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Activism for Migrant Domestic Workers in South Africa: Tensions in the Framing of Labour Rights

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This article explores tensions in the ways in which non-governmental activism, as represented by trade unions and non-governmental organisations (NGOs), frames the concerns of migrant domestic workers (MDWs) living in South Africa. It analyses how seemingly polarised trade unions and NGOs involved in struggles on behalf of MDWs adopt singular discourses about labour rights at varying political moments to achieve their own goals. These singular frames conflate the issues around MDWs and their rights, reducing them to rigid categories of either 'international migrants' or 'domestic workers'. The framing of MDWs' concerns as international migrants' rights issues reflects a transnational political approach that migrant-aligned trade unions and NGOs use in order to connect with pre-existing labour movement narratives and debates. This framing must contend with locally aligned trade unions and NGOs who frame international MDWs' concerns essentially as equal to those of internal MDWs through the mantra 'a worker is a worker'. This homogenising framing of worker struggles generates deep-seated xenophobic discourses about migrants in South Africa's labour market which are compatible with a citizenship-based workers' rights movement and 'national chauvinism'. Although the mantra ought to allow every worker to stand up for their rights without risking immigration detention or deportation, locally aligned trade unions and NGOs use it to de-exceptionalise international migrants in order to appeal to a local constituency concerned about the economy being 'overrun' by international migrants. The article concludes that there is need for internal and international MDWs to organise themselves in ways that recognise their similarities and accommodate their differences.

Keywords: framing; localism; transnationalism; labour rights; activism; migrant domestic workers (MDWs); intersectionality; South Africa

Introduction

This article explores tensions in the ways in which non-governmental activism, as represented by trade unions and non-governmental organisations (NGOs), frames the concerns of migrant domestic workers (MDWs) living in South Africa. One of the major forms of wage employment for African women in South Africa, domestic work is

at the same time a source of their subordination.¹ A significant body of literature focuses on domestic workers, their rights, experiences and mobilisation in post-apartheid South Africa.² Francis Nyamnjoh, for example, argues that while maids and their madams (the women for whom they work) may both be subordinate to men, they are not equal in terms of power, dignity and entitlement.³ Race, class and socio-economic status largely determine which women qualify to be co-opted by men into the public sphere to further the debasement of their fellow women.⁴

Women employed as domestic workers occupy one of the lowest-paid and most exploited sectors in South Africa.⁵ South Africa has a long-standing 'mobilisation structure' for domestic workers, which begins from the view that African women are oppressed as black people, oppressed as women, and oppressed as workers.⁶ Drawing on Jacklyn Cock's work, Nyamnjoh reiterates that the employment of maids was liberating to 'white madams' but constituted 'ultra-exploitation' for the mostly black women who serviced the domestic domain with their 'ultra-cheap' labour at the expense of their own families in the ghettos or villages ('double exclusion').⁷ To this day, the social relations of domestic employment in South Africa are inextricably intertwined with class, gender and racial structures.⁸ Nonetheless, scholars rarely grapple with the intra-group complexities that can be found among black domestic workers, a group easily assumed to face a uniform position in relation to their 'white madams'.

MDWs are simultaneously black, women, workers and international or internal migrants, so the nexus of class, gender and race alone cannot address the complex social problems that they face. Clearly, women do not constitute a homogenous category, politically or otherwise,

1 D. Gaitskell, J. Kimble, M. Maconachie and E. Unterhalter, 'Class, Race and Gender: Domestic Workers in South Africa', *Review of African Political Economy*, 10, 27–28 (1983), pp. 86–108.

2 S. Ally, 'Domestic Worker Unionisation in Post-Apartheid South Africa: Demobilisation and Depoliticisation by the Democratic State', *Politikon: South African Journal of Political Studies*, 35, 1 (2008), pp. 1–21; S. Ally, *From Servants to Workers: South African Domestic Workers and the Democratic State* (Scottsville, University of KwaZulu-Natal Press, 2010); F.M. Donald and L. Mahlatji, 'Domestic Workers' Experiences of Power and Oppression in South Africa', *Journal of Psychology in Africa*, 16, 2 (2006), pp. 205–13. D. du Toit, 'Situating Domestic Work in a Changing Global Labour Market', in D. du Toit (ed.), *Exploited, Undervalued – and Essential: Domestic Workers and the Realisation of Their Rights* (Pretoria, Pretoria University Law Press, 2013), pp. 1–31; J.N. Fish, 'Engendering Democracy: Domestic Labour and Coalition-Building in South Africa', *Journal of Southern African Studies*, 32, 1 (2006), pp. 107–27; J.N. Fish, 'Organising from Private Spaces: Domestic Labour in South African Civil Society', in H. Britton, J.N. Fish and S. Meintjes (eds), *Women's Activism in South Africa: Working across Divides* (Scottsville, University of KwaZulu-Natal Press, 2008) pp. 124–55; T. Hertz, 'Have Minimum Wages Benefited South Africa's Domestic Service Workers?', paper presented at the University of Cape Town Development Policy Research Unit/Trade and Industrial Strategy (DPRU/TIPS) Annual Forum 'African Development and Poverty Reduction: The Macro-Micro Linkage', Cape Town, South Africa, 13–15 October 2004, available at <https://www.tips.org.za/research-archive/annual-forum-papers/2005/item/404-the-effect-of-minimum-wages-on-the-employment-and-earnings-of-south-africa-s-domestic-service-workers>, retrieved 20 February 2020. A.J. King, *Domestic Service in Post-Apartheid South Africa: Deference and Disdain* (Aldershot, Ashgate Publishing, 2007); T. Magwaza, 'Effects of Domestic Workers Act in South Africa: A Steep Road to Recognition', *Agenda: Empowering Women for Gender Equity*, 22, 78 (2008), pp. 79–92; F.B. Nyamnjoh, *Insiders and Outsiders: Citizenship and Xenophobia in Contemporary Southern Africa* (London, Zed Books, 2006).

3 Nyamnjoh, *Insiders and Outsiders*, p. 120.

4 *Ibid.*

5 Fish, 'Engendering Democracy'.

6 J. Cock, 'Disposable Nannies: Domestic Servants in the Political Economy of South Africa', *Review of African Political Economy*, 8, 21 (1981), pp. 63–83; Donald and Mahlatji, 'Domestic Workers' Experiences of Power and Oppression'.

7 Nyamnjoh, *Insiders and Outsiders*, p. 121.

8 Magwaza, 'Effects of Domestic Workers Act in South Africa'.

and do not necessarily share or perceive ‘objective’ gender interests.⁹ Migration intersects with racial, class and gender-based divisions in an overarching global context that adds citizenship and national origin to the various inequalities of the transnational ‘trade’ in domestic workers.¹⁰ Nevertheless, there is, first, a silence on rural–urban or internal migration related to the domestic work sector.¹¹ This labour migration has received limited attention from scholars, policy makers or the public compared to international labour migration.¹² Second, with a few notable exceptions,¹³ there has been little interest in international MDWs who are engaged in their main job as domestic workers in households.¹⁴ Few have studied their experiences, rights, activism and mobilisation, or considered how different actors in the public sphere frame them. Moreover, while many scholars of intersectionality have noted that multiple factors shape women’s vulnerability, less widely acknowledged is the intersectionality of these factors or how specific combinations affect social position and lived experience, and thus co-constitutively affect vulnerability.¹⁵

This article uses framing theory to analyse how trade unions and NGOs involved in struggles on behalf of MDWs adopt singular discourses about labour rights at varying political moments to achieve their particular goals. MDWs here are broadly defined as both internal migrants, who move from rural areas to urban centres where they have no established residence, and international migrants, who take up employment in a foreign

