Zimbabweans. She therefore came back legally to South Africa, where her visa eventually expired. Her new plan was to request a special permit that had recently been introduced for agricultural workers, which she hoped she would get through the assistance of one of her acquaintances. For the time being, however, she was an undocumented migrant, lived off of informal trade and illegal renting of her room, and stayed in the Diamond Exchange edifice.

Freedom left Zimbabwe in 2006. She was the youngest of six children who had lost their father and resided with an aged invalid mother. Her Shona name referred to her people's revolutionary struggle against the British in Rhodesia, but in South Africa, she was known under an approximate English translation. In Harare, the family lived in extreme poverty. Her blind elder sister begged, but with the crisis, her income had sharply decreased. She decided to go to South Africa in

the hope of better circumstances and asked her younger sister to accompany her. Only one year after her entry into the country did Freedom claim asylum in Cape Town, where she had settled while searching for work. She told the refugee reception officer about their dire living conditions and about threats related to her brother-in-law's political activities. She received a permit, which she renewed five times. When she went to the reception office for the sixth renewal, she was told by a security guard to come back the following week, because too many people were waiting. The same scenario occurred again twice. When she finally got to the office, she learned that her permit had by then expired. Unable to pay the fine, she left. She said that she had been wondering afterward whether the officer did not expect her to negotiate the amount but added that, in any case, she did not have anything to offer him.

When the outburst of xenophobic riots that left more than 60 migrants dead, hundreds wounded, and more than 100,000 displaced in the country occurred in May 2008, Freedom was staying with her husband and their young child in a shack in Dunoon, near Cape Town. The evening the township fell prey to violence, she had just enough time to get her son at the crèche and take a taxi to escape an angry crowd. The driver, who had to use his gun to fight his way through, took her to the police station, where migrants were gathering under the protection of law enforcement agents. Freedom was later joined by her husband in the shelter set up by the Methodist Church, where they stayed until the end of the disturbance. Since their shanty had been burned down, they decided to go to Johannesburg, where they survived on his street trade and her begging. They lived for some time in a building squatted in by hundreds of immigrants. During a police raid, her husband was arrested. As he did not have the money for the bribe, he was deported, but he returned soon after. At the time, Freedom still had a permit. Yet she experienced difficulties with the welfare system. After nurses refused to vaccinate her child because of the lack of a birth certificate, she gave up trying to take him to the clinic or send him to school for fear of a similar response. She told us that her rights as an asylum seeker had never been explained to her, but she thought that she should have gotten what she was requesting simply as a human being. Yet she expressed her gratitude toward the government for her son's protection and considered the problem to have come from nurses and bureaucrats.

Felicity did not give much detail about the reasons for her departure, in 2007, from Zimbabwe, where she left her two children with her mother. She only applied for asylum two years after her arrival in South Africa. She received a permit, which she renewed several times, until a long hospitalization made her miss the deadline. She was pregnant and had been severely beaten by her boyfriend. After giving birth, she had a stroke and remained in a medical unit for several months. When she finally left the hospital, she went to the reception center but could not pay the fine to recover her permit. Since

then, she has been arrested several times by the police in the street or in squats. She explained that, to identify foreigners, officers used a screening technique, which consisted in testing their linguistic competence before asking for their documents. Whenever the officers decided to arrest someone, they took them to their van, where they asked them for some money “for cold drinks.” The last time Felicity was apprehended, she did not have anything on her. The police drove to the other end of the city, where she was eventually released. It took her one hour to walk back. Some time later, after she spent three months in prison for having attacked a woman she suspected of having an affair with her boyfriend, she was freed, to her surprise, instead of being sent to a detention center to be deported. She could consequently return to her illegal lodging and proceed as before.

“The open-ended condition of displacement brought about by violence, insecurity and the present political impasse within Zimbabwe lends itself to a particularly vexing moral economy for Zimbabweans abroad,” writes Eric Worby (2010:419). The stories of the three women, collected in the course of a series of individual interviews that did not include Phumzile, are revealing of this open-ended condition and this moral economy, and they expose how much both of those are linked to the state and its agents—the paradox being that the existence of these women is shaped by the law to the point of their becoming outlaws, one the one hand, and that what the state actually determines is the indeterminacy of their existence, on the other. Chihera, Freedom, and Felicity are exemplary of this dual paradox, which we encountered in a similar way among the 38 other narratives we collected. All these forms of life under the ambivalent power of the law and of the state suggest two series of observations.

First, the stories illustrate the inadequacy of the strict application of the terms of the 1951 Geneva Convention or the 1998 Refugee Act to the situations of these women and uncover these women’s tactics to adapt their narratives to the language of asylum, thus showing the importance, on which Tara Polzer (2007:22) insists, of analyzing “legal frameworks to manage immigration and refugee rights [. . .] from below, namely, how they are interpreted and used locally by the immigrants affected and by the host communities, in their specific historical context.” People try to conform their discourse to what they understand of the reception officers’ expectations. Chihera explained how she constructed her narrative on the basis of information obtained from compatriots about what to say and what not to say and of stories about political violence and border jumping (fig. 6). Details concerning the crossing of the Limpopo River with the water up to her neck, her baby tied so as not to be lost, and people holding hands to resist the flow gave a vivid sense of realism and pathos likely to prompt empathy. Awareness of the traps set by the refugee reception officers prevented her from making the mistake of pretending to have been a victim of political violence, which would have led to precise questions

about the party and its leaders, the events, and their proceedings. For her, as for Freedom and Felicity, the arrangement of their accounts simultaneously demonstrates their capacity to adjust to the only legal avenue that is available to them and the unsuitability of the strict application of the definition of a refugee, which does not consider the interweaving of political violence, urban insecurity, massive unemployment, food shortages, and extreme poverty. One should also be conscious that, if some facts are invented, others are hidden, because they would be too painful to mention in the context of hearings lacking intimacy, especially when those facts involve sexual abuse and rape. In the end, what officers see as cunning and trickery are instead survival strategies as well as implicit calls for an extended interpretation of international protection. One can thus describe the practices of these women as hyperadaptive. As Terence Ranger (2005:421) notes about comparable situations of Zimbabwean women claiming asylum in Britain, “they see themselves as agents rather than victims,” or as Caroline Wanjiku-Kihato (2013:9) argues, migrant women in Johannesburg are “significant in shaping the actions of state agents.” Similarly, Chihera, Freedom, and Felicity play the asylum game according to the rules imposed by the state even when that implies returning every six months to distant reception centers, queuing for hours or sometimes days, bribing security guards, and being mistreated for their mere will to renew their permits—that is, for exercising their rights.

Second, their stories unveil the sort of attitudes the South African state displays toward those who seek refuge from war and poverty and, more specifically, what it means for these people to be “in care of the state,” to use Abram de Swaan’s expression (1988). Although certain formal rights are guaranteed for asylum seekers under the legislation, such as the right to a fair assessment of their case and to an appeal in case of rejection, the right to work, receive primary education for children, and benefit from public health care, practices of deterrence are common. These practices of deterrence are produced by the state either directly, such as through the refusal to give permits to certain categories of applicants, the multiplication of administrative demands, and the closing of reception centers, or indirectly, such as through the exercise of the discretionary power of its agents, who are themselves influenced by official discourses of mistrust and hostility. Ignoring their rights or discouraged to claim them, asylum seekers often end up in a situation in which they are deprived of those rights as they become undocumented migrants. It should, however, be noted that this transition from legal to illegal status produces less difference in the material conditions of the individuals concerned than what one would expect, even if surveys indicate slightly lower earnings in the second situation than in the first one (Bloch 2010). Earning meager incomes from informal trade or street begging, staying in dilapidated lodgings or shacks, and even being exposed to police harassment and citizens’ hostility is their lot whether they are asylum



Figure 6. Broken fence at the border between Zimbabwe and South Africa, 2009. Photograph by Salym Fayad. A color version of this figure is available online.

seekers or undocumented migrants (fig. 7). But even under these circumstances, the state maintains some sort of principles of the rule of law. Chihera obtains 14 renewals of her permit and gets two hearings for her appeal. The police provide Freedom a shelter to escape xenophobic violence. The court sentences Felicity to prison but spares her the torments of the detention center and the deportation. These contrasting attitudes of the state toward asylum seekers and undocumented immigrants add to the uncertainty of their condition.

Thus, the form of life shaped by the South African state proceeds from the tensions between two contradictory rationalities: protection and persecution (Landau 2011). The state respects its formal commitments to the international principles of asylum through its legal apparatus as well as its public services, but the discourse of the government encourages xenophobic reactions, and its policies contribute to the vulnerability of those seeking refuge in the country. Such an ambiguity is expressed within society through a mix of physical violence and imaginary rejection (Comaroff and Comaroff 2002). Our ethnographic study suggests, however, that we should go beyond this dialectical relationship between protection and persecution. The precarious and wretched ways in

which asylum seekers and undocumented immigrants are forced to live leads to further analysis of the way in which they are treated (fig. 8). It is not merely a question of alternatively protecting and persecuting them. It is a question of ascribing them a certain position within society, one in which their lives are shaped by uncertain relations with state agents, indefinite bureaucratic deferral without time horizons, perpetual displacement across the country, and exposure to xenophobic violence. For the migrants exposed to it, this position generates both physical and psychological threats, “material and metaphysical risks” (Zulu and Wilhelm-Solomon 2015:135). But while adverse living conditions are also experienced by many South Africans, what qualifies asylum as a form of life is thus the way in which the relationships to the law and its agents produce a particular existential situation that may lead to economic destitution but is not reducible to it.

