



# **Zimbabwean migrant domestic worker activism in South Africa**

**Kudakwashe P. Vanyoro**

Working Paper 55  
January 2019

## Acknowledgements

The author would like to express his sincere gratitude to Tanya Zack, Kate Hawkins, Dorte Thorsen, Priya Deshingkar and Kudzaiishe Vanyoro for their initial comments and input on an earlier draft of this paper. The author is indebted to Sarah Matshaka, Tanya Zack and Khangelani Moyo for conducting parts of the fieldwork and developing the research instruments. This work would not have been possible without the generosity of the activists whose experiences are reflected in this article.

University of Sussex, Arts B  
Brighton BN1 9QN, United Kingdom  
Email: [migrationrpc@sussex.ac.uk](mailto:migrationrpc@sussex.ac.uk)  
Web: [www.migratingoutofpoverty.org](http://www.migratingoutofpoverty.org)  
Twitter: @MigrationRPC  
Facebook: /migratingoutofpoverty  
Blogger: [migratingoutofpoverty.blogspot.com](http://migratingoutofpoverty.blogspot.com)

This is an output from a project funded by UK aid from the UK government. The views expressed do not necessarily reflect the UK government's official policies.

© 2019 University of Sussex, School of Global Studies and the University of Witwatersrand, African Centre for Migration & Society. Short sections of text, not to exceed two paragraphs, may be quoted without explicit permission provided that full credit, including © notice, is given to the source.

## **Abstract**

There is a longstanding 'mobilisation structure' for domestic workers which begins from the view that African women in South Africa are oppressed in three ways: oppressed as blacks, oppressed as women, and oppressed as workers. However, women do not constitute a homogenous category politically or otherwise and do not necessarily share or perceive 'objective' gender interests as they are both united and divided by ethnicity and nationality. Yet, the social relations of domestic work employment in South Africa's post-colonial context are deeply implicated with class, gender and racial structures so much that nationality is rarely invoked in the equation by the state or reflected in the work of South Africa's CSOs. In this paper, I seek to understand how CSOs facilitate the stay and protection of Zimbabwean migrant domestic workers (MDWs) through their activism. The paper uses a case study of activism in Johannesburg, South Africa mediated by CSOs as well as a municipal unit. It draws on two forms of research. The first is a thematic literature review and an 'intersectional review' of multi-level migration policies and discourses. The second is 16 in-depth qualitative interviews with a wide range of activists, state and non-state actors to understand their experiences in providing assistance to Zimbabwean MDWs in Johannesburg. I argue that activism for MDWs is mediated by specific local labour movement politics that create tensions in which, on the one hand, CSOs advocate for the regulation of the labour market, while on the other, they have to serve the interests of a body of workers that has no legal rights to work in this labour market.

# Table of Contents

<b>Acknowledgements .....</b>	<b>2</b>
<b>Introduction .....</b>	<b>5</b>
<b>Tensions between hostile immigration policy and progressive labour policy and intersectional, gendered implications for Zimbabwean MDWs.....</b>	<b>6</b>
The 'burden' of nationality:	
Gender, 'Zimbabwean-ness' and South Africa's hostile immigration policy .....	7
Painting them with the same brush: South Africa's progressive and monolithic labour policy on domestic workers.....	13
<b>Confronting intersectionality? Johannesburg's CSOs and MDW activism.....</b>	<b>15</b>
Working in networks and partnerships .....	18
Strategic, undesirable informality.....	22
<b>'A worker is a worker'? The politics of servicing irregular MDWs.....</b>	<b>24</b>
<b>Conclusion .....</b>	<b>29</b>
<b>References.....</b>	<b>31</b>
<b>About Migrating out of Poverty.....</b>	<b>34</b>

## Introduction

South Africa has a longstanding 'mobilisation structure' for domestic workers. It begins from the view that African women are oppressed in three ways: oppressed as blacks, oppressed as women, and oppressed as workers. Feminist scholars like Goetz and Jenkins (2016) argue that women do not constitute a homogenous category politically or otherwise and do not necessarily share or perceive 'objective' gender interests as they are both united and divided by ethnicity and nationality. However, the social relations of domestic work employment in South Africa's post-colonial context are deeply implicated with class, gender and racial structures. This is so much that nationality is rarely invoked in the equation by the state or reflected in the work of South Africa's CSOs. In this paper, I seek to understand how CSOs facilitate the stay and protection of Zimbabwean migrant domestic workers (MDWs) through their activism. This paper uses a case study of activism in Johannesburg, South Africa mediated by CSOs as well as a municipal unit. CSOs in this study loosely refer to trade unions, non-governmental organisations (NGOs), faith-based organisations (FBOs), migrant rights organisations, community-based organisations (CBOs), online-based organisations and international agencies. The paper draws on two forms of research. The first is a thematic literature review and an 'intersectional review' of multi-level migration policies and discourses. An intersectional review unpacks CSOs' efficacy in 'addressing the problems faced by different intersectional identities' (Yuval-Davis 2006: 205). The second is 16 in-depth qualitative interviews with a wide range of activists, state and non-state actors to understand their experiences in providing assistance to Zimbabwean MDWs in Johannesburg.

I argue that activism is mediated by specific local labour movement politics that create tensions in which, on the one hand, CSOs advocate for the regulation of the labour market, while on the other, they have to serve the interests of a body of workers that has no legal rights to work in this labour market. The result of this tension is that CSOs are compelled to fit MDWs' concerns within an already established 'mobilisation structure' of domestic worker subordination. Thus solidarity to mobilise MDWs is stifled on two fronts. Firstly, within the labour movement itself, solidarity is bedevilled by mistrust between local-led and migrant-led unions, formal unions and informal unions (or so called 'groups') and even among migrant rights organisations. This mistrust emerges because a wide range of CSOs is attempting to address the precarity of MDWs from a singular rather than intersectional approach. In other words, these CSOs focus on specific categories of women, treating their identities as either 'migrants' or 'domestic workers', as well as treating their interests as heterogeneous. This singular approach ignores Kimberlé Crenshaw's (1989) notion of 'intersectionality', which suggests that 'the institution of domestic work encapsulates the central connections between gender discrimination and other forms of oppression that mutually reinforce one another' (Fish 2006: 112). Key amongst the vulnerabilities facing this cohort of women is their legal status. Yet, there is no CSO that specifically addresses the constitutive identity of a Zimbabwean 'MDW'. This results in activism for this group becoming reactionary, nebulous and precarious. Mistrust plays

out in the networks and partnerships that CSOs resort to, to be able to complement each other's singular efforts.

Secondly, within this singular approach, the divided positionalities on how to address the vulnerabilities of workers, whether as domestic workers or migrants keep unions separate. Again, these divisions are a reflection of the hesitance by CSOs to address MDWs' concerns as constitutive of their vulnerability at the intersections of being women in domestic work, a sector that is highly susceptible to abuse, and migrant women, which is a vulnerable group because of the hostile immigration policy regime that leaves many Zimbabweans undocumented.

The paper concludes by outlining that CSOs efforts miss the mark with respect to not only Zimbabwean but also other MDWs because of the failure by these activists to consider intersectionality. CSOs need to put in a dedicated effort to address the intersectional nature of the oppression these women experience constitutively as migrants and domestic workers in order to foster and mobilise a 'real' collective MDW identity. Any intervention or mobilisation that does not take intersectionality into account cannot redress the specific manner in which MDWs are currently subordinated by South Africa's labour and immigration policies.

The structure of the paper is as follows. In the first section, I present a detailed analysis of the tensions between hostile immigration policy and progressive labour policy in South Africa and the intersectional, gendered implications for Zimbabwean MDWs. In view of this tension, following this is an analysis of Johannesburg's CSOs and their activism to understand if they are 'confronting' intersectionality. I then offer a note on the politics of servicing irregular MDWs, in which I attempt to unpack the accuracy of the mantra 'a worker is a worker'. Finally, conclusions are offered.

## **Tensions between hostile immigration policy and progressive labour policy and intersectional, gendered implications for Zimbabwean MDWs**

In South Africa it is often said that African women are oppressed in three ways: oppressed as blacks, oppressed as women, and oppressed as workers (Gaitskell et al. 1983). First, because women mostly do it, domestic work has a gender character. Second, characterised by isolation, dependence, invisibility, and low levels of union organisation, domestic work has a class character. Third, from the turn of the century, domestic work has been a black institution, which gives it its racial character. As one of the major sources of wage employment for African women

in South Africa, domestic work is an important nexus for African women's subordination (Gaitskell et al. 1983).

