

# Gender-based violence on vulnerable migrant women in peri-urban Johannesburg and how they respond

**Author:** **Nora S. von Kitzing** is a master student at EMMIR and research assistant at the Witwatersrand University where she works on the 'Shifting Families' project to analyse how African migrant families navigate the cityscape of Johannesburg, how national policy on family and immigration impacts their life, looking at their lived experience in Johannesburg. Prior to studying the 'European Master in Migration and Intercultural Relations', she studied International Development and did field work on migrants and vulnerable populations in Austria, France and Kenya. She will complete her Master in the summer of 2018.

**Abstract:** This article examines how vulnerable migrant women navigate through intersectionality in Johannesburg in light of recent gender-based violence incidences and xenophobic attacks by the police, taxi drivers and the broader society. Johannesburg's peri-urban settlements are reported to have some of the highest gender-based violence prevalence in South Africa<sup>1</sup>, 500 sexual-assault cases were reported to the Diepsloot police since 2013<sup>2</sup>. The South African Police Service recorded 51,895 sexual assaults in 2015/16 in all of South Africa<sup>3</sup>. Most recently there has been an intensified public response resulting from recent rapes in taxis and the police being reluctant to help<sup>4</sup>. In 2017 foreign-owned shops were looted and three foreign nationals were killed in Jeppestown, Johannesburg<sup>5</sup>.

The goal is to show how vulnerable migrant women experience, negotiate and respond to xenophobic treatment and especially gender-based violence. Moreover the intersectionality of their 'illegality' and 'womanhood' is explored, to highlight their particular vulnerability and showcase the fluidity of xenophobic and gender-based violence. The essay draws out how due to their intersectionality their rights are diminished in urban spaces. It further explores how vulnerable migrant women navigate their intersectionality and what strategies they employ to address one or several political identities: with the politics of invisibility, remain in abusive relationships to avoid other more violent public spaces, as well as participate in the political 'protest' culture to strive for human, gender and social rights. Binaries such as colonised/free black women's bodies and diverse forms of oppression are illustrated. The contrast of citizen/migrant rights and the diverging reality is demonstrated. In addition, concepts of visible/invisible borderlines are explored.

*Keywords: vulnerable migrant women, gender-based violence, intimate partner violence, xenophobia, institutional violence, intersectionality, illegal aliens, politics of visibility, borders, productive agent, urban estuaries;*

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<sup>1</sup><http://www.genderjustice.org.za/news-item/wits-sonke-study-reveals-alarming-levels-mens-violence-women-diepsloot/>

<sup>2</sup><http://www.economist.com/news/middle-east-and-africa/21718578-survey-38-men-one-township-admit-having-used-force-or-threats>

<sup>3</sup><https://www.dailymaverick.co.za/article/2016-09-02-africa-check-factsheet-south-africas-201516-crime-statistics/#.WTBS4WiGPIU>

<sup>4</sup> <http://ewn.co.za/2017/03/24/joburg-taxi-rapes-second-victim-battling-to-get-police-help>

<sup>5</sup> <http://www.migration.org.za/uploads/docs/march-2017-xenowatch-special-report.pdf>

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# Introduction

In the article I explore the different forms of oppression vulnerable migrant women experience in Johannesburg. Further, I examine how vulnerable migrant women navigate through the city of Johannesburg in face of their intersectional vulnerability pertaining to xenophobia and gender-based violence.

It is pertinent to read the lived experience of migrant women, not from a single lens perspective, such as feminist or antiracist theory, but to analyse their experience from a multi-layered approach. When analysing their experience from only one angle, it fails to demonstrate the intersectional vulnerability and multifaceted experienced oppression, based on factors of gender, class and race, and arguably a fourth factor: immigration status or so called "illegality". While recognising this manifold forms of oppression, in this essay I examine the productive agency vulnerable migrant women employ to navigate these complex dynamics in their surrounding. As a result the latter part of the essay aims to illustrate how women contribute to their vulnerability, how they negotiate one oppression to minimise another and how they mitigate and oppose structural injustice.

Although there is a certain saturation pertaining to feminisation of migration and gender-based violence on migrant women, also in the South African context (Britton 2006; Kiwanuka 2010; Lefko-Everett 2007; Menjivar and Salcido 2002; Raj & Silverman 2002), this article examines the intersectional vulnerability of migrant women in Johannesburg. Moreover, there is a gap in researching political aspects of gendered migration, especially how women themselves respond, negotiate, mitigate or politicise their violent experience. Similarly politics have so far overlooked the impact of gendered migration. As a result gender-neutral immigration policies have been the norm, overlooking specific needs (Piper 2006). This article is an attempt to contribute to the political literature on gendered migration, more specifically on the agency of migrant women when experiencing xenophobic violence and gender-based. At focus is how less-advantage migrant women navigate, negotiate, reconcile, mitigate and politicise intimate partner violence and illicit maltreatment of the police.

In this article I initially examine, how xenophobic sentiments generate a hostile environment for vulnerable migrant women. Following, is a description of general gender-based violence women in South Africa experience. All throughout the intersectional discrimination is alluded to. When examining the institutional violence, with great emphasis on police violence, the colliding forms of oppression of xenophobia and sexism is drawn out. Continuing, I illustrate how vulnerable migrant women use their productive agency to compromise, navigate, demonstrate, oppose, avoid, mitigate and respond to their multi-layered oppression manifested in xenophobic and gender-based violence.

## Methodology

To start off the research, I conducted extensive literature review, which “summarizes and evaluates a body of writings about a specific topic” (Knopf 2006:127) pertaining to gendered migration, lived experience of migrant women, gender-based violence on vulnerable migrant women. The groundwork of this research draws on NGO manuals, declarations, academic books and journal articles to provide an overview and new insight into the given subject (Steward 2004).