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- 9 T. Bastia, ‘Intersectionality, Migration and Development’, *Progress in Development Studies*, 14, 3 (2014), pp. 237–48; K. Crenshaw, ‘Demarginalising the Intersection of Race and Sex: A Black Feminist Critique of Antidiscrimination Doctrine, Feminist Theory and Antiracist Politics’, *The University of Chicago Legal Reform*, 1989, 1 (1989) pp. 139–67; A.M. Goetz and R. Jenkins, ‘Feminist Activism and the Politics of Reform: When and Why Do States Respond to Demands for Gender Equality Policies?’, Working Paper no. WP2016-13 (Geneva, United Nations Research Institute for Social Development, 2016), available at [http://www.unrisd.org/unrisd/website/document.nsf/\(httpPublications\)/E155492F1554774AC125803E0034572B?OpenDocument](http://www.unrisd.org/unrisd/website/document.nsf/(httpPublications)/E155492F1554774AC125803E0034572B?OpenDocument), retrieved 20 February, 2020; N. Yuval-Davis, ‘Intersectionality and Feminist Politics’, *European Journal of Women’s Studies*, 13, 3 (2006), pp. 193–209.
- 10 J.N. Fish, ‘Rights across Borders: Policies, Protections and Practices for Migrant Domestic Workers in South Africa’, in D. du Toit (ed.), *Exploited, Undervalued – and Essential* (Pretoria, Pretoria University Law Press, 2013), pp. 213–65.
- 11 International Labour Office (ILO), ‘Rural-Urban Migrants Employed in Domestic Work: Issues and Challenges’, *Briefing Note* no. 5 (Dar es Salaam, ILO, 2013), available at https://www.ilo.org/africa/WCMS_214732/lang-en/index.htm, retrieved 20 February 2020.
- 12 *Ibid.*
- 13 N. Dinat, and S. Peberdy, ‘Restless Worlds of Work, Health and Migration: Domestic Workers in Johannesburg’, *Development Southern Africa*, 24, 1 (2007), pp. 186–203; Fish, ‘Rights across Borders’; Z. Jinnah, ‘Negotiated Precarity in the Global South: A Case Study of Migration and Domestic Work in South Africa’, *Studies in Social Justice*, 14, 1 (2020), pp. 210–27; M. Kiwanuka, Z. Jinnah, and B. Hartman-Pickerill, ‘Getting the House in Order: Foreign Migrant Workers in the Domestic Work Sector in South Africa’, *MiWORC Report* no. 10 (Johannesburg, African Centre for Migration & Society, University of the Witwatersrand, 2015); Magwaza, ‘Effects of Domestic Workers Act in South Africa’; J. Munakamwe, ‘Emerging Political Subjectivities in a Post Migrant Labour Regime: Mobilisation, Participation and Representation of Foreign Workers in South Africa (1980–2013)’ (PhD thesis, University of the Witwatersrand, 2018), available at http://wiredspace.wits.ac.za/bitstream/handle/10539/26156/Janet%20Munakamwe_Final%20thesis%20%5B10.05.18%5D-1.pdf?sequence=2&isAllowed=y, retrieved 20 February 2020; T. Zack, S. Matshaka, K. Moyo, and K.P. Vanyoro, ‘My Way? The Circumstances and Intermediaries that Influence the Migration Decision-Making of Female Zimbabwean Domestic Workers in Johannesburg’, Working Paper no. 57 (Brighton, Migrating out of Poverty, University of Sussex, 2019), available at <https://opendocs.ids.ac.uk/opendocs/handle/20.500.12413/14873>, retrieved 20 February 2020.
- 14 M. Gallotti, *Migrant Domestic Workers across the World: Global and Regional Estimates* (Geneva, International Labour Organization, 2015), available at https://www.ilo.org/wcmsp5/groups/public/—ed_protect/—protrav/—migrant/documents/briefingnote/wcms_490162.pdf, retrieved 20 February 2020.
- 15 See N. Osborne, ‘Intersectionality and Kyriarchy: A Framework for Approaching Power and Social Justice in Planning and Climate Change Adaptation’, *Planning Theory*, 14, 2 (2015), pp. 130–51.

country.¹⁶ This research contributes to literature on framing and interpreting precarity in the global south by exploring the use of intersectionality as a heuristic to understand activism and feminist solidarity around the labour rights of MDWs in South Africa. It notes how trade unions and NGOs, as institutions of representation, might continue to restrict feminist solidarity and how emerging informal unions or ‘groups’ that employ social- or area-based networking strategies might address this challenge. The article concludes by drawing attention to the need to position international MDWs as part of the broad agenda to advance the rights of all domestic workers in South Africa by enabling them to organise and represent themselves alongside internal MDWs. Because domestic employment is such an overwhelmingly feminised occupation, approaching the plight of MDWs in South Africa from a critical feminist perspective is a logical avenue.¹⁷ Direct self-representation and involvement in the political realm is, after all, a feminist political strategy that has worked in other contexts such as Hong Kong and the UK.¹⁸

‘Transnational’ and ‘Localised’ Activism and the Framing of Labour Rights in South Africa

Framing refers to the process by which people develop a particular conceptualisation of an issue or reorient their thinking about it.¹⁹ Framing theory is premised on the notion that a single issue can be viewed from a variety of perspectives and be construed as having implications for multiple values, positions and considerations.²⁰ Actors construct frames as a way of organising their reality to provide meaning to events and promote particular interpretations of political issues.²¹ This article argues that trade unions and NGOs in South Africa rely on singular frames in their approaches to workers’ rights, which reduce MDWs to the essential categories of either ‘international migrants’ or ‘domestic workers’.

The ‘domestic workers’ frame is premised on the ‘localisation’ of labour rights. This refers to a discourse that situates political causes in relation to South Africa’s history and experience of inequality and the marginalisation of black people. Some trade unions and NGOs which mobilise workers in feminised sectors like domestic work frame labour rights and worker solidarity as contingent on historically shared categories and experiences of blackness and womanhood. At the same time, they often fall back on the homogenising

16 It is also important to note that while the definition of domestic workers in legislation includes housekeepers, gardeners, nannies and domestic drivers, domestic work remains largely understood as feminine work done by housekeepers and nannies. This gendered lens might also create fragmentations between workers who otherwise face comparable struggles; International Labour Organization, *Domestic Workers across the World: Global and Regional Statistics and the Extent of Legal Protection* (International Labour Organization, Geneva, 2013).

17 See J. Elias, ‘Struggles over the Rights of Foreign Domestic Workers in Malaysia: The Possibilities and Limitations of “Rights Talk”’, *Economy and Society*, 37, 2 (2008), pp. 282–303; Magwaza, ‘Effects of Domestic Workers Act in South Africa’.

18 See J. Holgate, ‘Unionising the Low Paid in London: The Justice for Cleaners Campaign: A Case Study’ (unpublished paper, 2009), available at <https://archive.ilr.cornell.edu/sites/default/files/Justice-for-Janitors-Case-Study.pdf>, retrieved 4 May 2020;

M. Lai, ‘Dancing to Different Tunes: Performance and Activism Among Migrant Domestic Workers in Hong Kong’, *Women's Studies International Forum*, 33, 5 (2010), pp. 501–11; L. Lim, ‘Transnational Organising and Feminist Politics of Difference and Solidarity: The Mobilisation of Domestic Workers in Hong Kong’, *Asian Studies Review*, 40, 1 (2016), p. 73.

19 D. Chong and J.N. Druckman, ‘Framing Theory’, *Annual Review of Political Science*, 10 (2007), pp. 103–26.

20 Chong and Druckman, ‘Framing Theory’, pp. 103–26; D.A. Snow and R.D. Benford, ‘Ideology, Frame Resonance, and Participant Mobilization’, in B. Klandermans, H. Kriesi and S.G. Tarrow (eds), *From Structure to Action: Comparing Social Movement Research Across Cultures* (Greenwich, JAI Press, 1988), pp. 197–217.

21 Chong and Druckman, ‘Framing Theory’, pp. 103–26.

mantra that ‘a worker is a worker’, which obscures gendered identities. This framing, however, ought to allow every worker to stand up for their rights without risking immigration detention or deportation by presuming a unified singular worker identity. In South Africa, it allows locally aligned trade unions and NGOs to de-exceptionalise international migrants so as to appeal to a local labour constituency concerned about foreign workers overrunning the economy.²² As a result, this framing can easily lend support to certain political points of view and obscure others as it generates ‘structures of meaning’²³ that leave space for an ‘acceptable’ autochthonous reading of labour rights as a zero-sum game in which international migrants are responsible for stealing scarce jobs from locals.