South Africa has a strong regulatory framework for domestic work, which seeks to protect all domestic workers from abuse and labour exploitation. Numbering nearly one million, domestic workers are one of the largest single sectors of the South African labour force (Fish 2006; Ally 2008). Widely regarded as amongst the most marginalised and exploited of the working class, domestic workers are generally notoriously difficult to unionise (Ally 2008). Domestic workers in South Africa are relatively invisible and vulnerable because they work behind closed doors and within private spaces (Ally 2008). Indeed, birthed in 1994, the post-apartheid South African state launched one of the most extensive efforts anywhere in the world to protect domestic workers, giving them for the first time in South African history a political status, and the right to organise into trade unions (Ally 2008). However, in practice, this protection does not extend to all domestic workers, particularly irregular MDWs. The social relations of domestic work employment in South Africa's post-colonial context are deeply implicated with class, gender and racial structures so much that nationality is rarely invoked in the equation or reflected in the work of South Africa's CSOs; even though domestic work is often the point of entry to wage employment by newcomers to the job market such as migrants (Gaitskell et al. 1983).

Goetz and Jenkins's (2016) analysis shows that women do not constitute a homogenous category politically or otherwise. It thus follows that they also do not necessarily share or perceive 'objective' gender interests as they are both united and divided by ethnicity and nationality (Goetz and Jenkins 2016: 3). In view of this, the following intersectional review of policy will show that there are clear tensions between hostile immigration policy and progressive labour policy, and explore how this limits certain protections from irregular Zimbabwean MDWs and other MDWs.

### **The 'burden' of nationality: Gender, 'Zimbabwean-ness' and South Africa's hostile immigration policy**

Nationality mediates the subordination of migrant women because of South Africa's hostile immigration policy, which scholars like Belinda Dodson have also found to be gendered. Zimbabwean emigration to South Africa is not a peculiar phenomenon. Prior to the pronouncement of the Limpopo as the official borderline in 1881, there were already movements between the territories. While Zimbabwean emigration has spiralled owing to the country's economic meltdown, it has always happened even in colonial times. Results from the analysis of 2011 South Africa Census data revealed that there are 2 173 409 international migrants in the country (4.2% of the 2011 total population) (Statistics South Africa 2015). The numbers of

irregular migrants in the country are not known and remain highly contested in public and political debate. There are no reliable estimates of how many of these migrants are women as gender-disaggregated migration data in South Africa is mostly unavailable. However, women are moving more than ever (Mbiyozo 2018). Both the proportion of total migrants and actual numbers of migrant women has increased (Mbiyozo 2018). Mbiyozo (2018) suggests that migrant women constituted 44.4% of total migrants in 2017. We have no data to show how many of these women are Zimbabwean. There is only data from the White Paper on International Migration (2017), which suggests that between the period 2011-2016, Zimbabwean migrants were the second largest group of arrivals in the country after Lesotho, constituting 21% of total arrivals.

Migrant populations in South Africa have been exposed to significant changes in the country's immigration legislation and policies over the past two decades (Moyo 2016). Throughout the 1990s, the Aliens Control Act of 1991 was the cornerstone of South Africa's immigration policy. The Aliens Control Amendment Act (1995) passed after South Africa's first democratic elections in 1994 demonstrated a reluctance to accept migrants (Peberdy 1998; Peberdy and Crush 1998; Moyo 2016). Official attitudes to immigration tended to either be situated in a discourse of migrants versus the national interest or of xenophobia and racism (Landau and Segatti 2008). The immediate post-1994 immigration policies benefited highly skilled migrants at the expense of their less skilled counterparts (Peberdy 1999; Moyo 2016). Dodson (2001) argues that the bias towards accepting highly skilled migrants shown in the 1999 White Paper of the Aliens Control Act discriminated against women. Southern African women are routinely denied the opportunity to acquire the education and resources that would enable them to be viewed as 'highly skilled' according to state definitions. The application of such criteria to determine immigration eligibility automatically discriminated against them, given the marked male bias in access to income, property, resources, and education in most African countries (Dodson 2001).

Moyo (2016) argues that subsequent legislation such as the Immigration Act (No. 13 of 2002) as amended by the Immigration Amendment Act (No. 19 of 2004) and the Immigration Amendment Act (No. 3 of 2007) provided for a less restrictive immigration regime. However, there was a notable shift in the period since 2007. Successive immigration provisions in the Immigration Regulations of 2005 and 2014 and the White Paper on International Migration (2017), demonstrate the renewed interest by the South African government in creating a hostile immigration environment. This environment epitomises the two-gate system of the Aliens Control Act, which excludes a significant number of migrants by selecting only highly skilled migrants as desirable. In an overview speech on the new immigration laws and their implications (when the Immigration Regulations, 2014 were introduced, repealing the Regulations made in 2005) at the information session for Members of Parliament, then Director-General of Home Affairs Mkuseli Apleni stated that, 'We are mindful that many people from across the globe make a valuable contribution in the country, such as captains of industry, scientists, sporting



personalities and academics, and thus the changes we see in our new visa regime' (Department of Home Affairs 23 April 2015). For many migrants who do not meet these critical skills requirements, this entails undocumented border crossing and the use of human smugglers to enter South Africa.

Zimbabwean MDWs constitute one such group. Numbering nearly one million, domestic workers are one of the largest single sectors of the South African labour force (Ally 2008). On the one hand, South Africa's immigration policy regime remains restrictive to low skilled migrants such as MDWs. At the time of writing South Africa has two pieces of legislation that regulate migration; the Refugee Act (1998), which regulates asylum seekers and refugees' rights to enter and live in South Africa and the Immigration Regulations (2014), which include provisions to regulate and regularise different categories of 'voluntary' migrants. An asylum seeker's permit, often referred to as a Section 22 permit (Refugees Act No. 130 of 2008), allows asylum seekers to stay in South Africa, and work or study, while their application for Refugee status is being processed. The Refugee's permit, often referred to as a Section 24 permit (Refugees Act No. 130 of 2008), officially recognises an asylum seeker as a refugee in South Africa. It is valid for a period of two years and has to be renewed no less than three months prior to the expiry date. All Section 24 permit holders may apply for a refugee identity document and a travel document. People who have refugee status can access most of the same rights as South African citizens (except the right to vote). Having a refugee status means that the person has the protection of the South African government and cannot be forced to return home until it is deemed safe to do so. The amendments to the Refugees Act that are being proposed in the White Paper on International Migration (2017) seek to strip away the right to work.

Those who are not refugees, or not considered by the state as such, have to apply for one of the permits provided for in the Immigration Act (for example, Study, Business, Work, Critical Skills, Permanent Residency, Spousal), commonly known as temporary residence permits. Zimbabweans are a group the South African government considers as 'economic migrants' rather than genuine asylum seekers. Mkuseli Apleni, **Director-General for Home Affairs** at the time, argued that, 'There was evidence of abuse of the Refugees Act, with over 90% of applicants only seeking economic opportunities' (Department of Home Affairs, 24 April 2015). According to a study conducted by Amnesty International, the rejection rate for all refugee applications in the country currently stands at an appalling 96% (Tolmay 2018). The government had also closed down three Refugee Reception Offices (RROs) in Port Elizabeth, Cape Town and Crown Mines<sup>1</sup> in what migrant rights CSOs perceived as a bid to undermine the rights of asylum seekers seeking refugee status in the country and to complement its Border Management Bill (BMB), which sought to externalise borders and set up a Border Management Agency (BMA) to manage asylum

---

<sup>1</sup> After being in contempt of court orders, for years, to reopen these RROs, the Department of Home Affairs recently reopened the Cape Town and Port Elizabeth ones.

seekers at the country's borders. One of the structures proposed in the BMB are processing centres, which activists have argued resemble detention centres. The centres complement the government's approach to reject refugees, as people would only be allowed to leave the centres if they met specific requirements before the interview deciding their refugee status is held. The BMA as an institution embodies the prevailing political discourse on migration because the government argues that it is being set up to prevent drug-related crimes, human trafficking, the illegitimate movement of goods and the unauthorised movement of persons. Thus it is only sensible to assume that migrant women will be disadvantaged the same way they are disadvantaged by current discourses and policies around trafficking when they treat them essentially as victims (See Walker and Galvin 2018; Vanyoro forthcoming).

Moreover, a majority of low skilled migrants from southern Africa, particularly Zimbabweans, fall through the cracks of the Immigration Regulations because they are perceived by the state as ineligible in many ways. They are perceived as stealing jobs from locals. And they do not meet the necessary requirements for regularisation. For example, they often do not possess 'critical skills', and often cannot afford supporting requirements like medical cover, and face difficulties showing proof of formal employment because they work in sectors like domestic work where employment contracts are often not provided owing to employer and social ideologies that refuse to recognise domestic work as real work (Ally 2008). As a result they are deemed undocumented migrants, or what is described in popular immigration discourse as 'illegal foreigners'.