Pertaining to ethical considerations, I am researching at the University of Witwatersrand, my research is premised on strict guidelines and has been approved for ethical clearance. Being a white female researcher with a more-advantaged migration background I am critically aware of the precarious condition this poses. Thus, I have to negotiate my positionality in terms of contributing to the Southern research as a Western educated white researcher, and that is could be interpreted, in some ways, as re-colonising these spaces. The initial intent was to conduct co-research, co-present and co-publish this work with a peer student and friend, local to the region. Due to the time constraints on his behalf, this did not come to fruition and as such the field work has to be postponed.

## Background

Drawing from the Global Health Observatory the prevalence of violence against women ranks the highest in low- and middle income countries in the African region. South African, despite legislative efforts, continues to top the charts on gender-based violence (Jewkes and Abrahams 2002, WHO 2013). The UN Declaration on Violence against Women defines violence against women, as:

“any act of gender-based violence that results in, or is likely to result in, physical, sexual or psychological harm or suffering to women, including threats of such acts, coercion or arbitrary deprivation of liberty, whether occurring in public or in private life.”(UN, 1993).

The UN declares that women are entitled to “fundamental freedoms in the political, economic, social, cultural, civil or any other field” and continues that “States should condemn violence against women and should not invoke any custom, tradition or religious consideration to avoid their obligations with respect to its elimination”. They also state that is the government’s responsibility to take appropriate measures to prevent violence, by ratifying the declaration, refraining from violent acts, strengthen legal sanctions, develop national plans to promote protection and equality of women, bring on board public officers and legal enforcement to be consistent with the legal framework on violence against women, among others things (UN, 1993).

This is one of several declarations to promote the protection and equality of women across the globe. However commonly there are large discrepancies regarding international declarations

and the preservation of human rights and fundamental freedoms by state actors (Agamben, 1998; Arendt, 1968; Gündugdu, 2015) and South Africa has made some strides in closing this gaps. But clearly has not done enough to address systemic challenges, especially when addressing culturally rooted misogyny or widespread police corruption and mistreatment of marginalised women residing in South Africa.

The efforts made by South African legislation to mitigate and oppose the rooted violence of women is significant, discernable when implementing the Domestic Violence Act No 116 of 1998 and Criminal Law (Sexual Offense and Related Matters) Act No 32 of 2007.

“In fact, the government showed courage in enacting and attempting to implement the two acts, which countered the traditions and cultural acceptance of violence against women, particularly within domestic situations, where proof of offenses and criminal acts could be difficult to sustain unless battery was observable and diagnosable” (Mogale et al. 2012:589).

Although this is a significant milestone in national legislation on violence against women, there continues to be a sharp divergences between law and practice. In spite of clear legal framework even law enforcement does not adhere to these standards, by frequently violating the rights of vulnerable migrant women. Many women, especially vulnerable ones, experience oppression by society, state representatives and law enforcement. But beyond these face-to-face interactions, frequently also policy makers fail to recognise the systemic issues present and as a result develop gender blind policies, especially visible in immigration legislation (Peberdy 2008). It illustrates, in the case of policy, when not addressing the intersectional needs, but only one aspect it ends up hurting the most vulnerable within that group of people (Crenshaw 1991).

In fact, it is quite astounding the gender-blindness present in immigration policies, considering the frequency and prevalence of gender-based violence (Jewkes and Abrahams 2002):

“Although a reliable numerical reflection of the complete spectrum of sexual coercion is not possible from available data, the fragments of evidence suggest that the experience of non-consensual or coerced sexual intercourse at some stage in a South African woman’s life is certainly the norm and may be little short of universal. The evidence points to a conclusion that women’s right to give or withhold consent to sexual intercourse is one of the most commonly violated of all human rights in South Africa” (2002:1240).

Another aspect to consider with restrictive immigration legislation and border policing is how it disproportionately affects migrant women, as they usually have less access to resources and as women are exposed to more dangers. According to this report, the greater the distance of travel the greater disproportion of male and female migrants are visible. A country such as Mozambique has a well balanced migratory stream of both women and men. This changes drastically the further away the country of origin is. Migrants coming from the Democratic Republic of Congo or Somalia have a significantly stronger representation of men than women living in South Africa (Palmary 2009). This is often due to the fact that women have less

financial resources and are perceived to be far more vulnerable than men when migrating, and even though living in very challenging conditions, they deem the journey to expensive and dangerous (Kiwanuka 2010; Lefko-Everett 2007).

In this section, a general introduction, methodology and ethical considerations for this essay was presented. More importantly the legislative contextual background, the consequences of intersectional blindness, i.e. gender neutral immigration policies, on the most vulnerable groups policies are targeting was highlighted. Continuing, I will address the multilayered oppression vulnerable migrant women experience through various forms of violence, including xenophobic, gender-based and institutional violence.

## Forms of violence

### Xenophobic sentiments

Johannesburg is spatially segregated and a lot of the urban challenges are blamed on migrants (Grant & Thompson 2015; see also Visser 2002). Public officials and mainstream media discourses describe South Africa as an island surrounded by a sea of poverty. They argue, how 'illegal aliens' significantly contribute to criminalisation, especially in urban spaces. Migrants are accused of contributing significantly to insecurity, crime, disease, unemployment and poverty, as well as having a negative effect on wages and putting pressure on the social welfare system. The Minister of Home Affairs stated, that as a result it was unsurprising to see resentment and xenophobia increasing (Crush 1999). Generally speaking, the discourse lacks self-reflexivity regarding the positionality of media and politics when reporting on these issues. As a result, there is a growing concern of the rising influx of irregular migrants and increasing unemployment rates in South Africa, leading to heightened xenophobia and resentment (Maharaj & Rajkumar 1997; Posel 2004). However, the number and challenge of irregular migration is frequently blown out of proportion by public figures, state ministries and media discourses, and strategically used for political agenda (Crush 1999; Harris 2002). Moreover:

“Government discourses blame immigrants—the Nigerians, Congolese and Ivoirians who moved into the area—for the surges in inner-city crime, increasing informality, the seizure of buildings and a proliferation of illegal businesses” (Grant & Thompson 2015:182).