Institutional settings provide vocabularies that frame thought and understandings and define legitimate arguments, standards of justification and criticisms in different situations.²⁴ Nyamnjoh is critical of the South African Department of Labour’s statement that ‘it “owes its citizens priority in the jobs queue”, as “there are thousands of South African women roaming the streets” in search of jobs as maids’.²⁵ In fact, migrants have been found to be positive contributors to the economy.²⁶ Unsubstantiated arguments about domestic workers are designed to connect hostile immigration policies to nationalist values in order to promote forms of political discourse that have been linked to xenophobic violence against Africans who do not have South African citizenship. Xenophobic discourses and attacks have recurred in recent years as some ‘indigenous’ South Africans have blamed foreign workers for their social and economic problems.²⁷ The Department of Labour’s unsubstantiated arguments about international MDWs are an example of ‘elite frames’ that aim to appeal to the partisan ideological leanings of their audience.²⁸ In a context in which migrant workers who ‘do the mothering and caretaking work’ of the global economy have come to play a vital role in releasing other women workers from their homes,²⁹ this local framing is tied to a ‘problematic nation-bound conception of citizenship’.³⁰

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- 22 K.P. Vanyoro, ‘Pragmatic Pathways: Critical Perspectives on Research Uptake in the Global South’, Working Paper no. 30 (Brighton: Migrating out of Poverty Research Programme Consortium, University of Sussex, 2015).
- 23 J.G. March and J.P. Olsen, ‘The Logic of Appropriateness’, in M. Moran, M. Hein and R.E. Goodin (eds), *The Oxford Handbook of Public Policy* (New York, Oxford University Press, 2006), pp. 689–708.
- 24 *Ibid.*
- 25 Nyamnjoh, *Insiders and Outsiders*, p. 139.
- 26 Centre for Development and Enterprise, ‘Immigrants in Johannesburg: Perceptions and Reality’ (Johannesburg, Centre for Development and Enterprise, August 24, 2008), available at <https://www.cde.org.za/immigrants-in-johannesburg-perceptions-and-reality/>, retrieved 20 February 2020; R. Devey, C. Skinner, and I. Valodia, ‘Second Best? Trends and Linkages in the Informal Economy in South Africa’, Working Paper no. 06/102 (Cape Town, University of Cape Town Development Policy Research Unit, 2006); L.B. Landau, K. Ramjathan-Keogh, and G. Singh, ‘Xenophobia in South Africa and Problems Related to It’, *Forced Migration Working Paper*, series no. 13 (Johannesburg, Forced Migration Studies Programme, University of the Witwatersrand, 2005); B. Maharaj, ‘Economic Refugees in Post-Apartheid South Africa – Assets or Liabilities? Implications for Progressive Migration Policies’, *GeoJournal*, 56 (2002), pp. 47–57; World Bank, *Global Economic Prospects 2006: Economic Implications of Remittances and Migration* (Washington, World Bank, 2005), available at <http://documents.worldbank.org/curated/en/507301468142196936/Global-economic-prospects-2006-economic-implications-of-remittances-and-migration>, retrieved 20 February 2020.
- 27 See C. Adjai and G. Lazaridis, ‘Migration, Xenophobia and New Racism in Post-Apartheid South Africa’, *International Journal of Social Science Studies*, 1, 1 (2013), pp. 192–205; R. Black, J. Crush and S. Peberdy, *Migration and Development in Africa: An Overview*, Migration and Development Series no. 1 (Cape Town/Ontario, and Brighton, Southern African Migration Project and Development Research Centre on Migration, Globalisation and Poverty, 2006); A. Klotz, ‘Borders and the Roots of Xenophobia in South Africa’, *South African Historical Journal*, 68, 2 (2016), pp. 180–194; L.B. Landau, ‘Loving the Alien? Citizenship, Law, and the Future in South Africa’s Demonic Society’, *African Affairs*, 109, 435 (2010), pp. 213–30; J.P. Misago, ‘Politics by Other Means? The Political Economy of Xenophobic Violence in Post-Apartheid South Africa’, *The Black Scholar*, 47, 2 (2017), pp. 40–53.
- 28 See Chong and Druckman, ‘Framing Theory’, p. 112.
- 29 Fish, ‘Rights across Borders’, p. 223.
- 30 Nyamnjoh, *Insiders and Outsiders*, p. 140.

The localisation of labour rights contends with alternative framings that advocate a shift in focus from the nation-state as the basic unit of analysis to the global system represented by transnationalism³¹ – what I call the ‘international migrants’ frame. Like most domestic workers, MDWs’ livelihoods are precarious – their working conditions are insecure and unstable and often associated with casualisation, informalisation, agency labour and part-time labour.³² A lack of documentation means that international MDWs often lack most of the seven forms of labour-related security: labour market security, employment security, job security, work security, skill reproduction security, income security and representation security.³³ Thus, a transnational notion of labour rights refers to frames that stress the sanctity of the rights upheld through various national, regional and global labour and migration frameworks in the context of a global care chain.³⁴ Proponents draw on legal instruments emphasising the need to establish an integrated regional approach that streamlines the portability of rights, provides for low-skilled migrants to move long term with a pathway towards permanency and offers equal labour protections to migrants.³⁵ They also reflect on numerous international human rights treaties that promote migrants’ enjoyment of their human rights, regardless of geographic location or citizenship status.³⁶

This framing can be controversial in a country in which black South Africans have been oppressed, discriminated against, and disempowered as political actors and where they often pitch their historical experiences against those of others in the workforce who did not directly suffer the violence of apartheid.³⁷ The degree to which the two frames differ raises the question of whether or not partnerships could be forged across the divide. The need for collaboration is perhaps only increasing in a context in which the state has dramatically ‘demobilised’ and ‘depoliticised’ unions, forcing them to compete for members and resources.³⁸

Methodology

This article is drawn from a qualitative study that was undertaken between May and September 2018. The study specifically set out to describe the facilitation of the migration process of Zimbabwean women working as domestic workers in Johannesburg, focusing on the intermediaries and processes that attend their migration.³⁹ In spite of the feminisation of migration from Zimbabwe to South Africa and heightened movement within this migration corridor over the past decade, migration of Zimbabwean MDWs into South Africa is a relatively new and understudied phenomenon. A total of 16 interviews was conducted in English with a range of migrant and domestic worker activists, trade unionists, municipal officials, government officials and United Nations migration and labour agency officials. The author conducted five interviews and three colleagues who were part of the research team conducted the remaining 11.

31 See W.I. Robinson, ‘Beyond Nation-State Paradigms: Globalisation, Sociology, and the Challenge of Transnational Studies’, *Sociological Forum*, 13, 4 (1998), pp. 561–94.

32 G. Standing, ‘O precariado e a luta de classes’, *Revista Crítica de Ciências Sociais*, 103 (2014), pp. 9–24.

33 G. Standing, *The Precariat: The New Dangerous Class* (London, Bloomsbury Academic, 2011), p. 10.

34 See J. Cock, ‘Challenging the Invisibility of Domestic Workers’, *South African Review of Sociology*, 42, 2 (2011), pp. 132–3.

35 Such as the Southern African Development Community (SADC) ‘Portability of Accrued Social Security Benefits within the Region Draft Policy Framework’ (Gaborone, SADC, 2016).

36 Such as the International Labour Organization ‘Domestic Workers Convention’, no. 189 of 2011, of 20 June 2013.

37 C.W. Kihato and L.B. Landau, ‘Stealth Humanitarianism: Negotiating Politics, Precarity and Performance Management in Protecting the Urban Displaced’, *Journal of Refugee Studies*, 30, 3 (2017), pp. 407–25; K.P. Vanyoro, “‘Skeptics’ and “‘Believers’: Anti-Trafficking, Sex Work and Migrant Rights Activism in South Africa”, *Gender and Development*, 27, 1 (2019), pp. 123–37.

38 See Ally, ‘Domestic Worker Unionisation in Post-Apartheid South Africa’.

39 See Zack, Matshaka, Moyo and Vanyoro, ‘My Way?’.

A purposive sampling technique was used to identify trade unions and NGOs active in the migration and labour activism sphere and based in Johannesburg through a stakeholder mapping exercise. Zimbabwean MDWs were the initial target group but it became apparent that these institutions supported all African migrants, with the exception of Makhox Women's League, a Facebook community organisation open to assisting Zimbabwean migrants only. This support ranged from direct assistance in health or employment matters, to networking, advocacy, rights training, lobbying and policy support. The analysis then shifted to all MDWs in South Africa. Interviewees were recruited from Izwi Domestic Workers Alliance; the South African Domestic Services and Allied Workers Union (SADSAWU); the International Labour Organization (ILO); the International Organization for Migration (IOM); Consortium for Refugees and Migrants in South Africa (CoRMSA); Jesuit Refugee Service (JRS); Church World Service (CWS); Migrant Workers Union in South Africa (MIWUSA); Makhox Women's League; Johannesburg Migrant Help Desk; South African Litigation Centre (SALC); African Diaspora Workers Network (ADWN); and African Diaspora Forum. In this sample, there were two formal trade unions that assisted MDWs in one way or another (MIWUSA and SADSAWU), while Izwi identified more as an informal union or 'group'. The data collected from the interviews were analysed using thematic data analysis. All names used in this article when referring to interviewees are pseudonyms.

Domestic Work and the Protection of MDWs in South Africa

Power is organised in such a way that different people find themselves encountering different treatment regarding which rules apply to them and how those rules are implemented.⁴⁰ This article shows that, in practice, South Africa's labour and migration policies are not well suited to protecting international MDWs. It has been established that 'indigenous' domestic workers do not have full labour rights because it is difficult to monitor compliance in private households and some rights are given priority over others⁴¹ but, doubtless, internal MDWs can make certain rights claims that international MDWs cannot because of their citizenship.