If such a situation, with the related submission to discretionary powers, experience of permanent indeterminacy, and ultimately marginalization within South African society, is particularly trying for poor migrant women (Vearey 2010), as in the cases that have been discussed in more detail so far, it is by no means limited to them. Even well-educated asylum



Figure 7. Refugees at the Musina reception center near the border with Zimbabwe, 2009. Photograph by Salym Fayad. A color version of this figure is available online.

seekers with professional skills face similar problems (Segatti 2014). Their lives turn into a series of ordeals before the refugee administration and crises linked to changes in status, which create anxieties regarding their professional activity and their mere survival. Ironically, those perhaps most needed by South Africa, such as medical personnel, are not spared these hardships as they go through such interminable struggles to get their degrees accredited and enter employment.

Refugee nurses who came from neighboring countries in the early 2000s were inactive for years as the administration was struggling to adopt consistent policies and as professional associations were resisting their integration. Carol is a registered nurse from Zimbabwe who left her country in 2007 because of the economic situation. Despite her professional experience of running the family and community health department of a local clinic in her country, she had to wait four years before being able to apply for registration in South Africa. While she had initially sought asylum, she later realized that not having official refugee status was barring her from being recognized by the Department of Health. Rather than persisting in the lengthy and uncertain process of asylum seeking, she ended up applying for the Zimbabwean Documentation Project, the 2010 large-scale regularization scheme.

She recalls the punishing circumstances of the queues at the Department of Home Affairs, as she had to sleep several nights outside, frightened of being robbed or abused. She eventually obtained a work permit, but it then took her yet another 20 months to get registered. She finally got a job in 2012.

Even for the fortunate few who are granted refugee status, hardships continue due to their employment precarity and the volatile, xenophobic context. Francis, a young general practitioner from the Democratic Republic of Congo, who had rapidly been admitted as a refugee, remains traumatized by his experience working as a locum in remote areas. In a township north of Pretoria, where he was replacing a local physician, he was assaulted. A man who had followed him in the street asked him a question in a South African language that the young doctor did not understand. Having the confirmation that he was a foreigner, the man started to beat him, along with others who swiftly joined him. Francis was robbed of his wallet, computer, and cellphone and was left unconscious with a broken arm. In the two hospitals to which he was successively transferred, he was not attended by the personnel. After three weeks, he was able to contact a Congolese surgeon and undergo an operation: he was on the verge of losing his arm. Ironically, those who seek asylum and



Figure 8. Evicted informal occupiers of Diamond Exchange, many of whom are asylum seekers, December 2013. Photograph by Matthew Wilhelm-Solomon. A color version of this figure is available online.

ask for protection from the violence they have endured in turn experience violence in their host country. Such abuses, if they pertain to a broader context of xenophobia, are also the consequences of public discourses and practices of stigmatization and marginalization of asylum seekers.

To these multiple hardships, asylum seekers may react in three main ways. First, they adapt to the system the best they can, using its interstices to remain legal as long as possible through perseverance but also subterfuges. Second, they resist the restrictions of the law in a passive rather than active manner by inhabiting multiple figures of illegality in terms of status, residence, work, and sometimes criminal activities. Third, they develop a sort of resilience that allows them to develop spaces of autonomy, intimacy, and property even in the worst circumstances.

In this essay, we have focused our analysis on a group of current or former asylum seekers who have in common that they are women, Zimbabweans, and in the lower segment of South African society, although we also briefly included situations outside of that empirical framework. This choice allowed us to underline three elements of asylum as a form of life. First, gender is an essential element of these stories in terms of migration patterns, increased vulnerabilities, specific

opportunities, and particular experiences (Dodson 1998). Second, Zimbabweans have been singled out by authorities and the population due to the special relationship between the two countries, the important flux of immigrants in recent years, and the distinct policies developed toward them, but other nationalities face similar conditions (Morris 1998). Finally, if most of those coming to South Africa to seek refuge occupy the lower segment of society, less disadvantaged categories are also confronted with precarious situations in terms of legal status, professional recognition, economic hardships, and physical dangers; this is even the case when they are nurses or physicians, whom one might have imagined would be spared these hardships, since their skills are needed in depleted health services (Keevy et al. 2014). Across gender, nation, and class lines, something irreducible remains in the form of life associated with asylum.

Conclusion

In 2013, at the time of our research, there were almost 1.3 million asylum seekers in the world according to the United Nations High Commissioner for Refugees. Approximately half of them involved new applications; the other half rep-

resented the backlog of pending files. Two-thirds of asylum seekers lived in Europe, North America, and South Africa. But these figures provide a partial view of the total population seeking protection. Indeed, if one considers the trajectory of individuals who flee their country due to the vital risks they incur (these risks correspond to various sorts of persecution as well as other kinds of life threats, including extreme poverty, and this distinction is obviously a crucial issue), two options exist: admission to refugee status or rejection, which can be appealed, thus resulting in the same alternative. The low admission rates in most countries mean that most claimants end up being rejected and therefore become undocumented immigrants, who generally try to stay in their host country at all cost due to the risks they would incur were they to return to their home country. The fact that most asylum seekers come to be undocumented immigrants and that, in diverse aspects of their daily life, both categories share similar experiences leads the state and its agents as well as society at large to establish little difference between them: all of them are considered to be illegitimate. In the end, there is an indefinite number of people—certainly several million globally—who are thus in the precarious situation of claiming or having unsuccessfully claimed international protection.

South Africa offers an extreme example of this situation. Not only does it shelter one-fifth of all asylum seekers in the world, but it has apparently the most ineffective assessment system in terms of the duration (up to seven years) and complication (accumulation of hurdles) of the process as well as the production of data (the admission rate is unknown). We have argued, however, that this apparent inefficacy is due to the contradictory logics of a politics of ambivalence that combines formal principles of international protection and constitutional jurisprudence granting socioeconomic rights with restrictive measures to control immigration flows: in sum, a peculiar mix of idealism, realism, and pragmatism. One singularity of the system is that it obliges applicants to renew their permit, usually every six months, under extremely constraining circumstances (distance, induced costs, and time spent queuing), resulting in a high proportion of applicants being forced to give up their claims. Outcomes of the process of asylum seeking are thus not only admissions and rejections but also—and probably most often—withdrawals. *As'lem*, a common condition shared by current and former asylum seekers, consequently concerns many more than the quarter of a million individuals officially registered in 2013, although statistics are obviously not available.

In light of this inquiry into the South African case, asylum can ultimately be regarded as a form of life in the dual sense that we did not want to disambiguate in Wittgenstein's use of the phrase: it is a particular world with its shared norms, values, affects, practices, expectations, and imagination; and it is a generic condition that tests the limits of human experience in terms of the indeterminacy between protection and persecution, solidarity and exclusion, rights and arbitrary harassment, and dignity and xenophobic violence. This form

of life is shaped, as Giorgio Agamben suggests, by rules that situate people on one side or the other of the law, thus obliging them to display complex reactions of adaptation, resistance, and resilience, whereas, in the end, these rules are themselves partly unpredictable in their application and indeterminate in their effects. "Our situation as Zimbabweans is pathetic," commented Richard, a former trade unionist and provincial chairman of the MDC who was surviving as an illegal gold miner in an informal settlement. "There, we have nothing. Here, at least we can do something. We are caught between a rock and a hard place." He explained that he had been tortured by the ZANU-PF. He had tried to apply for asylum in South Africa. After three days queuing at the refugee reception center near Pretoria, sleeping in the street, and having nothing to eat, he had given up. Seeking asylum, he had not even been able to access the first step in the process to become, under the law, an asylum seeker. Asylum was, for him, a form of life rather than a legal status.

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Comments

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"Asylum as a Form of Life" brilliantly engages the ground between anthropology and philosophy, demonstrating how asylum laws in South Africa combine with bureaucratic ca-

priciousness to produce further suffering for those whom these laws are paradoxically meant to help. The authors mobilize the Wittgensteinian notion of “form of life” to think further on these issues even as they pose some provocative questions to the concept itself.

The double-edged relation between law and life is captured in what the undocumented migrants in South Africa simply designate as *as'lem*—a term incorporating images, values, emotions, and practices related to their existence as asylum seekers. Conversely, the delay in asylum hearings gives them entitlements to residency and other benefits that they actively negotiate, creating, as the authors say, a particular “form of life.” What seems to me to be in need of further analysis, though, is how the methodological stake in interviews on the experience of dealing with the bureaucratic apparatus of asylum orients the narratives toward the experience of precarity produced by the law, whereas other aspects of their lives seem to be filtered out. Thus, an artificial boundary is created around the experience of asylum seekers, but their relations to kin, neighbors, friends, and enemies who inhabit the same milieu but who are not in the category of asylum seekers is not given narrative space. In short, I am suggesting that, if we are to deploy the notion of a “form of life,” then our ethnography cannot easily draw a boundary between those who are asylum seekers and others who are steeped in similar life conditions or who are responsible for implementing the laws.

Fassin and colleagues have, indeed, captured an important aspect of our contemporary lives as made up of waiting, and in this aspect, they join the recent work on waiting as a modality of life created, for instance, by the temporal structure of Empire (see Coetzee 1982; Das 2016; Lear 2015). Interpreting Coetzee's *Waiting for the Barbarians* (1982), Jonathan Lear (2015) argues that, although the barbarians do not come, waiting itself has become a form of life marked not only by what the victims endure but also by how those who participate in the project of Empire learn to not see what is before their eyes. Taking this thought further, an understanding of the life produced by asylum laws might then take into account how forms of care and of betrayal might be laced in lives that come to be stitched together, rather than assuming that asylum seekers form a separate category. Fassin and colleagues are sensitive to the milieu in which legality and illegality are braided as asylum seekers negotiate these treacherous waters, but the others present in this milieu are not in sight.

In my own work on violence and affliction, I argue that everyday life is, by definition, a scene of rehabilitation in which one must learn to live again in the space of devastation as something over. For me, the ethnographic project on forms of life is anchored in a method of critical patience, in which people can show, through unrelated snippets of conversation, gestures, and spontaneous outbursts of anger or sorrow—all that comes unbidden in the scenes of anthropological encounter—what it means to allow modes of sociality to be

animated by life or to become deadened, drained of their vitality. Does the distinction between ethnography, as pertaining to (mere?) convention, and ethnology, as pertaining to what Fassin and colleagues call “ontology” (we could quarrel over what are regional ontologies or ontics and what is ontology), not risk the division of labor between anthropology and philosophy that they are working to overcome?