As consequence of inciting xenophobic resentment, promoting a discourse of 'othering', by public officials and media insight violent aggression towards ethnic minorities in these 'urban estuaries' (hyper-diverse semi-urban settlements) (Landau 2014a, 2014b and 2012). The growing inequality, unemployment and rampant poverty, as well as the deliberate blaming of irregular immigration for some of these political failures, persistent xenophobia continues to severely affect undocumented and other less-advanced migrant populations and ensight xenophobic violence in peri-urban spaces (Amisi et al. 2011). According to Immigration South Africa (ISA) nationals even comply with authorities and serve as informants for the Department

of Home Affairs. They do comply, as they see vulnerable migrants as potential competitors particularly for informal employment. Native people feel they are being overlooked, as vulnerable migrants are more compliant. Due to their precarious legal status they have little means to unionise, demand higher paying salaries and are more likely to subdue to unfair, arbitrary treatment (ISA 2017; Maharaj & Rajkumar 1997).

As a result of the media inciting resentment vulnerable migrants are further marginalised and face racial targeting by local people and national authority. Most affected by this racial discrimination and regular raids are nationals from neighbouring countries. Often nationals are bypassed certain jobs, as irregular migrants will be less demanding in terms of treatment and salaries (ISA 2017; Maharaj & Rajkumar 1997). Moreover, the global economy exacerbates this situation by its unquenchable demand for cheap 'illegal' labour migrants (McNevin 2013). Many sectors thrive on an informal employment of irregular migrants, as a result states are inclined to construct an 'illegal' status, willing to be payed less than average and comply with harsh treatment, to sustain the neoliberal economics. The threat and act of detention and deportation is commonly used to keep them complacent (Crush 1999; ISA 2017).

In official reports, rather than describing these migrants as irregular or undocumented, official reports, public figures and mainstream media commonly refer to them as 'illegal aliens'. This deliberate association to criminality suggests that the uncertain status of migrants makes the migrant a criminal, and indirectly suggest their criminal activity other than entering the country 'illegally' (Harris 2002). Many of the vulnerable migrant women come to Johannesburg and try to become part of the urban working force. Due to their legal status, their lack of training or the failure to recognise their education, leads to un- and underemployment. Often with limited employment opportunities, the majority enter informal working arrangements, and at some point are forced to survival activities such as informal prostitution (Singh 2007). This has been used to further accuse migrants of criminality. The mobility of black migrant woman, as well as limited employment opportunities, lead to the characterisation of the migrant woman as 'sexually degenerative' and 'socially dangerous' (Carby 1992:739; see also Kiwanuka 2010).

De Genova's<sup>6</sup> describes these irregular migrants as being perceived as a new emerging 'underclass' which are strategically constructed to be seen as threatening and undermining the security of the existing community. He argues that the xenophobic construction of them being 'less than' the social norm leads to their isolation. It perpetuates the image, of the 'eternal other'. As the constructed evil, the state then is forced to control and intervene through repressive means to keep these 'vermin'<sup>7</sup> under control (De Genova 2008). The construction of being a threat and undermining the security of the local community is easily discernable, when they are described to spread disease, unemployment and crime (Crush 1999).

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<sup>6</sup> De Genova's analysis of Habermas reflection on multiculturalism and immigration in the European context (de Genova 2008) is equally applicable for the South African context in the way that in both contexts an undesirable 'underclass' is constructed. Rather than being integrated they are stigmatised, socially isolated and stigmatised (Crush 1999; Harris 2002; ISA 2017).

<sup>7</sup> As they are described sometimes, according to De Genova (2008).

With the political strategy of blaming irregular migrants for some of the political failures, and by stigmatising them, they are further targeted by the wider society, as well as socially excluded and isolated (Crush 1999; Harris 2002; ISA 2017). It seems that their status makes them unworthy of fundamental rights, their 'illegality' leads to their rightlessness (Harris 2002; Gündugdu 2015). Being put into detention centres they experience illicit and inhumane treatment, they are forced to pay ransom for their lives or else are threatened with their lives (Crush 1999). As a consequence of irregular migrants being defined as illegal, they are included by the law through their exclusion (De Genova, 2013).

In the above section the xenophobic sentiments are very presented. With the intersection vulnerabilities of gender and migration-background persons, for example vulnerable migrant women, they are at much greater risk of violence. The perpetuation of migrants as the 'eternal other', as criminal and undeserving of protection, affects various migrants differently and vulnerable migrant women are especially affected. With limited means, they often lack financial resources to ensure their safety. This renders them even more vulnerable to xenophobic gender-based attacks, as we will read later on. For instance vulnerable migrant women cohabiting with native South African men are considered morally corrupt. They are viewed as the only ones exploiting the relationship, when often those men take advantage of their precarity. Due to xenophobic sentiments, migrant women are not taken serious when they seek help. It even goes so far that police officers will deny them assistance, but rather threaten them to illegally incarcerate them (Kihato 2013, Kiwanuka 2010; Lefko-Everett 2007).

## Gender-based violence

The true prevalence of gender based violence is still not well known (Pickup et al. 2001). To this day, numbers of *reported* rape stay around 53,000<sup>8</sup>, but the majority of physical and/or sexual violence crimes especially in marital and domestic settings remain largely unreported (Brittons 2016). Increasingly physical and sexual violence is known to be linked to increased HIV infection (WHO 2013). Both insecurity and poverty exacerbate the prevalence of violence against women (Pickup et al. 2001). According to an anonymous survey conducted in Diepsloot, an impoverished neighbourhood in Johannesburg, 38 percent of the interviewed men had at some point forced a woman to engage in sexual activity and 54 percent of the interviewed men have beaten or threatened to hurt women (Business Tech 2017).