The meaning of being undocumented for Zimbabwean migrants then shifted from the period around 2012 when most Zimbabweans fled a crisis of poverty their country without passports because passports were expensive and because South Africa required Zimbabweans to apply for a visitor's visa at the South African embassy in Harare – a time consuming process. These dynamics forced many Zimbabweans to resort to border-jumping through the Limpopo River assisted by either *izimpisi* (or sometimes by *omalayitsha*). *Izimpisi* are brokers who work with taxi operators; are familiar with the area; and know the crossing points that are relatively safer from the South African Police Services (SAPS) and/or South African National Defence Forces (SANDF) who patrol the border (Moyo 2016). *Omalayitsha* are operators of private businesses of a range of scales, from small, often unregistered couriers who use pick-up trucks or mini buses to ferry money and other goods across the border from South Africa, to large consortia and registered transport companies (Nyamunda 2014). *Malayitsha* is a Ndebele term which means 'the one who carries a heavy load' (Nyamunda 2014: 40). When Zimbabwean migrants are assisted by *izimpisi*, they are exposed to extortion by *Omagumaguma*; 'unscrupulous gangs' that rob and assault undocumented border crossers (Moyo 2016: 110). But these categories are not cast in stone. Ndlovu (2013) argues that the process is protean, with some *omagumaguma* assisting undocumented Zimbabweans into South Africa but at a later stage targeting those whom they assisted. Meanwhile Mdlongwa and Moyo (2014) maintain that *omagumaguma* are

rogue elements that operate independently of *izimpisi* and *omalayitsha*. The terms are used interchangeably.

In the current regulatory scenario becoming undocumented occurs through the 'overstay' of visa requirements. Would-be migrants navigate this through strategies of bribing officials as well as sending unaccompanied travel documents through border posts. In 2012 Zimbabwe and South Africa instituted a Memorandum of Understanding (MOU) to scrap visa requirements for their citizens travelling to either country (only as visitors). This relief meant that Zimbabweans could now enter South Africa and receive a visitor's visa to stay for up to 90 days. However, South African Department of Home Affairs immigration officials at the border exercise their personal discretion in granting the visas. They are often reluctant to give the full 90 days, and are known to give Zimbabwean 'visitors' as little as seven day visas. Owing to the well-documented endemic corruption in the Department of Home Affairs, this restrictive visa allocation is often bypassed through the payment of bribes. Most Zimbabweans travel to South Africa on this visa. The visitor's visa imposes restrictions. For instance, visitors may not apply for work permits. The Immigration Regulations (2014) make it illegal to apply for a work, or any other permit if one arrives in the country on a visitor's visa. These changes were announced by Apleni when he stated, 'A change of status or visa terms and conditions from within the Republic will not be permitted for persons on Visitor's or Medical Treatment Visas. Persons who want to effect such changes will need to apply from outside the Republic...' (Department of Home Affairs 23 April 2015). This restriction establishes the first way in which many Zimbabweans become undocumented migrants. The process of applying for a permit 'from outside the Republic' may take as long as three months and this long period of absence jeopardises Zimbabwean migrants' jobs, as there are few employers who are willing to provide that much leave. Dodson (2001) argues that the almost inevitable consequence of this legislation is separation of South African citizens from their foreign spouses while such applications are pending. So, these migrants often overstay their visitor's visas as they often cannot afford to return home to apply for Work Permits. They often circumvent the criminal implications of this by paying a fine or by bribing Home Affairs officials at the border, who - for the payment of a bribe - will provide a backdated stamp. The Department of Home Affairs also amended the Immigration Act in 2014 to include the blacklisting of migrants who overstay their permitted time of 90 days in the country.

In turn, would-be migrants have responded with a new tactic to navigate the legal restrictions and to avoid the costs and inconvenience of travelling back and forth in order to maintain legal status in South Africa. This circumventing tactic involves the movement of travel documents across the border, in the absence of the holder of those documents. The scheme works as follows: A Zimbabwean enters South Africa, and - at the time of visa expiry, and for a fee - he/she sends their passport back to the border with a bus driver or *omalayitsha* who is networked with officials at the border. Those officials will, at a cost, have the passport stamped to indicate the holder has left the country. This enables the holder to stay in South Africa whilst officially being out of the country. At a later time when he/she requires a renewed visa or does

need to physically leave the country the process can be repeated at immigration so that the holder is recorded as being legitimately in South Africa. This scheme has led to the coining of the term 'ghost passports' (Tshabalala 2017). And this is the second way that Zimbabweans become undocumented migrants.

The impact of special provisions for Zimbabweans to live and work in South Africa requires attention. The Zimbabwe Special Dispensation permits (ZSP) is the successor to the Dispensation Zimbabweans Project (DZP) implemented by the Department of Home Affairs in 2009 as a way of creating a record of Zimbabweans who had been living illegally in South Africa, and of providing amnesty to those in possession of fraudulent South African identity documents. The Department of Home Affairs waived some permit requirements and applications fees (Moyo 2016). Even those without passports could apply in a bid to speed up the process. The permits were valid for four years from the date of issue. The then Minister of Home Affairs Malusi Gigaba claimed that approximately 295,000 applied, and that just over 245,000 permits were issued. Once these permits expired (in 2014), those Zimbabweans who had been issued the DZP could choose to apply for the ZSP or could return to Zimbabwe to apply for a regular study or work visa if they met the requirements. No applications from people who did not already hold the DZP were permitted. Those who applied for the ZSP, which was valid for three years and expired in 2017, could in turn apply for another permit called the Zimbabwean Exemption Permits (ZEP). This means that a maximum number of 245,000 persons have had access to any of the special dispensations since 2009.

Even for these people, certain limitations arose in relation to these permits, which sustained migrant precarity. Moyo (2016) argues that a permit holder does not qualify for permanent residence on the basis of their temporary residence in South Africa under the DZP and ZSP systems. In addition, the application process had been marred by several inconsistencies. The application and adjudication process was long, and there was no clear appeal process for those whose applications were rejected. There were additional problems. While the Department of Home Affairs issued a directive to banks that people could keep their accounts while waiting for new permits, banks were closing accounts, and some employers were threatening to fire people. There is also a question of the reach of these permits. If Zimbabwean migrants in South Africa are estimated to be somewhere under 1,000,000, then the figure of those covered by the ZSP is modest.

This analysis does not take away from the benefits of the DZP and ZSP to thousands of previously undocumented Zimbabwean migrants living and working in South Africa. Indeed, in comparison to their previous undocumented status, DZP and ZSP documents have allowed immigrants to negotiate daily life with relative ease (Moyo 2016). '...Employment conditions (wages, working hours and benefits such as leave) improved; they had greater employment mobility; were treated with more respect; and could travel to Zimbabwe to visit family and

friends without the financial and ‘safety costs’ associated with cross-border undocumented movements’ (Moyo 2016: 111). Nonetheless, in sum, this immigration policy furthers precarity for Zimbabwean migrants and is marred by several uncertainties. It provides amnesty to a small number of Zimbabweans, leaving the rest undocumented. Drawing on Fassin (2012: 133) Moyo (2016: 111) convincingly demonstrates how the DZP and ZSP programmes demonstrate what Fassin calls ‘ambivalent hospitality’ in ‘governing the unwanted’. The vulnerabilities of being an irregular Zimbabwean migrant work against the country’s progressive labour laws that ostensibly protect both local and MDWs, at least on paper. Women, who comprise the bulk of the MDW workforce, as domestic work in South Africa has a gender character, are grossly disadvantaged because of relatively low access to capital and resources (Dodson 2001), which increases their likelihood of being undocumented. This gap also highlights the absence of a South African labour migration policy, which might enable the country to focus on ‘vulnerable sectors’ and groups. The International Labour Organisation (ILO) has been working with the Department of Home Affairs to develop a draft labour migration policy, which has not yet been released for public comment at the time of writing.

### **Painting them with the same brush: South Africa’s progressive and monolithic labour policy on domestic workers**

Thus far, I have argued that Zimbabwean migrants face several structural challenges in regularising their stay in South Africa, which leaves a majority of them susceptible to being undocumented and vulnerable to abuse by employers as a result. Given the gender character of domestic work in South Africa, women who form the bulk of the MDW workforce are at the receiving end. South Africa has a strong regulatory framework for domestic work, which seeks to protect all domestic workers from abuse and labour exploitation. This progressive state of affairs is a large attribute of the country’s profound history of domestic worker mobilisation. Trade unions and other forms of political organising were severely constrained by the apartheid regime for decades. It was only in the late 1970s that domestic workers began organising so forcefully, through for example the South African Domestic Workers Union (SADWU, SADSAWU’s predecessor) launched in 1986, which grew to become the largest of the domestic workers’ unions in the country’s history (Ally 2008). This was the system the post-apartheid democratic government inherited. Fish (2006) argues that the 1994 inception of democracy ushered in a series of democratic labour policies that held the potential to protect women employed in private households and to formalise domestic work. Yet, her findings illustrate that severe marginalisation of women in this sector and a limited representation in the national union rendered these labour policies and overarching ideologies of gender rights insignificant in the lives of women employed as domestic workers.