I might refer here to Agamben's use of the term “forms of life” to refer to something new that is produced in the medieval orders of Franciscan monks to which Fassin and colleagues allude, but it bears little relation to Wittgenstein's use of the term. As Florent Coste (2016) argues in a recent paper, the expressions *forma vitae* and *forma vivendi* appear in a very specific context in the medieval texts and refer to rules as observance (and not obedience to law) in relation to the life of Christ. I would add that, in contrast to the notion of rules to which one must assent in order to be recognized as a member of the medieval orders, the notion of agreement within a form of life is different, for it is neither a contractual agreement nor a formally constituted set of rules. The crucial concept for Wittgenstein is that of grammar or criteria that teach us when, in the first place, something is a rule, something is a proposition, something is an order, and something is a mere joke—none of this can happen through learning a formal set of rules but only through the experience of living together. The contractual agreement of living in voluntary poverty in the Franciscan orders posited a form of life in the medieval sense of the term, but one which allowed a cultivated indifference to the involuntary poverty that people around them suffered—this aspect of their lives is better captured by the aspiration to escape the ordinary misery that was before their eyes.

Finally, Fassin and colleagues suggest that, in analyzing the difference between violence that was sayable within a weave of life and violence that violated the very sense of what is human, I have made a distinction between the natural or biological and the human. In fact, what I argued was that the form that mass violence against women took during the Partition of India in 1947 violated the sense of what is natural to the human and could be mended only by small acts of care that allowed life to be knitted together, pair by pair. I took the term natural in the sense in which Wittgenstein used it, as referring both to the general sense of what facts of nature are—such facts as that we see with two eyes or that the features on a face do not suddenly change—and to the concluding remark in *Philosophical Investigations*, that “we can also invent fictitious natural history for our purposes” (Wittgenstein 2009 [1953]:230e). And because this was violence that could not be spoken about but only shown, it made anthropological knowledge something to be received and endured rather than actively elicited. The challenge of the notion of form of life is not that it is a superconcept that can be placed on the everyday flux and flow of life but that it allows concepts to become everyday concepts. I am grateful to the authors for the conversation around these issues.

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I respond to this rich paper in two parts as supplements: first, numbers and categories (important for economic policy planning), and second, the nature of emergent forms of life (important for political horizons and hope).

Numbers. The refugee and asylum crisis is a globally pressing issue, often compared to the immediate post–World War II era in scale and in challenges upsetting to the legal order (Wasserstein 2011). Several key features of that era include the following: new legal conventions, the succession of international organizations to help with resettlement (and determination to close camps), the regional economic rebuilding of Europe (Marshall Plan), and the philosophical imperative voiced by Hannah Arendt, that to keep people stateless is not just a threat to human dignity and politics and that the absence of “the right to have rights” opens the social and political order to totalitarianism and racialized-animalized violence.

The numbers game is not the strongest ground for Fassin and colleagues to highlight the South African case. Even they are ambivalent about whether South Africa should be considered part of the Global South with respect to procedures, undercutting the rhetorical opening of citing numbers. It is philosophically and policy-wise unclear why they separate “asylum seekers” from refugees, undocumented migrants, or people in abject poverty. It is a legal distinction having to do with nation-states’ attempts (not only in South Africa) to give asylum seekers the right to work while their applications are pending, excluding “economic refugees” who become “undocumented aliens,” subject to deportation (as with the 11 million undocumented aliens in the United States, whose presence roiled American presidential politics in 2016). David Miliband of the International Rescue Committee cites 65.3 million displaced persons (defined as those uprooted from their homes by conflict and persecution) globally, including 20 million refugees (defined as having crossed a national border and received refugee status) and 4 million claiming asylum (Miliband 2016). Of the 65 million, Adelman (2016) notes that half are under 18 years of age; their lives will be shaped by experiences of camps or precarity.

Still, Miliband (2016:23) supports Fassin et al.’s point that the heaviest burden of refugees has fallen upon a small number of relatively poor states, but he notes that Uganda, with the ninth largest group of refugees, is exceptional, in that 78% of those refugees need no aid, because all are granted land to farm, are able to legally work, can live where they want, can use public services, can send their children to public schools, and contribute to Uganda’s gross domestic product. (Formally, similar provisions obtain in South Africa for asylum seekers.)

“The assumption of humanitarian aid,” Miliband points out, “has been undermined by the fiction that the problems are temporary” (2016:23). Refugees are displaced, on average,

for 17 years, and they are internally displaced, on average, for 23 years. The 2.7 million Afghans, 1.1 million Somalis, and the Palestinians have been displaced for decades. Most are not in camps; 59% of refugees are in urban areas and not separated from citizens. This displacement is not for the short term, and return is not in the cards.

An analysis by Richard Stupart in the *Daily Mail* suggests that there were 381,754 pending claims for asylum in South Africa at the end of 2015, not 1 million plus (and not 1 in 5 global asylum applicants, as claimed; Stupart 2016). The largest group of refugees are Zimbabweans, whose numbers fluctuate with the conditions at home and who, as Fassin and colleagues show, float across legal categories.

Numbers are important for economic policy making, but recalling Arendt, there are more important considerations.

Exodus: emergent forms of life. In considering the South African state’s “ambivalence” (acknowledging the right of refugees to protection but hindering their access to it), something other states also do (hence South Africa as exemplar), it is odd that Fassin et al. turn first to atemporal philosophical categorizing, rather than to a historical sociology or anthropology of “emergent forms of life,” as Fassin and Rechtman did in *The Empire of Trauma* (2009), where the stress was not on typologies (heuristic, legal, or philosophical) but on social changes. Later in the paper, they turn, rather, to a historical account of double binds and of what I have called unstable ethical plateaus of temporary decision-making as the relative weights of the double binds shift.

Wittgenstein, as interpreted by analytic philosophers, and Agamben, as Fassin and colleagues eventually concede, take us down dead ends. A more useful Wittgenstein is one for whom meaning is determined by use, not by definitions, rules, or laws, and has little to do with transcendence, universality, or biological nature. The patterns so formed have grammars in the same sense as riots, rebellions, and revolutions have dramaturgical forms (see Victor Turner [1968] and, before him, Crane Brinton [1938], as well as my own later work on the Iranian revolution and the religious riots in Iran; Fischer 1973, 1980). Such forms are profound, laying down legacies with consequences (when reasons run out, we still have to act, and those actions are consequential, says Wittgenstein in the notes *On Certainty* [1969]). A French parallel might be Paul Ricoeur, from whom Clifford Geertz adopted the metaphor of social action as texts, in the sense that actions leave traces that have effects on future action. Such forms of life are, to shift to Mauss’ terms, dynamic forms of habitus or, as Bourdieu recoded it, “practice,” borrowing the terms of American pragmatism from C. S. Peirce, John Dewey, and G. H. Mead for sociolinguistics. Such an analysis shows why Veena Das’ philosophemes of “poisonous knowledge” and “afflictions in everyday life inscribed in the body” (Das 2000) are more powerful than Stanley Cavell’s reflections on Wittgenstein. It is not a matter of “resolving” artificial philosophical polarities but of “living on” (*sur-vie*), in Jacques Derrida’s rich sense of the term; and why *Homo sacer*, taken from Roman legal theory, is dangerously con-

tinued in Shi'ite rulings of "those who corrupt the earth and can be killed without trial" (used against Bahá'í and others). I am more puzzled than moved by theological terms such as ontology or Franciscan rules as generating a form of life (yes, so?). Similarly, Saba Mahmud's example of Egyptian piety or James Laidlaw's account of Jains seem less to be "emergent" (historically analytic) forms of life than to be descriptive within a "given" form; more "emergent" perhaps is Nilüfer Göle's examples of women who adopt hijab and pursue higher education at the same time in order to be allowed to pursue the latter, with a longer-term Wittgensteinian effect of transforming their families and communities (Göle 1997, 2003).

Yes, liminality and ambivalence are features of widespread forms of refugee life today. They are also social policy and moral challenges. We owe a large debt to Didier Fassin, Mathew Wilhelm-Solomon, and Aurelia Segatti for repeatedly keeping such challenges on the anthropological agenda.

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Fassin, Wilhelm-Solomon, and Segatti have written a wonderful article on asylum as a form of life. They note that people who apply for asylum in South Africa are given permits that allow them to live and work legally until their cases are adjudicated. However, for a number of reasons, including the inefficiency of the bureaucracy, the processing of asylum claims routinely takes several years. In the meantime, asylum seekers are required to renew their permits every six months. The renewal process is so cumbersome in terms of time (waiting in lines) and money (paying bribes) that many asylum seekers simply give up on it. But even those people who persevere through the entire asylum procedure do not necessarily fare any better. Most end up with their claims being rejected. From a legal status that offers a modicum of protection, then, most asylum seekers fall into illegality. As undocumented migrants, they become subject to increased police harassment and ultimately to detention and deportation. The indeterminacy between the condition of asylum seeker and undocumented migrant, according to the authors, is what characterizes the form of life particular to asylum seeking. In other words, asylum as a form of life is about state produced legal and social precarity. It is about the contingent lives that result from legal, political, and bureaucratic indeterminacy.