Most women who migrate globally as 'unskilled' workers find employment in manufacturing, with smaller numbers working in agriculture, as sex workers, or as domestic or care workers.⁴² Although an increasing number of female migrants work on an hourly basis for several employers, domestic work is essentially an urban occupation, and most are live-in domestic workers.⁴³ Live-in arrangements are particularly common for MDWs.⁴⁴ The majority of domestic workers in South Africa are employed in private households, often informally,⁴⁵ while only a few are employed by temporary employment services ('labour brokers').⁴⁶ Domestic workers are one of the largest single sectors of the South African

40 P.H. Collins and S. Bilge, *Intersectionality* (Malden, Polity, 2020).

41 Ally, 'Domestic Worker Unionisation in Post-Apartheid South Africa'; Magwaza, 'Effects of Domestic Workers Act in South Africa'.

42 Du Toit, 'Situating Domestic Work in a Changing Global Labour Market'; M. Morokvasic, 'Birds of Passage Are Also Women ...' *International Migration Review*, 18, 4 (1984), pp. 886–907; N. Piper, 'Rights of Foreign Domestic Workers – Emergence of Transnational and Transregional Solidarity?' *Asian and Pacific Migration Journal*, 14, 1–2 (2005), pp. 97–119; P. Raghuram, 'Migrant Women in Male-Dominated Sectors of the Labour Market: A Research Agenda', *Population, Space and Place*, 14, 1 (2008), pp. 43–57; H. Sultana and A. Fatima, 'Factors Influencing Migration of Female Workers: A Case of Bangladesh', *IZA Journal of Development and Migration*, 7, 4 (2017) pp. 1–17.

43 International Labour Organization, *Domestic Workers across the World*.

44 *Ibid.*

45 Fish, 'Rights across Borders', p. 223.

46 A. Bezuidenhout and K. Fakier, 'Maria's Burden: Contract Cleaning and the Crisis of Social Reproduction in Post-Apartheid South Africa', *Antipode: A Radical Journal of Geography*, 38, 3 (2006), pp. 462–85; du Toit, 'Situating Domestic Work in a Changing Global Labour Market'.

labour force.⁴⁷ Domestic work is also one of the largest sectors within which black women are employed in the South African labour market.⁴⁸ Data show that 1.1 million domestic workers were employed between 2008 and 2017, with the number fluctuating around that level over the last decade. In Quarter 4 of 2018, domestic worker occupations recorded one of the largest rises in employment figures, with 45,000 new domestic workers joining the informal economy.⁴⁹

While South Africa is a major destination for workers from neighbouring African countries, internal labour migration is far more significant than international migration.⁵⁰ An ILO study conducted in 2013 found that 35.6 per cent of employed black women in Johannesburg who originated from outside Gauteng province worked in private households, compared with just 9 per cent of employed black women who were born in Gauteng.⁵¹ Nevertheless, unlike in many Latin American and Middle Eastern contexts, the majority of domestic workers in South Africa do not come from abroad.⁵² Although the domestic workforce includes significant numbers of foreign-born women, the sector is dominated by locally born black women.⁵³ A rapid increase in transnational migration is changing the composition of the domestic workforce and complicating the discourse and application of established legal rights.⁵⁴ For example, there were 2,173,409 international migrants in South Africa in 2011 (4.2 per cent of the population at the time).⁵⁵

The number of undocumented migrants in the country is not known and remains highly contested. There are no reliable estimates of how many of these migrants are women, as gender-disaggregated migration data are largely unavailable.⁵⁶ However, women are migrating more than ever: both the proportion of total migrants that are women and the actual numbers of migrant women have increased.⁵⁷ The United Nations Department of Economic and Social Affairs (UN DESA) 2017 mid-year data show that women constituted 44.4 per cent of total migrants in South Africa in 2017.⁵⁸

International migrant women are disadvantaged by an ‘implicit gender bias’ in immigration policies and legislation.⁵⁹ Irregular migration happens because South Africa does not provide work permits to low-skilled or unskilled international migrants.⁶⁰ International migrant women are more likely to be engaged in informal work, including

47 Hertz, ‘Have Minimum Wages Benefited South Africa’s Domestic Service Workers?’; T. Madonsela, ‘Social Security for Domestic and Farm Workers’, report under Centre for Applied Legal Studies Research Project (commissioned by the Johannesburg-based National Labour and Economic Development Institute, 1994); Magwaza, ‘Effects of Domestic Workers Act in South Africa’.

48 L.N. Maqubela, ‘Mothering the “Other”: The Sacrificial Nature of Paid Domestic Work within Black Families in the Post-Apartheid South Africa’, *Gender and Behaviour*, 14, 2 (2016), pp. 7214–24.

49 Stats SA (Statistics South Africa), *Quarterly Labour Force Survey* (Pretoria, Stats SA, 2018).

50 ILO, ‘Rural-Urban Migrants Employed in Domestic Work’.

51 *Ibid.*

52 T. Dinkelman and V. Ranchhod, ‘Evidence on the Impact of Minimum Wage Laws in an Informal Sector: Domestic Workers in South Africa’, *Journal of Development Economics*, 99, 1 (2012), pp. 27–45.

53 Fish, ‘Rights across Borders’; Zack, Matshaka, Moyo and Vanyoro, ‘My Way?’.

54 Fish, ‘Rights across Borders’, p. 215.

55 Stats SA (Statistics South Africa), *Census 2011: Migration Dynamics in South Africa*, report no. 03-01-79 (Pretoria, Stats SA, 2015), available at <https://www.statssa.gov.za/publications/Report-03-01-79/Report-03-01-792011.pdf>, retrieved 20 February 2020.

56 A.-N. Mbiyozo, ‘Gender and Migration in South Africa: Talking to Women Migrants’ (Pretoria, Institute for Security Studies, 2018), available at <https://issafrica.org/research/southern-africa-report/gender-and-migration-in-south-africa-talking-to-women-migrants>, retrieved 20 February 2020.

57 *Ibid.*

58 United Nations Department of Economic and Social Affairs (UN DESA), Population Division, ‘International Migrant Stock: The 2017 Revision’ (New York, UN DESA 2017), available at <https://www.un.org/en/development/desa/population/migration/data/estimates2017/estimates17.asp>, retrieved 2 December 2020.

59 B. Dodson, ‘Discrimination by Default? Gender Concerns in South African Migration Policy’, *Africa Today*, 48, 3 (2001), pp. 73–89.

60 Mbiyozo, ‘Gender and Migration in South Africa’.

domestic work, hairdressing, sex work or trading.⁶¹ Most international MDWs are undocumented⁶² and it is commonly the case that they migrated with the intention of finding employment in more highly skilled occupations but ultimately found domestic work to be one of the few options available to them. These migrants often cannot afford to apply for residence permits, which would require them to have medical cover, for example. International MDWs face difficulties in showing proof of formal employment to the Department of Home Affairs because they work in a sector where employment contracts are often not provided owing to the widely held view that domestic work is not 'real' work.⁶³

The national Labour Relations Act of 1996 was the first law in South Africa to legalise domestic worker unionisation.⁶⁴ The Basic Conditions of Employment Act (BCEA), act no. 75 of 1997, set legal minimum working conditions for all employees in South Africa, covering working hours, overtime, leave, and contract termination. Yet, despite rapid increases in international migrant populations, these national labour laws do not address the specific needs of non-residents.⁶⁵ As a result, international migrant workers are not sufficiently protected. Most social assistance is accessed through South African citizenship or permanent residence permits.⁶⁶ Thus, international migrant workers without the required documentation have no right to access social security.⁶⁷

Domestic labour law in South Africa is 'weakened in terms of relevancy and enforceability because its coverage does not extend to [international] migrants'.⁶⁸ Sectoral Determination 7: Domestic Worker Sector of BCEA (amended in 2018), outlines minimum wage levels, ordinary work hours and overtime hours, leave entitlements, limitations on night work and standby times, and requirements for daily and weekly rest periods.⁶⁹ While the provision applies to the employment of all domestic workers in South Africa, its specific applicability to undocumented international MDWs has never been officially confirmed or commented on.⁷⁰ The Unemployment Insurance Fund (UIF) is intended to protect all domestic workers by providing for short-term financial assistance to workers who become unemployed or who are unable to work because of illness, maternity or adoption leave.⁷¹ Regulated by the Unemployment Insurance Amendment Act no. 32 of 2003 and the Unemployment Insurance Contributions Act no. 4 of 2002, UIF applies to all employers and workers, including part-time and full-time domestic workers (housekeepers, gardeners, nannies, domestic drivers etc.). It provides that the employer is responsible for ensuring that employees are registered with the UIF. If an employee is registered and their contributions have been paid, then that employee is able to claim from the fund.