The National Labour Relations Act was passed in 1996 to legalise domestic worker unionisation (Fish 2006). The regulation of domestic work sets out minimum conditions, including

minimum wages. The Basic Conditions of Employment Act (BCEA) (1994) sets legal minimum working conditions for all employees in South Africa, including working hours and overtime, leave, termination etc. (Griffin 2011). The BCEA was the first Act to formalise domestic labour as a protected sector within the legislative framework and had a mandatory requirement of work contracts (Fish 2006). The BCEA covers only full-time workers. Therefore, domestic workers employed as 'chars' doing hourly or daily work for several employers do not qualify for BCEA coverage because their relationship with each employer is considered part-time in spite of the fact that for many workers these arrangements typically total well over a 50-hour working week (Fish 2006: 117). Fish (2006) argues that the increased casualisation of the sector allows employers to circumvent protection when they hire workers on a part-time basis. Therefore, 'the legislation itself affords substantial loopholes when applied to people who are still considered informal workers in the private household space' (Fish 2006: 117).

Sectorial Determination 7 outlines minimum wage levels, ordinary work and overtime hours, leave entitlements, limitations on night work and standby times, and requirements for daily and weekly rest periods etc. (Griffin 2011). However, while the provision applies to the employment of all domestic workers in South Africa, its applicability to irregular MDWs is unclear (Griffin 2011). Such applicability had never been officially confirmed or commented on. It is clear that local domestic workers' experiences are central in the state's conceptualisation of domestic workers' subordination. MDWs and their specific challenges are not sufficiently considered.

The other mechanism that is intended to protect all domestic workers is the Unemployment Insurance Fund (UIF), which provides for short-term financial assistance to workers when they become unemployed or unable to work because of illness, maternity or adoption leave. This was not always the case. In 2001 the Commission on Gender Equality (CGE) coordinated a Gender Monitoring and Advocacy Coalition to petition the government to include domestic workers within the UIF (GMAC-UIF) (Ally 2008). The national union for domestic workers, SADSAWU, was invited to join the coalition and made the submission to Parliament. Scholars like Fish (2006) argue that the GMAC-UIF campaign and the eventual inclusion of domestic workers into the UIF demonstrated the power of SADSAWU and the 'collective agency' of domestic workers, in coalition with other organisations, to effect change. Regulated by the Unemployment Insurance 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. But it is difficult for the Department of Labour to determine if both parties are contributing to the fund and there is a fuzzy picture with regards to where irregular MDWs stand in terms of registering and claiming from the fund.

In principle irregular migrants were entitled to approach the Commission for Conciliation, Mediation, and Arbitration (CCMA). The CCMA in 2008 embraced under its ambit foreigners working illegally in South Africa, creating the institutional mechanisms for labour disputes and rights-claiming in South Africa (Griffin 2011). This provision has however not been widely publicised.

Besides the influence of unions, the global policy landscape has also contributed to South Africa's regulatory framework for domestic work. On a global level, South Africa ratified the ILO Domestic Workers Convention No. 189 of 2011 on 20 June 2013. That Convention explicitly states that, 'Each Member shall take measures to ensure that domestic workers enjoy minimum wage coverage, where such coverage exists, and that remuneration is established without discrimination based on sex' (Article 11). However, the South African Department of Labour has apparently lacked capacity and resources to monitor and enforce these sanctions, that is, to regulate compliance (Kiwauka et al. 2015). Ensuring that employers comply with the minimum wage rate posed challenges. General challenges noted by ILO are that employers are often not aware of their responsibilities, labour inspectorates are under-resourced, and often require permission from the householder or require judiciary authorisation to enter the home (ILO 2015). Indeed, working behind closed doors, within private spaces, domestic workers in South Africa may be relatively invisible (Ally 2008). In addition to this invisibility, being an irregular MDW means falling through the cracks of all these well-intentioned national and global protections.

## **Confronting intersectionality? Johannesburg's CSOs and MDW activism**

I have used an intersectional review to demonstrate how nationality, alongside race, class and gender acts an intersection for Zimbabwean MDWs' subordination, because of how immigration and labour policies treat them. Indeed, the hostile immigration policy landscape and oversight by labour policy in making MDWs' experiences central to the state's conceptualisation of domestic workers' subordination fails to engage with how nationality leads to the discrimination of MDWs. While CSOs potentially play a role in supporting MDWs in Johannesburg, these ongoing regulatory tensions sustain conditions that continue to expose irregular MDWs to abusive working conditions. They also create a difficult operating environment for CSOs who, owing to limited resources, can only work in a singular mobilisation framework, failing to address intersectionality in the process. Intersectionality as a feminist theory seems best suited to address this complexity. It provides the tools to analyse the complex, interconnected and constitutive origins of multiple sources of women's oppression (Bastia 2014). The term intersectionality refers to 'the interaction between gender, race, and other categories of difference in individual lives, social practices, institutional arrangements, and cultural ideologies and the outcomes of these interactions in terms of power' (Davis 2008: 68). Intersectionality does

not only have theoretical but practical value in carrying out development work (Bastia 2014). It may shape contextual analysis that enables CSOs to implement interventions that ‘carefully separate, and examine separately, the different levels in which social divisions operate in the communities where they work’ (Yuval-Davis 2006: 205).

However, despite the potential practical efficacy of intersectionality, the activists interviewed in this study were working in CSOs that service women either as ‘migrants’ or ‘domestic workers’, despite the different ways each group was affected by policy. In addition to the already established discourse of women’s rights, they treated these categories as specific and distinct entities for thinking about a common identity or shared experience of subordination among women. Overall, I argue that it is misleading to speak of their work as constitutively being intersectional. By default, it fails to be ‘MDW activism’ as the struggles of MDWs as a social group remain invisible in their activism.

For example, a wide range of these CSOs provided support ranging from direct assistance in health or employment matters, networking, to advocacy, lobbying and policy support. These organisations included CSOs such as Izwi Domestic Workers Alliance, Makhox Women’s League, South African Domestic Services and Allied Workers Union (SADSAWU), Jesuit Refugee Service (JRS), Consortium for Refugees and Migrants in South Africa (CoRMSA), Migrant Workers Union in South Africa (MIWUSA), Church World Services (CWS), South African Litigation Centre (SALC), African Diaspora Forum (ADF), African Diaspora Workers Network (ADWN); international agencies of International Labour Organisations (ILO) and International Organisations for Migration (IOM); and a municipal unit called the Johannesburg Migrant Help Desk.

None of these organisations had a particular focus on MDWs’ rights. Izwi and SADSAWU focused specifically on domestic workers’ rights; CoRMSA, JRS, CWS, MIWUSA and Johannesburg Migrant Help Desk were concerned with migrant and refugees’ rights while Makhox and SALC addressed women’s rights.

To illustrate, in as far as domestic worker’s rights were concerned, SADSAWU, a national domestic workers’ union that was launched in April 2000, assumed a hegemonic role by virtue of its longer presence as SADWU’s predecessor. SADSAWU provided assistance to domestic workers who were members of the organisation by educating them on their rights. While SADSAWU portrayed an awareness of the need to include the protection of MDWs in the broader labour movement discourse, it perceived all domestic workers as vulnerable to abuse regardless of their nationality. For SADSAWU, a domestic worker from KwaZulu-Natal was just as vulnerable as one from Zimbabwe, which was encapsulated in the union’s mantra ‘a worker is a worker’.



While CSOs such as SADSAWU already assisted domestic workers, MIWUSA introduced itself as a democratic workers union that purported to represent all migrants working in South Africa in different industries. The union 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 was birthed through broader consultations and experience of the Zimbabwean Workers Union in South Africa (ZIWUSA). These engagements led ZIWUSA to expand its scope to cater for all migrant workers in South Africa. MIWUSA was formed mainly as a response to the realisation that a majority of migrants were not unionised and even those who were in unions were not happy with how they were assisted by the existing unions. 'So, the idea was to say, let's come in and try to cover that space', said MIWUSA General Secretary Mandla Masuku. MIWUSA mainly represented migrant workers at the CCMA and provided support, information and assistance to Zimbabweans who were renewing their ZSP permits. MIWUSA claimed to frequently handle MDWs' CCMA cases, but it did not have a distinct focus on gender or migrant women's rights nor did it focus exclusively on servicing MDWs. The union argued that migrant workers should not fall within SADSAWU's mantra of 'a worker is a worker' because nationality was generally a significant mediator of their vulnerability.

Meanwhile, an organisation such as Makhox Women's League simply focused on Zimbabwean women as an essentially vulnerable group. Makhox is a women's only Facebook-based community organisation that had approximately 97 000 likes/followers. It was launched in 2010 and did not have a physical presence in the form of offices. Makhox's membership was virtual albeit, according to its founder Nobuhle Ajiti, it had representation 'all over South Africa'. Makhox is a term that was derived from the suburb name of Makhokhoba in Bulawayo, the second largest city in Zimbabwe. Makhokhoba is the oldest suburb in Zimbabwe. Ajiti described Makhox's followers on Facebook as 'very active'. Makhox served as a space for Zimbabwean women to talk about issues, mobilise and organise charity events. Ajiti started Makhox as a Facebook page for women from Zimbabwe to share their experiences. She said, 'a lot of women have been assisted through this page'. Ajiti emphasised that; 'Makhox is a source of comfort for many women. Even if you have been abused by your husband you can post there. Even if you are not treated well at work, you can post'. Makhox accommodated the different risks and vulnerabilities faced by Zimbabwean migrant women but it did not have a particular focus on MDWs. Makhox subscribed to the essentialised idea that migrant women were inherently more vulnerable than man, a view which is captured by Ajiti thus.