Notably, the authors suggest that asylum as a form of life is not a condition specific to South Africa but a major feature of contemporary societies. While they do not explore this broader applicability, their assertion is undoubtedly correct. Indeed, a cursory look at the lives of asylum seekers elsewhere makes it clear that asylum as a form of life resonates beyond

South Africa. Take the case of Turkey, for example. In recent decades, this country has received thousands of asylum seekers from non-European countries in the Middle East, Africa, and Asia (Biehl 2015). The Turkish asylum regime works in such a way that it generally takes several years for cases to be adjudicated, with asylum seekers subject to indefinite and unpredictable waiting at every stage of the process. During this protracted waiting, people seeking asylum can easily lose their legal status and fall into illegality. For example, asylum regulations in Turkey are very strict, requiring, among other things, that asylum seekers settle away from major metropolitan centers in satellite cities located in the interior of the country. A major effect of this dispersal is to render the lives of this population precarious. In satellite cities, asylum seekers are much less likely to find employment, housing, health assistance, and support networks than in major areas such as Istanbul and Ankara, thus making survival difficult. Importantly, living or working outside one's assigned satellite city, even if it is in order to survive, can put a claimant's asylum application at risk. Those asylum seekers who fall into illegality become exposed to police brutality, apprehension, detention, and deportation. Like in South Africa, then, the asylum process in Turkey is fraught with protracted uncertainty and legal volatility.

Taking Fassin, Wilhelm-Solomon, and Segatti a step further, I would suggest that what they characterize as asylum as a form of life is also not specific to asylum seekers. It strikes me that the key feature of asylum as a form of life is not so much the indeterminacy between the condition of asylum seeker and undocumented migrant but that between the state of legality and illegality. In other words, legal indeterminacy, or "contingent legality" (Calavita 2003), is what typifies the form of life that corresponds to asylum seeking. However, such contingency applies not just to asylum seekers but to all kinds of migrating populations, including labor migrants. One could make the case, then, that asylum as a form of life is actually part of a broader form of life. We could call this broader manifestation il/legality as a form of life. It highlights the temporary and contingent nature of the legal status that is typically granted, when granted at all, to migrant populations. And, of course, legal indeterminacy produces uncertainty, instability, and insecurity in the lives of migrants.

The case of Spain is instructive here. Over the last few decades, this nation has become home to large numbers of undocumented migrants (Calavita 2003). While the rhetoric of policy makers has stressed the necessity of integrating the undocumented, the laws that have been enacted ensure that this population generally remains unauthorized. This production of illegality through law largely results from the precarity of the legal status that migrants are accorded. The way Spain has sought to integrate undocumented migrants is through periodic regularization programs. These programs are designed specifically for labor migrants and require possession (or recent possession) of valid work contracts. This requirement turns out to be highly problematic, because undocumented laborers mainly work in the underground sector

of the economy, where employers tend to avoid formal work contracts. For many, then, becoming legal is an impossibility. But even those migrants who are lucky enough to become regularized do not necessarily fare better in the long run. Many find it difficult to retain their legal status, because annual renewals are dependent on being able to maintain formal work contracts. As Kitty Calavita has noted, "It is apparently not uncommon for 'pre-contracts' to evaporate when the employer refuses to pay social security or satisfy other formalities, leaving the newly legalized immigrants to work without a contract, and making it impossible for them to renew their regularization at the end of the year" (Calavita 2003:405). Given the difficulty of securing renewals, it is quite common for labor migrants to slip in and out of legality and illegality. As such, their lives are just as precarious and uncertain as those of asylum seekers in South Africa.

Ultimately, what Fassin, Wilhelm-Solomon, and Segatti describe in their article is the precarious legality that large swaths of migrant populations around the world, including asylum seekers, live. This experience of legal contingency is one that renders the existence of migrants highly uncertain and insecure.

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The article by Didier Fassin, Matthew Wilhelm-Solomon, and Aurelia Segatti begins with an ethnographic snapshot of the lives of Phumzile, Chihera, Freedom, and Felicity, four undocumented Zimbabwean migrant women living in a run-down building that once housed Johannesburg's diamond exchange. I would like to open my comment with a reference to another ethnographic study of sorts. Its subjects are two men, Kern and Steiner, who fled Germany in the mid-1930s, one because the Nazis considered him Jewish and the other because he had been persecuted for his politics. Their paths first cross in Vienna. In the cell they share after having been arrested for being in Austria illegally, Steiner begins instructing Kern how to survive as an undocumented migrant. The older and more experienced Steiner is particularly concerned to ensure that Kern knows about the state's relevant policies and practices. "This isn't prison," Steiner tells Kern, for example. "[T]his is detention. Prison comes later" (Remarque 2013:15).

Kern and Steiner are not welcome in any of the countries where they try to seek refuge. The Austrians deport them to Czechoslovakia, the Czechs push them back across the Austrian border, while the Swiss authorities send them to France. Their problem is that they do not have papers. "A man without a passport is a corpse on parole. All he's really expected to do is commit suicide—there's nothing else," Steiner says (Remarque 2013:16). When Kern is arrested in Switzerland, a

judge offers to recommend to his superiors that Kern's two weeks in prison be commuted to two weeks in detention, because the difference between prison and detention "is of great importance for full civil rights. If you are simply placed in detention then you will have no prison record." Kern, by then a seasoned "cosmopolite," is unconvinced. "Full civil rights . . . What would I do with them? Why I haven't even the commonest civil rights. I am a shadow, a ghost, a dead man in the eyes of society. What have I to do with what you call full civil rights?" (Remarque 2013:281).

The author who chronicled the lives of people who lacked the most basic rights was himself a refugee, albeit one who had no first-hand experience of economic precariousness. Erich Maria Remarque, the best-selling novelist of *All Quiet on the Western Front* fame who left Germany in 1932 to settle in Porto Ronco, along the shores of Lago Maggiore in the south of Switzerland, regularly accommodated refugees passing through (Sternburg 1998:239). Their accounts formed the material for *Liebe Deinen Nächsten*, serialized in an English translation in the American magazine *Collier's* in 1939 and published in book form in 1941 as *Flotsam*, the first of four novels Remarque wrote about the refugee experience. The figure of Kern was most likely modeled on the German refugee Ludwig Korn, who briefly stayed at Remarque's house in Porto Ronco (Rempe 2015). Remarque's fictional account of the lives of German refugees in Czechoslovakia, Austria, Switzerland, and France in 1936 and 1937 highlights the insecurity and uncertainty experienced by his protagonists. Like Phumzile, Chihera, Freedom, and Felicity, Kern and Steiner are not always undocumented. Neither are they always on the run. They stay put as much as they can to earn a living, both through honest means and by deceiving others. Some of the features of the "form of life" analyzed by Fassin, Wilhelm-Solomon, and Segatti are undoubtedly gender specific. But others appear to apply equally to black Zimbabwean undocumented migrants in South Africa in the second decade of the twenty-first century and to German *Emigranten* and *réfugiés* in the mid-1930s in Central and Western Europe.

The fact that there are surprisingly many similarities between the world of asylum-seeking Zimbabweans in South Africa and that of German refugees in Austria and France raises the question of what exactly shapes their condition. Kern and Steiner, on the one hand, and the four Zimbabwean women, on the other, share four predicaments: they are, more often than not, undocumented; as noncitizens, they have few rights; their lives are precarious; and they had good reason to leave their country of birth, if not their citizenship. These predicaments are common to Rohingya migrants in today's Malaysia and to Hazara migrants in today's Iran, to name but two other examples. The latter two groups are not counted as asylum seekers (neither were German refugees in Austria in 1937).

Comparatively privileged asylum-seeking Syrians in Sweden, on the other hand, do not experience the level of precariousness that marks the lives of Phumzile, Chihera, Freedom, and Felicity. But in other respects, their experience is akin to

that of undocumented Zimbabweans in South Africa. Even Remarque himself, who enjoyed material comforts unavailable to most refugees, experienced a condition shared by Phumzile, Chihera, Freedom, and Felicity when Germany deprived him of his citizenship; in fact, it was arguably this experience that prompted him to write *Liebe Deinen Nächsten* (Westphalen 2008:325).

The “form of life” experienced by Phumzile, Chihera, Freedom, and Felicity is also defined by the way the state variously protects and fails to protect their lives and by the fact that “their life is shaped by the law and its enforcement.” We may want to be wary, however, of the temptation to reify these forces—as much of the scholarship inspired by Agamben’s ideas does—as “the State” and “the Law.” To properly understand what Fassin, Wilhelm-Solomon, and Segatti call “form of life,” it is important to do a critical ethnography of the state and the law—be that for Austria in 1937 or in South Africa in 2016—which reveals the state’s internal contradictions (the cracks behind a totalizing facade) and how much its response can vary, not least because of the whims of the human agents responsible for implementing government policies.

We may want to be equally wary of making too much of the fact that there is “something irreducible” about the “form of life” experienced by the likes of Phumzile and Steiner. In 1941, a reviewer of *Flotsam* wrote about Steiner and Kern: “Neither man has any legal right to existence; both of them insist on existing anyhow” (*Time* 1941). The state is not all powerful; at times Phumzile and Steiner outsmart its apparatus. Strategies of resistance and the solidarity of others make it possible that their insistence “on existing anyhow” is realistic. And not every aspect of their lives is determined by their legal status or by their precarious living conditions; there is more to their lives than could be captured by the term “form of life.”

References to recent statistics about the number of people seeking asylum in South Africa—in 2015, the country accommodated more than a third of the world’s asylum seekers (see table 1 in UNHCR 2016)—could give the impression that the “form of life” identified by Fassin, Wilhelm-Solomon, and Segatti is a phenomenon of our times and that it is unique to a particular legal status (as opposed to that of “refugee” or “stateless person,” for example). I would like to suggest that the origins of this “form of life” are related to the emergence of particular border regimes in the early twentieth century. Their defining feature has been the passport rather than a document certifying a person’s status as a refugee.

The condition analyzed by Fassin, Wilhelm-Solomon, and Segatti may, in fact, have more to do with *as’lem* than with asylum, which, for two reasons, is potentially a misleading term. First, although undocumented migrants in South Africa enjoy a certain level of protection while being registered as asylum seekers, many cannot afford to renew their papers, and few successfully progress from the status of asylum seeker to that of refugee (that is, somebody whose claim has been successful). Second, “asylum” has become shorthand for the

legal status available to claimants who meet the criteria of Article 1 of the 1951 United Nations Refugee Convention. This convention, which incidentally does not mention the term asylum except in its preamble, was, not least, an attempt by Western governments to regularize the resettlement of so-called displaced persons and was never designed to define the rights of asylum seekers or prescribe a process by which they could become refugees.