Undocumented international MDWs are excluded from UIF assistance under Section 3(d) of the Unemployment Insurance Act, no. 63 of 2001, which states that UIF eligibility does not apply to 'persons who enter the Republic for the purpose of carrying out a contract of service'.⁷² Employers are also reluctant to comply with the legal requirement for them to

61 *Ibid.*

62 Fish, 'Rights across Borders'.

63 Ally, 'Domestic Worker Unionisation in Post-Apartheid South Africa'.

64 Fish, 'Engendering Democracy'.

65 Fish, 'Rights across Borders', p. 215.

66 S. Carciotto, 'The Regularization of Zimbabwean Migrants: A Case of Permanent Temporariness', *Policy Brief* (New York, Centre for Migration Studies, 2018); B. Deacon, M. Olivier and R. Beremauro, 'Social Security and Social Protection of Migrants in South Africa and SADC', *MiWORC Report* no. 9 (Johannesburg, African Centre for Migration and Society, University of the Witwatersrand, 2015).

67 Fish, 'Rights across Borders', p. 247.

68 *Ibid.*, p. 215.

69 Ally, *From Servants to Workers*.

70 L. Griffin, 'Unravelling Rights: "Illegal" Migrant Domestic Workers in South Africa', *South African Review of Sociology*, 42, 2 (2011), pp. 83–101.

71 Ally, *From Servants to Workers*.

72 Fish, 'Rights across Borders', p. 248.

register their domestic workers with the Department of Labour for unemployment insurance.⁷³ In 2008 the Commission for Conciliation, Mediation and Arbitration (CCMA) incorporated under its remit ‘foreigners’ working illegally in South Africa, establishing the institutional mechanisms for handling labour disputes and rights claims for migrant workers.⁷⁴ However, this provision has not been widely publicised⁷⁵ and a lack of awareness militates against marginalised groups like international MDWs availing themselves of their rights to legal recourse.⁷⁶

Trust, Competing Agendas and Tensions in the Framing of the Labour Rights of MDWs

Framing is at the heart of what social movements do: they ‘assign meaning to and interpret, relevant events and conditions in ways that are intended to mobilise potential adherents and constituents, to garner bystander support, and to demobilise antagonists’.⁷⁷ Activists self-consciously frame their struggles, selecting global or local frames according to strategic calculations.⁷⁸ While key among the vulnerabilities facing international MDWs are their national identities, documentation, legal status and gender, no trade union or NGO in Johannesburg specifically framed its programmes around both national identities and gender as constitutive categories. Trade unions and NGOs involved in struggles on behalf of domestic workers adhered to either a ‘transnational’ or ‘localised’ notion of MDWs’ labour rights. Those drawing on a localised notion situated all MDWs’ experiences in relation to South Africa’s history of black women’s oppression and focused on gender and race as the determining factors. They acknowledged the plight of international MDWs through the mantra ‘a worker is a worker’. Those drawing on transnationalism framed their activism around national identities and international migration as a social process that specifically marginalised international MDWs from the formal labour protections the South African state extended to internal MDWs.

These frames served particular goals but also created mistrust. In turn, mistrust undermined solidarity because under conditions of ‘industrial citizenship’, possessing a collective voice in the labour market, through independent trade unions, is integral to labour-related security.⁷⁹ This tension can be illustrated by the example of the representatives of two unions, SADSAWU and Migrant Workers Union in South Africa (MIWUSA). While their individual views cannot be taken as representative of their organisations’ position or the larger landscape of labour organisation, these representatives functioned as ‘signifying agents’ embroiled in the ‘politics of signification’ to shape and structure existing meanings of labour rights in South Africa.⁸⁰ SADSAWU is a national domestic workers’ union that was launched in April 2000 and assumed a hegemonic role in domestic worker mobilisation by virtue of its status as the South African Democratic Workers Union’s (SADWU) successor. SADSAWU provided assistance to domestic workers who were members of the

73 Nyamnjoh, *Insiders and Outsiders*, p. 125.

74 Griffin, ‘Unravelling Rights’.

75 *Ibid.*

76 Magwaza, ‘Effects of Domestic Workers Act in South Africa’.

77 Snow and Benford, ‘Ideology, Frame Resonance, and Participant Mobilization’, p. 198.

78 Lim, ‘Transnational Organising and Feminist Politics of Difference and Solidarity’; G. Seidman, ‘Adjusting the Lens: What do Globalisations, Transnationalism and the Antiapartheid Movement Mean for Social Movement Theory?’ In J.A. Guidry, M.D. Kennedy, and M.N. Zald (eds), *Globalisations and Social Movements: Culture, Power, and the Transnational Public Sphere* (Ann Arbor, University of Michigan Press, 2000), pp. 339–58.

79 Standing, *The Precariat*, pp. 10–11.

80 See S. Hall, ‘The Rediscovery of “Ideology”’: Return of the Repressed in Media Studies’, in M. Gurevitch, T. Bennett and J. Curran and J. Woollacott (eds), *Culture, Society and the Media* (London, Routledge, 1982), pp 56–90.

organisation by educating them on their rights and representing them at the CCMA.⁸¹ Some commentators consider that SADSAWU ‘lacks visible vitality’.⁸² Within a year of its launch, it had opened six regional offices and established a membership base of approximately 11,000 members.⁸³ This is a low enrolment rate relative to the more than one million domestic workers in the country. With only a few thousand members nationally, union density in the sector has declined. SADSAWU was motivated to build itself in accordance with the ideals of post-apartheid democracy with its particular emphasis on gender rights and a drive for policy change to include domestic workers in labour and social security legislation.⁸⁴ One year after its inception, it established an organisational alliance that continues to position domestic workers more centrally within South Africa’s broader gender rights movement.⁸⁵

While organisations such as SADSAWU focused on assisting all MDWs in principle, MIWUSA emerged in 2013 as a democratic workers’ union that purported to represent international migrants working in South Africa across different industries. It aimed to build a strong democratic and worker-controlled movement led by migrant workers in South Africa to advance, protect and fight for all migrant workers’ rights. MIWUSA originated in the broader consultations and experiences of the Zimbabwean Workers Union in South Africa (ZIWUSA), which led ZIWUSA to expand its scope to cater for all migrant workers in South Africa.⁸⁶ MIWUSA was formed mainly in response to the realisation that the majority of migrants were not unionised and those who were in unions were not happy with the representation and assistance they received from the existing unions. Indeed, ‘movements are seen primarily as the carriers or transmitters of programs for action that arise from new structural dislocations’.⁸⁷ MIWUSA representative and leader Mlungisi stated that in response to an increase in Zimbabwean migration owing to the economic crisis in Zimbabwe, ‘the idea was to say, let’s come in and try to cover that space’.⁸⁸ MIWUSA had a membership of over 4,000 international migrants, most of whom it claimed were domestic workers. MIWUSA mainly represented international migrant workers at the CCMA and provided support, information and assistance to migrants renewing their permits. Even though MIWUSA adhered to a conception of rights that placed the specific vulnerabilities and rights of international migrants at the centre of its activities, international MDWs were not its distinct mandate.

These unions drew on different ideologies of rights, which translated into political contestations over the rights of undocumented international migrant workers vis-à-vis those of locals in the South African low-skilled and informal labour market. The extent to which the issues faced by international MDWs were considered to be distinct from those of internal MDWs differed between these two trade unions and also among other NGOs. For example, all interviewees acknowledged that deep-seated, inequitable gender and employee–employer relations mediated the subordination of both groups. The workplace for domestic work is after all private, and as such it is difficult to monitor, leaving all domestic workers vulnerable to abuse. Interviewees also agreed that domestic workers’ vulnerability differs depending on whether they are live-in or live-out workers. Abuse was not seen as unique to any single category of domestic worker.⁸⁹

81 Interview with Samantha, 27 June 2018, SADSAWU offices, Johannesburg.

82 Ally, ‘Domestic Worker Unionisation in Post-Apartheid South Africa’.

83 Fish, ‘Engendering Democracy’.

84 Fish, ‘Organising from Private Spaces’.

85 *Ibid.*, p. 134

86 Migrant Workers’ Union in South Africa (MIWUSA), ‘Migrant Workers’ Union in South Africa: Organisational Profile’ (n.d.), available at <http://miwusa.org.za/history.pdf>, retrieved 20 February 2020.