...women we are the most affected, you see if both wife and husband are unemployed its usually the wife who feels the pressure first before the man because right now as I am speaking to you now, in most public clinics children of undocumented migrants are currently being denied immunization vaccines. They are no longer vaccinating children without proper documentation or with no documentation at all. So it's the woman who gets to feel the effects and pain whilst the husband is at work.

By laying claim to a distinct and singular operational mandate, each of these organisations purported to be filling a unique gap in the area of gender activism. Because these CSOs' mandates were specific in dealing with women only as domestic workers or migrants, they did not cater for the specific needs of the category of 'MDWs', neither did they demonstrate any awareness of the intersectional nature of these needs. The tendency by these CSOs to adhere to a particular and specific set of issues (women's rights, migrant and refugee's rights or domestic worker's rights) limited their potential to address the complex set of dynamics associated with being a MDWs in a context where labour and immigration regulation were ambivalent.

Bastia (2014) warns that such essentialising notions inevitably lead to the obscuring of intra-group differences. In this case, a singular approach led to contestations on whether documentation exacerbated the vulnerability of MDWs to such an extent as to render them unique from the local domestic workforce. Rather than acknowledge that the vulnerabilities women experienced were shaped by multiple dimensions of their identity (race, class, ethnicity, nationality/migration status), CSOs adhered to ideologies that centred on a singular, essentialist woman identity. Yuval-Davis (2006) suggests that interventions that target women must address and acknowledge the differential positionings and perspectives of beneficiaries without treating them as representatives of any fixed social grouping. These different positions lead women to be effected differently by the structural and institutional norms and power relations that can open up or constrain their room for manoeuvre.

### **Working in networks and partnerships**

Inevitably, because of the unique intersectional needs of Zimbabwean and other MDWs, CSOs had to find alternative ways to cater for them without jeopardising their own core organisational mandates. One of the ways CSOs attempted to 'make-do' while maintaining their singular interests was by working in networks and partnerships. Networking and working in partnerships was common among the CSOs interviewed. They worked in 'facilitation networks' that resemble what Goetze and Jenkins (2016) term 'issue networks', which are coalitions that connect movements and feminist policy champions with senior officials, policy analysts, human rights lawyers, elected legislators and other stakeholders.

There was a great deal of referral to a small group of service providers in the 'facilitation network' that supported migrants in Johannesburg. Few organisations provided direct legal, health, social or financial assistance. Many referred workers elsewhere, but could facilitate that contact and help MDWs package their cases for further assistance. For example, Izwi's strategy relied on building up a support network of individual workers, through social media and through neighbourhood groups. Izwi relied on Makhox Women's League's Facebook page as a space for

their cohort of Zimbabwean MDWs to share their stories. And, while Makhox only dealt with women's issues, it could also carry a poster for a migrant union like MIWUSA as a referral centre.

Makhox proactively referred migrant workers who had been exploited to MIWUSA, and Zimbabwean migrants with HIV treatment needs who failed to access public health care services to Doctors Without Borders. 'So sometimes you find that when you assist a person they might be complicated case, we enlist the services of any friendly union so that we get that support and power', Ajiti stated. MIWUSA in turn worked with ADF, Zimbabwe Community in South Africa, and other migrant associations and maintained a good relationship with other 'powerful unions' affiliated with the Congress of South African Trade Unions (COSATU).

When MDWs were unfairly dismissed they could approach JRS who in turn referred them to Lawyers for Human Rights in case they needed legal intervention. Municipal units such as the Johannesburg Migrant Help Desk also used their networks for advocacy and referral. As stated by Robinson Sathekge, (Coordinator, Sub – Unit Head: Migration Unit) 'And if it's about documentation we refer them to Home Affairs, if it's a legal issue we refer them to Lawyers for Human Rights or the South African Human Rights Commission, if it's about social services we refer to social workers'.

### *Mistrust and suspicion*

It is important to note that these networks and partnerships were not always cordial or void of suspicion. For example, the 'facilitation networks' of the Johannesburg Migrant Help Desk mentioned above by Sathekge mainly included state departments that irregular migrants themselves did not trust for fear of victimisation or deportation (e.g. the Department of Home Affairs, the Department of Social Development). The labour movement was also bedevilled by mistrust between local-led and migrant-led unions, formal unions and informal unions (or so called 'groups') and even among migrant rights organisations. For instance alliances such as Izwi held that unions such as SADSAWU were 'too busy'. While Tekié suggested that South Africa had 'some of the strongest laws for domestic workers in the world' and strong institutions such as the CCMA, the unions were reportedly busy and had 'so much to handle'. Tekié gave an example of an instance where she alleges that SADSAWU assisted a domestic worker to get to the CCMA and file a case, but the union representative was unavailable on the day of the hearing. She said.

...she [a domestic worker] went to the union [SADSAWU] and then they helped her to the CCMA. But then when it was time for her, come update, they said sorry they can't make it, we are here in the rural areas. So they haven't been very much, very supportive. I think they are really busy and they have got so much to handle.

Mistrust was mediated by an ageist discourse. There was a perception among Izwi that SADSAWU was for the older generation. Tekié stated that ‘...they [SADSAWU] are struggling to find younger members. (*Laughter*) Isn’t that what ... as MM said to John Proman on television. He said, ah not on television but on radio Khaya FM, he said, “Why don’t you just join SADSAWU?” And she said, “They are all old”. (*Laughter*)’. Scholars like Ally (2008) have similarly argued that, while committed to the cause, an aging leadership in SADSAWU has been unable to build the organisational strength of the union.

This suspicion was mutual. SADSAWU interviewee, Dladla expressed negative views of the ostensibly ‘millennial’ groups such as Izwi saying, ‘you need to have a union ... because it hasn’t got the weight, those smaller *nyana* groups there. There needs to be one big thing so that you can see one and the same thing together and fight for our rights’. She believed that workers that attended these smaller groups were not interested in joining the union and subscribed to the idea of having one homogenous ‘thing together’ [movement] to fight for domestic workers’ rights, as if their concerns were uniform.

Dladla’s position on the efficacy of having a union was also problematic in other ways. Ally (2008) argues that while their position has improved in significant ways, this has not disrupted domestic workers’ continued location as amongst the most exploited, isolated, and marginalised sectors of the working class. She adds that in spite of this widespread subjective sense of degrading conditions, combined with continuing political exclusions, domestic workers have not collectively mobilised as they did during the 1980s. Rather, they have been dramatically demobilised instead, in ways that parallel the demobilisation of other organised sectors of civil society, especially the labour movement more generally. This apparent ‘collective demobilisation’ of labour is a product of the fragmenting effects on the labour market of economic liberalisation, or the siphoning of unions’ human resource capacities by the state (von Holdt 1993; Kenny 2004; Ally 2008).

In short, the political efficacy of the union in contemporary South Africa has somewhat dwindled. Indeed, the contrast between SADSAWU and its predecessor SADWU represents a dramatic post-apartheid demobilisation of domestic workers. According to Ally (2008), SADSAWU itself lacks any visible vitality. Within a year of its launch, SADSAWU had opened six regional offices and established a membership base of approximately 11,000 members (Fish 2006). In an interview, Dladla claimed that the current membership sat between 8- 9,000 members. This is a low enrolment rate when one looks at the estimate that there are one million domestic workers in the entire country. With only a few thousand members nationally, union density in the sector has indeed declined. This ‘demobilisation’ and ‘depoliticisation’ occurred through the national-level construction of domestic workers as a ‘vulnerable’ group as it filtered into various lower

level state agencies, presuming a particular kind of relationship between the state and those it sought to protect, which provided the discursive foundation for the state's eventual substitution of itself for the union of workers. 'Presuming a victimised subject with compromised capacity, "vulnerability" requires the protection of a more capacitated actor to act on behalf of, and for the protection of, the "vulnerable" category' (Ally 2008: 11). And that actor is by default not the union. Goetze and Jenkins (2016) suggest that the processes of demobilisation and depoliticisation have been compounded by the co-optation of feminist activists by the governing elites of the African National Congress (ANC), which resulted in a dramatic decline in feminist contestation throughout the public sphere. Therefore, it seems that the ostensibly 'millennial' groups such as Izwi may play a more prominent role in shifting the monolithic vulnerability discourse, which the centrality of the state and the subsequent demobilisation and depoliticisation of the union has espoused.