This is not to say that asylum has nothing to do with the condition that is so aptly analyzed in Fassin, Wilhelm-Solomon, and Segatti’s article. Asylum was once conceived as a human right. An early draft of what became Article 14 (1) of the 1948 Universal Declaration of Human Rights read: “Everyone has the right to seek and be granted, in other countries, asylum from persecution” (UNESCO 1948:Article 12 (1)). I would like to suggest that the notion of asylum, although it was never enshrined in international law as a human right, has an echo that informs our understanding of the condition (or *Lebensform*) analyzed in Fassin, Wilhelm-Solomon, and Segatti’s article: namely, that Phumzile, Chihera, Freedom, and Felicity’s predicament is particularly unjust, because they, like Kern and Steiner before them, are entitled to protection “in other countries,” not least on account of the reasons that made them leave their homes. It is this faint echo of a right they ought to have that distinguishes their precarious existence. And it is the intuitive knowledge that they are entitled to a life other than the one left behind in Zimbabwe and other than the one that is seemingly determined by the asylum regime in South Africa that allows them to live lives that are not wholly subsumed by the “form of life” analyzed in Fassin, Wilhelm-Solomon, and Segatti’s essay.

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As’lem, Forms of Life, Uncertain Otherwise

One intriguing fact about refugee life is that it seems to elude usual modes of reference and reflexivity. Hannah Arendt made precisely this point in a short text that remains one of the greatest ever written on the topic. Surely, Arendt wrote in 1943, refugees must constitute “a new kind of human beings” (Arendt 1994 [1943]:111). Perhaps her tongue was planted in her cheek, but something truly desperate and impatient in her tone also intimates that the newness and difference of this *homo fugatus* or *exsul* was maddeningly hard

to capture and convey, at least through habitual procedures of writing and representation. Arendt had primarily in mind the interwar European “stateless,” including herself, while Fassin, Wilhelm-Solomon, and Segatti write of a yet newer kind of human being: the asylum claimant whose claim, in contemporary South Africa as most elsewhere in the world as it is currently organized, has every chance to be rejected. In a manner reminiscent of Arendt, however, they approach *as'lem* as “a particular existential situation” in need of its own analytic. *As'lem*, they argue, amounts to a form of life.

What does the concept of form of life add to an anthropological account of the lives of women and men claiming asylum in the context of a global crisis of protection? The use of this concept entails a robust claim that legalistic and/or political-theological approaches to contemporary asylum obscure rather than disclose the lifeworlds of asylum seekers. What is found in the seams and creases of increasingly jealous national communities and citizenships is simply not “bare life” (Agamben 1998, 2000), Fassin, Wilhelm-Solomon, and Segatti show, life devoid of any kind of form, existence in a generalized state of noise, not even in the deep recesses of the Diamond Exchange. If anything, noise is what the state engenders within itself: it grows and spreads and prevails in the chasm between in-principle commitments to international standards of protection, on the one hand, and the actual procedural means and political will for their implementation on the other hand. No matter how noisy and equivocal they may be, however, state policies “shape” the “experience,” “existence,” or “life” of asylum seekers in such a way that their lives emerge formed and contoured from this ambivalent political matrix, with future horizons internal to them, patterns of effort and conduct, and even narrow pathways into the life infrastructure (employment, education, health-care) that capacitates the lives of ordinary citizens of the state.

The concept of form of life in this context seems inseparable from a desire and effort to give a worldly account of life in the abeyance of asylum. It is an important endeavor and an important rejoinder to an analytic of sovereignty that ends with the (rather unworldly) claim that we are all refugees (Agamben 1995). But what and who exactly is worldly if, as Arendt proposed elsewhere, the “calamity” of the stateless refugee is also “the deprivation of a place in the world that makes opinion significant and actions effective” (Arendt 1958a:296)? Refugees have opinions, of course, and pursue various courses of action. For Arendt, however, there was no genuine futurity nor traction to these actions and opinions, because they could not give rise, through the semiosis of public life, to further acts and opinions nor be moved in this manner into a more expansive realm of coordination and intelligibility. Thus refugees found themselves held back by the logic of modern citizenship on the fringes of the ontological “space of appearance”; that is, held back on the fringes of the worlding of the world itself, since for Arendt the world lay “in between” the entities that appear in it and is the result of their common and coordinated efforts (Arendt 1958b).

While I find Fassin, Wilhelm-Solomon, and Segatti’s demonstration compelling on the relevance of “form of life” to the lives of refugees and asylum claimants, I also find puzzling their argument that this concept entails claims about the “ontological meaning” of *as'lem*. Or perhaps, impressed by Arendt’s intuition of the refugee’s uncertain worldliness and finding this intuition apposite to the social worlds of the (Palestinian) refugee women and men I work with in Lebanon, I am tempted to query the interpretation of this meaning given in the article. As I understand it, the argument pivots on the assumption that a human form of life is a life capable of generating its own context of interpretation. Since ethnography evinces that, however abject, the existential condition of *as'lem* generates and possesses principles of ethical intelligibility internal to it, it also testifies to the humanity of a form of life—albeit one exposed to “ethical breaches” and which “tests the limits of human experience.”

The concept of form of life, here, appears to be wedded to an anthropological politics of witnessing the “humanity that this life uncovers.” This may be where the work to which Fassin, Wilhelm-Solomon, and Segatti put the concept of form of life enters into tension with the work this concept could and perhaps should be asked to do at the current historical juncture. The analytical power of Wittgenstein’s notion of form of life, it seems to me, rests in indexing not just life’s capacity to generate its own context of interpretation but also the plurality and incommensurability of lifeworlds and modes of interpretation.¹ Everything in the life of asylum claimants as it is described by Fassin, Wilhelm-Solomon, and Segatti indexes their exclusion or their desire to join the life-infrastructure available to ordinary citizens. Nothing indexes a social or political “otherwise” (Povinelli 2011), nor does the ethnography give off a picture of the human and of the world at odds with those that underwrite the legal and procedural frameworks of asylum and hence of *as'lem*. Would it even be fair, however, to expect of the lives of Chihera, Felicity, Freedom, and Phumzile that they open “heterotopic” (Foucault 1984) spaces of critique and living otherwise?

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As'lem: An Ethical Diagnosis of the Contemporary

In recent scholarly literature, refugees have proliferated: they are the “political figures par excellence” and “border concepts”; they are understood through their infrastructures, both camps

1. “If a lion could talk, we wouldn’t be able to understand it” (Wittgenstein 2009 [1953]:235e).

and laws; and they are approached as suffering subjects. But Fassin, Wilhelm-Solomon, and Segatti have a different approach: they understand asylum—or *as'lem*, the term used by asylum seekers in South Africa—as a form of life.

What does it mean to understand asylum as a form of life? We can think back to an early text of Hannah Arendt's called "We Refugees" (1994 [1943]). She calls the refugee "a new kind of human being"—one who tries, in an ultimately tragic, overzealous way, to assimilate into each place he or she is displaced to, never quite succeeding; one who commits suicide quietly and apologetically, after having survived the concentration camps. Fassin, Wilhelm-Solomon, and Segatti build compellingly on this embodied condition that Hannah Arendt so presciently evokes to argue that refugees share a way of being in the world. They dwell on this because, they claim, this is a form of life characteristic of contemporary society—one that is at once singular and general. We might say that, by way of asylum (and more broadly, all those considered "illegitimate"), they offer an ethical diagnosis of the contemporary: indeed, they call it an "ethical breach." It seems, then, that the idea of "form of life" serves not just to identify a way of being in the world but also to secure the humanity of refugees.

The authors are interested in what they understand to be an ontological condition—a form of being in the world—yet one that has its cultural, political, and social variations. Using the twin terms of ethnography and ethnology, they distinguish themselves from those who have been accused of using ontology interchangeably with cultural difference. Forms of life involve embodied practices and feelings and, as such, shift our understanding of asylum beyond legal status or global predicament to the scale of how humanity is actually, palpably lived: again, they use this smaller scale in an attempt to render visible a type of human subjectivity.

The most notable, distinguishing feature of this form of life is its firm entanglement with the law. Unlike Arendt, who sees refugees and the stateless as completely outside the law, so much so that she suggests it would benefit them to commit a crime in order to be reincorporated by it (Arendt 1958), Fassin, Wilhelm-Solomon, and Segatti see *as'lem* as dependent on the legal system and its indeterminacy but not fully cast out by it. Sometimes asylum seekers are recognized by the law, and sometimes they are not, and it varies as to whether it is better or worse to live in legal limbo or to be fully excluded. The profound legal uncertainty and ambivalent power of the law in turn shape the material features and emotional landscapes of their lives.

The idea of asylum as a form of life is interesting and provocative; to this end, I want to make two points. First, if asylum seekers' relationship to the law is the distinguishing feature of this form of life, it seems that their relationship to mobility and immobility cannot be far behind. The authors do not mention this explicitly, even if they do evoke it in their descriptions of the four women who exemplify this form of life. While their lives might be shaped by their uncertain relationship to the state, their embodied lives are profoundly

formed in and by their relationship to mobility. Asylum seekers move continuously: they may be displaced, or deported, or move houses or towns or regions, or get on subways to avoid police or xenophobic attackers or to join family, or they may move across a national border in order to be able to come back and try for legal status again. Or they may be detained and rendered immobile. Their lives are incomprehensible without reference to their paradoxical relationship to movement—that is, their simultaneous inability to stop moving, all the while not being officially allowed to be mobile. This is a critical part of their existential reality. Artist Bouchra Khalili evokes this punctuated motion in her piece, "The Mapping Journey Project" (Khalili 2008–2011). It is a video installation in which a series of large screens project the journeys of migrants and asylum seekers, showing their hands as they trace their travels on a map of the world; this is accompanied by a sound recording, where each recounts, in a steady voice, where they have been. Their journeys are remarkable and never with a clear directionality, start, or finish. I wonder, can the type of ethnography the authors propose get at this part of the ontological condition? That is, does their concept of form of life presuppose a world held in place, and if so, can it capture the liveliness of this movement?