Both native and foreign women have similar experiences of violence, especially regarding intimate partner violence. However the migrant women often are less inclined to report the crime in fear of experiencing illicit xenophobic treatment by the police and being re-traumatised in another way (Sokoloff & Dupont 2005). When reporting these rights violations, due to their legal status they are not only discredited, but also blackmailed to keep silent, their identity documents are destroyed and/or they are deported and/or incarcerated (Kiwanuka 2010; Lefko-Everett

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<sup>8</sup> Depending on the statistics they vary by a few thousand, however whatever the reported number of rape incidences are, they are just the tip of the iceberg and according to some only 3 percent of all rapes are reported in South Africa (Brittons 2016).

2007). What is more, the discourses on migration and nationalism informs migration policies and are deeply embedded in historical patriarchal ideologies (Peberdy 2008).

To better understand gender-based violence and its effects on vulnerable migrant women, the causes of gender-based violence I will elaborate. The finding of cross-cultural research suggest a correlation between cultural ideologies of male dominance and increase gendered violence (Jewkes 2002). These traditional beliefs contribute to the deeply rooted prevalence of sexual violence and reinforces the well-embedded violence within the racist/xenophobic and patriarchal social order. Regarding access to sex, in these societies the sexual preferences of women are predominantly disregarded, and sex is viewed as a men's right. Especially married women are regarded as being obliged to be sexually available to the demand of their men. Xenophobic resentment exasperates migrant women, who cohabit with South African men. They face not only sexist but xenophobic attitudes, when addressing these issues.

Regarding the prevalence of sexual entitlement of men, according to the South African Law Commission (SALC) there are certain cultural practices in rural areas that reinforce male entitlement, including *ukuthwala* (bride capture), or the payment of *lobola* (bride price) seen legitimising the right for sexual access by the men (SALC 1985, CSV 2008). In a study on gender dynamics in Western Cape, South Africa, intimate partner violence in some communities were seen as a necessity as a way to demonstrate love (Shefer et al. 2008). Sadly, gender-based violence is likely to spread from one generation to another. Persons, whether male or female, who have experienced violence in their family, either, on their mothers or on themselves, are likely to end up in abusive relationships themselves (Jewkes 2002). Although, many migrant women don't experience these very specific culturally specific practices, they are still very much affected by other forms of violence, and in many cases experience other forms of oppression, in place of these specific violations. Not only are they viewed as subordinate as the South African intimate partner, but also due to xenophobic sentiments experience violence. Some South African men in an intimate relationship with a foreign born women justify their violence and oppression because of their nationality (Kiwauka 2010).

But not only due to existing patriarchal structures, but also due changing sentiments within the society do women experience violence. In light of this, rape can than be viewed as a perpetuation of male-dominant practices and beliefs. However not only patriarchy, but also the attack of male-dominated order has lead to increased violence. As some men feel their dominance dwindle and their masculinity questioned, they reinstate them through aggression and violence against women (CSV 2008). However, as noted by Pickup and other scholars (Pickup et al. 2001; Jewkes 2002) it's not only the threat of patriarchy that insights gender-based violence, but generally lack or loss of power can contribute to gendered aggression: Poverty and insecurity leads to increased prevalence of violence against women, and socioeconomic inequality heightens intimate partner violence. Especially when men are no longer able to live up to the manhood their fathers and forefathers emulated, living in impoverished townships. As they no longer can financially support or control their women, they turn to substance abuse, misogyny and crime to compensate their loss of male pride (Jewkes 2002).

According to the Centre for the Study and Reconciliation (CSVR) the high ranking prevalence of gender-based violence in South Africa is also due to the 'crisis of masculinity' within these societal milieus. On one hand fuelled by racial oppression and on the other hand due to social and economic changes have led to the weakening of 'traditional structures' and 'cultural spaces' for men to assert their dominance and perpetuate patriarchal norms (CSVR 2008). In many communities, including those in South Africa, the power relation continues to be viewed as a zero sum game. Many men were in fear of losing their entitlement to make decision for the couple or family. As a result well-meaning NGO's tried to empower women, without creating a wider understanding on new ways to conceptualise power relations between men and women. As a result of these efforts women received a violent backlash. Some men even went to far as to argue, that the women now had the upper hand in the relationship, and to compensate their felt inequality, they had to reinstate a balance by becoming more aggressive, violent and/or abusive (Shefer et al. 2008).

Furthermore, the democratisation of South Africa has led to the dismantlement of some of the patriarchal and sexual norms, and strengthened women's rights and their empowerment. Moreover, does the 'urban culture' seek to minimise cultural norms (CSVR 2008).

"In the twentieth century these forms of sexual socialisation crumbled under the combined onslaught of Christianity, conquest, migrant labour, urbanisation and western education... The peer group pressures that had previously restrained adolescent sexuality now urged youth on to greater levels of sexual experimentation, and helped to entrench models of masculinity which celebrated the commodification, conquest and control of women" (Delius & Glaser 2002:20; see also CSVR 2008).

Besides the persistent beliefs of male sexual entitlement, there is another significant factor that contributes to the high number of gender-based violence taking place in South Africa, which is the persistent criminality, as well as the normalisation of general violence (CSVR 2008). In the wake of these new forms of violence, anxieties of the rape of white women increased, completely neglecting the violence experienced by black women, especially ones with migratory background. However the women that are exposed to sexual violence due to their low economic resources and low social negotiating power, as for example migrant women are, are overlooked (CSVR 2008; Lefko-Everett 2007; Vetten 2007) .

One of the most predominant spaces where vulnerable migrant women are most susceptible to gender-based violence is their own home. Intimate partner violence is the most common and pervasive form of violence against women, sometimes domestic violence is even committed by extended members of the family (Pickup et al. 2001). Especially in South Africa the prevalence of physical and/or sexual intimate partner violence is estimated at 55.5% some of the impoverished semi-urban spaces of Johannesburg (Dunkle et al., 2004) and continues to cap international ranking of incidences or reported sexual violence, including rape (Britton, 2016). Gender-based violence is prevalent in all social classes, however there seems to be a

correlation to poverty, as well as socioeconomic inequality, and more severe and intense domestic abuse (Jewkes 2002).