Common nationality also provided no guarantee of trust. Ajiti of Makhox expressed misgivings about MIWUSA, even though that organisation was administered by fellow Zimbabweans. She alleged that MIWUSA, which boasted to be the only migrant worker union in South Africa, charged R500 for consultation to assist migrants. This was expensive for Zimbabwean migrants, more especially MDWs who could ill-afford to raise this fee after losing a job. She said, 'So it's sad that offices manned by migrants like us fail to help us'. She suggested there were irregularities in the way MIWUSA charged this fee to members who were up to date with their subscriptions, saying, 'They always give you reasons to pay'. In some instances, she alleged, MIWUSA claimed a percentage of the amount paid out to an aggrieved Zimbabwean domestic worker from a CCMA settlement. Ajiti also said MIWUSA often charged migrants to assist with ZSP appeals, 'For instance if your ZSP permit gets rejected they will tell you that they can assist you with their lawyers so they charge R1500 for that'. Indeed, there was a sense that unions like MIWUSA were after money and resources because there was no robust financial safety net for CSOs. The competition for resources that has been documented elsewhere (Vanyoro 2018), given that CSOs rely on members for income (through membership fees and service fees), might add to tensions, mistrust and suspicion in the sector.

However, there was no alternative union to support the specific needs of Zimbabwean migrant workers. A fear of antagonism to migrant workers amongst local organisations disincentivised migrants from seeking help beyond what they perceived to be diaspora focused support. Ajiti usually referred migrants to MIWUSA as she was even more sceptical of 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. Other research indicates that generally MDWs are reluctant to approach any state institutions and even SADSAWU because they anticipate that they have no legal claim since they are undocumented and staying illegally in South Africa (Griffin 2011). One interviewee Janet Munakamwe from ADWN also confirmed that there were long drawn suspicions between MDWs and SADSAWU. 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". Unions like MIWUSA were themselves suspicious of other local unions' capacity to represent migrants because of their purportedly xenophobic perceptions. Masuku said.

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.

But SADSAWU claimed that it tried to recruit migrants and also educate them on issues such as the minimum wage so that they did not accept lower wages, a position that pitted them against South Africans who often accused them of stealing jobs. Dladla said that, 'So 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'. SADSAWU claimed that it tried to emphasise union solidarity over nationality and promoted itself as 'the union for domestic workers not, Home Affairs' through several campaigns. In all this framing, it still adhered to its grand narrative that all domestic workers' concerns were uniform, and to a discourse that shifted blame from the state and employers to MDWs for 'accepting lower wages'.

### **Strategic, undesirable informality**

Because in reality MDWs' needs did not fall under any one distinct or singular CSO mandate, it was difficult for them to maintain a concrete and consistent membership base of MDWs. Their reliance on networks and partnerships entailed that CSOs also had to respond to protean needs of MDWs as and when they presented themselves. Informality in this sense occupied an undesirable yet strategic place in their activism. A number of them assisting migrants and domestic workers thus had relatively informal membership and recruitment strategies. Some included social- or area based- networking strategies. Most of Izwi's members were drawn from the suburbs of Rosebank and Melrose and recruited by word of mouth. The alliance did not have formal membership. This informal approach occupied a strategic place in Izwi's mission. Izwi's coordinators who were interviewed for the study felt that requiring domestic workers to pay for membership 'changes the dynamic'. Izwi questioned the member-based approach used by ostensibly 'traditional' unions such as SADSAWU. Tekié stated that.

And looking at the union, the ladies in Jo'burg are really wonderful women and they are doing good work. But meeting with them they are so stressed because 'we need the

numbers we need the numbers. Get them to join, get everyone to join. Please tell them to come and join’.

Izwi’s informal members met regularly because they were effective at responding to the financial and social limitations faced by domestic workers. Izwi held monthly Saturday meetings in Braamfontein, with anywhere from 10 to 20 people at a meeting. Since Saturdays were often one of the two days domestic workers had to rest (off-days), and since travel to Braamfontein from different parts of Johannesburg was generally costly, monthly meetings were not the only way members could get involved. According to Tekié, ‘It’s much easier to be involved by WhatsApp or by social media and then by neighbourhood groups’. So Izwi’s alternative main channel of communication was a WhatsApp group, which had approximately 40 people. People could voluntarily be added to this WhatsApp group. This approach brought more visibility to domestic workers who were relatively invisible, hard to reach and difficult to mobilise as a result.

Makhox Women’s League also employed a similar strategy. Its membership was voluntary, and a person simply needed to like the Facebook page, or to request to be added to a WhatsApp group. The community targeted Zimbabwean migrants, and mostly those from Bulawayo. The active page mainly communicated in Ndebele, and while there was once a Shona page, it closed when the administrator passed away. Consistent with the tendency to assume that Shona and Ndebele are the only ethnic groups in Zimbabwe, other Zimbabwean ethnicities were not considered. Ethnicity was not the only way that the platform could lead to exclusion of some Zimbabwean MDWs. There was a concern that by being an online community organisation, Makhox could be marginalising those who did not have access to Internet, which by virtue of their class positioning would most likely affect Zimbabwean MDWs. In response to this problem the organisation anticipated the possibility of registering itself formally as an NGO for a much wider reach.

Informality was not entirely a limitation. Izwi’s approach of informal membership was informed by the lessons drawn from member-based organisations like SADSAWU, where formalisation was considered to possibly exclude those that could not afford membership and subscription fees. SADSAWU’s recruitment strategy was formal, with marketing done through the distribution of pamphlets. Some domestic workers were signed up to the union in homes, while others visited the office. SADSAWU’s joining fee was R70 and its monthly subscription was R20. The union confined its assistance to members. Domestic workers who were not members had to approach the CCMA by themselves in case of disputes. Dladla claimed that workers who were not supported by the union were more vulnerable to losing their cases. The union assist domestic workers in preparing their case for the CCMA. MIWUSA also provided this service. Some people only joined SADSAWU when they needed assistance. As Ally (2008) has pointed out, with a formalised industrial relations system, and the availability of important state agencies like the CCMA, which are actively committed to enforcing their rights, there is less of an imperative for

the ordinary domestic worker to join a union. This is a conceivable explanation for why domestic workers would only join unions when they needed assistance. Such opportunistic membership risks creating weak solidarity (or exacerbating it), as members could leave and return only when they needed assistance again.

MIWUSA, on the other hand, had many non-paying members. Masuku noted, '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...'. MIWUSA sometimes relied on informal methods, such as word of mouth, to recruit members, and seems to have had loose arrangements around membership, where a form could be completed, 'or sometimes you can be a member without filling anything'. In terms of the R30 subscription fee, he said: 'Sometimes you pay nothing or you pay something if you can'. Not surprisingly, most of the people that MIWUSA assisted were non-members as, 'Those who are members rarely come in'.

## **'A worker is a worker'? The politics of servicing irregular MDWs**

I have submitted that because of the intersecting needs of MDWs, CSOs had to find alternative ways to cater for these needs in ways that did not jeopardise their core organisational mandates. They attempted to 'make-do' while maintaining their singular interests by working in networks and partnerships and resorting to undesirable yet strategic informality. However, the extent to which the issues of MDWs were distinct from those of local domestic workers was debatable among CSOs given that deep-seated, inequitable gender and employee-employer relations mediate the subordination of each of these groups. The workplace for domestic work is private and as such difficult to monitor, leaving all groups of domestic workers susceptible to abuse. The findings thus reflect divided positionalities by CSOs on how to address the vulnerabilities of workers, whether as domestic workers or migrants.

There was a general agreement among participants that abuse in the sector was a reality. According to Tekié, domestic workers faced a risk of abuse. Her CSO Izwi had dealt with several cases of stagnant wages, unremunerated overtime, sexual abuse and a lack of days off and assisted some women who were abused. However, there was no consensus among CSOs on whether notions of vulnerability among domestic workers varied by nationality. The national union SADSAWU considered that in mobilising and activism all workers had to be treated equally whether they were locals or migrants, while migrant unions like MIWUSA believed migrant workers had specific needs. These divisions kept CSOs, particularly the unions separate. Interviewees' sense of the importance of documentation as both a marker of identity and as a key to a particular dimension of citizenship and protection differed. Some of the respondents emphasized the importance of documentation and the increased vulnerability associated with



not having the required documentation to reside and work in South Africa as a domestic worker. Sephurani from JRS stated that, 'Most of our people are undocumented. And you know immediately you don't have documents - then exploitation is going to kick in'. This view resonated with Munakamwe from ADWN's view 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.

According to Ajiti from Makhox, some of their migrant clients who worked in houses together with local domestic workers reported that the South African employees were treated and remunerated better than MDWs.

By contrast Dladla from SADSAWU believed that locals and foreigners experienced the same problems.

But the underpayment, it's not only for migrant workers [but] to most domestic workers, but the problems they're facing is the same to 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.