Second, I want to think about the political significance of this analytic. On the one hand, being attentive to "forms of life" renders visible the textured nature of the lives lived in a precarious relationship to the law—it escapes binary frames, which see refugees as either victims or heroes, as either noble or desperate. In this sense, we might say it helps shift and complicate our political grammar. On the other hand, insofar as a form of life is a capacity for experiencing that cannot be renounced—insofar as it is what is required for a grammar of speech and action to hold—does identifying this way of being as a form of life give it a stability, a deepness? Does it entail a process of sedimentation or habituation that fastens one to a way of being, even if one's relationship to the law has changed? If it does, what does this mean for thinking about change in the world? In this sense, if only implicitly, Fassin, Wilhelm-Solomon, and Segatti open up the question of the potential for *as'lem* to reshape forms of life internal to citizenship as well. To me, this remains a key question: what kinds of futures might this form of life deliver?

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Reply

We are grateful to Veena Das, Michael Fischer, Jonathan Xavier Inda, Klaus Neumann, Sylvain Perdigon, and Miriam

Ticktin for their insightful, generous, and nonetheless critical comments on our essay. They allow us to usefully clarify and occasionally rephrase our analysis. But before we respond, let us specify our intention in writing this article. It was dual. On the one hand, at a time when the world was beginning to have its eyes fixed on the so-called refugee crisis in Europe, we intended to decenter the gaze by exploring the situation of asylum in a country that is hardly ever evoked in the international public sphere, even though it has had, for several years, the highest number of claimants worldwide according to the United Nations High Commissioner for Refugees (UNHCR). Moreover, South Africa has adopted a procedural approach and a bureaucratic system that disrupts the traditional distinction at a global level between the meticulous examination of asylum cases in the north and the mass treatment of refugees in the south: indeed, it uses, in its own way, the frame that is dominant in rich countries, revealing its structural problems and exacerbating its intrinsic contradictions. On the other hand, as we tried to conceptualize the condition and experience of the asylum seekers in South Africa, and possibly beyond, we thought that such an endeavor offered an opportunity to revisit Wittgenstein's notion of form of life. While it has been the object of intense debates among philosophers and of compelling appropriations by anthropologists, we wanted to reopen its analytical potentialities in light of the empirical material we had gathered and the theoretical discussion it has recently generated: rather than deciding among the various interpretations, we preferred to keep alive the conceptual tensions at work. In fact, as the comments principally emphasize these two aspects of our essay, we will reply following these lines.

Regarding the asylum seekers, two related points are legitimately raised: one concerns quantification, the other qualification.

So, numbers. As stated by the UNHCR in their most recent report (UNHCR 2016), there are 65.3 million "forcibly displaced people worldwide," including 21 million refugees, two-thirds of whom are Palestinians, Syrians, Afghans, and Somalis, with Turkey, Pakistan, Lebanon, Iran, and Ethiopia being the top hosting countries. At the end of 2015, within this so-called population of concern, asylum seekers—that is, individuals who claim the protection of the country to which they have fled—represented 3.2 million persons worldwide, 1.1 million of whom were in South Africa, 617,000 being appeal cases (UNHCR 2016). Are these statistics reliable? Using a review by Africa Check, which suggests that there would be 381,000 pending cases, Michael Fischer contests these data. At the time of our research in 2013, the official figure was 232,000, which represented a little less than one-fifth of the asylum seekers worldwide (UNHCR 2016). This volatility of numbers calls for three observations. The first point regards the poor performance of the administration. The immigration bureaucracy demonstrates the same inefficacy in dealing with claims as it does in counting them. Actually, since our study was conducted and our article written, the South African government (De-

partment of Home Affairs 2016) has published, in June 2016, a Green Paper that states that, of the 1,061,000 asylum permits emitted, only 78,339 were still active. This is a dramatic reevaluation that should raise symmetrical doubts about an underestimation, because the number of new applications mentioned in the same document reaches 210,000 for the past three years with a 90% rejection rate: the current official figure thus reflects more convincingly the high level of dropouts and refusals than the number of people who expect the protection of the state and see themselves living in *as'lem*. The second point concerns the political meaning of numbers about sensitive issues and their potential instrumentalization by politicians, activists, and the media. As is well known, figures are not neutral representations of the world. There was a time when the statistics of asylum in South Africa served to demonstrate the national effort toward people seeking protection. Then came a time when the publicization by the UNHCR of the "one million asylum seekers" generated controversies in the country and led to a dramatic correction of the official data by the Department of Home Affairs. The third point, which is the most crucial, entails the very perimeter of asylum seeking. That it should be considered problematic is a central argument of our study. We show that individuals in search of protection may not apply for asylum; or they may apply but stop renewing their permit, because they cannot queue for several days or pay bribes; or they may be deported but come back and apply another time, thus being counted twice; or they may turn to other avenues of regularization in the function of immigration policies; or they may be rejected and ignore it; and so on. The unreliability of numbers is consequently more than a sign of bureaucratic failure: it shows the impossibility of delimiting precisely the field of asylum. By naming and somewhat reifying the category *as'lem*, the asylum seekers, who are not always entirely sure of their own legal status, render explicit its liminality and indeterminacy.

Which leads us to the question of the specificity of asylum seeking. Both Inda and Neumann strongly argue that what we describe and analyze regarding asylum seekers also characterizes the condition of undocumented migrants, as the former writes, and depends more on the possession of a passport and a visa than on the existence of a refugee status, in the latter's words. The parallels with contemporary Turkey and Spain, in the first case, and with Nazi Germany, in the second one, are cogent in this respect. We agree with them in large part. From a biographical perspective, most of the persons we met during our research moved between the two legal situations—that of asylum seeker and that of undocumented migrant—in the course of their stay in South Africa, either because they initially did not apply for refugee status, or because they could not renew their asylum permit, or because at some point they were rejected. From a phenomenological perspective, their experience was largely similar, because in the buildings where they found shelter, both situations were common, and in the streets where they were selling or begging, the police bullied them all the same. For these reasons,

one of us (Fassin, forthcoming) recently reformulated this form of life by speaking of “forced nomads” so as to include a series of categories—refugees, asylum seekers, undocumented foreigners, economic migrants—that may be legally distinct but are sociologically similar. This rephrasing integrates Ticktin’s pertinent remark about mobility as a defining feature of these lives. Two differences, however, should be noted between asylum seekers and undocumented migrants. First, if asylum seekers are subjected to police harassment, they are in principle not deported. Second, if they live in a limbo, they may still have some sense of entitlement to protection by their host state. These differences in the relation to law and rights should not be overstated. Still, the former guarantees minimal safety in the present, whereas the latter offers reasonable confidence for the future. *Prima facie*, such differences may seem insignificant, but they can have a major impact on a person’s existence.

Regarding forms of life, the comments focus on the adequacy of our reading of the expression and on the relevance of its use with respect to asylum. As we explain in our paper, the philosophical community is divided on the interpretation of a phrase that Wittgenstein seemed to view as a notion rather than a concept, a practical tool rather than a theoretical instrument, in line with his understanding of ordinary language. It should therefore not be surprising that these disagreements—paradoxically regarding a notion that is supposed to be defined in terms of “agreement”—would be reflected in the comments. Thus, Fischer considers that analytic philosophers take Wittgenstein, who is their spiritual father, “down dead ends,” and he criticizes Stanley Cavell’s reflections, whereas Das has developed a long-term conversation with the latter, whose work inspired her most profound analysis of the forms of life, but favorably discusses Jonathan Lear, whose approach is opposite to Cavell’s. A convergence exists, however, between Fischer and Das in their common rejection of Agamben’s interpretation. For our part, finding these contrasted views stimulating, we have resolved to elaborate our interpretation precisely on the tensions they produce. The indetermination of Wittgenstein’s use of forms of life opens the possibility to consider them in their horizontal and vertical dimensions, to use Cavell’s distinction, whereas the intricacy of law and existence in Agamben’s understanding of forms of life in his later work underlines the way in which the state can contribute to shape the everyday experience of people. Instead of choosing one interpretation against another or one author rather than another, we have mobilized them simultaneously and even dialectically. In our view, asylum as a form of life is both universally recognizable and culturally distinct (the Zimbabwean women in Johannesburg and the Syrian men in Calais share a common fate yet have radically distinct experiences), biologically trying and socially constructed (it is often a matter of life and death, but each society invents its own response, that of Germany today being definitely more welcoming than that of contemporary Australia), legally defined and tactically displaced (the force of the law is

imposed on asylum seekers both as the threat of becoming undocumented and the anticipation of being admitted as refugees, while claimants are capable of inventing stories, circumventing policies, and playing with rules). Life is therefore more interestingly apprehended in terms of the tensions that constitute it than in terms of the concepts that define it.