Intimate partner violence can be defined as emotional, psychological and physical force or threat of using force (Lempert 1996), others have just defined it as physical abuse (Jewkes 2002). One kind of intimate partner violence is coerced sexual intercourse. Jewkes and Abrahams (2002) found that girls in South Africa distinguished between rape and 'forced sex', one being enacted by a stranger and the other performed by their boyfriend to initiate the relationship. Forced sex is seen as unpleasant. Thus certain misconceptions held by some women perpetuate male entitlement to sexual availability.

Some intimate partner of undocumented migrant women would promise to help them change their legal status, but would often not follow through in marrying them. For Kiwanuka (2010), this would be another strategy to coerce them into obedience and in certain cases viewed to demonstrate the unwillingness to renegotiate power relations pertaining to finance and legal status, and as a way to rendering these women submissive. To avoid these women to address the violence with the police they would demoralise them, tell them they would be incarcerated if they addressed it with the police, and to not draw attention from the wider society, they hurt their women in places and ways, where it is easier concealable and invisible to the public (Lempert 1996).

Some vulnerable migrant women engage in informal employment. To make ends meet some engage in survival activities such as sex work. When vulnerable migrant women perform sex work as a form of livelihood or enter relationships with South African men for survival rather than love they are judged and stigmatised. South African men to enter these relationships or seek their services are not regarded in the same light, in fact are seen as neutral or even victims (Kiwanuka 2010; Shefer et al. 2008).

"This discourse, however, establishes a direct relationship between the social supervision of black women migrants and the control of their moral and sexual behavior, between the morally unacceptable economics of sex for sale and a morally acceptable policing of black female sexuality" (Carby 1992:741).

The moral and sexual behaviour is not only subject to the wider society, but that of men. The woman's body, as the vehicle of self, become the space of control and domination of their perpetrators, on which to assert their power and oppression. In this respect, the violence on the body can be understood, not only as a chastisement against the women, but to demean and belittle the self-worth of the women. (Lempert 1996; see also Valentine 1990). Moreover, through bullying and controlling of abusive intimate partners, not only does the body become a controlled space, but the access to space and social network of the women can be severely limited. The women are restricted in their mobility and social interaction. Thus certain spaces become less accessible due to the control of their abusive partners (Lempert 1996; Lefko-Everett 2007).

The above paragraph states how women's behaviour is judged and monitored by their partners and by the wider society. Moreover, as we learned earlier, South African men in these abusive relationships are not regarded as participating in this perceived moral erroneous behaviour. A number of these men hurt their women in way indiscernible to the public, making the violence invisible, further contributing to the isolation of these women. For the sake of self preservation, women would prefer to hid the truth from friends, relatives and the wider society (Lempert 1996).

Another common form of gender-based violence in and outside the home is rape. According to the World Health Organisation, rape is very prevalent in South Africa In comparison to other regions in Africa and the world (WHO 2013). Rape takes place, between intimate partners, work relations, circle of acquaintances and strangers. There are many misconceptions around what rape entails and often societies blame the victim for putting themselves into the situation (such as dressing attractively, by being in an intimate relation with the rapist, by going out at night), and romanticize rape (arguing it's a crime of passion, when in reality it's a form of violent domination (Pickup et al. 2001).

The statistics on rape speak for themselves (One in Nine 2012): More than 90 percent of rapes go unreported. Of all the reported cases less than half lead to the arrest of the perpetrator, less than 15 percent lead to a trial and less than five percent lead to a conviction. The majority of convicted rapists receive shorter prison terms than their mandatory prison sentence. Thus when women report their rape, it's most likely they will be further humiliated, rather receiving a fair trial. Moreover, women are reluctant to report the crime as they are commonly not believed or their case not taken serious. In the case of intimate partner violence, the victim financially relies on the perpetrator and is afraid of retaliation. Women fear being stigmatised, and sometimes as a consequence of their reporting will lose their jobs. Frequently women experience retaliation, also known as secondary victimisation, by the rape perpetrator, society and/or law enforcement.

Although used as an institutional form of racial oppression during the apartheid era, it no longer is used as such. However, done away with this particular form of oppression, it's influence continues to linger on in South African society. Similar attitudes are still discernable today, where violence against women is used to aggressively enforce dominance (Pickup et al. 2001). The rape culture continues to be practiced, where women's rape narratives continue to be undermined, and women reporting physical and/or sexual violence are received with hostility by law enforcement and public officials (Britton 2016; Pickup et al. 2001; Scully 1995; Mogale et al. 2012), especially vulnerable migrant women are viewed as easy targets (Lefko-Everett 2007).

Other forms of violence against women include: trafficking, sexual violence against girls, violence related to 'son preference', Female genital cutting/mutilation, child marriage, honour crimes, dowry related murder or violence, violence against 'witches', gender-based violence in armed conflict, as well as gender-specific forms of torture committed by state agents (Pickup et al. 2001:78-95; see also Adepoju 2005).

## Institutionalised violence

One of the major challenges is the correlation of sexual violence and criminality. In a society where a culture of criminality and violence<sup>9</sup> is unchecked by an ineffective criminal justice system, gender-based violence is but one of the many problems little challenged by law enforcement and the legal system (CSVR 2008). This is also true for xenophobic violence, and is exasperated by the police also going after victims in case they are undocumented, soliciting them to give them a bribe or sex in exchange for their silence (Lefko-Everett 2007).

Vulnerable migrant women report that they feel chased by police officers, experience xenophobic treatment and find that the police, being uninformed and acting in breach of immigration laws, they were instated to protect. Some of the illicit threats they experience by law enforcement is the destruction of their legal documents, such as their passport, extortion of bribes, or refusal to protect or provide legal assistance. Migrant women also experience, that when they attend to a case they will side with the South African, rather than following legal procedures, clearly illustrating the xenophobic sentiment and reinforcing misogyny (Lefko-Everett 2007).