87 Snow and Benford, ‘Ideology, Frame Resonance, and Participant Mobilization’, p. 197.

88 Interview with Mlungisi and Simi, 13 July 2018, MIWUSA offices, Johannesburg.

89 Fish, ‘Rights across Borders’, p. 241.

There was no consensus on the extent to which the vulnerability of domestic workers varied by national identity, however. Samantha, a seasoned SADSAWU representative, stated that when mobilising domestic workers, all of them had to be treated equally regardless of whether they were internal MDWs or international MDWs.⁹⁰ It is clear that internal MDWs face ‘feelings of exclusion’⁹¹ and are vulnerable to exploitative and abusive practices during the course of their migration and recruitment, and in the workplace.⁹² Nonetheless, in Samantha’s view, a domestic worker from KwaZulu-Natal was just as vulnerable as one from Zimbabwe or Malawi, hence her resort to the mantra ‘a worker is a worker’. It is feasible that transnational feminist solidarity that unifies internal and international MDWs could take place through the conception of ‘domestic work as work’, which recognises different MDWs’ specific and heterogenous concerns.⁹³ However, Samantha deployed the cosmopolitan formulation ‘a worker is a worker’ to suggest that all MDWs in South Africa were the same, illustrating her frame’s limitations. This frame helped her organisation evade the particular concerns of international MDWs in the name of avoiding ‘nationality binaries’. Despite the fact that rural–urban and international mobility present different experiences and risks,⁹⁴ the national trade-union federation Congress of South African Trade Unions (COSATU) denounced trade unionism founded on ‘nationality binaries’ by calling for a universalistic approach to trade unionism that would avoid dividing the working class.⁹⁵ For Samantha to be seen as representing an international migrant cause would have risked angering local South African workers who felt their interests were threatened by foreign workers. Samantha thus framed all domestic workers’ concerns about labour rights as uniform. She also often fell back on a discourse that shifted blame onto employers and international MDWs for ‘accepting lower wages’:

They [undocumented international MDWs] don’t care about the minimum wage as long as they are safe in employers’ place, got somewhere to stay or sleep and getting that 1,000 a month. It doesn’t matter to them. And the other way of them to come in; once an employer got a migrant worker and that employer got friends and then she will tell the worker that if you go to your sister, your friends tell her that I will send her to Mrs Smith to work for her. Because now they are using them, they are not demanding the living wage. I beg your pardon the minimum wage. They just take whatever. So now the employer is a playing that kind of a game.⁹⁶

This is the ‘structural domain of power’ in which intersectionality not only embraces complexity but questions how intersecting power relations of class, gender, race and nation shape the institutionalisation and organisation of domestic work.⁹⁷ While Samantha implicated the employer in this relation, she did not sufficiently acknowledge that the reasons international MDWs sometimes accepted lower wages had to do with the vulnerability and pronounced isolation they faced as undocumented migrants, aspects on which the Justice for Cleaners campaign in the UK insisted, for example. There, the Transport and General Workers’ Union (TGWU) made a concerted effort to recruit staff organisers from among the cleaners themselves to work on the campaign and insisted that

90 Interview with Samantha, 27 June 2018, SADSAWU offices, Johannesburg.

91 Ally, *From Servants to Workers*, p. 83.

92 ILO, ‘Rural-Urban Migrants Employed in Domestic Work’.

93 See Lim, ‘Transnational Organising and Feminist Politics of Difference and Solidarity’.

94 Dinat and Peberdy, ‘Restless Worlds of Work, Health and Migration’.

95 Munakamwe, ‘Emerging Political Subjectivities in a Post Migrant Labour Regime’, p. 373.

96 Interview with Samantha, 27 June 2018, SADSAWU offices, Johannesburg.

97 See Collins and Bilge, *Intersectionality*.

international migrant workers should not be scapegoated.⁹⁸ In addition, Samantha also did not engage critically with the connections between the exploitation of international MDWs who accept lower wages and the precarity of internal MDWs. Many employers continue to underpay and overwork domestic employees, and, helped by the presence of ever more ‘desperate immigrants’ from African countries can – in Nyamnjoh’s vivid picture – frighten ‘citizen maids’ into ‘a zombie-like compliance’.⁹⁹

By contrast, MIWUSA’s starting point, that nationality deepens international MDWs’ vulnerability in South Africa’s labour market, suggested the need to exceptionalise migrants. This is precisely the political move that Samantha was avoiding because it is incompatible with the xenophobia and ‘national chauvinism’ that often characterises South Africa’s political discourse and citizenship-based workers’ rights movement. Mlungisi and his colleague Simi expressed the view that international MDWs have specific needs, like documentation, which make them exceptional. He therefore argued that international MDWs’ rights should not be generalised within the mantra ‘a worker is a worker’. These ideological divisions between SADSAWU and MIWUSA generated a degree of mistrust. Without singling out SADSAWU, representatives of MIWUSA expressed their suspicions about locally led unions’ capacity to represent international migrants because of their ‘xenophobic’ perceptions. Mlungisi stated the following:

Sometimes we listen to these organisers, was it SATAWA [South African Transport and Allied Workers Union]? The organisers, when you listen to the conversation on national radio you begin to doubt the capacity of that person to represent a foreigner because they have this rude negative perception of foreigners. That is why we formed this union. Because our people were not being fairly represented. You find a union contacting Home Affairs on a labour issue.¹⁰⁰

An activist from ADWN, a migrant workers’ organisation, also argued that there were long-standing suspicions between international MDWs and SADSAWU, which she had observed in her own work. She said, ‘migrant domestic workers were blaming SADSAWU, that SADSAWU and its members maybe they don’t like them. “SADSAWU works more like Department of Home Affairs”’.¹⁰¹ These positions show the extent to which migrant-aligned trade unions, NGOs and their members were suspicious of locally focused trade unions in South Africa. Mlungisi explained how MIWUSA dealt with these difficulties:

We understand a worker is a worker but one thing that we always challenged was, if you treat a worker as a worker you find that most of the time it works against migrants because there are some of the things that you need to understand that are peculiar or unique. The key was to ensure that we continue working with anyone in good faith, but one thing that we have noted clearly is that it’s not really working to be nice to everyone, just to try to please everyone. As a migrant union one contestation was we are viewed as trying to divide workers. So, we were told it was not in best interest to form a union but it’s wise to be an advice centre feeding to the unions that are already there. But that’s more like you are

98 See Holgate, ‘Unionising the Low Paid in London’; L. Turner, ‘Organising Immigrant Workers’, in L.H. Adler, M. Tapia and L. Turner (eds), *Mobilizing against Inequality: Unions, Immigrant Workers, and the Crisis of Capitalism* (Ithaca, ILR Press, 2014), pp. 3–13; M. Tapia, L. Turner and D. Roca-Servat, ‘Union Campaigns as Countermovements: “Best Practice” Cases from the United Kingdom, France, and the United States’, in Adler, Tapia and Turner (eds), *Mobilizing against Inequality*, pp. 14–32. The cases here draw on the time before the TGWU merged with Amicus in 2007 under the name and banner of Unite the Union, hence the use here only of TGWU.

99 Nyamnjoh, *Insiders and Outsiders*, p. 125.

100 Interview with Mlungisi and Simi, 13 July 2018, MIWUSA offices, Johannesburg.

101 Interview with Susan, 15 June 2018, University of the Witwatersrand, Johannesburg.

perpetuating foreplay. So the answer is just to service our people and work with anyone who is ready to work with us.¹⁰²

Rather than operate as an advice centre for existing unions, Mlungisi and Simi thought it best to provide services to ‘our people’. Unions are complex organisations with multiple drivers and a singular motivation for any action is difficult to discern. It is also impossible to draw any concrete conclusions about MIWUSA based on these two sources and there is insufficient research on the union to do so. The evidence presented here, however, raises the question of whether MIWUSA would be interested in rethinking its framing and forging partnerships with other unions, given the incentives there may be to dominate the field on international migrant worker issues. MIWUSA had fewer than half the number of SADSAWU’s members, and only about 400 of them were active. Buhle of Makhox Women’s League, a Facebook community organisation for Zimbabwean migrants living in diaspora groups in South Africa, expressed her misgivings about MIWUSA, an organisation administered by her fellow Zimbabweans. She alleged that MIWUSA, which boasted of being the only international migrant worker union in South Africa, charged a R500 consultation fee to assist international migrants. This was expensive for Zimbabwean migrants, and especially for domestic workers who could ill afford this fee after losing their jobs. She said, ‘[s]o it’s sad that offices manned by migrants like us fail to help us’.¹⁰³ She also suggested there were irregularities in the way MIWUSA charged this fee to members who were up to date with their subscriptions, saying, ‘[t]hey always give you reasons to pay’.¹⁰⁴ In some instances, she alleged, MIWUSA claimed a percentage of the amount paid out to an aggrieved Zimbabwean MDW from a CCMA settlement. She also accused MIWUSA of charging documented migrants to assist with Zimbabwe Special Permit (ZSP) appeals: ‘[f]or instance if your ZSP permit gets rejected they will tell you that they can assist you with their lawyers so they charge R1,500 for that’.¹⁰⁵