Dladla from SADSAWU argued that, rather, it was employers that pitted local workers against foreigners. However, this view is oblivious to the notion that the category of 'women' is not a monolithic group with identical experiences and subject to identical forms of oppression and liberation. Fish (2006: 113) argues that women in the institution of domestic work are relegated by a 'triple oppression' or 'matrix of domination' through the multiple intersections of their race, class and gender positions. The theoretical perspective of intersectionality calls for an abandonment of 'womanhood' as a monolithic category, but rarely, in discourses propagated by unions like SADSAWU, was migration status and citizenship invoked as a form of inequality that undermines MDWs' rights.

There were some who argued that while nationality deepened MDWs' vulnerability, employee-employer relations and dynamic rendered all domestic workers vulnerable. In terms of getting help, Izwi believed that the issue was not that domestic workers did not know where to report abuse, but that they were afraid that they would lose their jobs if they sought help.

Interviewees from Izwi indicated that this was a very real threat - for local as well as for MDWs alike. For instance, Dladla alluded that internal migrants who came to Johannesburg from the province of Kwa-Zulu Natal to Johannesburg, leaving their families behind and having little or no social networks to rely on if they lost their jobs were unlikely to report abuse.

Also, the greatest challenge to organising all domestic workers and increasing their participation and membership 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. Dladla from SADSAWU stated that, 'So now automatically when an employer knows that she is a union member and then they get problems. Some get dismissed'. It seems this reprisal was motivated by a fear of litigation. Employees who unionised were perceived as a threat to employers because they were aware of their rights. Key informant David du Toit from the University of Johannesburg found that some employers actually felt that labour laws prejudiced them:

...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.

While the literature suggests that domestic workers generally remain skeptical of unionisation, in part, as a result of the availability of state agencies that so effectively guarantee the protection of worker rights in labour disputes (Ally 2008), this argument does not reflect the dilemma of MDWs who, often undocumented, find these state institutions inaccessible to them. From a state-centric perspective low unionisation rates reflect the success of the state in demobilising and depoliticising unions, however, from a grassroots perspective, the threat of reprisal from the employer helps explain the lack of unionisation on the part of many MDWs more than it does for locals. In this case, MDWs' low unionisation is primarily about how continuing asymmetrical power relations between employers and employees that limit the possibilities for the continued mobilisation of domestic workers in post-apartheid South Africa intersects with the inaccessibility of state agencies that so effectively guarantee the protection of worker rights in labour disputes to irregular MDWs to produce multiple forms of vulnerability.

A close look at the City of Johannesburg's efforts to assist migrants demonstrates how the inaccessibility of state agencies plays out *prima facie*. The Johannesburg Migrant Help Desk was formed to assist migrants on a walk-in basis after the 2008 xenophobic violence. According to the City's integration policy, by its very design, the migrant help desk was the first point for new

arrivals in the city or established migrants in the city. It was supposed to be the hub providing multi-media information on the city and facilitating connection to various resources critical to migrant's adaptation in the city. In this regard, the ideal location of the Migrant Help Desk should be located at or in close proximity to the major arrival points (bus/taxi or train terminus) within the city in each of the seven Regions. But according to Sathekge, the number of requests for assistance and the beneficiaries of assistance had reduced dramatically across all regions of the city. So much so that the help desk seemed hardly relevant. 'In the past when this thing was starting it used to be more than five hundred and something people coming here', per annual quarter he said. 'But now in a quarter, I am talking about three months' time, you will see less than twenty people. In three months'. According to the City of Johannesburg Regional Implementation Plans and Progress Reports for the Migration Sub-Unit (2018), the desk had the following number of 'intakes': 185 in July-September 2017; 67 in October-December 2017; 159 in January-March 2018 and 88 in April-June 2018. This gave a total of 499, which represents the same number of migrants Sathekge claimed the desk used to assist in one quarter. This disparity is symptomatic of a state that is not well informed about migration patterns and challenges and/or lacks the political will to improve services to migrants. It also reflects low levels of trust and suspicion that migrants have towards state agencies because of the centrality those officials implementing these programmes place on documentation. The City's integration policy is limited because the focus of the comprehensive integration programmes is only on asylum seekers, refugees, long-term residents and internal migrants. Irregular migrants are explicitly excluded because of the hesitance by the City to be seen to be undermining the country's immigration policies. This position is summed up in the following statement within the policy document.

The irregular/undocumented migrants are not the primary target of the integration policy in as far as assisting them to undermine the immigration laws of the country. The risk of focusing resources on this group may be an unintentional consequence of assisting those that the Department of Home Affairs would have regarded or identified as prohibited or undesirable. The assistance to this group would thus be in line with the immigration policy of the country that seeks to encourage all the illegal immigrants to regularise themselves. Regularisation legislation is considered as a first step in the integration process (City of Johannesburg no date: 18).

This position reflects the dilemma the City faces in coming up with integration programmes in a context where the National Department of Home Affairs has made regularisation a complex exercise and criminalised irregular migrants.

The lack of documentation also made it difficult for CSOs to facilitate the placement of workers into jobs through formal recruitment agencies. While placement agencies could facilitate access for regular MDWs into jobs that were formally contracted, they were not able to cover the bulk of the migrant workforce in this sector. According to du Toit, these placement agencies

checked for documentation before they facilitated placement for a MDW. He noted, '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'. Agencies had a verification system for fraudulent documents. This requirement excluded most Zimbabwean migrant women. While Izwi was interested in working with agencies that could place domestic workers into jobs, the reality was still that the larger numbers of migrant women who needed jobs remained undocumented. Tekié noted, 'You can't ask an agency to work around that because it's a legal issue'. 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 Ajiti called 'straight papers'. In order to comply with this requirement some irregular migrants employed a tactic of disguise – using other people's identity documents and banking details to get onto the system. This tactic presented a risk of being found out but also of wages being appropriated by the original account owners.

Beyond identity documentation, other documentation also played a part in deepening vulnerabilities. A general lack of formal employment contracts in the domestic worker sector exacerbated the risks for MDWs. Indeed, it has been established that the vast majority of domestic workers still labor without a formal contract of employment (Kiwauka et al. 2015). While domestic work is officially deemed to be formal work, employers largely treated it as informal work. Most domestic workers thus did not have contracts. Tekié said the formal contracting of domestic workers was required by law, 'but nobody knows it'. Placement agencies did provide an employment contract for the client to use for the domestic workers upon recruitment. However, this was not a guarantee of the statute of employment arrangements. Once the client was satisfied with the domestic worker, the placement firm withdrew and it remained between the employer and the domestic worker to determine the nature of their relationship. This gave the employer excessive autonomy in a domestic setup where minimum standards could not be monitored.

The requirement was often less stringent in the actual workplace. Julia Scheller, also from Izwi, questioned whether employers even wanted to see documentation since the precarity of a domestic worker being undocumented worked in the employer's favour. Employing documented MDWs could work against a system that allowed employers to exploit workers, 'because the informality benefits the employer', she argued. This view suggests that lack of contracts may not be so much about ignorance as Tekié suggested, but convenience for the employer.

Overall, the lack of documentation among Zimbabwean MDWs increased their risk of exploitation and abuse, and increased the likelihood of job loss (through firing or walking out). Many migrant workers did not access the support they were entitled to. In the words of Tekié.

... people [domestic workers] 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. 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 that they still can.

The lack of documentation among Zimbabwean MDWs disincentivised them from approaching formal institutions that could provide legal recourse in the event of a complaint. Although, domestic work in South Africa has a strong regulatory framework, which sets out a series of minimum labour conditions, the intersection of the precarity that arises from being in domestic worker with the precarity of migrancy compounded the vulnerability of Zimbabwean MDWs. The mantra that 'a worker is a worker' does not account for the 'burden' of nationality, which because of the hostile and selective immigration regime predisposes Zimbabwean MDWs to being irregular and more exploitable.

## Conclusion

This paper has argued that there is a longstanding 'mobilisation structure' for domestic workers which begins from the view that African women in South Africa are oppressed in three ways: oppressed as blacks, oppressed as women, and oppressed as workers. However, women do not constitute a homogenous category politically or otherwise and do not necessarily share or perceive 'objective' gender interests as they are both united and divided by ethnicity and nationality. Yet, the social relations of domestic work employment in South Africa's post-colonial context are deeply implicated with class, gender and racial structures so much that nationality is rarely invoked in the equation by the state or reflected in the work of South Africa's CSOs.

It is this historical context of local labour movement politics that create an environment where on the one hand CSOs in migrant activism advocate for the regulation of the labour market, while on the other, they have to serve the interests of a body of workers that has no legal rights to work in this labour market. These CSOs are compelled to fit MDWs' concerns within this already established 'mobilisation structure'. Their solidarity to mobilise MDWs within this labour movement itself is bedevilled by mistrust between local-led and migrant-led unions, formal unions and informal unions (or so called 'groups') and even among migrant rights organisations. This mistrust emerges because a wide range of CSOs are attempting to address the precarity of MDWs from a singular rather than intersectional approach. There is a more dedicated focus among these CSOs on specific categories of women in which they choose to treat their identities as either migrants or domestic workers, which ignores Kimberlé Crenshaw's

notion of 'intersectionality'. While legal status is key amongst the vulnerabilities facing MDWs, there is no CSO that specifically addresses the constitutive identity of a 'MDW'. Within this singularity divided positionalities on how to address the vulnerabilities of workers, whether as domestic workers or migrants keep unions separate. These divisions are effectively a reflection of the hesitance by CSOs to address MDWs' concerns as constitutive of their vulnerability both as women and as migrant women.