When migrant women report a crime, such as rape, police officers are reluctant to attend to their case. The law enforcement make proper legal documentation of the women a requirement for them to be attending to their case. When these women then request to speak to a commissioner/higher ranking staff, they tell them that they had a greater chance of being arrested, incarcerated and/or deported, rather than being attended to their case (Lefko-Everett 2007). This is a breach of human, women's and social rights. Not only are vulnerable women exposed to gender-based violence, but are also denied a fair trial. Due to the arbitrary treatment of the policemen they are rendered rightless (Arendt 1968).

Even when foreign women would have the proper documentation, and gave bribes up to R400 ZAR, they would still be brought to the infamous Lindela detention centre, notorious for mistreatment of inmates, including access denial to non-food items (such as blankets), health services and sufficient amount of food. The maltreatment lead to the death of 27 inmates within the period of six months, as such the fear to be detained at Lindela was justified and severe (Lefko-Everett 2007). As a result these foreign women, rather than trying to seek legal prosecution, they avoid the police all together, and whenever police enforcement show up at their workplace, i.e. the market, they disappear from sight, letting the South African women with identification attend to their stand (Lefko-Everett 2007).

Although the Domestic Violence Act No 116 of 1998 and Criminal Law (Sexual Offense and Related Matters) Act No 32 of 2007 are great accomplishments pertaining to the rights of women and victims of physical and/sexual violence, they often have not penetrated the harsh

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<sup>9</sup> Due in part to the violent history of colonialism, apartheid and transition towards democracy (Scully 1995; Britton 2016).

realities of abused vulnerable migrant women. Women have celebrated these two acts and regard them as very inclusive and progressive legislations as:

“It [...] recognizes as wide range of VAW [violence against women], [...] compels the perpetrator to maintain the victim's finances while not staying in the same house or accommodation, [...] outlines the obligatory duties of the police, and [...] lays down penalties for failure to execute such duties” (Mogale et al. 2012:581-582).

Although many strides have been made towards protecting the fundamental rights of women and preserving their human rights, not just punishing the perpetrator but also to persecute the law enforcement is key issue to the problem. It becomes evident that legislation is of little use when prevailing misogynist and xenophobic practices are still the rule of the day. Law enforcement and civil authorities play a major role in the acceptability of criminality against vulnerable migrant women, especially regarding physical and/or sexual violence. Policy makers rightfully recognised to also undermined and persecute law enforcement who do not uphold the law to protect victims of physical and/or sexual violence (Mogale et al. 2012).

It is common for women who experience physical and/or sexual violence to be undermined in a court examination. They are forced to retell their traumatic experience repeatedly, re-traumatising them, to prove they veritably have been raped as in the case of Buyisiwe<sup>10</sup> in 2005. Courts hearings on violence on women are often unsympathetic towards the victims, unnecessarily reluctant and hostile (Mogale et al. 2012). Prosecutors regularly discredit narratives of assault and pressure women into dropping charges, inexperienced police staff fail to obtain enough evidence for the crime, and large workloads can lead to sloppy work. As a result repeating domestic assault offenders walk free (Nowrojee 1995).

From the previous paragraph it becomes evident how insurmountable legal battles can be. However, it doesn't even need to go as far as the court, police officers are often untrained to deal with situations of domestic abuse, respond insensitive to the intimate-partner-violence and accord more weight to the man's version, undermining the rights of these battered women. Sometimes even racially insensitive excuses are given, white police personal arguing that the black women are reluctant to pursue legal remedies. When women do report, they do so commonly to judgmental and indifferent policemen. Even when there is a policy in place for these offenses they are not followed. Especially when the victim and the offender are in a relationship, law enforcement see it as the natural right of men to have sexual intercourse with their partner, and suppose the fault to be with the women by either not clearly saying no or by dressing inappropriate. In other cases police officers are bribed to drop investigations and stop further pursuing the violent offense<sup>11</sup> (Nowrojee 1995). These challenges apply both, to native

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<sup>10</sup> Buyisiwe, a victim of a gang raped of eight men, was questioned and her statements undermined by a hostile court. Her trauma was ignored and she was forced to retell her rape experience having to specify the order of rape offenders repeatedly (Mogale et al. 2012).

<sup>11</sup> There are many circumstances and other public servants, such as the district surgeon, where things further go wrong (Nowrojee 1995). However for the length of this article cannot be elaborated.

and foreign women, notwithstanding vulnerable migrant women due to their experience with xenophobic treatment by police have even greater barriers to seek justice (Lefko-Everett 2007).

In the previous section, we examined xenophobic sentiments, gender-based violence and institutional violence vulnerable migrant women experience. Throughout we examined the intersectionality of these women and their susceptibility to a fourfold oppression of gender, race, class and migration-background. In the following section we will look at the resilience of migrant women and the means they apply to reconcile, respond, negotiate, mediate or reject their vulnerability (Carby 1996).

## Response, negotiation, mitigation

In this article, I aim to regard women as 'productive agents' (Kihato 2013), not as mere victims that have no agency:

“Certainly, male and female black migrants suffered economic and political exploitation, but it is important to separate the structural forces of exploitation from the ways in which black migrants came to be regarded as easily victimized subjects who quickly succumbed to the forces of vice and degradation” (Carby 1992:739).

To reduce gender-based violence, a common approach is to seek empowerment of women. Different forms of female empowerment have been linked to the reduction of gender-based violence, however there are several means by which women can be empowered. A number of methods are more successful than others. Some of these are income and livelihood, education or community involvement. Moreover, not just the education of women, but also the education of men can lead to reduced gender-based violence. However the education of women does not correlate linearly with gender-based violence (Jewkes 2002). Nonetheless, when addressing the needs of vulnerable migrant women, addressing the gender inequality, often does not suffice. As other forms of oppression still remain unaddressed, for example their legal status.