In that regard, we consider asylum to be an “emergent form of life,” to use Fischer’s felicitous expression, because it is permanently reinvented by the authorities and reappropriated by those who seek protection. It is certainly one of the most fascinating aspects of South African politics: the capacity to constantly reformulate the immigration policy for the better or the worse, under the demographic pressure of the migrants and economic constraints of a recovering country, in the context of permanent contradictions between human rights and nationalist impulses, thus revealing the quandary of contemporary societies when confronted with moral obligations that they cannot or do not want to assume. In a similar way, as Das points out, we are aware of the methodological risk of orienting “the narratives toward the experience of precarity produced by the law” while filtering out “other aspects of their lives.” In this line, one of us (Wilhelm-Solomon 2016) has shown how black South Africans often share the same dire way of life, exposure to eviction from their shelter, and even police persecution and bureaucratic opacity, these shared experiences fostering solidarity and friendship along with distrust and xenophobia. Furthermore, our analysis here does not preclude the importance of kinship, sociabilities, and “emerging forms of being” (Landau 2009), in particular within religious organizations, which offer forced migrants some support. We therefore do not want to make asylum an exceptional condition. However, there are two features that singularize the form of life of asylum seekers when compared with other urban poor and even transcend in a certain way the hierarchy of social classes, because better-established individuals, such as physicians and nurses, tell of similar difficulties. The first difference concerns the relation to time: experiences of the present and expectations for the future are structured by a particular bureaucratic and legal temporality with an uncertain end point, which offers only a minimal promise of a permanent refuge. Hence hope is tempered by the realization that rejection is the most likely conclusion of the process, whereas delays offer the precarious security of a postponed decision. The second difference entails the relation to the country: it is one of illegitimacy in the eyes of the nationals and of dependency toward the sovereign power of the state, which both contribute to the hostility of the urban poor toward asylum seekers. Hence the frequent expression of xenophobia in the population and the idea that asylum is a sort of favor, leading to resentment and sometimes even pogroms.

But these differences are malleable, and we do not ascribe an “ontological meaning” to asylum, as Perdigon’s and Ticktin’s remarks suggest. The word “ontology” is perhaps too heavily loaded in current anthropology not to expose to misunderstanding. We use it here in a specific way, to discuss Das’s

interpretation of cases of horrific violence in India, for which we argue that the tension is not between the human and the animal, but between the human and the inhuman. In no way do we want to reify asylum. Our approach is definitely more dialectical than ontological, in the same way as Perdigon discusses forms of life as being both “life’s capacity to generate its own context of interpretation” and “the plurality and incommensurability of lifeworlds and modes of interpretation.” This is, after all, a major challenge for the anthropologists themselves: scrupulously describing and interpreting these forms of life, while acknowledging and respecting the impossibility of rendering them entirely intelligible.

—Didier Fassin, Matthew Wilhelm-Solomon, and Aurelia Segatti

References Cited

- Adelman, Jeremy. 2016. Pariah: can Hannah Arendt help us rethink our global refugee crisis? *Wilson Quarterly* Spring. <http://wilsonquarterly.com/quarterly/looking-back-moving-forward/pariah-can-hannah-arendt-help-us-rethink-our-global-refugee-crisis/>. [MMJF]
- Adepoju, Aderanti. 2003. Continuity and changing configurations of migration to and from the Republic of South Africa. *International Migration* 41 (1):3–28.
- Agamben, Giorgio. 1995. We refugees. *Symposium: A Quarterly Journal in Modern Literatures* 49(2):114–119. [SP]
- . 1998 [1995]. *Homo sacer: sovereign power and bare life*. Stanford, CA: Stanford University Press.
- . 2000. *Means without end: notes on politics*. Minneapolis: University of Minnesota Press. [SP]
- . 2013 [2011]. *The highest poverty: monastic rules and form-of-life*. Stanford, CA: Stanford University Press.
- Amit, Roni. 2012. *All roads lead to rejection: persistent bias and incapacity in South African refugee status determination*. Johannesburg, South Africa: African Centre for Migration & Society.
- . 2015. *Queue here for corruption: measuring irregularities in South Africa’s asylum system*. Johannesburg, South Africa: Lawyers for Human Rights and the African Centre for Migration & Society.
- Arendt, Hannah. 1958a. *The origins of totalitarianism*. Cleveland, OH: Meridian. [MT, SP]
- . 1958b. *The human condition*. Chicago: University of Chicago Press. [SP]
- . 1994 [1943]. We refugees. In *Altogether elsewhere: writers on exile*. Marc Robinson, ed. Pp. 110–119. Boston: Faber & Faber. [SP and MT]
- Biehl, Kristen Sarah. 2015. Governing through uncertainty: experiences of being a refugee in Turkey as a country of temporary asylum. *Social Analysis* 59(1):57–75. [JXI]
- Bloch, Alice. 2010. The rights to rights? undocumented migrants from Zimbabwe living in South Africa. *Sociology* 44(2):233–250.
- Brinton, Crane. 1938. *The anatomy of revolution*. New York: Vintage. [MMJF]
- Calavita, Kitty. 2003. A ‘reserve army of delinquents’: the criminalization and economic punishment of immigrants in Spain. *Punishment & Society* 5(4): 399–413. [JXI]
- Cavell, Stanley. 1962. The availability of Wittgenstein’s later philosophy. *Philosophical Review* 71(1):67–93.
- . 2013. *This new yet unapproachable America: lectures after Emerson after Wittgenstein*. Chicago: University of Chicago Press.
- Coetzee, John Maxwell. 1982. *Waiting for the barbarians*. London: King Penguin. [VD]
- Comaroff, Jean, and John Comaroff. 2002. Alien-nation: zombies, immigrants, and millennial capitalism. *South Atlantic Quarterly* 101(4):779–805.
- Coste, Florent. 2016. Is culture an observance? life, forms and norms in some medieval monastic rules. Paper presented at the International Conference on Life between Construction and Destruction: Forms, Rules and Norms, CNRS-PSL, Paris, May 25–26. [VD]
- Crush, Jonathan. 2000. The dark side of democracy: migration, xenophobia and human rights in South Africa. *International Migration* 38(6):103–133.
- Das, Veena. 2000. The act of witnessing: violence, poisonous knowledge, and subjectivity. In *Violence and subjectivity*. Veena Das, Arthur Kleinman, Mamphela Ramphele, and Pamela Reynolds, eds. Berkeley: University of California Press. [MMJF]
- . 2007. *Life and words: violence and the descent into the ordinary*. Berkeley: University of California Press.
- . 2016. The boundaries of the “we”: cruelty, responsibility and forms of life. *Critical Horizons* 17(2):168–185. [VD]
- De Genova, Nicholas. 2002. Migrant illegality and deportability in everyday life. *Annual Review of Anthropology* 31:419–447.
- Department of Home Affairs. 2016. *Green paper on the international migration*. Pretoria, South Africa: Department of Home Affairs, Republic of South Africa.
- Dodson, Belinda. 1998. *Women on the move: gender and cross-border migration to South Africa*. Cape Town, South Africa: Southern African Migration Project.
- Emmett, Kathleen. 1990. Forms of life. *Philosophical Investigations* 13(3):213–231.
- Fassin, Didier. 2001. Une double peine: la condition sociale des immigrés malades du sida. *L’Homme* 160:137–162.
- . 2013. The precarious truth of asylum. *Public Culture* 25(1):39–63.
- . 2014. The parallel lives of philosophy and anthropology. In *The ground between: anthropologists engage philosophy*. Veena Das, Michael Jackson, Arthur Kleinman, and Bhrigupati Singh, eds. Pp. 50–70. Durham, NC: Duke University Press.
- . Forthcoming. *Life: a critical anthropology (the Adorno lectures)*. Cambridge: Polity.
- Fassin, Didier, and Richard Rechtman. 2009. *The empire of trauma: an inquiry into the condition of victimhood*. Princeton, NJ: Princeton University Press. [MMJF]
- Fischer, Michael M. J. 1973. Zoroastrian Iran between myth and praxis: appendix on religious riots. PhD dissertation, University of Chicago. [MMJF]
- . 1980. *Iran: from religious dispute to revolution*. Cambridge, MA: Harvard University Press. [MMJF]
- Foucault, Michel. 1984. Des espaces autres. *Architecture, Mouvement, Continuité* 5:46–49. [SP]
- . 1988. Technologies of the self. In *Technologies of the self: a seminar with Michel Foucault*. Luther Martin, Huck Gutman, and Patrick Hutton, eds. Pp. 16–49. Amherst: University of Massachusetts Press.
- . 2008 [2004]. *The birth of biopolitics: lectures at the Collège de France 1978–1979*. New York: Palgrave Macmillan.
- Göle, Nilüfer. 1997. Secularism and Islamism in Turkey: the making of elites and counter elites. *Middle East Journal* 51(1):46–58. [MMJF]
- . 2003. Contemporary Islamist movements and new sources for religious tolerance: Islamism between a tolerant modern self and religious authenticity. *Journal of Human Rights* 2(1):17–30. [MMJF]
- Handmaker, Jeff. 1999. Who determines policy? promoting the right of asylum in South Africa. *International Journal of Refugee Law* 11(2):290–309.
- . 2001. No easy walk: advancing refugee protection in South Africa. *Africa Today* 48(3):91–113.
- Hein, Jeremy. 1993. Refugees, immigrants, and the state. *Annual Review of Sociology* 19:43–59.
- Hoag, Colin. 2010. The magic of the populace: an ethnography of illegibility in the South African immigration bureaucracy. *Political and Legal Anthropology Review* 33(1):6–25.
- Human Rights Watch. 1998. *Prohibited persons: abuse of undocumented migrants, asylum-seekers, and refugees in South Africa*. New York: Human Rights Watch.
- Hunter, J. F. M. 1968. ‘Forms of life’ in Wittgenstein’s *Philosophical Investigations*. *American Philosophical Quarterly* 5(4):233–243.
- Johnston, Nicola. 2001. *The point of no return: evaluating the amnesty for Mozambican refugees in South Africa*. Migration Policy Brief 6. Cape Town: Southern African Migration Project.
- Keey, James, Whitfield Green, and Sadhana Manik. 2014. *The status of migrant teachers in South Africa: implications for policy, research, practice*. Pretoria, South Africa: South African Qualifications Authority.
- Khalili, Bouchra. 2008–2011. The mapping journey project. <http://www.bouchrakhalili.com/the-mapping-journey-project/>. [MT]
- Kishik, David. 2008. *Wittgenstein’s form of life*. London: Continuum International.
- Klaaren, Jonathan, Jeff Handmaker, and Lee Anne de la Hunt. 2008. Talking a new talk: a legislative history of the Refugees Act 130 of 1998. In *Advancing refugee protection in South Africa*. Jeff Handmaker, Lee Anne de la Hunt, and Jonathan Klaaren, eds. Pp. 47–60. Oxford: Berghahn.