The paper concludes that CSO efforts miss the mark with respect to MDWs' rights because of their failure to consider intersectionality. There is need for dedicated efforts by CSOs to address the intersectional nature of the oppression these women experience constitutively as migrants and domestic workers in order to foster and mobilise a collective MDW identity. Any intervention or mobilisation that does not take intersectionality into account cannot redress the specific manner in which they are subordinated.

## References

- Ally, S. (2008) Domestic Worker Unionisation in Post-Apartheid South Africa: Demobilisation and Depoliticisation by the Democratic State, *Politikon*, 35:1, 1-21.
- Bastia, T. (2014) Intersectionality, Migration and Development, *Progress in Development Studies*, 14:3, 237-248.
- City of Johannesburg (2018) Regional Implementation Plans and Progress Report. Migration Sub-Unit. City of Johannesburg: Johannesburg.
- City of Johannesburg (2015) Social Development Incident/Disaster Preparedness Plan. City of Johannesburg: Johannesburg
- City of Johannesburg (no date) City of Johannesburg's Policy on Integration of Migrants. City of Johannesburg: Johannesburg.
- Crenshaw, K. (1989) Demarginalizing the Intersection of Race and Sex: A Black Feminist Critique of Antidiscrimination Doctrine, Feminist Theory and Antiracist Politics, *The University of Chicago Legal Reform*, 139-167.
- Davis, K. (2008) Intersectionality as Buzzword: A Sociology of Science Perspective on What Makes a Feminist Theory Successful, 9:1, 67-85.
- Department of Home Affairs (23 April 2015) Overview of the New Immigration Laws and Regulations and their Implications. Speech by Mkuseli Apleni available on the Department of Home Affairs website.
- Dodson, B. (2001) Discrimination by Default? Gender Concerns in South African Migration Policy, *Africa Today*, 48:3, 73-89.
- Fish, J.N. (2006) Engendering Democracy: Domestic Labour and Coalition-Building in South Africa, *Journal of Southern African Studies*, 32:1, 107-127.
- Gaitskell, D., Kimble, J., Maconachie, M. and Unterhalter, E. (1983) Class, Race and Gender: Domestic Workers in South Africa, *Review of African Political Economy*, 10:27-28, 86-108.
- Goetz, A.M and Jenkins, R. (2016) *Feminist Activism and the Politics of Reform: When and Why Do States Respond to Demands for Gender Equality Policies?* United Nations Research Institute for Social Development: Geneva.
- Griffin, L. (2011) Unravelling Rights: 'Illegal' Migrant Domestic Workers in South Africa, *South African Review of Sociology*, 42:2, 83-101.
- ILO (2015). *Labour Inspection and Other Compliance Mechanisms in the Domestic Work Sector: Introductory Guide*. ILO: Geneva.

- Kenny, B.C. (2004) 'Divisions of Labor, Experiences of Class: Changing Collective Identities of East Rand Food Retail Sector Workers through South Africa's Democratic Transition'. Unpublished PhD Dissertation, University of Wisconsin–Madison.
- Kiwanuka, M., Jinnah, Z. and Hartman-Pickerill, B. (2015). Getting the House in Order: Foreign Migrant Workers in the Domestic Work Sector in South Africa. MiWORC Report No 10. African Centre for Migration & Society, University of the Witwatersrand: Johannesburg.
- Landau, L.B. and Segatti, A (2008) Migration in post-apartheid South Africa: Challenges and questions to policy-makers. AFD.
- Mbiyozo, A.N. (2018) Gender and Migration in South Africa: Talking to Women Migrants. Institute for Security Studies: Pretoria.
- Mdlongwa, T. and Moyo, T. (2014) Representations of Xenophobic Otherisation in Jinga's One Foreigner's Ordeal and Mpe's Welcome to our Hillbrow. *Elite Research Journal of Education and Review*, 2(4): 88-94.
- Moyo, I. (2016) Changing Migration Status and Shifting Vulnerabilities: A Research Note on Zimbabwean Migrants in South Africa, *Journal of Trafficking, Organised Crime and Security*, 2:2, 108-112.
- Ndlovu, L. (2013) They are Everywhere like Cockroaches: Unpacking the Experiences of the Zimbabweans in the Diaspora Through the Short Essay. *European Journal of Humanities and Social Science*, 22(1): 1143-1158.
- Nyamunda, T. (2014) Cross-Border Couriers as Symbols of Regional Grievance? The Malayitsha Remittance System in Matebeleland, Zimbabwe, *African Diaspora* 7, 38-62.
- Peberdy S. (1999) *Selecting Immigrants: National Identity and South Africa's Immigration Policies*. Johannesburg: Wits University Press
- Peberdy, S. (1998) Obscuring History: Contemporary Patterns of Regional Migration to South Africa. In Simon, D. (Ed.) *South Africa in Southern Africa: Reconfiguring the Region*. Pp. 187-205. London: James Currey.
- Peberdy, S. and Crush, J. (1998) Rooted in Racism: The Origins of the Aliens Control Act. In Crush, J (Ed.) *Beyond Control: Immigration and Human Rights in a Democratic South Africa*. Pp. 18-36. South African Migration Project. Cape Town: IDASA
- Statistics South Africa, 2015. *Census 2011: Migration Dynamics in South Africa* (No.Report No. 03-01-79). Statistics South Africa: Pretoria.
- Tolmay S. (2018) *Barriers to Asylum Seekers Claiming Their Rights in South Africa's Asylum Management System*. A paper presented at the African Centre for Migration & Society Luncheon Seminar Series, University of the Witwatersrand, ACMS Seminar Room on 20 November 2018.



- Tshabalala, X. (2017) *Hyanas of the Limpopo: The Social Politics of Undocumented Movement Across South Africa's Border With Zimbabwe*. Linkoping University: Linkoping.
- Vanyoro, K.P (2018) "We Have the Research but Where is the Influence?' Constraints and Opportunities for Evidence-Based Policy Impact in South Africa', Working Paper 52, *Migrating out of Poverty*, University of Sussex, pp. 1-35.
- Vanyoro, K.P (Forthcoming) 'Skeptics' and 'believers': Anti-trafficking, Sex Work and Migrant Rights Activism in South Africa, *Gender and Development*.
- von Holdt, K. (1993), *Transition from Below—Forging Trade Unionism and Workplace Change* (Scottsville: University of Natal Press).
- Walker, R. and Galvin, T. (2018) Labels, Victims, and Insecurity: An Exploration of the Lived Realities of Migrant Women who Sell Sex in South Africa, *Third World Quarterly*, 3:2, 277-292.
- Yuval-Davis, N. (2006) Intersectionality and Feminist Politics, *European Journal of Women's Studies*, 13:3, 193-209.

## About Migrating out of Poverty

**Migrating out of Poverty** research programme consortium is funded by the UK's Department for International Development (DFID). It focuses on the relationship between migration and poverty – especially migration within countries and regions – across Asia and Africa. The main goal of **Migrating out of Poverty** is to provide robust evidence on the drivers and impacts of migration in order to contribute to improving policies affecting the lives and well-being of impoverished migrants, their communities and their countries through a programme of innovative research, capacity building and policy engagement.

**Migrating out of Poverty** is coordinated by the University of Sussex and led by Research Director Dr Priya Deshingkar and Dr Robert Nurick as Executive Director. Core partners are the Centre for Migration Studies (CMS) at the University of Ghana, and the African Centre for Migration & Society (ACMS) at the University of the Witwatersrand in South Africa, the Organisation for Social Science Research in Eastern and Southern Africa (OSSREA) at Addis Ababa University, Ethiopia and L'Université Assane Seck Ziguinchor (UASZ) in Senegal. Past partners included the Refugee and Migratory Movements Research Unit (RMMRU) in Bangladesh, the Asia Research Institute (ARI) at the National University of Singapore; and the African Migration and Development Policy Centre (AMADPOC) in Kenya. Please visit the website for more information.

University of Sussex, Arts B  
Brighton BN1 9QN, United Kingdom  
Email: [migrationrpc@sussex.ac.uk](mailto:migrationrpc@sussex.ac.uk)  
Web: [www.migratingoutofpoverty.org](http://www.migratingoutofpoverty.org)  
Twitter: @MigrationRPC  
Facebook: /migratingoutofpoverty  
Blogger: [migratingoutofpoverty.blogspot.com](http://migratingoutofpoverty.blogspot.com)