To address the perpetuated criminality and widespread gender-based violence on the street, many women avoid the street at certain times. Although certainly not all men commit and participate in sexual coercion or general gender-based violence, due to the high prevalence rate of sexual offenses taking so frequently, that it can almost be claimed to be a universal experience of women living in South Africa. As a result women in general navigate the city with great caution. This sometimes leads to the invisibility of women in Johannesburg's urban centre after a particular hour (CSVR 2008). Making themselves scarce and invisible to some violence. The perceived criminality and violence thus leads to a gendered space, where mostly men are visible and women's mobility is severely limited during particular hours, especially for women from low-income households, including vulnerable migrant women.

Due to this perceived high levels of criminality and general based on the many xenophobic and disinterested encounters they have with the wider society and law enforcement, women see the

home as a relative safe space. Police encounters can be expensive for undocumented women, who, to avoid arrest and deportation, choose to negotiate their positions and bribe the police. In situations where they lack the resources to get out of the situation, they compensate the officers with sex (Kiwauka 2010; Lefko-Everett 2007). Vulnerable migrant women perceive a greater threat from the outside, not just from the society, but police officers. They describe to feel safer at home and stay in an abusive relationship, rather than being exposed to police brutality, homelessness and poverty (Kiwauka 2010). Frequently women who experience domestic abuse are reluctant to press charges as they are financially dependent on the perpetrator and are afraid of retaliation and secondary victimisation (One in Nine 2012). Especially undocumented women, in hopes getting the South African identity book, choose to stay with their South African boyfriends, as a strategy for daily survival, acquisition of a legal status, as well as sending remittances to potential children they left behind (Kiwauka 2010).

In certain settings, women who stay in abusive relationships should not be viewed as mere victims. Some undocumented migrant women choose to stay in abusive relationships to use their limited agency to get a legal status. They employ long-term strategies to get the South African identity book to later have access to services, that they are at this time, unable to acquire. Thus in their current situation they trade their present self in hope for long-term benefits of security, freedom and access to services. In the meantime commonly exchange housework, sex and intimacy for food, shelter and additional resources to assist their family (parents and/or children left behind) (Kiwauka 2010). It further, illustrates the multiple forms of oppression they experience and how they negotiate one part of their identity to improve their overall vulnerability. They do not have the means to address the gender oppression, but by getting their identity will be naturalised, increasing their access to resources.

Women also are active agents within these relationships. An abusive relationship at times is also viewed as a relationship of mutual support and care. For many abused women it is emotionally easier to leave the abuse unaddressed. By remaining silent and not seeking help, the women themselves feel being complicit. Ashamed of their circumstance they are reluctant to address the situation, by keeping it a private matter, they are contributing to the invisibility of violence. This is frequently the case, as women feel ashamed to admit their personal unhappiness and moreover feel responsible for triggering the violence and feel obliged to comply, as they are committed to the relationship or marriage (Kiwauka 2010; Lempert 1996).

By not speaking out they are denying themselves help, many women use the face-saving strategy by maintaining the invisibility of the violence. This, they say, helps them to keep their sense of self and identity, at least to the exterior, as their sense of self is already severely compromised through the emotional and physical abuse. Battered women feel on one hand as in being the only one to influence and change the brutal practice of their partner, and on the other hand powerless to change it. As a result, they don't seek help, as they feel no one would understand or be in the position to help them (Lempert 1996).

In some case, rather than quitting the relationship, women are able to negotiate their position through earning money. Especially, due to high unemployment, when women become the main

breadwinners, some are able to break up traditional family roles. The economic power of some of these women allowed them to renegotiate their position and reduce the prevalence of gender-based violence (Shefer et al. 2008).

Other women use legal ways to prevent further violence, and it seems that an intervention is much easier to acquire than in the past (Shefer et al. 2008), however some vulnerable migrant women are fearful of their legal status being found out, as some of them are undocumented. Out of fear of being deported or incarcerated they don't report (Lefko-Everett 2007; Kiwanuka 2010).

Some women rather than seeking economic or legal advantages to balance out the relationship, they retaliate by becoming violent as well (Shefer et al. 2008). This comes to show that even though the power dynamics are unequal, both partners can and are influencing the relationship and the partner's behaviour. Not every victim is completely innocent and not every perpetrator is completely guilty<sup>12</sup> (Lempert 1996).

Many migrant related to having a bad experience with South African men, saying they were more abusive and violent, even using guns to threaten their partner. They said, they preferred to stay in relationships with foreign nationals, arguing that their cultural values were more aligned and stating that they possessive. Furthermore, the power dynamics within the relationship are more balanced, when women do not depend on their men for their legal status (Lefko-Everett 2007).

Increasingly citizenship is conceptualised differently and migrant women politically engage to push for their rights, rights that are due to them not as a citizen, but based on the human rights and legal provisions by the state that are not being upheld by the state (Piper 2006). Thus they are not only negotiating their day-to-day domestic affairs, but are contributing to the increased recognition of gender-based violence and struggling for greater equality and for the xenophobic and misogynistic practices of the law enforcement and wider society to be addressed more systematically. Although they are not citizens, they are actively participate in the generation of law and practice relating to human, immigration, women's and social rights.

## Negotiating intersectionality

As for many (Hanisch 1970; Kihato 2013) the 'personal is political'. Many women came to recognise that and engage politically to make their voices heard. Through the politisation of this violence the universal experience of gender-based violence is no longer considered a random personal experience of a few, but is increasingly recognised as the epidemic oppression that it is. Crenshaw (1991) writes that previous identity politics that previously served to marginalise and isolate, including, people of colour, gays, lesbians, transgender, migrants, women, to name

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<sup>12</sup> Although the limits to the statement needs to be understood, and that is is never justifiable to use force or violence to oppress, submit or control another person for selfish purposes, such as coerced sex.

a few, through the mobilisation and solidarity work seem to now are perceived as a source of support, strength and personal growth.