One difficulty MIWUSA faced was the fact that a large proportion of its members did not pay their membership fees. Mlungisi noted that ‘we always struggle to get an accurate number, what happens is that we have got more of unpaying members. So as a result I don’t know, whether to describe them as our members or what ...’.¹⁰⁶ MIWUSA sometimes relied on informal methods, such as word of mouth, to recruit members, and had loose arrangements around membership, where a form could be completed, ‘or sometimes you can be a member without filling anything’.¹⁰⁷ In terms of the R30 subscription fee, he said: ‘[s]ometimes you pay nothing or you pay something if you can’. As a result of the inconsistent membership and subscriptions, most of the people that MIWUSA assisted were formally employed and documented non-members who came in on an ad hoc basis as ‘[t]hose who are members rarely come in’.¹⁰⁸ Since trade unions rely on consistent members for income through membership and service fees, there is need for further research on MIWUSA to grasp whether this dynamic could disincentivise union solidarity. A fear of hostility towards international migrant workers within local organisations disincentivised Zimbabwean migrants from seeking help beyond what they perceived to be diaspora-focused organisations. Buhle thus continued to refer Zimbabwean migrants to MIWUSA as she remained sceptical about referring people to SADSAWU, since she found that Zimbabwean MDWs often feared that SADSAWU would report them to authorities due to their irregular documentation status.

102 Interview with Mlungisi and Simi, 13 July 2018, MIWUSA offices, Johannesburg.

103 Interview with Buhle, 15 June 2018, University of the Witwatersrand, Johannesburg.

104 *Ibid.*

105 *Ibid.*

106 Interview with Mlungisi and Simi, 13 July 2018, MIWUSA offices, Johannesburg.

107 *Ibid.*

108 *Ibid.*

Contestations over National Identity, Documentation and Legal Status as a Mediator of MDW Subordination

I turn now to a consideration of how trade union and NGO representatives framed the relationship between identity and mobilisation and how these ‘movement actors’ constructed meanings in ways that specified an active, processual phenomenon involving agency and contention.¹⁰⁹ Current debates within feminist scholarship reveal that the alignment between identity and mobilisation has only been partially addressed.¹¹⁰ Identities are political projects that are achieved through consciousness-raising about shared life conditions within structures of power.¹¹¹ Identity is also a political location rather than an essence and social context matters in terms of how people use identity to create space for personal freedom.¹¹² MDWs’ migration experiences are differentiated in terms of the resources and relationships they can leverage, which depends on the form, distance and duration of their migration, as well as their existing social networks, skills, level of education, and so on.

Nevertheless, participants agreed that abuse in the domestic work sector was a generalised phenomenon. This contradicts intersectional narratives that insist that people’s experiences vary across identity axes, as the invisibility and privacy of the setting of domestic work is also a mediating factor. For example, Sally’s organisation, Izwi, had dealt with several cases of stagnant wages, unremunerated overtime, sexual abuse and denial of days off, and assisted both internal and international MDWs who had been abused. However, other interviewees emphasised that this generalised vulnerability increased if an MDW was non-national and did not possess the required documentation to legally reside and work in South Africa. Sikwila, from a faith-based organisation called JRS that assisted refugees, asylum seekers and undocumented migrants, stated that ‘[m]ost of our people [international migrants] are undocumented. And you know immediately [if] you don’t have documents – then exploitation is going to kick in’.¹¹³ This resonated with Susan from ADWN who said that

migrant domestic workers and local domestic workers in general, are all vulnerable The only difference between them is the issue of documentation. Citizenship is the one that divides them. Anything that you hear from a local domestic worker is what you will hear from a migrant domestic worker, for instance, sexual harassment, racism, like when they are working for the white people.¹¹⁴

Buhle stated that some of their international MDW clients who worked in houses together with internal MDWs reported that the South African employees were treated and remunerated better.¹¹⁵ In contrast, Samantha from SADSAWU insisted that internal and international MDWs experienced the same problems when it came to the issue of the minimum wage. She argued,

‘[b]ut the underpayment, it’s not only [an issue] for migrant workers [but also for] most domestic workers ... the problems they’re facing [are the same as faced by] all domestic workers, working more hours, underpaid, ill treatment. It’s the same. Working without overtime money, working long hours. It’s the same to all domestic workers’.¹¹⁶

109 *Ibid.*

110 Lim, ‘Transnational Organising and Feminist Politics of Difference and Solidarity’.

111 Collins and Bilge, *Intersectionality*.

112 *Ibid.*

113 Interview with Sikwila, 12 August 2018, Johannesburg.

114 Interview with Susan, 15 June 2018, University of the Witwatersrand, Johannesburg.

115 Interview with Buhle, 15 June 2018, University of the Witwatersrand, Johannesburg.

116 Interview with Samantha, 27 June 2018, SADSAWU offices, Johannesburg.

The disparity between these positions presents theoretical and policy challenges because it is hard to quantify vulnerability within domestic work as an essential or fixed category. Salary disparities were indeed more complicated than simply following lines of national identity but they still reflected the centrality of documentation as a mediator of worker subordination. Salary disparities were also mediated by the regulation of placement agencies, often called labour brokers, and their ability to place domestic workers with South African IDs or work permits in high-paying and more secure jobs. Jeffrey, a key informant from the University of Johannesburg, noted, '[t]he firms I've interviewed, the domestics all receive the same [salary], whether you are a national, whether you are black or coloured or Xhosa, it doesn't matter'.¹¹⁷ Therefore, salary disparity was also linked to the organisation responsible for the job placement. International MDWs who accessed jobs through labour brokers in the form of placement agencies were likely to earn salaries that were equivalent to those of internal MDWs. This group of workers was largely documented and they were employed with formal contracts. While placement agencies could, in principle, facilitate access for international MDWs to jobs that were formally contracted, they were not able to serve the bulk of the international workforce in the domestic sector as these workers were by and large without work permits. According to Jeffrey, placement agencies checked for documentation before they facilitated placement for an international MDW. He noted that 'it's because they have a company, they have to register their company, if somebody, some official comes to the company and asks for permits and stuff, so they cover themselves. They have to employ legal migrants otherwise ... they do it because of legal reasons'.¹¹⁸

The agencies even had a verification system for fraudulent documents. While NGOs like Izwi were interested in working with agencies that could place domestic workers into jobs, the majority of the women who needed jobs remained undocumented. Sally noted, '[y]ou can't ask an agency to work around that because it's a legal issue'.¹¹⁹ Sweep South Services, a website and application that provided a platform for clients to hire cleaning services on a daily basis or as and when needed, for example, required what Buhle called 'straight papers'.¹²⁰ While it may be tempting to use a single category to explain the experiences of international MDWs in the sector, identity markers differ across time and space and documentation mediates this shift by conferring different possibilities on those with or without it.

Vulnerability also appeared to shift depending on whether one was employed directly or through either a placement agency or an 'outsource organisation'.¹²¹ Permanent workers employed through an outsource firm, for example, 'get paid leave, sick leave, maternity leave, UIF. They are free to join a trade union if they want to. So there's this, it's like a normal permanent job. They have a work contract with the firm manager'.¹²² While documentation was central in determining which labour rights domestic workers could

117 Interview with Jeffrey, 19 June 2018, University of the Witwatersrand, Johannesburg.

118 *Ibid.*

119 Interview with Sally and Tshabalala, 19 June 2018, Johannesburg.

120 Interview with Buhle, 15 June 2018, University of the Witwatersrand, Johannesburg.

121 Placement agencies simply facilitate the employment process by linking domestic workers to employers. They provide an employment contract for the client to use for the domestic workers upon recruitment. However, this is not a guarantee of the statute of employment arrangements. Once the client is satisfied with the domestic worker, the placement firm withdraws and it remains between the employer and the domestic worker to determine the nature of their relationship. This gives the employer excessive autonomy in a domestic set-up where minimum standards are difficult to monitor. Meanwhile, 'outsource organisations' (also known as 'housecleaning services') differ from placement or standard employment because they introduce a triangular relationship in which domestic workers perform work for a client to whom their employer provides labour or services based on particular contractual requirements. This limits the exploitation of domestic workers by householders: D. du Toit, 'From "Cinderella Cleaners" to "Maids from Heaven": Clients' and Domestic Workers' Perceptions of Housecleaning Services in Stellenbosch', *South African Journal of Labour Relations*, 37, 1 (2013), pp. 97–114.