- Klaaren, Jonathan, and Jaya Ramji. 2001. Inside illegality: migration policing in South Africa after apartheid. *Africa Today* 48(3):35–47.
- Krog Antje. 1998. *Country of my skull: guilt, sorrow, and the limits of forgiveness in the new South Africa*. Johannesburg, South Africa: Random House.
- Landau, Loren. 2006. Protection and dignity in Johannesburg: shortcomings of South Africa's Urban Refugee Policy. *Journal of Refugee Studies* 19(3): 308–327.
- . 2011. *Exorcising the demons within: xenophobia, violence and state craft in contemporary South Africa*. Johannesburg, South Africa: Wits University Press.
- . 2009. Living within and beyond Johannesburg: exclusion, religion, and emerging forms of being. *African Studies* 68(2):197–214.
- Lear, Jonathan. 2015. Waiting with Coetzee. *Raritan* 34(4):1–26. [VD]
- Lipsky, Michael. 2010 [1980]. *Street-level bureaucracy: dilemmas of the individual in public services*. New York: Russell Sage Foundation.
- Mbembe, Achille, and Sarah Nuttall. 2008. Introduction: Afropolis. In *Johannesburg: the elusive metropolis*. Sarah Nuttall and Achille Mbembe, eds. Pp. 3–35. Durham, NC: Duke University Press.
- McGregor, JoAnn, and Ranka Primorac, eds. 2010. *Zimbabwe's new diaspora: displacement and the cultural politics of survival*. New York: Berghahn.
- Miliband, David. 2016. The best ways to deal with the refugee crisis. *New York Review of Books*, October 13:23–25. [MMJF]
- Morris, Alan. 1998. 'Our fellow Africans make our lives hell': the lives of Congolese and Nigerians in Johannesburg. *Ethnic and Racial Studies* 21(6):1116–1136.
- Murray, Martin. 2011. *City of extremes: the spatial politics of Johannesburg*. Durham, NC: Duke University Press.
- Nyamnjoh, Francis. 2007. From bounded to flexible citizenship: lessons from Africa. *Citizenship Studies* 11(1):73–82.
- Peberdy, Sally. 2001. Imagining immigration: inclusive identities and exclusive policies in post-1994 South Africa. *Africa Today* 48(3):15–32.
- Peberdy, Sally, and Jonathan Crush. 1998. Rooted in racism: the origins of the Aliens Control Act. In *Beyond control: immigration and human rights in a democratic South Africa*. Jonathan Crush, ed. Pp. 18–36. Cape Town: Queen's-IDASA.
- Polzer, Tara. 2007. Adapting to changing legal frameworks: Mozambican refugees in South Africa. *International Journal of Refugee Law* 19(1):22–50.
- Polzer Ngwato, Tara. 2013. *Policy shifts in the South African asylum system: evidence and implications*. Johannesburg, South Africa: African Center for Migration & Society and Lawyers for Human Rights.
- Povinelli, Elizabeth A. 2011. *Economies of abandonment: social belonging and endurance in late liberalism*. Durham, NC: Duke University Press. [SP]
- Ranger, Terence. 2005. The narratives and counter-narratives of Zimbabwean asylum: female voices. *Third World Quarterly* 26(3):405–421.
- Remarque, Erich Maria. 2013 (1941). *Flotsam*. Denver Lindley, trans. New York: Random House. [KN]
- Rempe, Sabine. 2015. Schicksale der Verfolgten gleichen sich. *Fürther Nachrichten* (Fürth), March 20. [KN]
- Republic of South Africa. 1996. *The Constitution of the Republic of South Africa*. <http://www.gov.za/sites/www.gov.za/files/images/a108-96.pdf>.
- . 1998. *Refugees Act 130 of 1998*, gazette no. 19544, notice no. 1558. http://www.safflii.org/za/legis/consol_act/ra199899/.
- Rudder Baker, Lynne. 1984. On the very idea of form of life. *Inquiry: An Interdisciplinary Journal of Philosophy* 27(1–4):277–289.
- Segatti, Aurelia. 2011. Reforming South African immigration policy in the postapartheid period (1990–2010). In *Contemporary migration to South Africa: a regional development issue*. Aurelia Segatti and Loren Landau, eds. Pp. 31–66. Washington, DC: World Bank.
- . 2014. *A disposable workforce: foreign health professionals in the South African Public Service*. Migrating for Work Research Consortium (MiWORC) report no. 7. Johannesburg, South Africa: African Centre for Migration & Society, University of the Witwatersrand.
- Segatti, Aurelia, Colin Hoag, and Darshan Vigneswaran. 2012. Can organisations learn without political leadership? the case of public sector reform among South African Home Affairs officials. *Politique Africaine* 128:121–142.
- Simone, AbdouMaliq. 2004. People as infrastructure: intersecting fragments in Johannesburg. *Public Culture* 16(3):407–429.
- Southall, Roger. 2013. *Liberation movements in power: party and state in Southern Africa*. Oxford: Currey.
- Spire, Alexis. 2008. *Accueillir ou reconduire: enquête sur les guichets de l'immigration*. Paris: Raisons d'agir.
- Sternburg, Wilhelm von. 1998. "Als wäre alles das letzte Mal": Erich Maria Remarque: Eine Biographie. Cologne: Kiepenheuer & Witsch. [KN]
- Stupart, Richard. 2016. Is South Africa home to more than a million asylum-seekers? the numbers don't add up. *Daily Mail*, August 15. <http://mg.co.za/article/2016-08-15-is-south-africa-home-to-more-than-a-million-asylum-seekers-the-numbers-dont-add-up>. [MMJF]
- Sutton, Rebecca, and Darshan Vigneswaran. 2011. A Kafkaesque state: deportation and detention in South Africa. *Citizenship Studies* 15(5):627–642.
- Swaan, Abram de. 1988. *In care of the state: health care, education and welfare in Europe and the USA in the modern era*. Cambridge: Polity.
- Time. 1941. The meaning of exile. *Time* (New York), April 28. [KN]
- Turner, Victor. 1968. *Schism and continuity in an African society*. Manchester, UK: Manchester University Press. [MMJF]
- UNESC (United Nations Economic and Social Council). 1948. Report of the third session of the Commission on Human Rights, Lake Success, 28 May to 18 June 1948. Annex A: Draft International Declaration of Human Rights. June 28. UN doc. E/800. [KN]
- UNHCR (United Nations High Commissioner for Refugees). 2013. *Global trends 2012: displacement, the new 21st century challenge*. Geneva, Switzerland: UNHCR.
- . 2015. *UNHCR population statistics*. http://popstats.unhcr.org/#_ga=1.229981589.829521699.1347992959.
- . 2016. *Global trends: forced displacement in 2015*. Geneva, Switzerland: UNHCR.
- Vearey, Jo. 2010. Hidden spaces and urban health: exploring the tactics of rural migrants navigating the City of Gold. *Urban Forum* 21(1):37–53.
- Vigneswaran, Darshan, Tesfalem Araia, Colin Hoag, and Xolani Tshabalala. 2010. Criminality or monopoly? informal immigration enforcement in South Africa. *Journal of Southern African Studies* 36(2):465–481.
- Wa Kabwe-Segatti, Aurelia. 2002. Du rapatriement volontaire au refoulement dissimulé: les réfugiés Mozambicains en Afrique du Sud. *Politique Africaine* 85:75–92.
- . 2008. Les nouvelles logiques de l'asile dans l'Afrique austral post-apartheid. In *L'Asile au Sud*. Luc Cambrézy, Smaïn Laacher, Véronique Lassailly-Jacob, and Luc Legoux, eds. Pp. 23–46. Paris: La Dispute.
- Wanjiku-Kihato, Caroline. 2013. *Migrant women of Johannesburg: life in an in-between city*. Johannesburg, South Africa: Wits University Press.
- Wasserstein, Bernard. 2011. European refugee movements after World War II. BBC Archives. http://www.bbc.co.uk/history/worldwars/wwtwo/refugees_01.shtml. [MMJF]
- Westphalen, Tilman. 2008 (1991). Ein Mensch ohne Paß ist eine Leiche auf Urlaub. In *Liebe Deinen Nächsten* by Erich Maria Remarque. Pp. 321–340. Cologne: Kiepenheuer & Witsch. [KN]
- Wilhelm-Solomon, Matthew. 2015. Dispossessed vigils: mourning and regeneration in inner-city Johannesburg. In *African cities reader 3: land, property and value*. Ntone Edjabe and Edgar Pieterse, eds. Pp. 136–149. Cape Town: Chimurenga and African Centre for the Cities.
- . 2016. Decoding dispossession: eviction and urban regeneration in Johannesburg's dark buildings. *Singapore Journal of Tropical Geography* 37(3):378–395.
- Williams, Bernard. 1973. Wittgenstein and idealism. *Royal Institute of Philosophy Lectures* 7:76–95.
- Wittgenstein, Ludwig. 1969. *On certainty*. Denis Paul and G. E. M. Anscombe, trans. London: Blackwell. [MMJF]
- . 2009 [1953]. *Philosophical investigations*. Malden, MA: Wiley-Blackwell.
- Worby, Eric. 2010. Address unknown: the temporality of displacement and the ethics of disconnection among Zimbabwean migrants in Johannesburg. *Journal of Southern African Studies* 36(2):417–431.
- Zulu, Melekias, and Matthew Wilhelm-Solomon. 2015. Tormented by Umyama: an urban cosmology of migration and misfortune. In *Healing and change in the City of Gold*. Ingrid Palmay, Brandon Hamber, and Lorena Núñez, eds. Pp. 135–138. Heidelberg, Germany: Springer.