As above mentioned embracing identity politics lead to strengthened community and intellectual development, however it also created contestation and tension:

“Race, gender, and other identity categories are most often treated in mainstream liberal discourse as vestiges of bias or domination - that is, as intrinsically negative frameworks in which social power works to exclude or marginalize those who are different. According to this understanding, our liberatory objective should be to empty such categories of any social significance. Yet implicit in certain strands of feminist and racial liberation movements, for example is the view that the social power in delineating difference need not be the power of domination; it can instead be the source of social empowerment and reconstruction” (Crenshaw 1991:1242).

As part of this perceived discomfort, often the intra-group difference is ignored. Frequently when addressing xenophobic or racial oppression and gender-based violence are treated as two distinct non-intersecting experiences. However as we have seen above, the experience of vulnerable migrant women (CSV 2008; Kiwanuka 2010; Lefko-Everett 2007; Mogale et al. 2012). For Crenshaw (1991) addressing the race/nationality and gender as separate non-intertwined forms of oppressions, falls short of addressing the gender-based violence Black women experience, and here more specifically vulnerable migrant women.

Here, I further elaborate the intersectional violence stemming from patterns of xenophobia and sexism, to push the discussion beyond what has generally been conceptualised as gender-based violence, but look at the particular intersectional oppression vulnerable migrant women experience. In the case of vulnerable migrant women, although being productive agents, cannot just address the gender-based violence in their home, or altogether quit the relationship. But with their sometimes limit job-skills, other family members to care for, poverty, their immigration status, they have to navigate their intersectionality, and thus see the abusive home as the safest setting to receive protection from poverty, deportation, incarceration, street xenophobic and gender-based violence. It illustrates that looking at gender-based violence of women from different racial, class and national background falls short of disclosing their particular vulnerability and marginalisation. Especially in cases where migrant women rely on their intimate partner regarding finances, information on their legal status, or language assistance (Crenshaw 1991). Moreover there are not sufficient amount of organisations that can address the needs of battered migrant women (Britton 2006).

Frequently discourses when addressing one aspect of either, race, nationality, gender, usually it overlooks the intersectionality reinforces the structural inequalities of another political identity. For example, the immigration is gender-neutral, overlooking the specific needs of migrant women (Piper 2006). Thus the ignorance of the intersecting discourses will lead to added marginalisation of of the most vulnerable that are being addressed within these policies. Moreover, complacent police officers will acculturalise the gender-based violence, reasoning

that them being white, should not intervene with the patriarchal misogynist practices in a community (Crenshaw 1991; Nowrojee 1995; Sokoloff & Dupont 2005). Moreover migrant women reluctant to engage law enforcement, who are often hostile, and subject themselves to xenophobia, police control and illicit practices by the officer, pertaining to their immigration status. Battered women may even be re-traumatised by seeking help through the xenophobic, racist, classist or sexist treatment by law enforcement (Sokoloff & Dupont 2005).

## Conclusion

Throughout this article, I examine the the context pertaining to legislative policies regarding gender-based violence and immigration legislation, illustrating how the failure to create intersectional policies end up hurting the most vulnerable. Furthermore, I elaborate how these xenophobic sentiments, gender-based aggression and institutional violence against these women were exhibited and how vulnerable migrant women are even more affected than other groups due to the intersectional oppression and violence. Throughout the intersectionality of these women were demonstrated, as they do not singlehandedly suffer from one, but multiple identity signifiers, pertaining to their gender, race, class and migration background. Thus being low-income black migrant women makes them more susceptible to structural and societal barriers and violence. The last section explored how women negotiated barriers and oppression, how they used their productive agency to overcome, challenge, negotiate and struggle against these experienced challenges.

As several scholars have addressed (Hanisch 1970; Kihato 2013) the 'personal is political'. This pertains to the personal space occupied by women in particular as having a political aspect to it. Violence and in particular gender-based violence in South Africa is not only entrenched against the eternal other of the vulnerable migrant woman, but commonly visible in homes as well and deeply rooted within the South African patriarchal society.

It goes without saying that the moral, sexual and general behaviour of vulnerable migrant women is subjected to the South African society and as a result they experience judgement, stigmatisation and oppression (Carby 1992). Thus their minds and bodies are colonised through the violence and oppression by their sexual partners (intimate or otherwise), as well as by the wider society.

They, despite their seeming mobility, are confronted with many physical, legislative, bureaucratic, interpersonal barriers. For example, due to gender-insensitive immigration policies, many vulnerable migrant women experience greater precarity, than their male counterparts. Women tend to have less resources to migrate, thus although being more vulnerable to violence tend to stay behind in politically unstable regions (Kiwauka 2010; Lefko-Everett 2007; Palmary 2009; Piper 2006). Those women who do migrate most commonly have very little to support themselves on. As a result they enter the informal labour including sex work. Others enter relationships as a form of survival. Some of their intimate partners being aware of their vulnerable position manipulate, exploit and abuse these women (Kiwauka 2010).

As so many nations South Africa is a patriarchal society and is bound to have a patriarchal legal framework with gender-neutral policies (Calavita 2006). The securitisation of national borders and the increasingly restrictive immigration policies in South Africa have increased the 'insecurity' of migrant women, especially relating to access to health and formal labour (Freedman 2003; Peberdy 2008; Piper 2006; Siegfried 2014; Singh 2007; Teagle 2014). Their vulnerability pertaining to their national background, in some cases their refugeeness or even statelessness renders them even more vulnerable and cannot be explained away by race, gender, class. Apart from being exposed to the triple oppression, their legal status frequently renders them rightless, already living in precarious conditions (Arendt 1968; Gündugdu 2015).

Although vulnerable women, experience intersectional and multi-layered oppression and obstacles in terms of their race, gender, legal status, their harsh urban lived-experience and their abusive relationships, they use their financial, legal, and social capital creatively, to at least address one of their identity signifiers to reduce their susceptibility to oppression. At times they will endure domestic violence to avoid arbitrary police mistreatment. At other times they struggle within domestic affairs through economic, legal or violent means to struggle for greater equality. And moreover they push for and contribute to a new conceptualisation and realisation of human, immigration, women's and social rights.

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