122 Interview with Jeffrey, 19 June 2018, University of the Witwatersrand, Johannesburg.

access from their employer and the state, vulnerability was also a product of the attendant power relations that intersectionality itself produces. Elisabeth Schüssler Fiorenza's theory of kyriarchy captures well the intersectionality of these factors, or how specific combinations of actors co-constitutively shape women's social position and lived experience, and thus affect vulnerability.¹²³

This does not mean that internal MDWs were not vulnerable. Representatives of Izwi believed that most MDWs were afraid that they would lose their jobs if they sought assistance.¹²⁴ They indicated that this was a very real threat – for internal as well as for international MDWs. Samantha suggested that domestic workers who came to Johannesburg from the province of KwaZulu-Natal, leaving their families behind and having few or no social contacts to rely on, were unlikely to report abuse if they lost their jobs.¹²⁵ The greatest challenge to organising all domestic workers and increasing their union participation and membership, among other factors, was the general fear of reprisal that followed from being part of a union. Interviewees reported that they had dealt with cases where employers dismissed domestic workers once they found out that they were part of a union, a finding that has also been reported by others.¹²⁶ Samantha stated, '[s]o now automatically when an employer knows that she is a union member and then they get problems. Some get dismissed'.¹²⁷ Such dismissals were motivated by fear of litigation. Unionised employees were perceived as a threat to employers because they were aware of their rights. This fear was evident in employers' perception that labour laws were prejudiced against them, as stated by Jeffrey:

people feel that the labour laws are not employer friendly ... it is mainly to protect domestic workers, which is necessary of course, but for the employers that don't feel it's a level playing field, you know. They feel their hands are chopped off. Some of the former employers say although they followed all the procedures and all the documentation, all the warnings, they still lost the CCMA case and had to pay thousands So, they feel that it's unfair.¹²⁸

This is a 'high dependency burden'¹²⁹ that deprives domestic workers of the 'right to choice, respect, decision-making power and exercising their capacities in a meaningful and recognised way'.¹³⁰ Nonetheless, legal status added another dimension to this vulnerability and had other intersectional dynamics within it. The lack of work permits led most international MDWs to work in non-contracted, informal domestic labour. This identity left them worse off than internal MDWs with South African IDs in terms of accessing formal state protections. While acknowledging the generalised vulnerability of all domestic workers, Sally argued that many international MDWs did not access the support they were entitled to:

people [MDWs] are feeling very isolated because they are in their individual places of employment. I mean they are afraid to speak out, they don't know who they can talk to.

123 Kyriarchy is a theory of power that dovetails with intersectionality, describing the power structures intersectionality creates through a description of multiple, interacting structures of power and domination within intersectional identities. It gives us a way of conceptualising intra-group difference by grappling with multiple, intersecting and co-constitutive structures of power and oppression such as 'relative privilege': E.S. Fiorenza, *But She Said: Feminist Practices of Biblical Interpretation* (Boston, Beacon Press, 1992); E.S. Fiorenza, 'Feminist Studies in Religion and the The*logy in-between Nationalism and Globalization', *Journal of Feminist Studies in Religion*, 21, 1 (2005), pp. 111–19; Osborne, 'Intersectionality and Kyriarchy'.

124 Interview with Sally and Tshabalala, 19 June 2018, Johannesburg.

125 Interview with Samantha, 27 June 2018, SADSAWU offices, Johannesburg.

126 Magwaza, 'Effects of Domestic Workers Act in South Africa'.

127 Interview with Samantha, 27 June 2018, SADSAWU offices, Johannesburg.

128 *Ibid.*

129 Magwaza, 'Effects of Domestic Workers Act in South Africa'.

130 Donald and Mahlatji, 'Domestic Workers' Experiences of Power and Oppression', p. 206.

They are afraid that because they are not South African, they are saying, ‘Oh I don’t have papers so I can’t go to CCMA’ or ‘I can’t do this’, which of course they still can.¹³¹

Indeed, many international MDWs’ lack of documentation discouraged them from approaching formal institutions that could provide legal recourse in the event of a complaint. Although domestic work in South Africa is subject to a relatively strong regulatory framework, the intersection of the precarity that arises from being a domestic worker with the precarity of being undocumented compounded the vulnerability of international MDWs whose legal status was ‘out of reach’.¹³² It increased power differentials by heightening the insecurity of international MDWs as a result of their ‘outsider’ status.¹³³ This sums up the complex relation between domestic workers’ identities and mobilisation in South Africa and the multi-layered intersections of gender, nationality, race and class.

Creating Space for the Direct, Self-Representation of MDWs

The complex relationships between identity and mobilisation meant that it was difficult for SADSAWU and MIWUSA to ‘find each other’ in relation to the intersecting vulnerabilities of internal and international MDWs. Nevertheless, there were a few notable attempts at coming together. For example, SADSAWU representative Samantha opined that the union tried to recruit international migrants and also educate them on issues such as the minimum wage so that they would not accept lower wages.¹³⁴ In her view, this was the issue that pitted migrants against South Africans who often accused them of stealing jobs. She stated, ‘[s]o we try to recruit migrant workers, not only Zimbabweans. There are a lot: Malawians and the Ethiopians and Basotho. We’ll try to call them in. Yes, they do come but not that much’.¹³⁵ She also claimed that SADSAWU tried to emphasise union solidarity over nationality and promoted itself as ‘the union for domestic workers, not Home Affairs’ through several campaigns.¹³⁶

SADSAWU participated in a global campaign coordinated by ILO to organise MDWs in South Africa and a national workshop in December 2014 aimed at seeking ways to organise and integrate international MDWs from the region.¹³⁷ It also managed to forge an alliance with migrant rights organisations to give migrants space to organise themselves.¹³⁸ Mlungisi also stated that MIWUSA sometimes enlisted the services of any ‘friendly union’ to get ‘that support and power’, including having links with COSATU and being invited to attend their forums when there were issues of migration to discuss.¹³⁹ In spite of these discursive points of solidarity, non-governmental activism for MDWs in South Africa remains by and large divided along the lines of transnational and localised notions of rights, which various interlocutors conveniently frame as antithetical to each other. Essentialising notions implicit in these singular frames inevitably obscures intra-group differences as well as similarities in the ways internal and international MDWs experience vulnerability, exploitation and victimhood.

To conclude, this article contributes to the literature on framing and interpreting precarity in the global south by exploring the use of intersectionality as a heuristic to understand activism and feminist solidarity around the labour rights of MDWs in South Africa. Framing is a useful concept to understand the interests of trade unions and NGOs, their intersections

131 Interview with Sally and Tshabalala, 19 June 2018, Johannesburg.

132 Fish, ‘Rights across Borders’, p. 240.

133 *Ibid.*

134 Interview with Samantha, 27 June 2018, SADSAWU offices, Johannesburg.

135 *Ibid.*

136 *Ibid.*

137 Munakamwe, ‘Emerging Political Subjectivities in a Post Migrant Labour Regime’.

138 *Ibid.*

139 Interview with Mlungisi and Simi, 13 July 2018, MIWUSA offices, Johannesburg.

and how they influence solidarity. The intersections of gender, nationality, race and class identified in this article point to the need for MDWs to adopt direct self-representation, organising and involvement in the political realm by mobilising their migration status and embracing the rhetoric of ‘domestic work as work’. These are key feminist political strategies. These possibilities lie in emerging informal unions or ‘groups’ like Izwi which employed social- or area-based networking strategies. Such grassroots approaches have helped internal MDWs elsewhere change their perception of international MDWs as ‘outsiders’, moving towards commonality, affirmation and solidarity, and motivating domestic workers to organise themselves in ways that recognise their similarities and accommodate their differences.¹⁴⁰

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140 B. Anderson, ‘Mobilising Migrants, Making Citizens: Migrant Domestic Workers as Political Agents’, *Ethnic and Racial Studies*, 33, 1 (2010), pp. 60–74; Lai, ‘Dancing to Different Tunes’; Z. Jiang and M. Korczynski, ‘When the “Unorganizable” Organize: The Collective Mobilization of Migrant Domestic Workers in London’, *Human Relations*, 69, 3 (2016), pp. 813–38; Lim, ‘Transnational Organising and Feminist Politics of Difference and Solidarity’; D. Mansour-Ille and M. Hendow, ‘From Exclusion to Resistance: Migrant Domestic Workers and the Evolution of Agency in Lebanon’, *Journal of Immigrant & Refugee Studies*, 16, 4 (2018), pp. 449–69.